

AGENDAS

FOR THE AMARILLO CITY COUNCIL WORK SESSION AND REGULAR SESSION TO BE HELD ON TUESDAY, JUNE 19, 2018 AT 3:00 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) Policy Governance Leadership Discussions with Bob Schroeder;
 - (3) Presentation on Professional Contract on Meter and Meter System Reader Evaluation;
 - (4) Water System Update Including the Conservation Plan and Regional Water Plan;
 - (5) Reports and updates from City Councilmembers serving on outside Boards:
Beautification and Public Arts Advisory Board;
 - (6) Discuss Legislative Issues and Possible Legislative Visits; and
 - (7) Consider future Agenda items and request reports from City Manager.
-

REGULAR MEETING ITEMS

INVOCATION AND PLEDGE OF ALIGENCE: Dr. Boon Vangsurith

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 June 12, 2018.

B. **ORDINANCE NO. 7732 – AMENDING THE AMARILLO MUNICIPAL CODE RELATING TO SOLID WASTE COLLECTION AND DISPOSAL SERVICES INCLUDING: AUTOMATED CURB CART SERVICE, COMPOST FACILITY, BIG AND BULKY COLLECTION SERVICES, AND PERMIT FEES:**

(Contact: Raymond Lee, Public Works Director)

This is the second and final reading of an item amending the City of Amarillo Municipal Code of Ordinances to provide for collection of solid waste utilizing rollout carts for the automated curbside collection program. It will enable the Solid Waste Division to provide curbside collection of trash in areas considered unsafe due to dead-end alleys, dumpsters in the street or on the walkway, dumpsters in front yards, and areas with hand collection. Additional changes to the Code are recommended to provide for the operation of the compost facility, improve the big and bulky collection program, implement permit fees, and to make minor grammatical and punctuation corrections.

C. **CONSIDER FOR APPROVAL – CHANGE ORDER NO. 2 - BID #5754/PROJECT #462044 – FY 2017-2021 COMMUNITY INVESTMENT PROGRAM STREET AND DRAINAGE IMPROVEMENTS: REHABILITATION OF GEORGIA STREET FROM SOUTHWEST 46TH AVENUE TO SOUTHWEST 58TH AVENUE:**

(Contact: Kyle Schniederjan, Interim Director of CP&DE)

Holmes Construction, LLP -- \$267,265.63

Original Contract Amount \$1,898,329.23

Previous Change Orders \$ 38,574.26

This Change Order No. 2 \$ 267,265.63

Revised Contract Total \$2,204,169.12

This item is to approve Change Order No. 2, which adds a mill and overlay of Western Street from I-27 to Southwest 49th Avenue.

D. **CONSIDER -- AWARD:**

(Contact: Kyle Schniederjan, Interim Director of CP&DE)

Scott Wampler Construction & Services, LLC. -- \$278,512.50

JOB # 523180 Downtown Water Loop

JOB # 560111 T-Anchor Storm Sewer Force Main

Job # 462005 Railroad Crossing Removal Between Johnson and Grant Streets

This item is to consider award of a construction contract for the construction of a 12-inch water main from Southeast 9th Avenue to Southeast 8th Avenue between Buchanan and Johnson Streets, the construction of a 12-inch water main in 8th Avenue from Johnson Street to the alley between Johnson and Grant Streets, the relocation of an existing 16-inch storm sewer force main in Southeast 8th Avenue between Johnson and Grant Streets, and the removal of existing railroad tracks in Southeast 8th Avenue in between Johnson and Grant Streets.

E. **CONSIDER -- PURCHASE OF TWO (2) ASL AUTOMATED SIDE LOADERS FOR CART SERVICE:**

(Contact: Glenn Lavender, Fleet Services Superintendent)

Award to: East Texas Mack Truck Sales LLC -- \$578,490.00

Purchase will be through TIPS Contract 170802

This item is the scheduled replacement of Units 7027, 7028, and 7029, 2009 IHC Side Loaders dumpster style, and Unit 7052, 2009 Sterling Rear Loader Refuse Trucks. These vehicles have reached or exceeded their life cycle.

F. **APPROVAL – ENGINEERING SERVICES AGREEMENT FOR 2018 GROUNDWATER MONITORING ANALYSIS AND REPORTING:**

(Contact: Kyle Schniederjan, Interim Director of CP&DE)

HDR Engineering, Inc. -- \$62,800.00

This Engineering Services Agreement provides for groundwater statistical analysis and reporting as required by the Texas Commission on Environmental Quality (TCEQ) under Landfill MSW Permit 73A involving 25 groundwater monitor wells. A "Groundwater Background Update Report" will also be prepared and filed with the TCEQ.

- G. **CONSIDER AWARD – EMPLOYMENT SERVICES:**
(Contact: Mitchell Normand, Director of Human Resources)
Awarded to: Express Employment Professionals – Estimated \$200,000
This item considers the award of the contracted temporary employment services to address staffing shortfalls or special project staffing needs.

REGULAR AGENDA

2. **DISCUSSION AND CONSIDERATION OF ORDINANCE NO. 7734:**
(Contact: Laura Storrs, Finance Director)
This is the first and final reading of an ordinance to discuss and consider all matters incident and related to the issuance and sale of “City of Amarillo, Texas, General Obligation Bonds, Series 2018,” including the adoption of an ordinance authorizing the issuance of such bonds.
3. **DISCUSSION AND CONSIDERATION OF ORDINANCE NO. 7735:**
(Contact: Laura Storrs, Finance Director)
This is the first and final reading of an ordinance to discuss and consider all matters incident and related to the issuance and sale of “City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2018,” including the adoption of an ordinance authorizing the issuance of such certificates of obligation.
4. **DISCUSSION AND CONSIDERATION OF ORDINANCE NO. 7736:**
(Contact: Laura Storrs, Finance Director)
This is the first and final reading of an ordinance to discuss and consider all matters incident and related to the issuance and sale of “City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018A,” including the adoption of an ordinance authorizing the issuance of such bonds.
5. **DISCUSSION AND CONSIDERATION OF ORDINANCE NO. 7737:**
(Contact: Laura Storrs, Finance Director)
This is the first and final reading of an ordinance to discuss and consider all matters incident and related to the issuance and sale of “City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018B,” including the adoption of an ordinance authorizing the issuance of such bonds.
6. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7738 DRAINAGE CHANGES:**
(Contact: Damen Ratliff, Drainage Utility Supervisor)
This is a public hearing and first reading of an ordinance proposing changes to Ordinance No. 7323 will change the billing process. Currently the Ordinance allows the drainage bill to be designated to the tenant of either a commercial or residential rental property. The proposed changes will make the drainage fee the responsibility of the owner of the benefitted property.
7. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7739:**
(Contact: Sherry Bailey, Senior Planner)
This is a public hearing and first reading of an ordinance rezoning Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR). (Vicinity: South Washington Street and Wolflin Avenue.)
8. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7740:**
(Contact: Sherry Bailey, Senior Planner)
This is a public hearing and first reading of an ordinance rezoning Lots 39-46, Block 476, Mirror Addition Unit 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to amended Planned Development District -107 to allow offsite parking from R-3 to Planned Development 107 (PD-107) for Wesley Community Center (Vicinity: between Roberts Street and Williams Street and Southeast 15th Avenue and Southeast 16th Avenue.)

9. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7741:**
(Contact: Sherry Bailey, Senior Planner)
This is the first reading of an ordinance determining the lack of Public Necessity for a 20-foot alley in the vicinity of South Vernon Street, South Spring Street, Southeast 17th Avenue and Interstate 40. Vacating and abandoning the described right-of-way.
10. **PURCHASE – SOFTWARE FOR AUTOMATED CURBSIDE COLLECTION:**
(Contact: Raymond Lee, Director of Public Works)
Award by HGAC Contract: Software for Automated Curbside Collection
Total Award -- \$200,107.00
This item is the purchase of software for the automated curbside collection program. It will enable the Solid Waste Division to efficiently route the collection of trash in those neighborhoods that are currently served by hand collection or by dumpsters set in the front yards.
11. **PURCHASE – 95-GALLON ROLLOUT CARTS FOR AUTOMATED CURBSIDE COLLECTION:**
(Contact: Raymond Lee, Director of Public Works)
Total Award -- \$252,172.40
This item is the purchase of 95-gallon rollout carts for the automated curbside collection program. It will enable the Solid Waste Division to provide curbside collection of trash in those neighborhoods that are currently served by hand collection or by dumpsters set in the front yards.
12. **DISCUSSION AND CONSIDER APPROVAL OF ESTOPPEL DOCUMENTS TO ALLOW NEWCREST IMAGE TO OBTAIN FINANCING FROM SIMMONS BANK (PRIME LEASE), AND AUTHORIZING THE CITY MANAGER TO EXECUTE SUCH DOCUMENTS.**
13. **EXECUTIVE SESSION:**
City Council may convene in Executive Session to receive reports on or discuss any of the following pending projects or matters:
(1) Section 551.087 - Deliberation regarding economic development negotiations; discussion regarding commercial or financial information received from a business prospect.
 (a) Possible economic development incentive for the Santa Fe Depot Property.
(2) Section 551.072 – Deliberation regarding real property; discussion regarding purchase, exchange, lease or value of real property.
 (a) Santa Fe Depot Property.

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 June 2018.

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

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 12th day of June 2018, the Amarillo City Council met at 3:30 p.m. for a work session, and the regular session was held at 5:00 p.m. in the Council Chamber located on the third floor of City Hall at 509 Southeast 7th Avenue, with the following members present:

Note: This meeting was moved to the Amarillo Civic Center, 401 South Buchanan Street, Grand Plaza due to a water break at City Hall. The Work Session began at 4:25 p.m.

GINGER NELSON
ELAINE HAYS
FREDA POWELL
EDDY SAUER
HOWARD SMITH

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

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

JARED MILLER
MICHELLE BONNER
LESLIE SPEAR SCHMIDT
STEPHANIE COGGINS
FRANCES HIBBS

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

The invocation was given by Geneva Kirkpatrick. Mayor Nelson led the audience in the Pledge of Allegiance.

A proclamation was presented for "Amateur Radio Operator Week."

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

PUBLIC COMMENT:

Jill Humphrey, 7714 Pineridge Drive, stated Council represents all the people. She stated many people are passionate about animals. She asked Council not to be misled about the 70% release rate. She encouraged Council to follow a rescue group and see their daily desperation. She asked if Council was sticking to their story on G-7. She stated G-7 caused no injuries and did not require euthanasia. She asked Council to admit the lack of training. She further encouraged additional research on the 90 for 90 program. Karlen Cantrell, 8313 Barstow Drive, spoke on the proposed ordinance to reduce intake. She inquired why the City allows trapping of animals for sport. She suggested additional time for spay and neutering when vets are backed up. She also suggested 'Valid Breeders' be inspected. She suggested a policy for 18-months so that the Humane Society could get their clinic up and running. She presented an Animal Evaluation Matrix which protects the lives of animals. She also asked that Fosters not have to count their rescues as part of their allotted number of animals. Mike Fisher, 4410 Van Kriston Drive, stated 7 out of 10 homes have pets and 4 out of 10 are fans of baseball. He stated most people know what is going on in this City with the elected officials. He stated there was no need for additional drainage fees because of old software flexibility. He stated Council has added more red light cameras and propose raising the drainage fees. He stated the top issues are: real estate, construction and garbage. He asked Council to stop breaking the City that does not need fixing. Claudette Smith, 4410 Van Kriston Drive, quoted from a January 2018 article where Raymond Lee spoke about his previous employer and the use of rollout carts. He was quoted as saying there were 22,000 metal dumpsters in service, and he suggested phasing to a cart system. She asked if Council was falling on deaf ears because citizens do not want to lose their dumpsters. Rick Allsup, 5504 Andrews Avenue, spoke on the need for a low-barrier shelter for the homeless. He appealed to Council for the sacred rights of people. Noah Dawson, 1133 Sugarloaf Drive, stated everyone on the Council had good

intentions when they ran for office. Council has made negative actions with its support of the ballpark and G-7. He encouraged everyone to live by the slogan of the Boy Scouts, to help someone every day. He further stated the previous minutes were misquoted and should have been or resign. Dacia Anderson, 5227 Astoria Street, spoke about G-7 and her subsequent disgust with G-7's euthanasia. She stated during a meeting with the Mayor and City Manager was the first time that G-7 was labeled as aggressive. She stated G-7 did not attack other humans or anyone else. She questioned the second 911 call. She stated no one at AM&W observed G-7 to be aggressive, but AM&W took the owners word. She inquired if there was a policy in place for animals turned in for aggressiveness and that they be immediately euthanized. She stated G-7 had been in custody for 12 hours. She further stated she will continue to be the voice for the voiceless. James Schneck, 6216 Gainsborough suggested zero based budgeting to Council. He stated the need to recognize the 4th of July instead of being called a Route 66 Celebration. He also spoke on the drainage fee being a utility, and it being removed from the utility bill. He encouraged Council to make the software work. Alan Abraham, 7205 Southwest 35th Avenue, stated Council needed to rise to the occasion on the AM&W ordinance changes being addressed. Mr. Abraham stated the AM&W was an essential service although not as dramatic as police and fire, but just as important for the well-being of our citizens. Bettye Briggs, 1909 Currie Lane, spoke on Ordinance No. 7732. She asked that the alleys be paved or grated and the weeds mowed. She asked that these alleys be cleaned up and not take two years. She further stated she believed that people were using the North Heights as a personal dumping ground.

Mr. Miller stated the Bulky Waste objection is to pick up bulky items within 48 hours. Currently, the City services over 200 calls per month, and continues to work on clearing alleys using the Republic Services contract and City staff. He stated the need to enforce illegal dumping. Raymond Lee, encouraged citizens to call Solid Waste for any bulky items. He stated as more and more people use it, they will look into moving toward other mechanisms. Solid Waste will keep citizens posted in case of any equipment failure. He stated some of the issues were narrowness of alleys, gas meters, and debris in alleys. He stated he believed this service for bulky items was effective and more efficient, and they do work around parked cars and will call citizens. He stated the bulky item pickup was quicker service then placing it in the alleys. The City will use Republic Services in the four north neighborhoods to focus on chronic illegal dumping. Mr. Lee stated the City did a sweep of all the alleys, approximately eight months ago, and the second sweep is still in progress. He stated they are still seeing issues as soon as alleys are cleaned up. He stated they continue to look for solutions to resolve these types of issues. He stated before they use cameras in alleys, they will talk to residents before the cameras are placed, and explain the results they hope to obtain. 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 Powell to correct the minutes to reflect 'and resign' to 'or resign', then approve the consent agenda as presented, seconded by Councilmember Sauer.

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 and special meeting held on June 5, 2018.

REGULAR AGENDA

ITEM 2: Mayor Nelson presented an ordinance to amend the City of Amarillo Municipal Code of Ordinances to provide for collection of solid waste utilizing rollout carts for the automated curbside collection program. It will enable the Solid Waste Division to provide curbside collection of trash in areas considered unsafe due to dead-end alleys, dumpsters in the street or on the walkway, dumpsters in front yards, and areas with hand collection. Additional changes to the Code are recommended to provide for the operation of the compost facility, improve the big and bulky collection program, implement permit fees, and to make minor grammatical and punctuation corrections. This item was presented by Raymond Lee, Director of Public Works. Councilmember Sauer inquired when they would begin to see replacements of the dumpsters on front curbs. Mr. Lee

responded there would be an educational piece, a meeting with residents, and the use of social media first but he hoped to begin late fall or early winter. This program would expand to areas with dead-end alleys, curbside collection or dumpsters in the front yards. Councilmember Powell inquired how many carts they were going to purchase. Mr. Lee replied around 5,000. Motion was made by Councilmember Sauer, seconded by Councilmember Smith, that the following captioned ordinance be passed:

ORDINANCE NO. 7732

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING TITLE VIII, CHAPTER 8-3 OF THE MUNICIPAL CODE OF THE CITY OF AMARILLO TO ALLOW FOR AUTOMATED CURBSIDE TRASH COLLECTION AND HAND COLLECTION; PROVIDING FOR A PERMIT WITH CORRESPONDING FEES AND REQUIREMENTS; PROVIDING FOR RENEWALS; PROVIDING FOR COMPOSTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION 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 stated she has skipped Item A(4) of the Work Session due to a death in Floyd Hartman's family. She stated this item would be presented at a future meeting.

ITEM 3: Mayor Nelson presented a resolution authorizing the City Council to annually select the Mayor Pro Tempore. The Mayor Pro Tempore assumes the roles of the Mayor when the Mayor is unavailable. Councilmember Sauer stated Mayor Nelson wears the weight of the Council on Tuesdays, and he thanked her for her service and the opportunity to serve as Mayor Pro Tem. Councilmember Hays stated she would be willing to serve if appointed. She stated Mayor Nelson made it look easy, and she further thanked Councilmember Sauer for his service. Motion was made by Councilmember Sauer to nominate Councilmember Hays, 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.

Motion was then made by Councilmember Sauer, seconded by Councilmember Powell, that the following captioned resolution be passed:

RESOLUTION NO. 06-12-18-1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO PROVIDING FOR THE ANNUAL SELECTION OF THE MAYOR PRO TEMPORE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR 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 a resolution as part of the Texas Water Development Board TWDB loan requirements of the Resolution for CID 01 – City Project JOB# 521725, Bid # 5222 Arden Road 36-Inch Transmission Pipeline and Pump Station Improvements is to be approved and accepted by the City Council. This project was awarded to S.J. Louis Construction of Texas, Ltd. on January 26, 2016. The final contract amount after a total of four change orders is \$14,582,830.55. This item was presented by Kyle Schniederjan, Interim CP&DE Director. Mr. Miller stated this item is a procedural item with the assistance of TWDB for the infrastructural projects. Kyle Schneiderjohn presented this item. He stated this resolution accepts this project and closes out the documentation and provides positive recognition of years of work. The funding was provided by TWDB Clean Water Fund at a low interest rate through the State of Texas.

Motion was made by Councilmember Hays, seconded by Councilmember Sauer, that the following captioned resolution be passed:

RESOLUTION NO. 06-12-18-2
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO
APPROVING AND ACCEPTING CID01 ARDEN ROAD 36-INCH
TRANSMISSION PIPELINE AND PUMP STATION IMPROVEMENTS
(CITY PROJECT NO. 521725, BID NO. 5222); PROVIDING FOR 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.

The meeting was adjourned at 7:25 p.m.

ATTEST:

Frances Hibbs, City Secretary

Ginger Nelson, Mayor

B

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Community Appearance, Safety, & Best Practices
Department	Public Works, Solid Waste Division		
Contact	Raymond Lee, Director of Public Works		

Agenda Caption

Consider: This is the second and final reading of Ordinance Amending the Code of Ordinances relating to Solid Waste Collection and Disposal Services including; Automated Curb Cart Service, Compost Facility, Big & Bulky Collection Services, and Franchise Fees.

Agenda Item Summary

This item is to amend the City of Amarillo Code of Ordinances to provide for collection of solid waste utilizing rollout carts for the automated curbside collection program. It will enable the Solid Waste Division to provide curbside collection of trash in areas considered unsafe due to dead-end alleys, dumpsters in the street or on the walkway, dumpsters in front yards, and areas with hand collection. Additional changes to the Code are recommended to provide for the operation of the compost facility, improve the big and bulky collection program, implement franchise fees, and to make minor grammatical and punctuation corrections.

Requested Action

Approval

Funding Summary

N/A

Community Engagement Summary

5 Community Engagement meetings were held to present the curbside automated collection to the public. The majority of citizens attending the meetings accepted the need to replace current unsafe collection practices with a more modern, safer approach.

Three meetings were held for commercial solid waste collection companies to discuss flow control and franchise fees. There were no comments on franchise fees and one company spoke against flow control.

Staff Recommendation

ORDINANCE NO. 7732

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING TITLE VIII, CHAPTER 8-3 OF THE MUNICIPAL CODE OF THE CITY OF AMARILLO TO ALLOW FOR AUTOMATED CURBSIDE TRASH COLLECTION AND HAND COLLECTION; PROVIDING FOR A PERMIT WITH CORRESPONDING FEES AND REQUIREMENTS; PROVIDING FOR RENEWALS; PROVIDING FOR COMPOSTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, Title VIII, Chapter 8-3 of the Municipal Code of the City of Amarillo provides for methods of trash collection; and

WHEREAS, the City Council of the City of Amarillo wishes to allow for automated curbside trash collection and hand collection; and

WHEREAS, the City Council wishes to allow for composting; and

WHEREAS, the City Council finds that the amendments herein promote and protect the health, safety, and welfare of citizens of the City of Amarillo;

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

SECTION 1: In Title VIII, Chapter 8-3 is hereby amended as follows:

CHAPTER 8-3. - GARBAGE, TRASH AND WEEDS

Art. I.	In General, §§ 8-3-1 —8-3-25
Art. II.	Receptacles Residential Collection, §§ 8-3-26 —8-3-45
Art. III.	Private Collectors and Transporters Commercial Collection Services, §§ 8-3-46 —8-3-75
	Div. 1. Generally, §§ 8-3-46 —8-3-58
	Div. 2. Collector's Permit <u>Permit Application; Requirements; Fees</u> , §§ 8-3-59 —8-3-75
Art. IV.	Municipal Collection and Disposal Service, §§ 8-3-76 —8-3-115
	Div. 1. Generally, §§ 8-3-756—8-3-90

	Div. 2. Rates and Charges, §§ 8-3-91 —8-3-115
Art. V.	Storage, Transportation and Disposal of Tires, §§ 8-3-116 —8-3-140
Art. VI.	Organics, Compost and Mulch §§ 8-3-141 —8-3-150

SECTION 2: Article I, Section 8-3-1, is hereby amended as follows:

City Landfill: The City of Amarillo Landfill located at 16250 Bezner Road, Amarillo, TX

Refuse Storage Cart: a leak-proof 96-gallon plastic container with attached lid and wheels that will allow the automated or semi-automated collection of Solid Waste and which shall be provided by and owned by the City.

Superintendent: The person responsible for the direction of the ~~Sanitation Department~~ Solid Waste Division or his authorized agent.

SECTION 3: Title VIII, Chapter 8-3, Article I, Section 8-3-2, is hereby revised as follows:

Sec. 8-3-2. - Sanitation department Solid Waste Division created; supervision.

A ~~Sanitation Department~~ Solid Waste Division for the City is hereby created which shall be under the direction of the Superintendent of the ~~Sanitation Department~~ Solid Waste Division, who, in turn shall be under the general supervision of the Director of Public Works.

SECTION 4: Title VIII, Chapter 8-3, Article I, Section 8-3-3(a) is hereby amended as follows:

Sec. 8-3-3. - Nonauthorized deposits of garbage, trash; proper use of disposal areas, containers.

(a) The following shall be unlawful and offenses:

- (1) To deposit or dispose of any Garbage or Trash at any place within the City or within five thousand (5,000) feet of the City limits, except at an officially designated disposal site; or
- (2) To deposit any Garbage or Trash within the boundaries of a City disposal site except as directed by the Superintendent; or
- (3) For any person who does not pay a City refuse collection charge to deposit Garbage or Trash in any City-owned refuse container; or

~~(4) For the occupant of a Residence for which refuse collection service is not provided by a mechanically dumped container system to deposit Garbage or Trash in any City-owned refuse container. To deposit or dispose of any Garbage or Trash in any City-owned container unless such person resides in the same city block in which the container is located.~~

(b) [NO TEXT CHANGE]

SECTION 5: Title VIII, Chapter 8-3, Article I, Section 8-3-7 is hereby amended as follows:

Sec. 8-3-7. - Blocking access to containers; signs.

- (a) The Solid Waste Superintendent is authorized to post warning signs on trash containers where parked vehicles block access to trash containers by trash collection trucks, advising that such vehicles will be towed. Such signs shall state "Do Not Block Dumpster. Tow Away Zone. City Ordinance, Chapter 16-3." Each sign shall be not less than four (4) inches by six (6) inches and of white lettering on red background, placed on three (3) sides of the container.

SECTION 6: Title VIII, Chapter 8-3, Article II is hereby amended as follows:

ARTICLE II. – ~~RECEPTACLES~~ RESIDENTIAL COLLECTION

SECTION 7: Title VIII, Chapter 8-3, Article I, Section 8-3-26 is hereby amended as follows:

Sec. 8-3-26. – Hand Collection Required.

Each person using or occupying any Building, house or Structure within the corporate limits of the City for a Residence for which service is not provided by a container system which can be mechanically emptied, shall place all Garbage and Trash accumulated by such Residence in plastic bags for collection as provided in this article.

SECTION 8: Title VIII, Chapter 8-3, Article II, Section 8-3-29 is hereby amended as follows:

Sec. 8-3-29. - Bags furnished by City.

Where plastic bags are required to be used by customers provided with hand collection trash service, the City will furnish three (3) bags per Residence per week. The Superintendent will maintain a supply of bags from which additional bags may be purchased, and the Superintendent will devise a procedure for distribution of the required plastic bags.

SECTION 9: Title VIII, Chapter 8-3, Article II, Section 8-3-30(b) is hereby amended as follows:

Sec. 8-3-30. - Placement for collection.

- (a) [NO TEXT CHANGE]

~~(b) *Time restriction.* Bagged Garbage and Trash shall be placed at the collection point no more than twelve (12) hours prior to collection nor later than 7:30 a.m. on the designated collection day shall be placed at the curb no earlier than 5:00 p.m. on the day before the scheduled collection day and no later than 7:00 am on the scheduled day of collection.~~

SECTION 10: Title VIII, Chapter 8-3, Article II, Section 8-3-31 is hereby amended as follows:

Sec. 8-3-31. - Collection specifications for residents.

Collections shall include only Garbage and Trash placed in receptacles with the following provisions and exceptions:

- (1) *Maximum weight.* Plastic bags as described in section 8-3-27 shall not be filled to a weight of more than forty (40) pounds.
- (2) *Collection frequency.* Residential collection frequency for Garbage and Trash placed in plastic bags as required in this article shall be a maximum and normal of twice a week and a minimum of once a week.
- (3) *Heavy accumulations.* Heavy accumulations, such as bricks, broken concrete, lumber, shingles, ashes, clinkers, slag, cinders, dirt, plaster, sand or gravel, automobile frames, furniture, appliances, dead trees and other bulky, heavy material shall not be deposited in or near receptacles or containers for collection, but shall be immediately disposed of at the City of Amarillo's landfill located at 16250 Bezner Drive, at the expense of the person in possession of such material.
- (4) *Trimmings.* Tree, hedge, shrub and yard trimmings ~~shall be collected as follows, which cannot be placed in receptacles, shall be placed at the front curb and the Solid Waste Division shall be called to schedule a pick up.~~
 - ~~a. In areas of the City for which service is not provided by a container system which can be mechanically emptied, trimmings shall be collected at least once every thirty (30) calendar days.~~
 - ~~b. In areas of the City for which service is provided by a container system which can be mechanically emptied, trimmings which cannot be placed in receptacles shall be collected once every sixty (60) to ninety (90) calendar days.~~
- (5) *Grass, weeds, leaves.* Trash such as grass, weeds, leaves and similar items must be placed in a plastic bag prior to being placed in a container for collection.
- (6) *Liquids.* Garbage or Trash that is mixed with water or other liquids shall be drained before being placed in a Garbage or Trash receptacle.
- (7) *Dead Animals.* Dead Animals shall not be placed in a Garbage or Trash receptacle unless encased in plastic bags. The presence of a dead Animal carcass on any Premises, or in the Street or Alley adjacent thereto, must be promptly reported to the Animal Control Department by the person in control of the Premises.
- (8) *Manure.* Manure from cow lots, horse lots, stables, poultry yards, pigeon lofts and other similar areas shall be privately collected regularly so as to prevent accumulations. It shall be the sole responsibility of the person in control of the premises to remove and dispose of such manure periodically.

- (9) *Waste oils, grease.* Waste oils, grease or other similar petroleum products from garages, service stations, etc., shall be privately disposed of at the expense of the establishment which accumulates such material.

SECTION 11: Title VIII, Chapter 8-3, Article II is hereby revised to add Section 8-3-33 as follows:

Sec. 8-3-33. – Refuse Storage Carts; Dumpsters Required.

- (a) Any person receiving automated curbside collection shall be provided and shall use a Refuse Storage Cart.
- (b) One Refuse Storage Cart will be provided at no charge per residence unless it is determined by the Superintendent that the Refuse Storage Cart was lost, stolen, or destroyed due to abuse or neglect. The Superintendent shall determine those residences that continually exceed the single container volume and make arrangements for a second container no additional cost.
- (c) Refuse Storage Carts shall not be allowed to remain on the curb, except during collection as set forth below.
- (d) Refuse Storage Carts shall be placed adjacent to the street on the side so designated by the Solid Waste Division to facilitate cost effective and efficient service. Refuse Storage Carts shall be placed at the curb no earlier than 5:00 p.m. on the day before the scheduled collection day and no later than 7:00 am on the scheduled day of collection. Every resident shall ensure the Refuse Storage Cart is at least five feet from any horizontal obstruction as well as 12 feet from any vertical obstruction. Refuse Storage Carts shall be removed from the curb no later than 11:59 p.m. on the day of collection.
- (e) Each person is responsible for keeping the Refuse Storage Cart in a clean and sanitary condition. Refuse Storage Carts lids shall remain tightly closed at all times so that flies and other insects may not have access to the Trash and Garbage contained therein.
- (f) The Solid Waste Division will make all necessary repairs to the Refuse Storage Carts and Dumpsters that may be required from time to time due to normal use.
- (g) Each person receiving alley collection service shall place the household Garbage and Trash within the three cubic yard container provided by the City. Each person using the service shall bag his Garbage and Trash before placing it in the container to prevent blowing litter and shall keep the container lid closed so that flies and insects may not have access to the solid waste contained therein. If at any time the container service level is determined to be inadequate to meet required service demands, the Superintendent shall have the authority to increase the number of containers and/or frequency of collections. Containers must be properly loaded with doors closed for pickup to occur. Boxes (cardboard/wood) shall be broken down prior to being placed in the container.

Secs. 8-3-334—8-3-45. - Reserved.

SECTION 12: Title VIII, Chapter 8-3, Article III is hereby amended as follows:

ARTICLE III. - PRIVATE COLLECTORS AND TRANSPORTERS COMMERCIAL COLLECTION SERVICE

SECTION 13: Title VIII, Chapter 8-3, Article III, Sections 8-3-46 through 8-3-58, are grouped as follows:

DIVISION 1. – GENERALLY.

SECTION 14: Title VIII, Chapter 8-3, Article III, Sections 8-3-59 through 8-3-75, are grouped as follows:

DIVISION 2. – COLLECTOR’S PERMIT.

SECTION 15: Title VIII, Chapter 8-3, Article III, Section 8-3-46(d) is hereby amended as follows:

Sec. 8-3-46. - Authorization; vehicle and hauling requirements.

- (a) *Authorization.* No person shall be prohibited by this chapter from removing the accumulation of Garbage and Trash from the Premises under his control and transporting it to the City ~~refuse disposal area~~ Landfill without a permit; provided, however, any person hauling or transporting any kind of Trash or Garbage shall provide for such use a motor-driven vehicle or trailer equipped as specified in subsection b.
- (b) – (c) [NO TEXT CHANGE]
- (d) If the Trash or other refuse is a solid, then it shall be securely tied to the bed of the vehicle or trailer or covered, ~~with a screen wire and the covering or~~ shall be securely tied to the bed of the vehicle or trailer.
- (e) [NO TEXT CHANGE]

SECTION 16: Title VIII, Chapter 8-3, Article III, Section 8-3-47 is added to read as follows:

Sec. 8-3-47 City Manager Authorization Required.

- (a) The City Manager or his designee is authorized to grant a non-exclusive Permit to operate Commercial Collection Services in the City pursuant to the terms of this Article. A permit holder may solicit Commercial customers anywhere within the City limits and may service Commercial Customers anywhere within the City. A licensee may, at their option, limit their operations to any parts of the City, in order to provide more efficient operation.
- (b) Non-Exclusive Commercial Collection Permit may be granted by the City Manager pursuant to the terms of this Article provided that a Permit Agreement is executed therewith.

Secs. 8-3-478—8-3-58. - Reserved.

SECTION 17: Title VIII, Chapter 8-3, Article III, Section 8-3-59 is hereby amended as follows:

Sec. 8-3-59. - Required; investigation of applicant; determination of necessity.

- (a) No person except a duly authorized agent and employee of the City shall empty Garbage or Trash receptacles, or convey or transport Garbage or Trash on any Street, Alley or other Public Right-of-way of the City without a written permit granted and issued by the ~~Superintendent~~ City Manager or his designee.
- (b) [NO TEXT CHANGE]

SECTION 18: Title VIII, Chapter 8-3, Article III, Section 8-3-60 is hereby amended as follows:

Sec. 8-3-60. - Application; Term; required information.

~~The application for a Garbage and Trash collector's permit shall set forth the following information:~~

- ~~(1) *Name*. The name and address of the applicant.~~
 - ~~(2) *Trade name*. The trade name under which the applicant does or proposes to do business.~~
 - ~~(3) *Vehicles*. The number of motor vehicles the applicant desires to operate; the class, size, design and license number of each vehicle.~~
 - ~~(4) *Convictions*. Whether or not the applicant has been convicted of a violation of any federal, State or municipal law.~~
 - ~~(5) *Negligent collision; claim or judgment*. Whether or not the applicant or any person with whom he has been associated or employed has a claim or judgment against him for damages resulting from the negligent operation of a motor vehicle.~~
 - ~~(6) *Financial status and responsibility*. The financial status and responsibilities of the applicant; his ability to respond in the event of damages to persons or property by reason of the negligent operation of a motor vehicle on a Street or public Thoroughfare of the City.~~
 - ~~(7) *Nature and experience of service*. The nature and character of the service the applicant proposes to render and the experience he has had in rendering such service.~~
 - ~~(8) *Patrons*. The patrons for whom he proposes to render the service.~~
 - ~~(9) Disposal site. The location, type and permit number of the disposal site the applicant proposes to use.~~
 - ~~(10) Other information. Any other information relevant to the application as may be required by the Superintendent.~~
- (a) To obtain a permit, a person must submit an application on a form provided for that purpose to the Superintendent along with a non-refundable application fee established by the City Council from time to time.
 - (b) A permit is issued annually and expires at 11:59 pm on December 31 of the year in which it is issued.
 - (c) A permit holder must submit an annual renewal application sixty (60) days prior to the expiration of the current Permit Agreement.

SECTION 19: Title VIII, Chapter 8-3, Article III, Section 8-3-61 is hereby amended as follows:

Sec. 8-3-61. - ~~Bond~~; ~~term~~; fee Permit pre-requisites.

- ~~(a) *Bond*. No permit shall be issued under this division until the applicant has made and placed in the hands of the Director of Public Works a good and sufficient indemnity bond in the amount of one thousand dollars (\$1,000.00) indemnifying the City against any claims that may arise against it caused by the applicant's operation under the permit.~~
- ~~(b) *Term*. Permits shall be issued to qualified applicants for a period of up to one (1) year and shall expire on December 31st of each year.~~
- ~~(c) *Fee*. Applicants or holders of a permit shall pay to the City an annual fee of one hundred dollars (\$100.00).~~

- (a) A Permit may not be accepted or renewed under this Article unless the applicant includes the following with the application:
- (b) Fee. A non-refundable application as set forth in Section 8-3-60.
- (c) Insurance Certificates as set forth in Section 8-3-63.
- (d) Vehicle and Equipment requirements as set forth in Section 8-3-64.
- (e) Vehicle and Container Decal Fees as set forth in Section 8-3-70.
- (f) For Renewal Applications, an Annual Financial Report as set forth in Sec. 8-3-66.

SECTION 20: Title VIII, Chapter 8-3, Article III, Section 8-3-62 is hereby amended as follows:

Sec. 8-3-62. – Term; Transferability; revocation; posting.

- (a) Permits issued under this division shall be nontransferable and may be revoked and rescinded by the Superintendent at any time that, in his judgment, such action is deemed to be in the best interest of the public.
- (b) In all cases where a permit has been issued, such permit shall be attached to the vehicles used for such purpose, shall be in possession of the person rendering such service, and shall be subject to inspection at all times.

SECTION 21: Title VIII, Chapter 8-3, Article III, Section 8-3-63 is hereby added as follows:

Sec. 8-3-63. Insurance.

- (a) An applicant for a Permit under this article must file with the Superintendent a certificate of general and commercial auto liability insurance, executed by a company authorized to do business in the state and performable in Randall and Potter Counties
- (b) The insurance shall insure the general public against loss or damage that may result to any person or property from the operation of the Commercial Collection Service or from a vehicle or equipment operated by such service.
- (c) The insurance must have minimum limits of \$250,000 per individual and \$500,000 per occurrence for bodily injury and \$100,000 for property damage or \$1,000,000 on a combined single limit basis.
- (d) The applicant must also include a statement from the applicant's insurance company that the insurer will furnish to the City written notice of its intention to cancel a policy at least 30 days before the liability of the insurer expires.

SECTION 22: Title VIII, Chapter 8-3, Article III, Section 8-3-64 is hereby added as follows:

Sec 8-3-64. Vehicles And Equipment.

- (a) A permit holder shall keep a vehicle or equipment used in a Commercial Collection service in clean, sanitary, and safe condition. The Superintendent may inspect any fleet vehicle or equipment utilized for Commercial Collection at any time.

- (b) A permit holder may not place a mechanically-handled solid waste container on public property or a public right-of-way, except with the Superintendent's approval or the execution of an agreement with the City.
- (c) Any vehicle used for transporting dry solid waste material within the City must:
 - 1) be fitted with a substantial, tight-fitting enclosure that is free of any cracks or breaks and that has side boards and head boards of not less than 24 inches in height and a tail board of not less than 18 inches in height, to prevent waste material from being scattered or thrown onto the streets;
 - 2) be equipped with a closely fitting cover that must be used to prevent the escape of loose material or effluvia; and
 - 3) be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards.
- (d) Any vehicle used for transporting wet solid waste material within the City must:
 - 1) have a tight-fitting cover to prevent spillage;
 - 2) when carrying cans to transport wet solid waste material, use only cans equipped with tight-fitting lids and holding chains so that the cans will not turn over and spill;
 - 3) not have any drain holes in the sides of the vehicle and may have drain holes in the deck of the vehicle or on containers only if they are capped to prevent spillage or leakage; and
 - 4) be equipped with any other equipment required to comply with all applicable federal and state motor vehicle safety standards.
- (e) Before any vehicle not listed in the application for a Commercial Collection Service may be placed in service, the permit holder must provide written notice to the Superintendent of the proposed use of a new or additional vehicle.
- (f) A permit holder under this article shall provide annual documentation of State of Texas vehicle inspection to Superintendent at the time an Application is submitted to the Superintendent under Section 8-3-60 (Application).
- (g) A permit holder that places a vehicle in service during the calendar year shall submit all required documentation within thirty days of placing the vehicle into service.

SECTION 23: Title VIII, Chapter 8-3, Article III, Section 8-3-65 is hereby added as follows:

Sec 8-3-65. Display of Business Information.

- (a) A permit holder shall prominently display the name and telephone number of the Commercial Collection Service on both sides of each vehicle used in the operation of the service.
- (b) The permit holder shall prominently display the name and telephone number of the Commercial Collection Service on at least one side of each container used for collection, storage, or disposal of Garbage and Trash in the City.

SECTION 24: Title VIII, Chapter 8-3, Article III, Section 8-3-66 is hereby added as follows:

Sec. 8-3-66. Reporting Requirements.

- (a) A permit holder shall maintain a list of the containers used for the collection, storage, or disposal of Garbage and Trash that are owned or serviced by the permit holder, with the customer name, customer address, number and the location of each container.
- (b) A permit holder shall file a quarterly report of the number of containers it services in the City.
- (c) A permit holder who provides Commercial Collection Service shall file quarterly Tonnage Reports. The report shall be on a form provided by the Superintendent. The report shall be filed with the Superintendent quarterly no later than thirty (30) days after the end of each calendar quarter. The report shall contain the following information:
 - 1) the amount in tons of solid waste, recyclables, and organic materials (but excluding construction and demolition materials) hauled to:
 - i. the City Landfill or other landfill;
 - ii. recycling facilities; and
 - iii. organic materials processing facilities;
 - 2) the amount in tons of construction and demolition materials hauled directly to:
 - i. the City Landfill or other landfill;
 - ii. recycling facilities; and
 - iii. organic materials processing facilities; and
 - 3) other information required by Superintendent

SECTION 25: Title VIII, Chapter 8-3, Article III, Section 8-3-67 is hereby added as follows:

Sec. 8-3-67. Drivers.

A driver must have a valid motor vehicle operator's license as required by the state.

SECTION 26: Title VIII, Chapter 8-3, Article III, Section 8-3-68 is hereby added as follows:

Sec. 8-3-68. Notification of Change of Address or Ownership.

A permit holder shall provide written notice to the Superintendent within sixty (60) days of a change in:

- (a) the address or telephone number of the Commercial Collection Service;
or
- (b) the form of the business or the executive officers of the Commercial Collection Service; or

- (c) the name and address of the person designated to receive notices described in this article.

SECTION 27: Title VIII, Chapter 8-3, Article III, Section 8-3-69 is hereby added as follows:

Sec. 8-3-69. Hazardous Waste Material.

A person providing Commercial Collection Service within the City shall comply with all City ordinances and state and federal laws regulating the handling, disposal, and transportation of hazardous waste materials.

SECTION 28: Title VIII, Chapter 8-3, Article III, Section 8-3-70 is hereby added as follows:

Sec. 8-3-70. Decal; Decal Fees.

- (a) The Superintendent shall issue a decal to a permit holder for each Commercial Collection vehicle and each additional vehicle approved by the Superintendent under Section 8-3-64 (*Vehicles and Equipment*).
- (b) Decal Fees shall be charged based on the number of decals issued per year to the Commercial Collection Service. The charge per Vehicle decal is fifty dollars (\$50.00). Replacement decals for lost, damaged or stolen decals is twenty-five dollars (\$25) per decal. There is no cost for temporary decals.
- (c) A permit holder shall display the vehicle decal, including temporary decals, on both the driver and passenger side doors of the vehicle in a location that can be seen by the public at all times.
- (d) The Superintendent shall issue a decal to a permit holder for each Commercial Collection container utilized to provide commercial services to customers. Container decal fees shall be charged based on the number of decals issued per year to the Commercial Collection Service. The charge per Container decal is twenty-five dollars (\$25). Replacement decals for lost, damaged or stolen decals is fifteen dollars (\$15) per Decal. No temporary Container decals will be issued.

SECTION 29: Title VIII, Chapter 8-3, Article III, Section 8-3-71 is hereby added as follows:

Sec. 8-3-71. Temporary Decal For New And Replacement Vehicles.

- (a) A permit holder must obtain a temporary decal for a vehicle that is temporarily substituted for a vehicle subject to the license.
- (b) A temporary decal is valid for not more than thirty (30) days after the date the permit holder submits to the Superintendent a signed statement that the vehicle subject to the license is out of service for maintenance or repair.
- (c) The requirements of Sections 8-3-61 (*Permit prerequisites*), 8-3-66 (*Reporting Requirements*), and 8-3-67 (*Drivers*) apply to an applicant for a temporary decal.
- (d) A Permit holder must obtain a permanent decal for a new vehicle placed in service more than thirty (30) days before the end of the calendar year.
- (e) A factory demonstration vehicle is exempt from licensing and fee requirements if the vehicle is utilized less than ten (10) days, and the person provides two business days written notice to the Superintendent.

- (f) The Superintendent may exempt a permit holder's vehicles from decal requirements in this Article if the permit holder places the vehicle into temporary service due to an emergency as determined by the Superintendent.
- (g) The Superintendent shall issue a temporary decal to a permit holder who complies with this section.

SECTION 30: Title VIII, Chapter 8-3, Article III, Section 8-3-72 is hereby added as follows:

Sec. 8-3-72. Permit Fees.

- (a) The annual fee shall be five (5) percent of gross revenues for service provided by the permit holder in the City for all services provided to commercial customers including dumpsters, roll-off containers, compactor containers, collection in refuse vehicles or collecting and hauling refuse in open top trucks, owned or not owned by the permit holder, that is serviced by the permit holder in the City.
- (b) The calculation of gross revenues generated from operation within the City shall include all revenue, as determined in accordance with generally accepted accounting principles, which is derived, directly or indirectly, by the permit holder from or in connection with its operation within the City. Gross revenues shall include, but are not limited to revenues received from the collection and disposal of all Garbage and Trash, whether by a company bearing permit holder's name or a company owned or controlled by permit holder but operating under a different name. That portion of the annual fee attributable to subsection (a) above must be paid in a manner and on a schedule approved by the Superintendent.
- (c) The annual fee shall be paid quarterly, no later than thirty (30) days after the end of each calendar quarter. The payment shall be made to the City of Amarillo, Accounting Services Department. No refund of a fee will be made. Fee payments received after the due date shall be subject to interest at the rate of twelve (12) percent per annum until the fees are paid in full.
- (d) In addition, delinquent fees shall be subject to a late payment penalty of five (5) percent for each month or portion thereof that the fees are outstanding. In no event, however, shall the penalties exceed twenty-five (25) percent of the total delinquent fees nor shall interest charged exceed the maximum rate allowed by law.
- (c) The Permit shall be subject to annual rate adjustments set forth in this Article and shall be made at the beginning of each renewal term. The rate of increase shall be determined by the preceding twelve (12) month period in the Consumer Price Index (CPI) for the South Region as published by the U.S. Department of Labor, Bureau of Labor Statistics. The percent of change in the index shall be calculated based on the most current available information at the time of the adjustment.
- (d) Cost adjustments shall not exceed three (3) percent in any renewal year and twelve (12) percent in any four consecutive years.
- (e) Calculation of the annual CPI adjustment shall be determined by utilizing twelve (12) months prior CPI utilizing the previous year's September determination and effective January 1. In the renewal term.
- (f) Disposal Fees. Rates for disposal at the City Landfill shall be those as set forth in Section 8-3-94, provided however, that the Director of Public Works is authorized to reduce the permit fee by one-half (0.5%) to one (1%) percent for any permit holder's exclusive disposal use at City Landfill for Commercial Collection Services.

Secs. 8-3-~~6373~~—8-3-75. - Reserved.

SECTION 31: Title VIII, Chapter 8-3, Article IV, Section 8-3-77 is hereby amended as follows:

Sec. 8-3-77. - Damage to property surface.

If a container is located on private property, any damage caused by the container pickup equipment to the surfaces of the private property adjacent to the container will not be the responsibility of the ~~Sanitation Department~~ Solid Waste Division.

SECTION 32: Title VIII, Chapter 8-3, Article IV, Section 8-3-78 is hereby amended as follows:

Sec. 8-3-78. - Number of containers furnished.

(a) For Residential collection, the Superintendent shall determine the required number and location of alley dumpsters ~~containers~~ in the Residential areas. For those customers served by the automated curbside collection trucks, up to two containers will be furnished for the base price. Additional carts may be furnished at the rates as set forth in Sec. 8-3-92(12).

(b) [NO TEXT CHANGE]

SECTION 33: Title VIII, Chapter 8-3, Article IV, Section 8-3-79 is hereby amended as follows:

Sec. 8-3-79. - Removal of tree, shrub trimmings.

Any person engaged in the business of cutting or trimming ~~t~~Frees or shrubs shall be responsible for the disposal of ~~t~~Frees, ~~t~~Free and shrub cuttings and trimmings at the expense of such person. It shall be unlawful for such person to deposit any ~~t~~Frees, ~~t~~Free or ~~s~~Shrub cuttings or trimmings at any location for pickup by the City. Failure to properly dispose of such cuttings or trimmings shall constitute littering and is punishable in accordance with section 1-1-5 of this Code.

SECTION 34: Title VIII, Chapter 8-3, Article IV, Section 8-3-81 is hereby amended as follows:

Sec. 8-3-81. - Disposal of special wastes from health care related facilities.

It shall be unlawful for any person to set out for collection, place within any City owned refuse container, transport to the City ~~sanitary~~ landfill for disposal, dispose of in the City ~~sanitary~~ landfill, or otherwise dispose of any special waste from a health care related facility as that term is defined by the Texas Commission on Environmental Quality, unless such waste has first been treated in accordance with applicable State and Federal regulations.

SECTION 35: Title VIII, Chapter 8-3, Article IV, Section 8-3-84 is hereby amended as follows:

Sec. 8-3-84. - Waste oil.

- (a) It shall be unlawful for any person to set out for collection, place within any city owned refuse container, transport to the City ~~sanitary~~ landfill for disposal, dispose of in the City ~~sanitary~~ landfill or otherwise dispose of any bulk or liquid waste oil or any used internal combustion engine oil or any used internal combustion oil filters except by delivery to a collection or recycling facility authorized to accept waste oil or used internal combustion engine filters.
- (b) [NO TEXT CHANGE]

SECTION 36: Title VIII, Chapter 8-3, Article IV, Section 8-3-91 is hereby amended as follows:

Sec. 8-3-91. - Authorized; variations.

- (a) The Superintendent of the ~~Sanitation~~ Solid Waste Division ~~Department~~ shall establish charges as provided in this division for the collection of Trash and Garbage by the ~~Sanitation Department~~ Solid Waste Division from any location.
- (b) [NO TEXT CHANGE]

SECTION 37: Title VIII, Chapter 8-3, Article IV, Section 8-3-92 is hereby amended as follows:

Sec. 8-3-92. - Residential collection and disposal.

- (a) Residential collection and disposal charges shall be set out as follows:

TABLE NUMBER ONE

Monthly Type Description Charge	
<u>Type/Description</u>	<u>Monthly Charge</u>
(1) One-Family Residence	\$15.40
(2) Two-Family Residence with 1 water meter	30.80
(3) Three-Family Residence with 1 water meter	46.20
(4) Four-Family Residence with 1 water meter	61.60
(5) Two-Family Residence, each unit on separate water meter, each unit	15.40
(6) One-Family Residence and single apartment on 1 water meter	30.80
(7) One-Family Residence and single apartment on 1 water meter, each unit	15.40
(8) <u>One-family unit or single-family unit, without alley entrance, where it is necessary to carry out municipal solid waste for more than ten feet but less than 50 feet from the curb, each unit</u>	<u>\$37.00</u>

- (9) One-family unit or single-family unit, without alley entrance, where it is necessary to carry out municipal solid waste for more than 50 feet but less than 100 feet from the curb, each unit \$46.00
 - (10) One-family unit or single-family unit, without alley entrance, where it is necessary to carry out the municipal solid waste more than 100 feet from the curb but less than 150 feet , each unit \$54.00
 - (11) Where adjustments to the carry out rate may be necessary, the Solid Waste Superintendent will make case by case determinations of the need and the appropriate rates.
 - (12) One additional curbside container may be provided at no charge to customers requiring more capacity than that provided by one container. Each additional container, beyond the first two, shall be charged for at a rate that is one half of the standard rate as listed in Sec. 8-3-92(a)(1).
- (b) Within the City, the Residential collection and disposal charge shall be paid to the City of Amarillo and shall be mandatory of all owners or occupants with four or less Family Residences.

SECTION 38: Title VIII, Chapter 8-3, Article IV, Section 8-3-93 is hereby amended to add subsections (e) and (f) as follows:

Sec. 8-3-93. - Commercial collection and disposal.

* * *

- (e) Commercial Payload Service (two man crew with grapple loading truck):
Initial trip charge \$29.40 (each trip constitutes a separate charge)
Plus loading fee \$1.95 per minute while loading (\$117.00 per hour)
- (f) Organic waste collection charges for source separated organic material will be calculated by the superintendent on a case by case basis taking into account the personnel and equipment costs.
- (g) Additional pickups will be made at \$50.00 per container. Nothing outside the container will be removed for the container fee.

SECTION 39: Title VIII, Chapter 8-3, Article IV, Section 8-3-94 is hereby amended as follows:

Sec. 8-3-94. - Landfill use fees.

- (a) *Table of charges.* Except as hereinafter provided in subsections (b), (c) and (d) below, the fees charged for the use of the City ~~sanitary~~ landfill facility shall be computed at the rate of thirty dollars (\$30.00) per ton of waste with a minimum charge of five dollars (\$5.00) per load. If the net weight in tons of any load cannot be determined, the fees charged shall be as set out in Table Number Three. The fees charged for source separated organic waste materials delivered to the compost facility will be 75% of the fees charged for the use of the city landfill. Organic waste that requires minimum processing, as determined by the Superintendent, may be charged a rate as low as 50% of the fees charged for the use of the city sanitary landfill facility.
- (b) – (c) [NO TEXT CHANGE]

(d) *Waiving of fees.* The Director of Public Works shall be authorized to issue permits waiving the fees set forth in subsections (a) and (b) above under the following conditions:

(1) For the disposal of excess trash during a one-time cleanup operation for which the Trash was originally generated from a location meeting one of the following conditions:

- a. A residential location on which a sanitation charge if currently being paid.
- b. A residential location on which a sanitation charge was paid during the time the excess trash was accumulated.
- c. Any location where Trash has been deposited upon the property without the owner's consent.

(2) –(3) [NO TEXT CHANGE]

SECTION 40: Title VIII, Chapter 8-3, Article IV, Section 8-3-95 (e) is hereby amended as follows:

(e) *Extra service.* The charge for any extra collection service rendered by the ~~Sanitation~~ Solid Waste Department will be billed separately from the regular monthly bill. The charge for extra service will be determined by the Superintendent and based on labor and equipment costs of the service rendered.

SECTION 41: Title VIII, Chapter 8-3 is hereby amended to add Article VI and Sections 8-3-141 through 8-3-150 as follows:

ARTICLE VI. - ORGANICS, COMPOST AND MULCH

Sec. 8-3-141. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Vendor means any organization that has registered with the Solid Waste Division to market compost.

Amarillo Organics means those materials, compost, or mulch produced at the Amarillo Organics recycling facility. This is the trade name used for marketing purposes.

Amarillo Organics Recycling Facility means the portion of the City of Amarillo Landfill permitted and used for composting operations.

Sec. 8-3-142. - Criteria.

(a) Any person who violates any section of this article will have his registration revoked and may be prohibited from future purchases of Amarillo Organics.

(b) Amarillo Organics meets or exceeds all Environmental Protection Agency (EPA) and Texas Commission on Environmental Quality (TCEQ) criteria for use by the general public. It is the responsibility of the vendor to provide the customer with information on how to properly use Amarillo Organics.

Sec. 8-3-143. - Registration.

Required. No person, except duly authorized city agents and employees, shall distribute or market materials generated by the Amarillo Organics recycling facility without a registration on file with the Solid Waste Division. The purpose of registration is to ensure that all vendors marketing this product comply with all applicable federal, state and local rules and regulations. Failure to comply with these rules and regulations is grounds for revoking the vendor's registration.

Sec. 8-3-144. – Purchase and Resale of Amarillo Organics.

- (a) Amarillo Organics may be purchased during normal operating hours at the landfill office. The purchase price shall be \$15.00 per cubic yard. A limited quantity of material may be available and will be available on a first come, first served basis. Although the city will make every effort to maintain adequate inventory, the availability of compost or related products is not guaranteed or assured.
- (b) Registered vendors may resell Amarillo Organics at their discretion. Resale must be made under the Amarillo Organics trade name and logo, both of which must be displayed on all packaged or bagged compost. Premixing these materials with other soils and selling under another trade name is prohibited. The vendor will provide the city with a list of users when required by TCEQ regulations, and will provide these users any notices required by the Texas Commission on Environmental Quality (TCEQ).

Secs. 8-3-145—8-3-150. – Reserved.

SECTION 42. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 43. Repealer. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 44. Penalty. It is an offense to violate any part of this ordinance, punishable upon conviction in accordance with Section 1-1-5 of the Amarillo Municipal Code of Ordinances.

SECTION 45. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the 12th day of June, 2018; and **PASSED** on Second and Final Reading the 19th day of June, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, Interim City Attorney

C

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Infrastructure Initiative
Department	Capital Projects & Development Engineering		
Contact	Kyle Schniederjan – Interim Director of CP&DE		

Agenda Caption

Consider for Approval – Change Order No. 2-Bid #5754/Project #462044 – FY 2017-2021 Community Investment Program Street & Drainage Improvements: Rehabilitation of Georgia Street From SW 46th Avenue to SW 58th Avenue – Holmes Construction LLP

Original Contract Amount	\$1,898,329.23
Previous Change Orders	\$ 38,574.26
This Change Order No. 2	\$ 267,265.63
Revised Contract Total	\$2,204,169.12

Agenda Item Summary

Bid #5454/Project #462044
This item is to approve Change Order No. 2 to Holmes Construction, which adds a mill and overlay of Western Street from I-27 to SW 49th.

Requested Action

Consider approval of Change Order No. 2.

Funding Summary

Funding for this project is available in the Project Budget Number 462044.17400.2040. The construction expenses of this change order are funded from the annual arterial reconstruction fund as identified in the CIP and funded from Proposition 1 bonds.

Budget account balance =	\$ 322,921.58
Remaining expenditures (this change order) =	\$ 267,265.63

Community Engagement Summary

This project will have Level 1, modest impact. City staff will update the public with press releases and public announcements before and during the project. The contractor will be required to maintain two-way traffic at all times.

Staff Recommendation

City Staff is recommending approval of Change Order No. 2.

Bid No. 5754 FY-2017-2021 Community Investment Program Street Drainage Improvements: Rehabilitation of Georgia Street from SW 46th Ave to SW 58th Ave Opened 4:00 p.m., May 19, 2017					
To be awarded as one lot		Holmes Construction Company	LA Fuller & Sons Construction Ltd	J Lee Milligan Inc	R K Hall LLC
Line 1 Preparing the Right of Way or Project site: Concrete slab removal including walks, drives, valley, etc and saw cuts where necessary, (COA 3.03) complete as specified , per specifications					
257 sy					
Unit Price	\$12.000	\$1.20		\$1.000	\$27.00
Extended Price	3,084.00	308.40		257.00	6,939.00
Line 2 Removal and disposal of concrete cap (COA 3.03) complete, per specifications					
1,929 sy					
Unit Price	\$4.800	\$5.90		\$5.000	\$10.00
Extended Price	9,259.20	11,381.10		9,645.00	19,290.00
Line 3 Road excavation to lines and grades as shown on plans, (COA 4.02) complete, per specifications					
37,246 sy					
Unit Price	\$3.900	\$5.80		\$5.600	\$4.60
Extended Price	145,259.40	216,026.80		208,577.60	171,331.60
Line 4 Lime for subgrade (COA 4.04) , per specifications					
498 Ton					
Unit Price	\$198.000	\$225.00		\$235.000	\$220.00
Extended Price	98,604.00	112,050.00		117,030.00	109,560.00

To be awarded as one lot		Holmes Construction Company	LA Fuller & Sons Construction Ltd	J Lee Milligan Inc	R K Hall LLC
Line 5 Subgrade stabilization to a depth o nine inches (9"), at 3% by weight, including preparation, mixing, and compaction of the stabilized subgrade under flexible base, (COA 4.04) complete, per specifications					
37,246 sy					
Unit Price	\$3.500	130,361.00	\$3.20	119,187.20	\$3.750
Extended Price				139,672.50	\$2.10
					78,216.60
Line 6 FL BS (CMP in PLC)(TY A or C)(GR 2)(13"), complete, per specifications					
37,246 sy					
Unit Price	\$15.000	558,690.00	\$15.70	584,762.20	\$17.750
Extended Price				661,116.50	\$19.00
					707,674.00
Line 7 Six inch (6") 3000 psi concrete curb and gutter, as detailed on plans, (COA 4309) complete , per specifications					
75 ls					
Unit Price	\$26.250	1,968.75	\$37.00	2,775.00	\$30.450
Extended Price				2,283.75	\$75.00
					5,625.00
Line 8 Four inch (4") concrete flatwork (sidewalks) reinforced with 6x6 W1.4xW1.4 welded wire mesh on a one inch (1") sand cushion including all necessary earthwork and subgrade preparation, (COA 4.10) installed complete, per specifications					
806 sf					
Unit Price	\$6.300	5,077.80	\$5.60	4,513.60	\$9.150
Extended Price				7,374.90	\$15.00
					12,090.00

To be awarded as one lot		Holmes Construction Company	LA Fuller & Sons Construction Ltd	J Lee Milligan Inc	R K Hall LLC
Line 9 Eight inch (8") concrete flatwork (alley aprons and commercial driveways), minimum 4000 psi at 28 days, reinforced with #4 reinforcing bars on 12" centers both ways, including all necessary earthwork and subgrade preparation, (COA 4.11) installed complete, per specifications					
2,562	sf				
	Unit Price	\$9.190	\$9.60	\$10.600	\$19.00
	Extended Price	23,544.78	24,595.20	27,157.20	48,678.00
Line 10 Plane existing asphaltic concrete pavement (ACP) one and one half inches (1 1/2") and stockpile salvaged materials, (COA 4.15) complete, per specifications					
1,023	sy				
	Unit Price	\$6.000	\$3.30	\$6.900	\$4.40
	Extended Price	6,138.00	3,375.90	7,058.70	4,501.20
Line 11 Plane existing asphaltic concrete pavement (ACP) two inches (2") and stockpile salvaged material (COA 4.15) complete, per specifications					
37,246	sy				
	Unit Price	\$2.400	\$1.60	\$3.050	\$1.90
	Extended Price	89,390.40	59,593.60	113,600.30	70,767.40
Line 12 Furnish,, haul, place and compact two inch (3") hot-mix asphaltic concrete, type D, (COA 4.17) complete, per specifications					
37,246	sy				
	Unit Price	\$17.000	\$16.75	\$16.150	\$20.50
	Extended Price	633,182.00	623,870.50	601,522.90	763,543.00

To be awarded as one lot		Holmes Construction Company	LA Fuller & Sons Construction Ltd	J Lee Milligan Inc	R K Hall LLC
Line 13 Furnish, haul, place, and compact one and one-half inch (1 1/2") hot-mix asphaltic concrete, Type D, (COA 4.17) complete, per specifications					
1,023 sy					
Unit Price	\$18.400	\$9.90	10,127.70	\$10.500	\$18.85
Extended Price	18,823.20			10,741.50	19,283.55
Line 14 ReflectORIZED pavement markings Type White, (100 Mil) Four inch (4"), Solid (COA 4.20) installed complete, per specifications					
466 lf					
Unit Price	\$0.550	\$0.70	326.20	\$0.590	\$0.60
Extended Price	256.30			274.94	279.60
Line 15 ReflectORIZED pavement markings Type 1, White, (100 Mil Four Inch (4"), broken (COA 4.20), installed complete , per specifications					
14,494 lf					
Unit Price	\$0.550	\$0.70	10,145.80	\$0.590	\$0.60
Extended Price	7,971.70			8,551.46	8,696.40
Line 16 ReflectORIZED pavement markings Type 1, yellow, (100 Mil), four inch (4"), Solid, (COA 4.20), installed complete, per specifications					
14,688 lf					
Unit Price	\$0.550	\$0.70	10,281.60	\$0.590	\$0.60
Extended Price	8,078.40			8,665.92	8,812.80
Line 17 ReflectORIZED pavement markings Type 1, yellow, (100 Mil), Four inch (4"), Broken, (COA 4.20), installed complete, per specifications					
11,536 lf					
Unit Price	\$0.550	\$0.70	8,075.20	\$0.590	\$0.60
Extended Price	6,344.80			6,806.24	6,921.60

To be awarded as one lot		Holmes Construction Company	LA Fuller & Sons Construction Ltd	J Lee Milligan Inc	R K Hall LLC
Line 18 Prefabricated pavement marking (Type C, white, twenty-four inch (24") solid), (COA 4.20) installed complete, per specifications					
257	lf				
	Unit Price	\$21.000	\$26.50	\$22.750	\$22.00
	Extended Price	5,397.00	6,810.50	5,846.75	5,654.00
Line 19 Prefabricated pavement markings (Type C, white, arrow), (COA 4.20), installed complete , per specifications					
14	ea				
	Unit Price	\$367.500	\$460.00	\$400.000	\$385.00
	Extended Price	5,145.00	6,440.00	5,600.00	5,390.00
Line 20 Water valve box adjustment, installed complete, per specifications					
9	ea				
	Unit Price	\$660.000	\$650.00	\$480.000	\$250.00
	Extended Price	5,940.00	5,850.00	4,320.00	2,250.00
Line 21 Manhole adjustment, installed complete, per specifications					
3	ea				
	Unit Price	\$1,200.000	\$1,000.00	\$900.000	\$650.00
	Extended Price	3,600.00	3,000.00	2,700.00	1,950.00
Line 22 Furnish, install and maintain Traffic Control Plan, (COA 9.04) complete , per specifications					
1	ls				
	Unit Price	\$80,167.500	\$115,697.50	\$41,000.000	\$50,000.00
	Extended Price	80,167.50	115,697.50	41,000.00	50,000.00

To be awarded as one lot				Holmes Construction Company	LA Fuller & Sons Construction Ltd	J Lee Milligan Inc	R K Hall LLC
Line 23 Mobilization/Demobilization including Insurance, payment bond, performance bond, maintenance bond and related ancillary costs. (Shall not exceed three percent (3%) of the total construction cost) (COA 10.01), per specifications							
1 less							
Unit Price	\$50,000.000	\$59,990.00	\$61,550.000	\$60,000.00			
Extended Price	50,000.00	59,990.00	61,550.00	60,000.00			
Line 24 Sandbags for erosion control (6") (Coal 10.02), per specifications							
31 ea							
Unit Price	\$66.000	\$26.00	\$10.000	\$50.00			
Extended Price	2,046.00	806.00	310.00	1,550.00			
Bid Total	1,898,329.23	1,999,990.00	2,051,663.16	2,169,003.75			
Change Order 1	38,574.26						
Change Order 2	267,265.63						
Award to Vendor	2,204,169.12						

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	6/19/2018	Council Priority	Infrastructure Initiative
Department	Capital Projects & Development Engineering		
Contact	Kyle Schniederjan, P.E., Interim CP&DE Director		

Agenda Caption

CONSIDER AWARD – BID # 6098
JOB # 523180 Downtown Water Loop
JOB # 560111 T-Anchor Storm Sewer Force Main
Job # 462005 Railroad Crossing Removal Between Johnson and Grant Streets
Scott Wampler Construction & Services, LLC.- \$278,512.50

Agenda Item Summary

This item is to consider award of a construction contract for the construction of a 12-inch water main from SE 9th Avenue to SE 8th Avenue between Buchanan and Johnson Streets, the construction of a 12-inch water main in 8th Avenue from Johnson Street to the Alley between Johnson and Grant Streets, the relocation of an existing 16-inch storm sewer force main in SE 8th Avenue between Johnson and Grant Streets, and the removal of existing railroad tracks in SE 8th Avenue in between Johnson and Grant Streets.

Requested Action

Consider approval and award to Scott Wampler Construction & Services, LLC. - \$278,512.50

Funding Summary

Funding for this project is available in the following Project Numbers
523180.1040 and 523180.1050: Funded from the Water E&I Fund
560111.1040: Identified in the FY 16/17 – FY 20/21 Community Investment Program
462005.2040: Identified in the FY 16/17 – FY 20/21 Community Investment Program funded by Proposition 1 Bond Funds

Community Engagement Summary

This project will have modest impact to the neighborhood. City staff will update affected property owners throughout the project.

Staff Recommendation

City Staff is recommending approval and award of the contract.

To be awarded as one lot						
SCOTT WAMPLER CONSTRUCTION		L.A. FULLER & SONS	WEST TEXAS UTILITY CONTRACTORS	AMARILLO UTILITY CONTRACTORS	MH CIVIL CONSTRUCTORS	
PROJECT # 523180 Downtown Water Loop						
Line 1 Preparing the Right of Way or Project Site: Removal and disposal of concrete curb and gutter with saw cuts where necessary, (COA 3.03) ,per specifications						
12 L.F.						
Unit Price	\$40.000	\$18.000	\$40.000	\$20.000	\$10.000	120.00
Extended Price	480.00	216.00	480.00		240.00	
Line 2 Preparing the Right of Way or Project Site: Concrete slab removal including walks, drives, valleys, etc. and saw cuts where necessary, (COA 3.03), per specifications						
235 S.F.						
Unit Price	\$5.000	\$3.000	\$18.000	\$15.000	\$10.000	2,350.00
Extended Price	1,175.00	705.00	4,230.00	3,525.00		
Line 3 Preparing the Right of Way or Project Site: Removal and disposal of HMAC and saw cuts where necessary, (COA 3.03), per specifications						
242 S.Y.						
Unit Price	\$8.000	\$23.000	\$15.000	\$5.000	\$20.000	4,840.00
Extended Price	1,936.00	5,566.00	3,630.00	1,210.00		
Line 4 Trench repair-Brick Pavement as detailed on plans, (COA 4.01), per specifications						
6 S.Y.						
Unit Price	\$75.000	\$250.000	\$400.000	\$100.000	\$370.000	2,220.00
Extended Price	450.00	1,500.00	2,400.00	600.00		
Line 5 Six inch (6") 3000 psi Concrete curb and gutter, as detailed on plans, (COA 4.09), per specifications						
12 L.F.						
Unit Price	\$35.000	\$39.000	\$30.000	\$34.000	\$50.000	600.00
Extended Price	420.00	468.00	360.00	408.00		
Line 6 Four Inch (4") concrete flatwork (sidewalks) reinforced with 6x6-W1.4xW1.4 welded wire mesh on a one inch (1") sand cushion including all necessary earthwork and subgrade preparation, (COA 4.10) installed, per specifications						
38 S.Y.						
Unit Price	\$54.000	\$77.000	\$18.000	\$150.000	\$50.000	1,900.00
Extended Price	2,052.00	2,926.00	684.00	5,700.00		

To be awarded as one lot	SCOTT WAMPLER CONSTRUCTION	L.A. FULLER & SONS	WEST TEXAS UTILITY CONTRACTORS	AMARILLO UTILITY CONTRACTORS	MH CIVIL CONSTRUCTORS
Line 19 Furnish and Install AWWA C153 SSBDI Fittings, per specifications 0.70 Ton					
Unit Price	\$8,000.000	\$9,288.000	\$7,700.000	\$11,000.000	\$2,590.000
Extended Price	5,600.00	6,501.60	5,390.00		1,813.00
Line 20 Furnish and Install Twelve (12") Inch C900 Water Pipe by Open Cut, per specifications 183 L.F.					
Unit Price	\$95.000	\$114.000	\$78.000	\$160.000	\$120.000
Extended Price	17,385.00	20,862.00	14,274.00		21,960.00
Line 21 Furnish and Install Two (2") Water Tap and Reconnect Service Line, per specifications 1 ea					
Unit Price	\$1,850.000	\$2,408.000	\$2,631.000	\$2,200.000	\$3,000.000
Extended Price	1,850.00	2,408.00	2,631.00		3,000.00
Line 22 Furnish and Install Twelve Inch (12") Restrained Joint Water Pipe by the HDD Method, per specifications 361 L.F.					
Unit Price	\$175.000	\$141.200	\$170.000	\$220.000	\$300.000
Extended Price	63,175.00	50,973.20	61,370.00		108,300.00
Line 23 Remove Existing Fittings and Valves, per specifications 10 ea					
Unit Price	\$200.000	\$240.000	\$400.000	\$600.000	\$5,000.000
Extended Price	2,000.00	2,400.00	4,000.00		50,000.00
Line 24 Remove Pipe - All Types and Sizes, per specifications 4 L.F.					
Unit Price	\$25.000	\$31.000	\$37.500	\$300.000	\$100.000
Extended Price	100.00	124.00	150.00		400.00
Line 25 Tie into existing 12" Water Pipe, per specifications 4 ea					
Unit Price	\$2,500.000	\$1,876.000	\$2,100.000	\$3,200.000	\$5,000.000
Extended Price	10,000.00	7,504.00	8,400.00		20,000.00
Line 26 Tie into existing 4" Water Pipe, per specifications 1 ea					
Unit Price	\$1,500.000	\$1,590.000	\$2,100.000	\$21,300.000	\$4,000.000
Extended Price	1,500.00	1,590.00	2,100.00		4,000.00

To be awarded as one lot		SCOTT WAMPLER CONSTRUCTION	L.A. FULLER & SONS	WEST TEXAS UTILITY CONTRACTORS	AMARILLO UTILITY CONTRACTORS	MH CIVIL CONSTRUCTORS
Line 7 Furnish, install, and maintain Traffic Control Plan, (COA 9.04), per specifications						
1	L.S.					
	Unit Price	\$2,500.000	\$1,061.000	\$3,800.000	\$2,000.000	\$7,500.000
	Extended Price	2,500.00	1,061.00	3,800.00	2,000.00	7,500.00
Line 8 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 10.01), per specifications						
1	L.S.					
	Unit Price	\$3,000.000	\$2,795.750	\$3,500.000	\$2,000.000	\$6,590.000
	Extended Price	3,000.00	2,795.75	3,500.00	2,000.00	6,590.00
Line 9 Erosion Control Plan, (COA 10.02) prepared and installed complete , per specifications						
1	L.S.					
	Unit Price	\$1,500.000	\$605.000	\$600.000	\$600.000	\$5,000.000
	Extended Price	1,500.00	605.00	600.00	600.00	5,000.00
Total for Job 560111		85,685.00	61,575.00	81,211.00	70,505.00	123,000.00

To be awarded as one lot	SCOTT WAMPLER CONSTRUCTION	L.A. FULLER & SONS	WEST TEXAS UTILITY CONTRACTORS	AMARILLO UTILITY CONTRACTORS	MH CIVIL CONSTRUCTORS
PROJECT # 462005 FY 2017-20121 Comm. Investment Program Railroad Crossing Removal Between Johnson & Grant Streets					
Line 1 Preparing the Right of Way or Project Site: Removal and disposal of concrete curb and gutter with saw cuts where necessary, (COA 3.03), per specifications 6 L.F.	Unit Price	\$60.000	\$25.000	\$40.000	\$60.000
	Extended Price	360.00	150.00	240.00	360.00
					\$10.000
Line 2 Preparing the Right of Way or Project Site: Concrete slab removal including walks, drives, valleys, etc. and saw cuts where necessary, (COA 3.03), per specifications 34 S.F.	Unit Price	\$15.000	\$25.000	\$21.000	\$15.000
	Extended Price	510.00	850.00	714.00	510.00
					\$10.000
Line 3 Preparing the Right of Way or Project Site: Removal and disposal of HMAC and saw cuts where necessary, (COA 3.03), per specifications 206 S.Y.	Unit Price	\$12.000	\$22.000	\$15.000	\$5.000
	Extended Price	2,472.00	4,532.00	3,090.00	1,030.00
					\$20.000
Line 4 Six inch (6") 3000 psi Concrete curb and gutter, as detailed on plans, (COA 4.09), per specifications 16 L.F.	Unit Price	\$45.000	\$39.000	\$30.000	\$34.000
	Extended Price	720.00	624.00	480.00	544.00
					\$50.000
Line 5 Six inch (6") concrete flatwork (Drainage Channel), minimum 3000 psi at 28 days, reinforced with 6x6 - W1.4xW1.4 welded wire mesh, on a one inch (1") sand cushion including all necessary earthwork and subgrade preparation and complete with Curbwalls per plans and specifications, (COA 4.09) installed complete, per specifications 10 L.F.	Unit Price	\$45.000	\$58.000	\$110.000	\$100.000
	Extended Price	450.00	580.00	1,100.00	1,000.00
					\$400.000
	Unit Price				
	Extended Price				
					4,000.00

To be awarded as one lot	SCOTT WAMPLER CONSTRUCTION	L.A. FULLER & SONS	WEST TEXAS UTILITY CONTRACTORS	AMARILLO UTILITY CONTRACTORS	MH CIVIL CONSTRUCTORS
Line 6 Six inch (6") concrete flatwork (alley aprons and commercial driveway), minimum 4000 psi at 28 days, reinforced with #4 reinforcing bars 12" O.C. both ways, including all necessary earthwork and subgrade preparation, complete with toewalls when required, (COA 4.11) installed complete, per specifications 586 S.F.	\$7,500	\$10,000	\$18,000	\$12,000	\$30,000
Unit Price	4,395.00	5,860.00	10,548.00	7,032.00	17,580.00
Extended Price					
Line 7 Six inch (6") thick concrete riprap, minimum 3000 psi at 28 days, reinforced with 6x6 - W2.9xW2.9 welded wire mesh, including all necessary earthwork and subgrade preparation, (COA 4.09) installed complete, per specifications 81 S.F.	\$12,000	\$9,000	\$18,000	\$12,000	\$30,000
Unit Price	972.00	729.00	1,458.00	972.00	2,430.00
Extended Price					
Line 8 Furnish, haul, place, and compact two inch (2") hot-mix asphaltic concrete, type D, (COA 4.17), per specifications 206 S.Y.	\$32,000	\$49,000	\$58,000	\$60,000	\$300,000
Unit Price	6,592.00	10,094.00	11,948.00	12,360.00	61,800.00
Extended Price					
Line 9 Furnish, install, and maintain Traffic Control Plan, (COA 9.04), per specifications 1 L.S.	\$7,500.000	\$1,061.000	\$3,200.000	\$2,000.000	\$7,500.000
Unit Price	7,500.00	1,061.00	3,200.00	2,000.00	7,500.00
Extended Price					
Line 10 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 10.01), per specifications 1 L.S.	\$1,600.000	\$3,558.000	\$2,400.000	\$2,300.000	\$4,370.000
Unit Price	1,600.00	3,558.00	2,400.00	2,300.00	4,370.00
Extended Price					

To be awarded as one lot		SCOTT WAMPLER CONSTRUCTION	L.A. FULLER & SONS	WEST TEXAS UTILITY CONTRACTORS	AMARILLO UTILITY CONTRACTORS	MH CIVIL CONSTRUCTORS
Line 11 Railroad track removal and disposal to include rails, ties and ballast, rubber crossing material, and concrete headers, complete, per specifications						
240 L.F.						
Unit Price	\$35.000	8,400.00	\$119,000	\$100,000	\$55,000	\$50,000
Extended Price			28,560.00	24,000.00	13,200.00	12,000.00
Total for Job 462005		33,971.00	56,598.00	59,178.00	41,308.00	115,000.00
Bid Total		278,512.50	303,835.00	317,233.00	363,599.00	623,000.00
Award to Vendor		278,512.50				

E

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19 ^h , 2018	Council Priority	Fiscal Responsibility, Best Practices, Customer Service
Department	Fleet Services Division		
Contact	Glenn Lavender, Fleet Services Superintendent		

Agenda Caption

CONSIDER: Purchase of two (2) ASL Automated Side Loaders for Cart Service.

Award to: East Texas Mack Truck Sales LLC \$578,490.00
Purchase will be thru TIPS Contract 170802

Agenda Item Summary

Scheduled replacement of Units 7027, 7028, and 7029, 2009 IHC Side Loaders dumpster style, and Unit 7052, 2009 Sterling Rear Loader Refuse Trucks. These vehicles have reached or exceeded life cycle.

Requested Action

Recommend purchase approval of two (2) ASL Automated Side Loaders for Solid Waste Collection Division.
This purchase will be on TIPS Contract #170802. TIPS contract assures discounted governmental pricing and quicker delivery schedules. These two trucks are ready for delivery upon receipt of Purchase Order.

Funding Summary

Funding for this purchase will be from 61120.84100 Fleet Services Auto – Rolling Stock & Equipment.
Total Purchase \$578,490.00 @ \$283,570.00, and \$294,920.00 each.

Community Engagement Summary

Solid Waste Division held Community Engagement meetings on January 4th, 8th, 18th, 24th, and 25th. Discussion over change of Customer Refuse collection practices concerning refuse dumpsters in streets, public right of ways, residential dumpster front curb, and hand bag collection locations.

Staff Recommendation

Staff Recommends approval of purchase for two (2) ASL Automated Side Loaders – Cart Style.

Bid No. 6128 AUTOMATED SIDELOADER CART STYLE
Opened 4:00 p.m. March 22, 2018

To be awarded as one lot		EAST TEXAS MACK SALES LLC
Line 1 Class 8 trucks, automated sideloader , per specifications		
1 ea		
Unit Price	\$294,920.000	
Extended Price		294,920.00
Line 2 Class 8 trucks, automated sideloader , per specifications		
1 ea		
Unit Price	\$283,570.000	
Extended Price		283,570.00
Bid Total		578,490.00
Award by Vendor		578,490.00

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Infrastructure Planning – Landfill Mgmt.
---------------------	---------------	-------------------------	--

Department	Public Works - 1410
-------------------	---------------------

Agenda Caption

Approval – Engineering Services Agreement for 2018 Groundwater Monitoring, Analysis and Reporting: HDR Engineering Inc. -- \$62,800

This Engineering Services Agreement provides for groundwater statistical analysis and reporting as required by the Texas Commission on Environmental Quality (TCEQ) under Landfill MSW Permit 73A involving 25 groundwater monitor wells. A “Groundwater Background Update Report” will also be prepared and filed with the TCEQ.

Agenda Item Summary

This Engineering Services Agreement provides for groundwater statistical analysis and reporting as required by the Texas Commission on Environmental Quality (TCEQ) under Landfill MSW Permit 73A involving 25 groundwater monitor wells. A “Groundwater Background Update Report” will also be prepared and filed with the TCEQ.

Requested Action

Approval of Professional Engineering Services Agreement in the amount of \$62,800 for groundwater statistical analysis, reporting and groundwater background assessment and update reporting on the City’s Landfill.

Funding Summary

Funds are currently available within the Solid Waste Disposal Professional Services Account, 1432.62000- Annual Landfill Engineering Services, in the amount of \$62,800.

Community Engagement Summary

This item is a routine operation that is performed each year, as required under the Landfill Permit issued by the TCEQ. No community engagement is contemplated or anticipated.

Staff Recommendation

City Staff recommends approval of the Professional Engineering Services Agreement for Landfill Groundwater Analysis and Reporting to HDR Engineering in the amount of \$62,800.

Bid No. 6130 GROUNDWATER ANALYSIS SLOPE FAILURE EVALUATION
Opened 4:00 p.m. May 25, 2018

To be awarded as one lot		HDR ENGINEERING
Line 1 Water Supply Analysis, analysis and reporting, per specifications		
1 ea		
Unit Price	\$9,900.000	
Extended Price		9,900.00
Line 2 Water Supply Analysis, update report, per specifications		
1 ea		
Unit Price	\$9,200.000	
Extended Price		9,200.00
Line 3 Project management, per specifications		
1 ea		
Unit Price	\$3,500.000	
Extended Price		3,500.00
Line 4 Data preparation and processing, 1 task 200, per specifications		
1 ea		
Unit Price	\$52,000.000	
Extended Price		52,000.00
To be awarded as one lot		HDR ENGINEERING

Line 5 Data preparation and processing, 1
task 300, per specifications

1 ea			
Unit Price	\$10,800.000		
Extended Price		10,800.00	
Bid Total		85,400.00	
Award by Vendor		85,400.00	

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	
Department	Human Resources		
Contact	Mitchell Normand, Director of Human Resources		

Agenda Caption

CONSIDER AWARD – EXPRESS EMPLOYMENT PROFESSIONALS

(Contact: Mitchell Normand, Director of Human Resources)

Consider award of the contracted temporary employment services to address staffing shortfalls or special project staffing needs.

Agenda Item Summary

Award temporary employment services contract to Express Employment Professionals.

Requested Action

Consider award of the contracted temporary employment services to address staffing shortfalls or special project staffing needs.

Funding Summary

Number of temporary employees requested will determine expense. There is no historical spend data as this is the first time centralizing temporary staffing requests with one primary agency. The bid estimated annual spend of \$200,000.

Community Engagement Summary

n/a

Staff Recommendation

Staff recommends approval of the award of the contracted temporary employment services.



Staffing Agreement

Express Services, Inc. (Express) dba Express Employment Professionals (referred to as "Express", "We" or "Our"), makes it easy for you to do business with us. The first step to establishing a successful staffing relationship is to ensure a clear understanding of each party's responsibilities. We appreciate your business and look forward to the opportunity to support you with outstanding professional employment services in consideration of your agreement to the following terms and conditions:

1. We hire associates as Express employees, and provide all wages, taxes, withholding, workers' compensation, and unemployment insurance. Medical benefits and vacation pay are also available to associates who qualify. We recruit and assign associates to you to perform the job duties you specify. You agree to notify us if those duties or the workplace of an associate changes.
2. Express complies with all Federal, State, and Local employment laws and regulations. You agree to provide our associates with a safe, suitable workplace and equipment, and to comply with all applicable federal, state, and local employment laws. To the extent allowed by law, you agree to indemnify and hold Express harmless from claims or damages resulting from your non-compliance with applicable laws and regulations.
3. Express pays associates promptly, based on information approved by you. You agree to pay the charges based on the time card or other mutually acceptable recording method by the invoice due date. A monthly service charge of (18% per annum) may be assessed on charges remaining unpaid 30 days after the invoice date. We are entitled to reasonable collection fees, attorney fees, and other expenses incurred to collect all charges on your account(s).
4. It is our goal that associates perform their jobs to your satisfaction; however, if you are not satisfied with an Express associate for any reason, you will not be charged for the first four (4) hours of the associate's work and a replacement will be provided.
5. We provide insurance policies to cover Express associates for Workers' Compensation, Commercial General Liability, Employers Liability, Fidelity Bond, Errors and Omissions, and Hired/Non-Owned Automobile coverage in an amount not less than \$1,000,000 per occurrence. You agree to maintain liability insurance for any motor vehicle, forklift, or other motorized mobile equipment operated by an Express associate, and agree to waive all rights or recovery against Express as the employer of the Express associate as it relates to the operation of a motor vehicle or mechanized equipment.
6. You agree that you will not request or allow our associates to offer professional opinions concerning any financial audits, certifications or financial statements, SEC filings or provide management consulting or financial advice. Nor will our associates be permitted sign-off authority for architectural or engineering projects or construction or other cost estimates. All services performed by our associates shall be under your direction, supervision and control and you shall be responsible for ensuring that the services meet your requirements and agree that we are not responsible for the accuracy and correctness of the resulting work product.
7. Client shall ensure that none of Express' employees are permitted to drive any vehicles or motorized equipment including forklifts. The term "vehicle" as used in this Agreement means a motor vehicle, trailer, semi-trailer and any other motorized mobile equipment (for example: forklift) designed for travel (or transportation purposes) on public roads, in warehouses, or any other locations at which such a vehicle would be used.
8. You supervise, direct, and control the work performed by Express associates, and assume responsibility for all operational results, including losses or damage to property or data in the care, custody, or control of an Express associate. To the extent allowed by law, you agree to indemnify and hold us harmless from any claims or damages that may be caused by your negligence or misconduct.
9. An associate will qualify for fulltime employment with the City of Amarillo with no buyout necessary after 520 regulars worked have been met by the associate and invoices have been paid in full.
10. Express will, at your written request, conduct criminal history checks and drug screens as permitted by state law. The costs vary depending upon the specific test or report ordered and the charges will be agreed upon prior to ordering the tests and/or reports.

Thank you for your business. We look forward to a mutually beneficial relationship.

Company: _____ Date _____

Agent's Name (please print) _____ Title _____

Agent's Signature _____

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Pillar	Public Safety and Transportation
Department	Finance		
Contact	Laura Storrs, Finance Director		

Agenda Caption

DISCUSSION AND CONSIDERATION OF ORDINANCE
(Contact: Laura Storrs)

Discussion and consideration of all matters incident and related to the issuance and sale of “City of Amarillo, Texas, General Obligation Bonds, Series 2018”, including the adoption of an ordinance authorizing the issuance of such bonds.

Agenda Item Summary

This ordinance authorizes the City to issue the General Obligation Bonds, Series 2018 (bonds) as authorized at the election held on November 8, 2016. The bonds proceeds will fund Street projects totaling \$19,440,000 and Public Safety projects totaling \$2,960,000. This bond issue is the second year of five bond issues that will total \$109,575,000 (over the five year period).

Requested Action

Adopt the Ordinance authorizing the issuance of the General Obligation Bonds, Series 2018.

Funding Summary

N/A

Community Engagement Summary

Staff communicated with citizens through community meetings during the summer of 2016 to identify projects to be included in the five year Community Investment Program. On November 8, 2016 the City of Amarillo voters approved Propositions 1 and 2. Proposition 1, in the amount of \$89.5 million, will fund street improvements and Proposition 2, in the amount of \$20.1 million, will fund Public Safety. The City anticipates issuing the debt related to these two propositions over a five year period with the first issue of \$21,280,000 during 2017, the second during 2018 of \$22,400,000 and the balance of the approved bonds over the next three consecutive years (2019, 2020 and 2021). At the May 1, 2018 City Council meeting, the City’s financial advisor, Specialized Public Finance, reviewed the June 2018 bond issues that include the 2018 General Obligation Bonds, the 2018 Certificates of Obligation and the Water and Sewer Revenue Bond issues.

Staff Recommendation

City staff is recommending approval of the Ordinance.

ORDINANCE NO. 4734

AN ORDINANCE authorizing the issuance of "CITY OF AMARILLO, TEXAS, GENERAL OBLIGATION BONDS, SERIES 2018," specifying the terms and features of said bonds; levying a continuing direct annual ad valorem tax for the payment of said bonds; and resolving other matters incident and related to the issuance, sale, payment and delivery of said bonds, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of a Preliminary Official Statement and an Official Statement pertaining thereto; and providing an effective date.

WHEREAS, the City Council (the "City Council") of the City of Amarillo, Texas (the "City"), finds and determines that general obligation bonds approved and authorized to be issued at an election held on November 8, 2016, should be issued and sold at this time pursuant to Texas Government Code, Chapter 1331, as amended; a summary of the general obligation bonds authorized at said election, the principal amounts authorized, amounts heretofore issued and amounts remaining to be issued subsequent hereto being as follows:

<u>Purpose</u>	<u>Date Approved</u>	<u>Principal Amount Approved (\$)</u>	<u>Amounts Previously Issued (\$)</u>	<u>Amounts Being Applied (\$)*</u>	<u>Amounts Remaining (\$)</u>
Streets	11/08/16	89,495,000	12,900,000	[19,015,000]	_____
Public Safety	11/08/16	<u>20,080,000</u>	<u>9,020,000</u>	<u>[2,900,000]</u>	_____
		109,575,000	21,920,000	_____	_____

*includes original issue premium in the amount of \$_____.

AND WHEREAS, the City Council hereby reserves and retains the right to issue the balance of unissued bonds approved at said election in one or more installments when, in the judgment of the City Council, funds are needed to accomplish the purposes for which such bonds were voted, and now, therefore,

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

Section 1: Authorization - Designation - Principal Amount - Purpose. General obligation bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____ to be designated and bear the title "CITY OF AMARILLO, TEXAS, GENERAL OBLIGATION BONDS, SERIES 2018" (hereinafter referred to as the "Bonds"), for the purpose of providing funds for (1) permanent public improvements and public purposes, to wit: (i) acquiring, constructing, improving and maintaining streets, thoroughfares, alleyways and sidewalks within the City including related storm drainage improvements, traffic signalization and signage, street lighting, traffic management equipment, creek erosion, bridge and culvert improvements and utility relocations and the acquisition of land therefor and (ii) acquiring, constructing, improving, renovating, expanding and equipping public safety facilities; and (2) to pay the costs of issuance, all in accordance with authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapter 1331 of the Texas Government Code, as amended.

Section 2: Fully Registered Obligations - Bond Date - Authorized Denominations - Stated Maturities - Interest Rates. The Bonds shall be issued as fully registered obligations only, shall be dated June 15, 2018 (the "Issue Date"), shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and shall become due and payable on February 15 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		
2043		

Bonds shall bear interest on the unpaid principal amounts from the date of the initial delivery of the Bonds at the rate(s) per annum shown above in this Section (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Bonds shall be payable on February 15 and August 15 in each year until maturity or prior redemption, commencing February 15, 2019.

Section 3: Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the Security Register (defined below) for the Bonds maintained by the Paying Agent/Registrar, and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of ZB, National Association dba Amegy Bank, Houston, Texas to serve as Paying Agent/Registrar for the Bonds is hereby confirmed and approved, and

the City agrees and covenants to cause to be kept and maintained by the Paying Agent/Registrar books and records for the registration, payment and transfer of the Bonds (the "Security Register"), all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement" substantially in the form attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and City may prescribe; and the Mayor or Mayor Pro Tem and City Secretary are authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at their Stated Maturities or upon their earlier redemption only upon presentation and surrender to the Paying Agent/Registrar at its designated offices initially in Salt Lake City, Utah; or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the Bonds shall be a Saturday, Sunday, legal holiday or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities on a scheduled payment date on the Bonds, and for thirty (30) days thereafter, a new record date for such interest payment for such maturity or maturities (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of the Bonds appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

Section 4: Redemption.

(a) Optional Redemption. The Bonds having Stated Maturities on and after February 15, 2029, shall be subject to redemption prior to maturity, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 15, 2028 or on any date thereafter at the redemption price of par, together with accrued interest to the redemption date.

(b) Exercise of Redemption Option. At least forty-five (45) days prior to an optional redemption date (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Bonds, the principal amount of each Stated Maturity to be redeemed and the date set for the redemption thereof.

(c) Mandatory Redemption. The Bonds having Stated Maturities of February 15 in the years 20____, 20____ and 20____ (collectively, the "Term Bonds") shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

<u>Term Bonds due February 15, 20____</u>		<u>Term Bonds due February 15, 20____</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>	<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
February 15, 20____		February 15, 20____	
February 15, 20____ (maturity)		February 15, 20____ (maturity)	

<u>Term Bonds due February 15, 20____</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
February 15, 20____	
February 15, 20____	
February 15, 20____	
February 15, 20____ (maturity)	

At least forty-five (45) days prior to each mandatory redemption date for the Term Bonds, the Paying Agent/Registrar shall select by lot the numbers of the Term Bonds within the applicable Stated Maturity to be redeemed on the next following February 15 from moneys set aside for that purpose in the Interest and Sinking Fund (as hereinafter defined). Any Term Bond not selected for prior redemption shall be paid on the date of its Stated Maturity.

The principal amount of the Term Bonds for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph (a) of this Section and not theretofore credited against a mandatory redemption requirement.]

(d) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bonds as representing the number of Bonds Outstanding which is obtained by dividing the principal amount by \$5,000 and shall select the Bonds, or principal amounts thereof, to be redeemed within such Stated Maturity by lot.

(e) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing such notice, and any notice

of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount to be redeemed, shall become due and payable on the redemption date specified, and the accruing of interest shall cease from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender of the Bonds to be redeemed, in whole or in part, by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption has been duly given or waived as herein provided, such Bond (or the principal amount to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys sufficient for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(f) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the City, be conditional upon receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

Section 5: Registration - Transfer - Exchange of Bonds - Predecessor Bonds. A Security Register relating to the registration, payment and transfer or exchange of the Bonds shall at all times be kept and maintained by the City at the Designated Payment/Transfer Office of the Paying Agent/Registrar and at a place within the State of Texas, as provided herein and in accordance with the provisions of an agreement with the Paying Agent/Registrar and such rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Paying Agent/Registrar shall obtain, record and maintain in the Security Register the name and address of each Holder of the Bonds issued under and pursuant to the provisions of this Ordinance. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of like kind, of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Bond (other than the Initial Bond(s) authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated assignee or transferee of the previous Holder, one or more new Bonds of authorized denominations and of like Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/ Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds to the Holder requesting the exchange.

All Bonds issued upon any such transfer or exchange shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds", evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to Section 11 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

Section 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained herein relating to the payment, redemption and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the Letter of Representation from the Paying Agent/Registrar to DTC (collectively, the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC, who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general, or the City decides to discontinue use of the system of book-entry transfers through DTC, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar, and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

Section 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers and the seal of the City on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Issue Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals, or either of them, shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate upon any Bond duly signed shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

Section 8: Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the total principal amount shown in Section 1 hereof with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as one bond for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

Section 9: Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of the Paying Agent/Registrar and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions and other variations as are permitted or required by this Ordinance and may have such letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

The City may provide (i) for the issuance of one fully registered Bond for each Stated Maturity in the aggregate principal amount of each Stated Maturity and (ii) for the registration of such Bonds in the name of a securities depository, or the nominee thereof. While the Bond is registered in the name of a securities depository or its nominee, references herein and in the Bonds to the Holder or registered owner of such Bonds shall mean the securities depository or its nominee and shall not mean any other person.

(b) Form of Definitive Bond.

REGISTERED
NO. R-_____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
GENERAL OBLIGATION BOND
SERIES 2018

Issue Date:	Interest Rate:	Stated Maturity:	CUSIP No.:
June 15, 2018			

Registered Owner:

Principal Amount: DOLLARS

The City of Amarillo (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof (the "Registered Owner"), on the Stated Maturity date specified above, the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from

the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of the initial delivery of the Bonds) at the per annum rate of interest specified above computed on the basis of a 360-day year consisting of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, until maturity or prior redemption, commencing February 15, 2019. Principal of this Bond is payable at its Stated Maturity or date of redemption to the Registered Owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the Registered Owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the Registered Owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. If the date for the payment of the Bonds shall be a Saturday, Sunday, legal holiday or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the Registered Owner hereof and in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds") for the purpose of providing funds for (1) permanent public improvements and public purposes, to wit: (i) acquiring, constructing, improving and maintaining streets, thoroughfares, alleyways and sidewalks within the City including related storm drainage improvements, traffic signalization and signage, street lighting, traffic management equipment, creek erosion, bridge and culvert improvements and utility relocations and the acquisition of land therefor and (ii) acquiring, constructing, improving, renovating, expanding and equipping public safety facilities; and (2) to pay the costs of issuance, all in accordance with authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1331, as amended, and pursuant to an ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

[The Bonds maturing on the dates hereinafter identified (collectively, the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Sinking Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the mandatory redemption date on the respective dates and in principal amounts as follows:

<u>Term Bonds due February 15, 20__</u>		<u>Term Bonds due February 15, 20__</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>	<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
February 15, 20__		February 15, 20__	
February 15, 20__ (maturity)		February 15, 20__ (maturity)	

<u>Term Bonds due February 15, 20__</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
February 15, 20__	
February 15, 20__	
February 15, 20__	
February 15, 20__ (maturity)	

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.】

The Bonds maturing on and after February 15, 2029, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 15, 2028, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption and upon thirty (30) days prior written notice being sent by United States Mail, first class postage prepaid, to the Registered Owners of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Ordinance. If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event of a partial redemption of the principal amount of this Bond, payment of the redemption price of such principal amount shall be made to the Registered Owner only upon presentation and surrender of this Bond to the Paying Agent/Registrar at its Designated Payment/Transfer Office, and there shall be issued to the Registered Owner hereof, without charge, a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum hereof. If this Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer this Bond to an assignee of the Registered Owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the Registered Owner of the unredeemed balance hereof in the event of its redemption in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the City, be conditional upon receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption. If a conditional

notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Registered Owner of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owners; the rights, duties and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at or prior to its maturity or redemption, and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein. Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his or her duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Registered Owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment

of the principal of and interest on the Bonds by the levy of a tax as aforesated. In case any provision in this Bond shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Issue Date.

CITY OF AMARILLO, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(SEAL)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER
OF PUBLIC ACCOUNTS

THE STATE OF TEXAS

(
(
(
(

REGISTER NO. _____

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The office of the Paying Agent/Registrar in Salt Lake City, Utah, is the Designated Payment/Transfer Office for this Bond.

ZB, NATIONAL ASSOCIATION dba AMEGY BANK,
Houston, Texas, as Paying Agent/Registrar

Registered this date:

By: _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto (Print or typewrite name, address and zip code of transferee): _____

(Social Security or other identifying number: _____)
_____) the within Bond and all rights thereunder, and hereby
irrevocably constitutes and appoints _____
attorney to transfer the within Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED: _____

Signature guaranteed:

NOTICE: The signature on this
assignment must correspond with the
name of the Registered Owner as it
appears on the face of the within Bond in
every particular.

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section, except as follows:

Heading and the first paragraph shall be amended to read as follows:

NO. T-1

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
GENERAL OBLIGATION BOND
SERIES 2018

\$ _____

Issue Date:
June 15, 2018

Registered Owner: _____

Principal Amount: _____ MILLION ____ HUNDRED _____ THOUSAND DOLLARS

The City of Amarillo, Texas (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above (the "Registered Owner"), or the registered assigns thereof, the Principal Amount hereinabove stated on February 15 in the years and in principal installments in accordance with the following schedule:

<u>YEAR OF</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>INSTALLMENTS (\$)</u>	<u>INTEREST</u> <u>RATE (%)</u>
-----------------------------------	--	------------------------------------

(Information to be inserted from schedule in Section 2 hereof)

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of the initial delivery of the Bonds) at the per annum rate(s) of interest specified above, computed on the basis of a 360-day year consisting of twelve 30-day months; such interest being payable on February 15 and August 15 in each year until maturity or prior redemption, commencing February 15, 2019. Principal installments of this Bond are payable at its Stated Maturity or on a redemption date to the registered owner hereof by ZB, National Association dba Amegy Bank, Houston, Texas (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices, initially in Salt Lake City, Utah; or, with respect to a successor paying agent/registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the Registered Owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and

expense of, the Registered Owner. If the date for the payment of the Bonds shall be a Saturday, Sunday, legal holiday or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts.

Section 10: Levy of Taxes. To provide for the payment of the "Debt Service Requirements" of the Bonds, being (i) the interest on the Bonds and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount is the greater), there is hereby levied, and there shall be annually assessed and collected in due time, form and manner, a tax on all taxable property in the City, within the limitations prescribed by law, and such tax hereby levied on each one hundred dollars' valuation of taxable property in the City for the Debt Service Requirements of the Bonds shall be at a rate from year to year as will be ample and sufficient to provide funds each year to pay the principal of and interest on said Bonds while Outstanding; full allowance being made for delinquencies and costs of collection; separate books and records relating to the receipt and disbursement of taxes levied, assessed and collected for and on account of the Bonds shall be kept and maintained by the City at all times while the Bonds are Outstanding, and the taxes collected for the payment of the Debt Service Requirements on the Bonds shall be deposited to the credit of a "SPECIAL SERIES 2018 GENERAL OBLIGATION BOND FUND" (the "Interest and Sinking Fund") maintained on the records of the City and deposited in a special fund maintained at an official depository of the City's funds; and such tax hereby levied, and to be assessed and collected annually, is hereby pledged to the payment of the Bonds.

The Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Bonds, from funds on deposit in the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures or comes due by reason of redemption prior to maturity; such transfers of funds to be made in such manner as will cause collected funds to be deposited with the Paying Agent/Registrar on or before each principal and interest payment date for the Bonds.

Section 11: Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation of the City, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the mutilated, destroyed, lost or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

Section 12: Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and all covenants, agreements and other obligations of the City to the Holders shall thereupon cease, terminate and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

The term "Government Securities", shall mean (i) direct, noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality or other political subdivision of a state that have been refunded and, on the date of

their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

Section 13: Ordinance a Contract - Amendments - Outstanding Bonds. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section and in Section 22. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders holding a majority in aggregate principal amount of the Bonds then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

The term "Outstanding" when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

- (1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;
- (2) those Bonds deemed to be duly paid by the City in accordance with the provisions of Section 12 hereof; and
- (3) those mutilated, destroyed, lost or stolen Bonds which have been replaced with Bonds registered and delivered in lieu thereof as provided in Section 11 hereof.

Section 14: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

"*Closing Date*" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"*Code*" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"*Computation Date*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds, as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds, as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and, (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

- (1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and
- (2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the

acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take or pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested) if, as a result of such investment, the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

- (1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.
- (2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

- (3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Sinking Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.
- (4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager and Director of Finance, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 15: Sale of Bonds –Official Statement Approval. Pursuant to a public sale for the Bonds, the bid submitted by _____ (herein referred to as the "Purchasers") is declared to be the best bid received producing the lowest true interest cost rate to the City, and the sale of the Bonds to said Purchaser at the price of par plus a cash premium of \$_____ is hereby determined to be in the best interests of the City and is approved and confirmed. Delivery of the Bonds to the Purchasers shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale. The Initial Bond shall be registered as provided in the winning bid.

Furthermore, the Preliminary Official Statement prepared in connection with the public offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects. The

final Official Statement reflecting the terms of the sale (together with changes approved by the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager or Director of Finance, any one or more of said officials), shall be and is hereby approved as to form and content, and the Purchasers are hereby authorized to use and distribute said final Official Statement dated June 19, 2018, in the reoffering, sale and delivery of the Bonds to the public. The Mayor and City Secretary are further authorized to execute and deliver for and on behalf of the City copies of said Official Statement in final form as may be required by the Purchasers; and, such Official Statement in the final form and content shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Purchasers.

Section 16: Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and shall take and have charge and control of the Initial Bond pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance and City Secretary, any one or more of said officials, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including certifications as to facts, estimates, circumstances and reasonable expectations pertaining to the use, expenditure and investment of the proceeds of the Bonds, as may be necessary for the approval of the Attorney General, the registration by the Comptroller of Public Accounts and the delivery of the Bonds to the Purchasers, and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond to the Purchasers and the initial exchange thereof for definitive Bonds.

Section 17: Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale of the Bonds, excluding the amount which is to be used to pay the costs of issuance, shall be amount to be deposited with an official depository of the City to finance the permanent public improvements referenced in Section 1 hereof. The proceeds of sale of the Bonds not used for the payment of the aforesaid improvements shall be disbursed and deposited for the payment of costs of issuance. Any investment earnings realized shall be expended for such authorized projects and purposes or deposited in the Interest and Sinking Fund. All surplus proceeds of sale of the Bonds, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Interest and Sinking Fund or, with regard to proceeds, to another fund later established for the payment of any of the Bonds. The \$_____ of premium received in connection with the sale of the Bonds shall be used as follows: \$_____ shall be used for the public improvements as referenced in Section 1 hereof, \$_____ shall be used for underwriters discount and \$_____ shall be used for costs of issuance.

Section 18: Notices to Holders - Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 19: Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the City.

Section 20: Legal Opinion. The Purchasers' obligation to accept delivery of the Bonds is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Dallas, Texas, Bond Counsel to the City, approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. A true and correct reproduction of said opinion or an executed counterpart thereof shall accompany the global Bonds deposited with DTC, or a reproduction thereof shall be printed on the definitive Bonds in the event the book-entry-only system shall be discontinued.

Section 21: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

Section 22: Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports.

The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning in or after 2018, financial information and operating data with respect to the City of the general type included under Tables numbered 1 through 11 of the Official Statement and (2) within twelve months after the end of each fiscal year ending in or after 2018, and if not provided as part of such financial information and operating data, audited financial statements of the City. Any financial statements so provided shall be prepared in accordance with the

accounting principles described in Appendix B of the Official Statement hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events.

The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than ten (10) business days after occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding subsection (c)(12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB.

All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) of this Section of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the City does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the City's financial results, condition, or prospects; nor does the City undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON,

IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

Section 23: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, and this Ordinance and all its provisions is intended to be and shall be for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

Section 24: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance, and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance, City Secretary, or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds

by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 25: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 26: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 27: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

Section 28: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

Section 29: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 30: Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

Section 31: Public Meeting. It is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

Section 32: Effective Date. This Ordinance shall take effect and be in full force from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028.

[Remainder of page intentionally left blank]

PASSED AND ADOPTED, this June 19, 2018.

CITY OF AMARILLO, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
PAYING AGENT/REGISTRAR AGREEMENT

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Pillar	Economic Development and Redevelopment
Department	Finance		
Contact	Laura Storrs, Finance Director		

Agenda Caption

DISCUSSION AND CONSIDERATION OF ORDINANCE
(Contact: Laura Storrs)

Discussion and consideration of all matters incident and related to the issuance and sale of “City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2018”, including the adoption of an ordinance authorizing the issuance of such certificates of obligation.

Agenda Item Summary

This ordinance authorizes the City to issue the Combination Tax and Revenue Certificates of Obligation, Series 2018 (bonds) in the amount of \$3,000,000. Bond proceeds will reimburse developer funded park improvements for the Colonies Public Improvement District (PID). The debt service payments associated with this bond issue will be funded by PID assessments. The Colonies PID increased PID assessments for 2017/2018 to provide for the additional debt service.

Requested Action

Adopt the Ordinance authorizing the issuance of the Certificates of Obligation, Series 2018.

Funding Summary

N/A

Community Engagement Summary

The Colonies PID 2017/2018 budget included a PID assessment increase to provide additional funding associated with this debt issue. At the May 1, 2018 City Council meeting, the City’s financial advisor, Specialized Public Finance, reviewed the June 2018 bond issues that include the 2018 General Obligation Bonds, the 2018 Certificates of Obligation and the Water and Sewer Revenue Bond issues. On May 3, 2018, the first publication of the Notice of Intent to issue Certificates was posted in the newspaper with the second publication on May 10, 2018.

Staff Recommendation

City staff is recommending approval of the Ordinance.

ORDINANCE NO. 7735

AN ORDINANCE authorizing the issuance of "CITY OF AMARILLO, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2018"; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the City and a limited pledge of the City's waterworks and sewer system; specifying the terms and conditions of such certificates of obligation; resolving other matters incident and relating to the issuance, payment, security, sale, and delivery of said certificates of obligation, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of an Official Statement; and providing an effective date.

WHEREAS, notice of the City Council's intention to issue certificates of obligation in the maximum principal amount of \$3,000,000 for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park facilities and (ii) professional services rendered in connection therewith, has been duly published in the *Amarillo Globe News*, a newspaper of general circulation in the City of Amarillo, Texas on May 3, 2018 and May 10, 2018, the date the first publication of such notice being not less than thirty-one (31) days prior to the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates; and

WHEREAS, no petition protesting the issuance of the certificates of obligation described in the aforesaid notice, signed by at least 5% of the qualified electors of the City, has been presented to or filed with the City Secretary on or prior to the date of the passage of this Ordinance; and

WHEREAS, the City Council hereby finds and determines that \$_____ in principal amount of the certificates of obligation described in such notice should be authorized at this time; now, therefore,

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

Section 1. Authorization - Designation - Principal Amount - Purpose. Certificates of obligation of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____, to be designated and bear the title "CITY OF AMARILLO, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2018" (hereinafter referred to as the "Certificates"), for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park facilities and (ii) professional services rendered in connection therewith, all in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Local Government Code, Subchapter C of Chapter 271, as amended.

Section 2. Fully Registered Obligations - Certificate Date - Authorized Denominations - Stated Maturities - Interest Rates. The Certificates are issuable in fully registered form only, shall be dated June 15, 2018 (the "Certificate Date"), and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity), and the Certificates shall become due and payable on February 15 in each of the years and in principal

amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (\$)</u>
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		

The Certificates shall bear interest on the unpaid principal amount thereof from the initial date of delivery of the Certificates at the per annum rates shown above (calculated on the basis of a 360-day year of twelve 30-day months) and shall be payable on February 15 and August 15 in each year until maturity or prior redemption, commencing February 15, 2019.

Section 3. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Certificates, due by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Certificates (the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar. Such payments shall be payable, without exchange or collection charges, to the Holder in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

The selection and appointment of ZB, National Association dba Amegy Bank, Houston, Texas, or its assigns to serve as Paying Agent/Registrar for the Certificates is hereby approved and confirmed. The City agrees and covenants to cause to be kept and maintained at the Designated Payment/Transfer Office (defined below) of the Paying Agent/Registrar, books and records relating to the registration, payment, and transfer of the Certificates (the "Security Register"), all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Secretary are authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Certificates. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged; and,

any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution, or other entity duly qualified and legally authorized to act as and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the City agrees to promptly cause a written notice of the change to be sent to each registered owner of the Certificates by United States mail, first-class postage prepaid; and such notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates, shall be payable at the Stated Maturities or on a date of earlier redemption thereof only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). The Paying Agent/Registrar shall pay interest on the Certificates only to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding the interest payment date) and shall pay either by: (1) check sent by United States mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or (2) by such other method, acceptable to the Paying Agent/Registrar, requested by the Holder at the Holder's risk and expense. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by first class United States mail, postage prepaid, to the address of each Holder appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

Section 4. Redemption.

(a) **Optional Redemption.** The Certificates having Stated Maturities on and after February 15, 2029 shall be subject to redemption prior to maturity, at the option of the City on February 15, 2028, or any date thereafter, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar) at the redemption price of par, together with interest accrued to the redemption date.

Not less than forty-five (45) days prior to an optional redemption date for the Certificates (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of: (1) the decision to redeem Certificates, (2) the principal amount of each Stated Maturity to be redeemed, and (3) the date of redemption.

(b) **Selection of Certificates for Redemption.** If less than all Outstanding Certificates of the same Stated Maturity are to be redeemed on a redemption date, the Paying

Agent/Registrar shall treat such Certificates as representing the number of Certificates Outstanding, which is obtained by dividing the principal amount of such Certificates by \$5,000, and shall select by lot the Certificates to be redeemed within such Stated Maturity.

(c) **Notice of Redemption.** Not less than thirty (30) days prior to a redemption date for the Certificates, a notice of redemption shall be sent by first class United States mail, postage prepaid, in the name of the City and at the City's expense, to each Holder of a Certificate to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall: (1) specify the date of redemption for the Certificates, (2) identify the Certificates to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (3) state the redemption price, (4) state that the Certificates, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (5) specify that payment of the redemption price for the Certificates, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Certificate is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been duly given as hereinabove provided, such Certificate (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the specified redemption date; provided moneys sufficient for the payment of such Certificate (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(d) **Conditional Notice of Redemption.** With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

Section 5. Registration - Transfer - Exchange of Certificates - Predecessor Certificates. A Security Register relating to the registration, payment, and transfer or exchange of the Certificates shall at all times be kept and maintained by the City at the Designated Payment/Transfer Office of the Paying Agent/Registrar and at a place within the State of Texas, and the Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Certificates issued under and pursuant to the provisions of this Ordinance. Any Certificate may, in accordance with its terms and the terms hereof, be transferred or exchanged for Certificates of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly

executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon the surrender for transfer of any Certificate (other than the Initial Certificate(s) authorized in Section 8 hereof) at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates, executed on behalf of, and furnished by, the City, of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates (other than the Initial Certificate(s) authorized in Section 8 hereof) may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest, and of like aggregate principal amount as the Certificates surrendered for exchange upon the surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Certificates are so surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates, executed on behalf of, and furnished by the City, to the Holder requesting the exchange.

All Certificates issued upon any transfer or exchange of Certificates shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates canceled by reason of an exchange or transfer under this Section are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer. Additionally, the term "Predecessor Certificates" shall include any Certificate registered and delivered pursuant to Section 23 hereof in lieu of a mutilated, lost, destroyed, or stolen Certificate which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

Section 6. Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4 and 5 relating to the payment, and transfer/exchange of the Certificates, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance

with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the City and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Certificates, the City covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

Section 7. Execution - Registration. The Certificates shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signatures of said officers and the seal of the City on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of said individuals who are or were the proper officers of the City on the Certificate Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or any of them shall cease to hold such offices prior to the delivery of the Certificates to the initial purchaser(s), and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially as set forth in the form of the Initial Certificate(s) provided in Section 9B, manually executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent, or a certificate of registration substantially as set forth in the form of the definitive Certificates provided in Section 9C, manually executed by an authorized officer, employee, or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered, and delivered.

Section 8. Initial Certificate(s). The Certificates herein authorized shall be initially issued either as (i) a single fully registered certificate in the total principal amount of this series with principal installments to become due and payable as provided in Section 2 and numbered T-1 or, alternatively, (ii) as one certificate for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Certificate(s)") and, in either case, the Initial Certificate(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Certificate(s) shall be the Certificate(s) submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Certificate(s), the

Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Certificate(s) delivered hereunder and exchange therefor definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

Section 9. Forms.

A. Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of Registration of the Paying Agent/Registrar, and the form of Assignment to be printed on the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Certificates, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or be determined by the officers executing such Certificates as evidenced by their execution thereof. Any portion of the text of any Certificate may be set forth on the reverse thereof, with an appropriate reference to such a portion on the face of the Certificate.

The definitive Certificates shall be printed, lithographed, engraved or produced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution thereof, but the Initial Certificate(s) submitted to the Attorney General of Texas may be typewritten or photocopied or otherwise reproduced.

The City may provide (i) for issuance of one fully registered Certificate for the Stated Maturity in the aggregate principal amount of such Stated Maturity and (ii) for registration of such Certificate in the name of a securities depository, or the nominee thereof. While any Certificate is registered in the name of a securities depository or its nominee, references herein and in the Certificates to the holder or owner of such Certificate shall mean the securities depository or its nominee and shall not mean any other person.

B. Form of Single Initial Certificate.

REGISTERED
NO. T-1

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
COMBINATION TAX AND REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2018

REGISTERED
\$_____

Certificate Date: June 15, 2018

Registered Owner: _____

Principal Amount: ___ MILLION ___ HUNDRED ___ THOUSAND DOLLARS

The City of Amarillo (hereinafter referred to as the “City”), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated, on February 15 in each of the years and in principal installments in accordance with the following schedule:

<u>YEAR</u>	<u>PRINCIPAL INSTALLMENTS (\$)</u>	<u>INTEREST RATE (%)</u>
-------------	--	------------------------------

(Information to be inserted from Section 2 hereof)

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the initial date of delivery of the Certificates at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 of each year until maturity or prior redemption, commencing February 15, 2019. Principal installments of this Certificate are payable on the Stated Maturity dates or on a redemption date to the registered owner hereof by ZB, National Association dba Amegy Bank, Houston, Texas (the “Paying Agent/Registrar”), upon its presentation and surrender at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the “Designated Payment/Transfer Office”). Interest shall be payable to the registered owner of this Certificate whose name appears on the “Security Register” maintained by the Paying Agent/Registrar at the close of business on the “Record Date”, which is the last business day of the month next preceding the interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent by United States mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by and at the risk and expense of the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Certificate is issued in the aggregate principal amount of \$_____ for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park facilities and (ii) professional services rendered in connection therewith, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, particularly Texas Local Government Code, Subchapter C of Chapter 271, as amended, and pursuant to an ordinance adopted by the governing body of the City (hereinafter referred to as the “Ordinance”).

The Certificates maturing on and after February 15, 2029 may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar),

on February 15, 2028, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by first class United States mail, postage prepaid, to the registered owners of each Certificate to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon the redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and are additionally payable from and secured by a lien on and limited pledge of the Net Revenues of the City's waterworks and sewer system (the "System"), as provided in the Ordinance. In the Ordinance, the City reserves and retains the right to issue Additional Certificates equally and ratably secured with the Certificates by a parity lien on and pledge of the Net Revenues.

Reference is hereby made to the Ordinance, a copy of which is on file at the principal offices of the Paying Agent/Registrar, and to all of the provisions of which the registered owner by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificate; the properties constituting the System; the Net Revenues pledged to the payment of the principal of and interest on this Certificate; the nature, extent, and manner of enforcement of the pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance

may be amended or supplemented with or without the consent of the registered owners; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding; and for the other terms and provisions thereof. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the principal offices of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to the payment of the interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to the payment of the principal hereof at its Stated Maturity, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a limited pledge of and lien on the Net Revenues of the System as stated above. In case any provision in this Certificate or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City as of the Certificate Date.

CITY OF AMARILLO, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

C. Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Certificate(s) Only.

REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER

§
§
§
§
§

OF PUBLIC ACCOUNTS

REGISTER NO. _____

THE STATE OF TEXAS

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity, approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(Seal)

D. Form of Registration Certificate of Paying Agent/Registrar to Appear on Definitive Certificates Only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered under the provisions of the within - mentioned Ordinance; the certificate or certificates of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and

registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The office of the Paying Agent/Registrar in Salt Lake City, Utah, is the Designated Payment/Transfer Office for this Certificate.

ZB, NATIONAL ASSOCIATION dba AMEGY BANK,
Houston, Texas, as Paying Agent/Registrar

Registered this date:

By: _____
Authorized Signature

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:) _____

(Social Security or other identifying number: _____)
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints
_____ attorney to transfer the within Certificate
on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed:

NOTICE: The signature on this assignment
must correspond with the name of the
registered owner as it appears on the face of
the within Certificate in every particular.

F. Form of Definitive Certificates.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
COMBINATION TAX AND REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2018

Certificate Date:
June 15, 2018

Interest Rate:
_____ %

Stated Maturity:
February 15, 20__

CUSIP NO.

Registered Owner:

Principal Amount:

DOLLARS

The City of Amarillo (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount stated above from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date in which case it shall bear interest from the initial date of delivery of the Certificates) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year until maturity or prior redemption, commencing February 15, 2019. Principal of this Certificate shall be payable at its Stated Maturity or on a redemption date to the Registered Owner hereof upon presentation and surrender at the designated offices of the Paying Agent/Registrar executing the registration certificate appearing hereon, initially in Salt Lake City, Utah, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest shall be payable to the registered owner of this Certificate (or of one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding the interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent by United States mail, first class postage prepaid, to the address of the registered owner, recorded in the Security Register or by such other method acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park facilities and (ii) professional services rendered in connection therewith, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, particularly Texas Local Government Code, Subchapter C of Chapter 271, as amended, and pursuant to an ordinance adopted by the governing body of the City (hereinafter referred to as the "Ordinance").

The Certificates maturing on and after February 15, 2029, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 15, 2028, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by first class United States mail, postage prepaid, to the registered owners of each Certificate to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon the redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and are additionally payable from and secured by a lien on and limited pledge of the Net Revenues of the City's waterworks and sewer system (the "System"), as provided in the Ordinance. In the Ordinance, the City reserves and retains the right to issue Additional Certificates equally and ratably secured with the Certificates by a parity lien on and pledge of the Net Revenues.

Reference is hereby made to the Ordinance, a copy of which is on file at the principal offices of the Paying Agent/Registrar, and to all of the provisions of which the registered owner by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the properties constituting the System; the Net Revenues pledged to the payment of the principal of and interest on the Certificates; the nature, extent, and manner of enforcement of the pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the registered owners; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges, and covenants made

therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding; and, for the other terms and provisions thereof. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the principal offices of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to the payment of the interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to the payment of the principal hereof at its Stated Maturity, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a limited pledge of and lien on the Net Revenues of the System as stated above. In case any provision in this Certificate or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City as of the Certificate Date.

CITY OF AMARILLO, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

Section 10. Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Pledged Revenues therefor, the following definitions are provided:

(a) The term "Additional Certificates" shall mean combination tax and revenue certificates of obligation hereafter issued under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, as amended, or any similar law hereafter enacted, and payable from ad valorem taxes and additionally payable from and secured by a lien on and pledge of the Net Revenues as provided in Section 13 hereof.

(b) The term "Certificates" shall mean the \$_____ "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2018" authorized by this Ordinance.

(c) The term "Certificate Fund" shall mean the special account created and established under the provisions of Section 11 of this Ordinance.

(d) The term "Collection Date" shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

(e) The term "Fiscal Year" shall mean the annual financial accounting period used with respect to the System now ending on September 30th of each year; provided, however, the City Council may change, by ordinance duly passed, such annual financial accounting period to end on another date if such change is found and determined to be necessary for accounting purposes and to be consistent with the ordinances authorizing the additional obligations of the City.

(f) The term "Government Securities" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then

authorized securities or obligations that may be used to defease obligations such as the Certificates under the then applicable laws of the State of Texas.

(g) The term "Maintenance and Operation Expenses" shall mean all reasonable and necessary expenses directly related and attributable to the operation and maintenance of the System, including all salaries, labor, materials, repairs, extensions and other expenses reasonably and properly charged necessary to render efficient service to the City and its inhabitants. Depreciation and expenditures classed under generally accepted accounting principles as capital expenditures shall not be considered as "Maintenance and Operation Expenses" for purposes of determining "Net Revenues".

(h) The term "Net Revenues" shall mean, with respect to any period, all income, revenues, and receipts received from the operation and ownership of the System less Maintenance and Operation expenses of the System during such period.

(i) The term "Outstanding" when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(1) those Certificates theretofore canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 25 hereof by the irrevocable deposit with the Paying Agent/Registrar, or an authorized escrow agent, of money or Government Securities, or both, in the amount necessary to fully pay the principal of, premium, if any, and interest thereon to maturity; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and for which (i) replacement Certificates have been registered and delivered in lieu thereof or (ii) have been paid, all as provided in Section 23 hereof.

(j) The term "System" shall mean the City's waterworks and sewer system, including all present and future additions, extensions, replacements, and improvements thereto.

Section 11. Certificate Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment and retirement of the Certificates, there shall be and is hereby created a special fund or account to be designated "SPECIAL 2018 COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION FUND"(the "Certificate Fund"), which fund or account shall be maintained on the records of the City and deposited in a special fund maintained at an official depository of the City's funds, and moneys deposited in said fund or account shall be used for no other purpose. The Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance and City Secretary, any one or more of said officials of the City, are hereby authorized and directed to make withdrawals from said fund or account sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Certificate Fund (on or prior to a principal and/or interest payment date) an amount sufficient to pay the amount of principal and/or interest falling due on the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the City, be invested in investments authorized by the Public Funds Investment

Act, Texas Government Code, Chapter 2256, as amended, and the City's investment policy; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from said Account will be available at the proper time or times. All interest and income derived from deposits and investments in the Certificate Fund shall be credited to, and any losses debited to, such account. All investments in the Certificate Fund shall be sold promptly when necessary to prevent any default in connection with the Certificates.

Section 12. Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest on said Certificates and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied, within the limitations prescribed by law, for the current year and each succeeding year thereafter while said Certificates or any interest thereon shall remain Outstanding, a sufficient tax on each one hundred dollars' valuation of taxable property in said City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

Prior to the date the City Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the City Council shall determine:

(1) The amount on deposit in the Certificate Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Net Revenues appropriated and allocated to pay such Debt Service Requirements prior to the Collection Date for the ad valorem taxes to be levied.

(2) The amount of Net Revenues and any other lawfully available revenues which are appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(3) The amount of Debt Service Requirements to become due and payable on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (3) above less the sum total of the amounts established in paragraphs (1) and (2), after taking into consideration delinquencies and costs of collecting such annual taxes.

Section 13. Pledge of Net Revenues. The City hereby covenants and agrees that the Net Revenues of the System (within the limitation of a total amount of \$1,000) are hereby

irrevocably pledged to the payment of the principal of and interest on the Certificates and the pledge of such Net Revenues herein made for the payment of the Certificates shall constitute a lien on such Net Revenues in accordance with the terms and provisions hereof and be valid and binding without any physical delivery thereof or further act by the City. The lien on and pledge of the Net Revenues shall continue until such time as the City shall pay all of such \$1,000, after which time the pledge shall cease

Texas Government Code, Chapter 1208, as amended, applies to the issuance of the Certificates and the pledge of the revenues granted by the City under this Section of this Ordinance, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Certificates are Outstanding and unpaid such that the pledge of the revenues granted by the City under this Section of this Ordinance is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the Holders of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

Section 14. System Fund. The City hereby covenants and agrees that all revenues derived from the operation and ownership of the System shall be kept separate and apart from all other funds, accounts, and moneys of the City, and shall be deposited as collected into the "City of Amarillo, Texas, Waterworks and Sewer System Fund" (hereinafter called the "System Fund"). All moneys deposited in the System Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown, to wit:

First: To the payment of the reasonable and proper Maintenance and Operation Expenses of the System as defined herein or required by statute to be a first charge on and claim against the revenues of the System.

Second: To the payment of all amounts required to be deposited in any special funds created and established for the payment, security, and benefit of any obligations of the City having a prior lien on and pledge of the Net Revenues in accordance with the terms and provisions of any ordinance authorizing the issuance of any such obligations.

Third: To the payment of the amounts required to be deposited in the special funds and accounts created and established for the payment of the Certificates and Additional Certificates, provided however, at such time as the City shall pay the Net Revenues pledged to the payment of the Certificates, such pledge being limited to \$1,000, such pledge shall cease.

Fourth: To the payment of the amounts required to be deposited in the special funds and accounts created and established for the payment of the (1) "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2009" dated March 1, 2009, (2) "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2009B" dated November 1, 2009 and (3) "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2009C" dated November 1, 2009.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

Section 15. Deposits to Certificate Fund. Subject to the provisions of Section 14 hereof, the City hereby covenants and agrees to cause to be deposited in the Certificate Fund from the pledged Net Revenues in the System Fund, the amount of Net Revenues pledged to the payment of the Certificates.

Deposits of the Net Revenues to be made to the Certificate Fund, as hereinabove provided, shall be made to such Fund. Ad valorem taxes levied, collected, and deposited in the Certificate Fund for and on behalf of the Certificates may be taken into consideration and utilized to reduce the amount of the deposits otherwise required to be deposited in the Certificate Fund from the Net Revenues of the System. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes and the Net Revenues.

Section 16. Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

Section 17. Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Certificate Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, any Holder shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition, or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

Section 18. Special Covenants. The City hereby covenants as follows:

(i) That it has the lawful power to pledge the Net Revenues supporting this issue of Certificates and has lawfully exercised said powers under the Constitution and laws of the State of Texas, including said power existing under Sections 271.041 271.063 Texas Local Government Code and Chapter 1502, Texas Government Code, as amended.

(ii) That other than for the payment of the Certificates, those obligations having a prior lien on the Net Revenues, the "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2009" dated March 1, 2009, the "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2009B" dated November 1, 2009, and the "City of Amarillo, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2009C" dated November 1, 2009, the Net Revenues are not in any manner pledged to the payment of any debt or obligation of the City or of the System.

(iii) That, as long as the Certificates or any interest thereon remain Outstanding and the pledge of the Net Revenues has not been fully satisfied, the City will not sell, lease, or encumber the System or any substantial part thereof, provided that this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System.

(iv) The City recognizes that the purchasers and owners of the Certificates will have accepted them on, and paid a price which reflects, the understanding that interest thereon is excludable from federal income taxation under laws in force at the time the Certificates shall have been delivered. In this connection the City covenants to take no action or fail to take any action, which action or failure to act may render the interest on any of such Certificates subject to federal income taxation, particularly pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), nor shall the City take any action or fail to take any action, which action or failure to act, would have the effect of causing the income derived by the City from the System to become subject to federal income taxation in the hands of the City, whether or not provision shall have been made for the payment of such Certificates.

Section 19. Issuance of Additional Certificates. The City hereby expressly reserves the right to hereafter issue Additional Certificates payable from and secured by a lien on and pledge of the Net Revenues of equal rank and dignity, and on a parity in all respects, with the lien thereon and pledge thereof securing the payment of the Certificates.

It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements, and covenants contained herein bearing upon the management and operations of the System, and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements, and covenants contained in any ordinance authorizing the issuance of any other obligations of the City payable in whole or in part from the Net Revenues of the System, and to the extent of any irreconcilable conflict between the provisions contained herein and in any ordinance authorizing any other obligations of the City payable in whole or in part from the Net Revenues of the System, the provisions, agreements, and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders of any such obligations.

Section 20. Sale of Certificates – Official Statement. Pursuant to a public sale for the Certificates, the bid submitted by _____ (herein referred to as the "Purchasers") is declared to be the best bid received producing the lowest true interest cost rate to the City, and the sale of the Certificates to the Purchasers at the price of par plus premium in the amount of \$_____ is hereby determined to be in the best interests of the City and is approved and confirmed. Delivery of the Certificates to the Purchasers shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale. The Initial Certificate shall be registered in the name as provided in the winning bid.

Furthermore, the use of the Preliminary Official Statement in connection with the public offering and sale of the Certificates is hereby ratified, confirmed and approved in all respects. The final Official Statement reflecting the terms of sale (together with such changes approved by the Mayor, Deputy City Manager, any Assistant City Manager, Director of Finance or the City Manager, any one or more of said officials), shall be and is hereby in all respects approved and the Purchaser is hereby authorized to use and distribute said final Official Statement, dated June

19, 2018, in the offering, sale and delivery of the Certificates to the public. The Mayor and City Secretary are further authorized and directed to manually execute and deliver for and on behalf of the City copies of said Official Statement in final form as may be required by the Purchaser, and such Official Statement in the final form and content manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Purchaser.

Section 21. Notices to Owners - Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given; and, such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 22. Cancellation. All Certificates surrendered for payment, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it; and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Certificates held by the Paying Agent/Registrar shall be returned to the City.

Section 23. Mutilated, Destroyed, Lost, and Stolen Certificates. If (a) any mutilated Certificate is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Certificate, and (b) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Certificate has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Certificate, a new Certificate of the same Stated Maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost, or stolen Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Certificate, pay such Certificate.

Upon the issuance of any new Certificate under this Section, the City may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Certificate shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Certificates.

Section 24. Covenants to Maintain Tax-Exempt Status of Interest on the Certificates.

(a) **Definitions.** When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Certificates has the meaning set forth in Section 1.148-4 of the Regulations.

(b) **Not to Cause Interest to Become Taxable.** The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(c) **No Private Use or Private Payments.** Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) **No Private Loan.** Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take or pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or

improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) **Not to Invest at Higher Yield.** Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Certificates.

(f) **Not Federally Guaranteed.** Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) **Information Report.** The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) **Rebate of Arbitrage Profits.** Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Certificate is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Certificates with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchaser and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Certificate Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be

required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) **Not to Divert Arbitrage Profits.** Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

(j) **Elections.** The City hereby directs and authorizes the Mayor, City Manager, Deputy City Manager, any Assistant City Manager and Director of Finance, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 25. Satisfaction of Obligations of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied and the lien on and pledge of the Net Revenues under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates, or any principal amount(s) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (a) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (b) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, upon the City's request, the Paying Agent/Registrar shall remit to the city along with a written receipt, any moneys deposited and held in trust by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates which remain unclaimed for a period of three (3) years after being so deposited and held on the Stated Maturity or applicable redemption date on the Certificates. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

Section 26. Proceeds of Sale. The proceeds of sale of the Certificates, excluding the amounts to pay costs of issuance, shall be deposited in a construction fund maintained at a City depository bank. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including guaranteed investment contracts permitted by Texas Government Code, Section 2256.015 et seq., and the City's investment policies and guidelines, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the City Council. Any surplus proceeds of sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund.

Section 27. Ordinance a Contract - Amendments. The provisions of this Ordinance shall constitute a contract with the Holders; and, the City shall not amend or repeal any of the provisions of this Ordinance so long as any Certificate remains Outstanding except as permitted in this Section and Section 28 hereof. The City, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, with the written consent of the registered owner or owners holding a majority in aggregate principal amount of the Certificates then Outstanding affected thereby, the City may amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all registered owners of Outstanding Certificates, no such amendment, addition or rescission shall: (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates; (2) give any preference to any Certificate over any other Certificate; or, (3) reduce the aggregate principal amount of Certificates required for consent to any such amendment, addition or rescission.

Section 28. Continuing Disclosure Undertaking.

(a) **Definitions.** As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(b) Annual Reports.

The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning in or after 2018, financial information and operating data with respect to the City of the general type of information contained in Tables 1 through 11 in the Official Statement, and (2) within twelve months after the end of each fiscal year ending in or after 2018 and if not provided as part of such financial information and operating data, audited financial statements of the City. Any financial statements so provided shall be prepared in accordance with the accounting principles described in Appendix B of the Official Statement, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation. If audited financial statements are not available within 12 months after the end of any fiscal year, the City will provide unaudited financial statements by the required time, and audited financial statements when and if such audited financial statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC.

(c) Notice of Certain Events.

The City shall provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
7. Modifications to rights of holders of the Certificates, if material;
8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;

13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB.

All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) of this Section of any Certificate calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

Section 29. Control and Custody of Certificates. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificate(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts, and the delivery thereof to the Purchaser.

Section 30. Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Certificates. In addition, prior to the initial delivery of the Certificates, the Mayor, City Manager, Deputy City Manager, any Assistant

City Manager, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Certificates by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 31. Bond Counsel's Opinion. The Purchaser's obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Attorneys, Dallas, Texas, Bond Counsel to the City, approving such Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such Certificates. A true and correct reproduction of said opinion is hereby authorized to be printed on the definitive Certificates or an executed counterpart thereof shall accompany the global Certificates deposited with DTC.

Section 32. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

Section 33. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance. This Ordinance in its entirety is intended to be and is for the sole and exclusive benefit of the City, the Paying Agent/Registrar, and the Holders.

Section 34. Inconsistent Provisions. All ordinances, orders, or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 35. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

Section 36. Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

Section 37. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 38. Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 39. Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 40. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

Section 41. Effective Date. This Ordinance shall take effect and be in force from and after its passage and approval in accordance with the provisions of Texas Government Code, Section 1201.028, as amended.

[remainder of page intentionally left blank]

PASSED AND APPROVED, this June 19, 2018.

Mayor
City of Amarillo, Texas

ATTEST:

City Secretary
City of Amarillo, Texas

(City Seal)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
PAYING AGENT/REGISTRAR AGREEMENT

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Pillar	Economic Development and Redevelopment
Department	Finance		
Contact	Laura Storrs, Finance Director		

Agenda Caption

DISCUSSION AND CONSIDERATION OF ORDINANCE
(Contact: Laura Storrs)

Discussion and consideration of all matters incident and related to the issuance and sale of “City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018A”, including the adoption of an ordinance authorizing the issuance of such bonds.

Agenda Item Summary

This ordinance authorizes the City to issue the Waterworks and Sewer System Revenue Bonds, New Series 2018A (bonds). The City has received a loan commitment from the Texas Water Development Board (TWDB) of \$12,500,000 to fund this bond issue from the Clean Water State Revolving Fund to finance the costs of Lift Station 32 construction. The loan was approved by the TWDB on March 6, 2018.

Requested Action

Adopt the Ordinance authorizing the issuance of the Waterworks and Sewer System Revenue Bonds, New Series 2018A.

Funding Summary

N/A

Community Engagement Summary

At the May 1, 2018 City Council meeting, the City’s financial advisor, Specialized Public Finance, reviewed the June 2018 bond issues that include the 2018 General Obligation Bonds, the 2018 Certificates of Obligation and the Water and Sewer Revenue Bond issues.

Staff Recommendation

City staff is recommending approval of the Ordinance.

ORDINANCE NO. 57726

AN ORDINANCE authorizing the issuance of "CITY OF AMARILLO, TEXAS, WATERWORKS AND SEWER SYSTEM REVENUE BONDS, NEW SERIES 2018A"; prescribing the forms, terms, and provisions of said bonds; pledging the net revenues of the City's Waterworks and Sewer System to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security, sale and delivery of said bonds, including the approval and execution of a Paying Agent/Registrar Agreement and an Escrow Agreement; and providing an effective date.

WHEREAS, pursuant to an application filed with the Texas Water Development Board (the "Board"), the City of Amarillo, Texas (the "City") has received a loan commitment from the Board pursuant to the Board's Resolution No. 18-024 adopted on March 1, 2018 (the "Board Resolution") for financial assistance in the amount of \$12,500,000 from the Clean Water State Revolving Fund to finance the costs of constructing wastewater system improvements, and such financial assistance is to be evidenced by the Board's purchase of bonds payable from a pledge of and lien on the Pledged Revenues (as herein defined) of the City's waterworks and sewer system (the "System"); and

WHEREAS, under the provisions of Texas Government Code, Chapter 1502, as amended, the City Council of the City is authorized to issue waterworks and sewer system revenue bonds for the improvement and extension of the City's sewer system; and

WHEREAS, the City Council further finds and determines that it is necessary and in the best interests of the City and its citizens that it issue such bonds authorized by this Ordinance, and that the proceeds of such bonds are to be used solely for the purposes specified in this Ordinance, which the City Council hereby determines to be necessary and economically feasible; and

WHEREAS, the bonds to be issued pursuant to the terms and provisions of this Ordinance will be secured by a pledge of and lien on the Pledged Revenues of the System; and

WHEREAS, this City Council is now authorized and empowered to proceed with the issuance of said bonds; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose. Revenue bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$12,500,000 to be designated and bear the title "City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018A" (hereinafter referred to as the "Bonds"), for improvement and extension of the City's sewer system and to pay costs of issuance, in conformity with the Constitution and laws of the State of Texas, including particularly Texas Government Code, Chapter 1502, as amended.

SECTION 2: Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates - Date. The Bonds are issuable in fully registered form only; shall be

dated June 15, 2018 (the "Bond Date") and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity) and the Bonds shall become due and payable on April 1 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at per annum rates in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2019	605,000	—
2020	550,000	
2021	555,000	
2022	560,000	
2023	565,000	
2024	575,000	
2025	580,000	
2026	590,000	
2027	595,000	
2028	605,000	
2029	615,000	
2030	625,000	
2031	640,000	
2032	650,000	
2033	665,000	
2034	675,000	
2035	690,000	
2036	705,000	
2037	720,000	
2038	735,000	

The Bonds shall bear interest on the unpaid principal amounts from the date of initial delivery of the Bonds at the rate(s) per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on April 1 and October 1 in each year, commencing April 1, 2019, until maturity or prior redemption.

SECTION 3: Terms of Payment-Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books (the "Security Register") maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of ZB, National Association dba Amegy Bank, Houston, Texas, to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the principal office of the Paying Agent/Registrar, and at a location within the State of Texas, books and records for the registration, payment and transfer of the Bonds (the "Security Register"), all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement" substantially in the form of attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe; and the Mayor or Mayor Pro Tem and the City Secretary are authorized to execute and deliver such Agreement in

connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or on a date of earlier redemption thereof only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holder whose name appears in the Security Register at the close of business on the Record Date (the 15th day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. Provided, however, while the Board is the registered owner of the Bonds, payments on the Bonds shall be made by wire transfer without expense to the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4: Redemption.

(a) Optional Redemption. The Bonds maturing on and after April 1, 2029 shall be subject to redemption prior to maturity, in whole or in part (in inverse order of Stated Maturities, if less than all), in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on any date beginning on or after October 1, 2028 at the redemption price of par plus accrued interest to the redemption date.

(b) Exercise of Redemption. At least forty-five (45) days prior to a date set for the redemption of Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date set for the redemption thereof.

(c) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bond as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bond by \$5,000 and shall select the Bonds to be redeemed within such Stated Maturity by lot.

(d) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Bond (or the principal amount thereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys sufficient for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(e) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

SECTION 5: Registration - Transfer - Exchange of Bonds - Predecessor Bonds. A Security Register relating to the registration, payment, and transfer or exchange of the Bonds shall at all times be kept and maintained by the City at the principal office of the Paying Agent/Registrar, and the Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Bonds issued under and pursuant to the provisions of this Ordinance. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Bondholder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Bondholder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds executed on behalf of, and furnished by, the City of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Bondholder, Bonds may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are so surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds executed on behalf of, and furnished by, the City to the Bondholder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States mail, first class postage prepaid, to the Bondholder at his request, risk, and expense and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Bondholder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Bondholder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any Bond registered and delivered pursuant to Section 28 hereof in lieu of a mutilated, lost, destroyed, or stolen Bond which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within 30 days of the date fixed for redemption of such Bond; provided, however, that such limitation of transfer shall not be applicable to an exchange by the Bondholder of an unredeemed balance of a Bond called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained herein relating to the payment, redemption and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the Letter of Representation from the Paying Agent/Registrar to DTC (collectively, the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and attested by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in the Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9C, manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9D, manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

SECTION 8: Initial Bond(s). The Bonds herein authorized shall be initially issued as a single fully registered bond in the total principal amount of this series with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as one bond for each year of maturity in the applicable principal amount and denomination as referenced in Section 2 hereof and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts, and bearing applicable interest rates for transfer and delivery to the Bondholders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee

thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms

A. Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of Registration, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds shall be printed, typed, lithographed, or engraved or produced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof, but the Initial Bond(s) submitted to the Attorney General of Texas may be typewritten or photocopied or otherwise reproduced.

The City may provide for registration of the Bonds in the name of a securities depository, or the nominee thereof. While any Bond is registered in the name of a securities depository or its nominee, references herein and in the Bonds to the holder or owner of such Bond shall mean the securities depository or its nominee and shall not mean any other person.

B. Form of Definitive Bond.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
WATERWORKS AND SEWER SYSTEM REVENUE BOND
NEW SERIES 2018A

Bond Date:
June 15, 2018

Interest Rate:

Stated Maturity:

CUSIP NO:

Registered Owner: _____

Principal Amount: _____ DOLLARS

The City of Amarillo, Texas (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter defined, on the Stated Maturity date specified above, the Principal Amount stated above (or so much thereof as shall not have been paid upon prior

redemption) and to pay interest on the unpaid Principal Amount thereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of initial delivery of the Bonds) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on April 1 and October 1 of each year commencing April 1, 2019, until maturity or prior redemption. Principal of this Bond shall be payable to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest shall be payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts and shall be made by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$12,500,000 (herein referred to as the "Bonds") for the purpose of providing money for the improvement and extension of the City's sewer system and paying costs of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1502, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

The Bonds maturing on and after April 1, 2029 are subject to redemption prior to maturity, in whole or in part (in inverse order of Stated Maturities, if less than all), in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on any date beginning on or after October 1, 2028 at the redemption price of par plus accrued interest to the redemption date.

At least thirty days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest

shall cease to accrue and be payable from and after the redemption date on the principal amount hereof redeemed.

In the event of a partial redemption of the principal amount of this Bond, payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of this Bond to the Paying Agent/Registrar at its principal office and, there shall be issued, without charge therefor, to the registered owner hereof, a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided in the Ordinance for the then unredeemed balance of the principal sum hereof. If this Bond is called for redemption, in whole or in part, the City or the Paying Agent/Registrar shall not be required to transfer this Bond to an assignee of the Bondholder within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the Bondholder of the unredeemed balance hereof in the event of its redemption in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are special obligations of the City and, together with the outstanding and unpaid Bonds Similarly Secured (as defined in the Ordinance authorizing the issuance of the Bonds), are payable solely from and secured by a lien on and pledge of the Pledged Revenues (as defined in the Ordinance) of the City's Waterworks and Sewer System (the "System"). The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Pledged Revenues. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from and equally and ratably secured by a parity lien on and pledge of the Pledged Revenues of the System, in the same manner and to the same extent as the Bonds.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Bondholder by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the properties constituting the System; the Pledged Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Bondholders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond, and this Bond deemed to be no longer

Outstanding thereunder; and for the other terms and provisions thereof. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of non-payment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each Bondholder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited and represented and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid special obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a pledge of the Pledged Revenues of the System as aforestated. In case any provision in this Bond or any application thereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

CITY OF AMARILLO, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

C. Form of Registration Certificate of Comptroller of Public Accounts, to appear on Initial Bond only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
)
OF PUBLIC ACCOUNTS) REGISTER NO. _____
)
THE STATE OF TEXAS)

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

D. Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in Salt Lake City, Utah, is the "Designated Payment/Transfer Office" for this Bond.

ZB, NATIONAL ASSOCIATION dba AMEGY BANK,
Houston, Texas, as Paying Agent/Registrar

Registration date:

By _____
Authorized Signature

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:)

(Social Security or other identifying number _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

F. The Initial Bond(s) shall be substantially in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

Heading and first paragraph shall read as follows:

REGISTERED
NO. T-1

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
WATERWORKS AND SEWER SYSTEM REVENUE BOND
NEW SERIES 2018A

REGISTERED
\$12,500,000

Bond Date: June 15, 2018

Registered Owner: TEXAS WATER DEVELOPMENT BOARD

Principal Amount: TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS

The City of Amarillo (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, on the 1st day of April in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
------------------------------------	----------------------------------	------------------------------

(Information to be inserted from schedule in Section 2 hereof).

(or so much thereof as shall not have been prepaid prior to maturity) and to pay interest on the unpaid principal amounts hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of the initial delivery of the Bonds) at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on April 1 and October 1 of each year, commencing April 1, 2019, until maturity or prior redemption. Principal of this Bond shall be payable to the registered owner hereof, upon presentation and surrender, to ZB, National Association dba Amegy Bank, Houston, Texas (the "Paying Agent/Registrar") upon its presentation and surrender at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest shall be payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10: Definitions. That for all purposes of this ordinance and in particular for clarity with respect to the issuance of the Bonds herein authorized and the pledge and appropriation of revenues therefor, the following definitions are provided:

- (a) The term "Additional Bonds" shall mean the additional parity revenue bonds which the City reserves the right to issue in the future, as provided in this Ordinance, as may be outstanding from time to time.
- (b) The term "Board" shall mean Texas Water Development Board.
- (c) The term "Bonds" or "New Series 2018A Bonds" shall mean the "City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2018A", authorized by this Ordinance, as may be outstanding from time to time.
- (d) The term "Bonds Similarly Secured" means the Bonds, the proposed "City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018B" (the

"Series 2018B Bonds") to be issued concurrently with the Bonds, the Previously Issued Bonds and Additional Bonds.

(e) The term "City" shall mean the City of Amarillo, in Potter and Randall Counties, Texas.

(f) The term "Gross Revenues of the City's Waterworks and Sewer System" and "Gross Revenues" shall mean all revenues, income, and receipts of every nature derived or received by the City from the operation and ownership of the System, including the interest income from the investment or deposit of money in any Fund mentioned in this Ordinance.

(g) The term "Net Revenues of the City's Waterworks and Sewer System" and "Net Revenues" shall mean all Gross Revenues after deducting and paying the current expenses of operation and maintenance of the System, as required by Texas Government Code, Chapter 1502, as amended, including all salaries, labor, materials, repairs, and extensions necessary to render efficient service, provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised by the adoption of appropriate resolutions, are necessary to keep the System in operation and render adequate service to said City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the Bonds or Additional Bonds, shall be deducted in determining "Net Revenues". Depreciation shall never be considered as an expense of operation and maintenance. Capital expenditures shall never be considered as an expense of operation and maintenance.

(h) The terms "Outstanding" and "outstanding" when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

(1) those Bonds theretofore canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds for which payment has been duly provided by the City by the irrevocable deposit with the Paying Agent/Registrar of money in the amount necessary to fully pay the principal of and interest thereon to maturity or redemption, as the case may be, provided that, if such Bonds are to be redeemed, notice of redemption thereof shall have been duly given pursuant to this Ordinance or irrevocably provided to be given to the satisfaction of the Paying Agent/Registrar, or waived;

(3) those Bonds that have been mutilated, destroyed, lost or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 28 hereof; and

(4) those Bonds for which the payment of the principal of and interest on which has been duly provided for by the City in accordance with law.

(i) The term "Pledged Revenues" shall mean (i) the Net Revenues, plus (ii) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations, or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter may be pledged to the payment of the Bonds or Additional Bonds.

(j) The term "Previously Issued Bonds" shall mean the following outstanding and unpaid revenue bonds, payable from and secured by a lien on and pledge of the Pledged Revenues of the System, further identified by issue or series as follows:

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2011," dated August 1, 2011, in the original principal amount of \$16,300,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2013," dated July 1, 2013, in the original principal amount of \$1,310,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2014," dated January 1, 2014, in the original principal amount of \$8,495,000;

"City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2015," dated August 1, 2015, in the original principal amount of \$17,195,000;

"City of Amarillo, Texas, Waterworks and Sewer System Revenue Refunding Bonds, New Series 2015A," dated August 15, 2015, in the original principal amount of \$21,145,000; and

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2017," dated April 1, 2017, in the original principal amount of \$31,005,000.

(k) The term "Water Development Board Bonds" shall mean the Bonds Similarly Secured which are owned by the Texas Water Development Board and further identified by issue or series as follows:

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2013," dated July 1, 2013, in the original principal amount of \$1,310,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2014," dated January 1, 2014, in the original principal amount of \$8,495,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2015," dated August 15, 2015, in the original principal amount of \$17,195,000; and

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2018A," dated June 15, 2018, in the original principal amount of \$12,500,000.

(l) The term "Waterworks and Sewer System" and "System" shall mean and include the City's existing combined waterworks and sewer system, together with all future extensions, improvements, enlargements, and additions thereto, and all replacements thereof; provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term System shall not include any waterworks or sewer facilities which are declared not to be a part of the System and which are acquired or constructed by the City with the proceeds from

the issuance of "Special Facilities Bonds", which are hereby defined as being special revenue obligations of the City which are not secured by or payable from the Pledged Revenues as defined herein, but which are secured by and payable solely from special contract revenues or payments received from any other legal entity in connection with such facilities; and such revenues or payments shall not be considered as or constitute Gross Revenues of the System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such "Special Facilities Bonds".

(m) The term "year" shall mean the regular fiscal year used by the City in connection with the operation of the System, which may be any twelve consecutive months period established by the City.

SECTION 11: Pledge. That the City hereby covenants and agrees that the Pledged Revenues, with the exception of those in excess of the amounts required for the payment and security of the Bonds Similarly Secured, are hereby irrevocably pledged to the payment and security of the Bonds Similarly Secured, and the Pledged Revenues are further pledged irrevocably to the establishment and maintenance of the Interest and Redemption Fund as hereinafter provided. The Bonds Similarly Secured are and will be secured by and payable only from the Pledged Revenues, and are not secured by or payable from a mortgage or deed of trust on any real, personal, or mixed properties constituting the System.

Such lien on and pledge of the Pledged Revenues shall be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer of control of the Pledged Revenues, the filing of this Ordinance or any other act; all as provided in Texas Government Code, Chapter 1208, as amended. Texas Government Code, Chapter 1208, as amended, applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the City under this Section 11, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Pledged Revenues granted by the City under this Section 11 is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 12: Revenue Fund and Reserve Fund. There has been created and established and shall be maintained on the books of the City, and accounted for separate and apart from all other funds of the City, a special fund entitled the "City of Amarillo Waterworks and Sewer System Revenue Bonds Revenue Fund" (hereinafter called the "Revenue Fund"). All Gross Revenues shall be credited to the Revenue Fund immediately upon receipt and revenues deposited to said Revenue Fund shall be pledged and appropriated to the following uses and in the priority shown below:

- First: To the payment of all necessary and reasonable maintenance and operation expenses of the System as said expenses are defined by law.
- Second: To the payment, equally and ratably, of the amounts required to be deposited in the special funds or accounts created and established for the payment and security of the Bonds Similarly Secured in accordance with the ordinances authorizing the issuance of the Bonds Similarly Secured.

Third: To the payment of any other indebtedness payable from and secured, in whole or in part, by a lien on and claim against the revenues of the System.

Fourth: Any revenues remaining in the Revenue Fund after satisfying the foregoing payments, or making adequate and sufficient provisions for the payment thereof, may be appropriated and used for any other purpose now or hereafter permitted by law.

Reserve Fund. The City has established and shall maintain the "City of Amarillo, Texas, New Series Waterworks and Sewer System Reserve Fund" (the "Reserve Fund") for the Water Development Board Bonds as long as the Board is the owner of the Water Development Board Bonds for the purposes of (i) finally retiring the last of the Water Development Board Bonds and (ii) paying principal of and interest on the Water Development Board Bonds in the event moneys on hand in the Interest and Redemption Fund are insufficient for such purpose.

The amount to be accumulated in the Reserve Fund shall be equal to not less than the lesser of (i) the maximum annual debt service requirement on all outstanding Water Development Board Bonds, (ii) 125% of the average annual debt service requirements on all outstanding Water Development Board Bonds, or (iii) 10% of the stated principal amount of the outstanding Water Development Board Bonds (the "Required Reserve"). The Required Reserve shall be established and maintained with Pledged Revenues of the System or other lawfully available funds of the City, the proceeds of sale of Water Development Board Bonds or by depositing to the credit of the Reserve Fund, to the extent permitted by law, one or more surety bonds or insurance policies issued by a company or institution having a rating in the highest rating category by two nationally recognized rating agencies or services, or any combination thereof. The City hereby covenants and agrees that the initial Required Reserve to be deposited in the Reserve Fund in connection with the issuance of the Bonds shall be accumulated in equal monthly installments over the initial sixty (60) months following the initial delivery of the Bonds. If additional Water Development Board Bonds are issued to refund a portion of the then outstanding Water Development Board Bonds and there is a reduction in the average annual debt service of all the Water Development Board Bonds to be outstanding upon the issuance of the additional Water Development Board Bonds, the Required Reserve shall be reduced to reflect the average annual debt service requirements associated with such reduced requirement.

So long as the Water Development Board Bonds are outstanding and owned by the Board, prior to the City utilizing one or more surety bonds or insurance policies to fund all or a portion of the Required Reserve, the City shall notify the Executive Administrator of the Board no less than 30 days prior to converting from a cash reserve fund to a surety policy. Such a conversion may only be made if the proposed insurer or surety meets the financial guarantees established in the Board's rules and has been approved by the Executive Administrator of the Board.

As and when additional Water Development Board Bonds are delivered or incurred, the Required Reserve shall be increased, if required, to an amount equal to the lesser of (i) the average annual debt service requirements calculated on a Fiscal Year basis for all Water Development Board Bonds then Outstanding and owned by the Board, as determined on the date each series of additional Water Development Board Bonds is initially delivered or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder. Any additional amount required to be maintained in the Reserve Fund shall be so accumulated (i) by depositing to the credit of the Reserve Fund (immediately after the delivery of the then proposed additional Water Development Board Bonds)

cash or an additional surety bond or insurance policy or revised surety bond or revised insurance policy with coverage in an amount sufficient to provide for the new Required Reserve to be fully or partially funded, or (ii) at the option of the City, by making monthly deposits from funds in the Revenue Fund on or before the 1st day of each month following the month of delivery of the then proposed additional Water Development Board Bonds, of not less than 1/24th of the additional amount to be maintained in said Reserve Fund by reason of the issuance of the additional Water Development Board Bonds then being issued (or 1/24th of the balance of the additional amount not deposited immediately in cash or provided by a surety bond or insurance policy.)

When and so long as the cash and investments in the Reserve Fund and/or coverage afforded by a surety bond or insurance policy held for the account of the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but, if and when the Reserve Fund at any time contains less than the Required Reserve (or so much thereof as shall then be required to be contained therein if additional Water Development Board Bonds have been issued and the City has elected to accumulate all or a portion of the Required Reserve with Pledged Revenues), the City covenants and agrees to cause monthly deposits to be made to the Reserve Fund on or before the 1st day of each month (beginning the month next following the month the deficiency in the Required Reserve occurred by reason of a draw on the Reserve Fund or as a result of a reduction in the market value of investments held for the account of the Reserve Fund) from Pledged Revenues of the System in an amount equal to either (1) 1/24th of the Required Reserve until the total Required Reserve then required to be maintained in said Fund has been fully restored or (2) the amounts to pay principal of and interest on Water Development Board Bonds held by an insurer, or evidenced by an instrument of assignment entitling an insurer to payment of principal of and interest on Water Development Board Bonds, as a result of payments or draws made on a surety bond or insurance policy held for the account of the Reserve Fund and such payments will result in the principal of and/or interest on such Water Development Board Bonds to be paid, as well as the restoration and replenishment of the surety bond or insurance policy coverage representing all or a portion of the Required Reserve. The City further covenants and agrees that, subject only to the payments to be made to the Interest and Redemption Fund, the Pledged Revenues of the System shall be applied and appropriated and used to establish and maintain the Required Reserve and to cure any deficiency in such amounts as required by the terms of this Ordinance and any other ordinance pertaining to the issuance of additional Water Development Board Bonds.

During such time as the Reserve Fund contains the total Required Reserve, the City may, at its option, withdraw any surplus above the Required Reserve and deposit such surplus in the Revenue Fund; provided, however, that to the extent the surplus, including investment earnings, are derived from proceeds of bonds used to fund all or a portion of the Required Reserve such surplus may only be used for the same purposes for which said bond proceeds may be used.

SECTION 13: Interest and Redemption Fund. That for the sole purpose of paying the principal of and interest on all Outstanding Bonds Similarly Secured, as the same come due, there has been created and established and shall be maintained at any official depository bank of the City a separate fund entitled the "City of Amarillo New Series Waterworks and Sewer System Revenue Bonds Interest and Redemption Fund" (hereinafter called the "Interest and Redemption Fund").

SECTION 14: Deposits of Pledged Revenues; Investments.

(a) The Pledged Revenues shall be deposited into the Interest and Redemption Fund when and as required by this Ordinance.

(b) To the extent permitted by law, money in any Fund mentioned in this Ordinance may, at the option of the City, be invested in investments authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, and the City's investment policy; provided that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times. All interest and income derived from such deposits and investments immediately shall be credited to, and any losses debited to, the Fund from which the deposit or investment was made, and surpluses in any Fund shall or may be disposed of as hereinafter provided. Such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds Similarly Secured.

SECTION 15: Funds Secured. Money in all Funds mentioned in this Ordinance, to the extent not invested, shall be secured in the manner prescribed by law for securing funds of the City.

SECTION 16: Debt Service Requirements.

(a) Promptly after the delivery of the Bonds the City shall cause to be deposited to the credit of the Interest and Redemption Fund any accrued interest received from the sale and delivery of the Bonds, and any such deposit shall be used to pay part of the interest next coming due on the Bonds.

(b) In addition to amounts required to be transferred by the ordinances authorizing the Bonds Similarly Secured, the City shall transfer from the Pledged Revenues and deposit to the credit of the Interest and Redemption Fund the amounts, at the times, as follows:

(1) such amounts, deposited in approximately equal monthly installments on or before the 25th day of each month hereafter, commencing with the month during which the Bonds are delivered, or the month thereafter if delivery is made after the 25th thereof, as will be sufficient, together with other amounts, if any, then on hand in the Interest and Redemption Fund and available for such purpose, to pay the interest scheduled to accrue and come due on the Bonds and any Additional Bonds on the next succeeding interest payment date; and

(2) such amounts, deposited in approximately equal monthly installments on or before the 25th day of each month hereafter, commencing with the month during which the Bonds are delivered, or the month thereafter if delivery is made after the 25th day thereof, as will be sufficient, together with other amounts, if any, then on hand in the Interest and Redemption Fund and available for such purpose, to pay the principal scheduled to mature and come due on the Bonds and any Additional Bonds on the next succeeding principal payment date.

SECTION 17: Reserved.

SECTION 18: Deficiencies: Excess Pledged Revenues.

(a) If on any occasion there shall not be sufficient Pledged Revenues to make the required deposits into the Interest and Redemption Fund, then such deficiency shall be made up as soon as possible from the next available Pledged Revenues, or from any other sources available for such purpose.

(b) Subject to making the required deposits to the credit of the Interest and Redemption Fund when and as required by this Ordinance, or any ordinance authorizing the issuance of Additional Bonds, the excess Pledged Revenues may be used by the City for any lawful purpose.

SECTION 19: Payment of Bonds and Additional Bonds. On or before April 1, 2019, and semiannually on or before each April 1 and October 1 thereafter while any of the Bonds Similarly Secured are outstanding and unpaid, the City shall make available to the paying agents therefor, out of the Interest and Redemption Fund, money sufficient to pay such interest on and such principal of the Bonds Similarly Secured as will occur or mature on such dates, respectively. The Paying Agent/Registrar shall destroy all paid Bonds Similarly Secured and furnish the City with an appropriate certificate of cancellation or destruction.

SECTION 20: Final Deposits, Governmental Obligations.

(a) Any Bonds Similarly Secured shall be deemed to be paid, retired, and no longer Outstanding within the meaning of this Ordinance when payment of the principal of, redemption premium, if any, on such Bond Similarly Secured, plus interest thereon to the due date thereof (whether such due date be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption), or (ii) shall have been provided by irrevocably depositing with, or making available to, the Paying Agent/Registrar therefor, in trust and irrevocably set aside exclusively for such payment, (1) money sufficient to make such payment or (2) Governmental Obligations, as hereinafter defined in this Section, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, or sufficient money to make such payment, and all necessary and proper fees, compensation, and expenses of such paying agent pertaining to the Bonds Similarly Secured with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of such Paying Agent/Registrar. At such time as a Bond Similarly Secured shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefit of this Ordinance or a lien on and pledge of the Pledged Revenues, and shall be entitled to payment solely from such money or Government Obligations.

(b) Any moneys so deposited with a paying agent may at the direction of the City also be invested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the paying agent pursuant to this Section which is not required for the payment of the Bonds Similarly Secured, the redemption premium, if any, and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City or deposited as directed by the City.

(c) The City hereby covenants that no deposit will be made or accepted under clause (a)(ii) of this Section and no use made of any such deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended.

(d) For the purpose of this Section, the term "Government Obligations" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally

recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

(e) Notwithstanding any other provisions of this Ordinance, all money or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of the Bonds Similarly Secured, the redemption premium, if any, and interest thereon, shall be applied to and used for the payment of such Bonds Similarly Secured, the redemption premium, if any, and interest thereon.

SECTION 21: Additional Bonds.

(a) The City shall have the right and power at any time and from time to time and in one or more series or issues, to authorize, issue, and deliver additional parity revenue bonds (herein called "Additional Bonds"), in accordance with law, in any amounts, for any lawful purpose, including the refunding of any Bonds Similarly Secured. Such Additional Bonds, if and when authorized, issued, and delivered in accordance with this Ordinance, shall be secured by and made payable equally and ratably on a parity with the Bonds, and all other outstanding Previously Issued Bonds from an irrevocable lien on and pledge of the Pledged Revenues.

(b) The Interest and Redemption Fund mentioned in this Ordinance shall secure and be used to pay all Bonds Similarly Secured. However, each ordinance under which Additional Bonds are issued shall provide and require that, in addition to the amounts required by the provisions of this Ordinance and the provisions of any other ordinance or ordinances authorizing Additional Bonds to be deposited to the credit of the Interest and Redemption Fund, the City shall deposit to the credit of the Interest and Redemption Fund at least such amounts as are required for the payment of all principal of and interest on said Additional Bonds then being issued, as the same come due.

(c) That all calculations of average annual principal and interest requirements made pursuant to this Section shall be made as of and from the date of the Additional Bonds then proposed to be issued.

(d) That the principal of all Additional Bonds must be scheduled to be paid or mature on April 1 or October 1, or both, of the years in which such principal is scheduled to be paid or mature; and all interest thereon must be payable on April 1 and October 1.

SECTION 22: Further Requirements for Additional Bonds. Additional Bonds shall be issued only in accordance with this Ordinance, but notwithstanding any provisions of this Ordinance to the contrary, no installment, series, or issue of Additional Bonds shall be issued or delivered unless:

(a) The Mayor and the City Secretary of the City sign a written certificate to the effect that the City is not in default as to any covenant, condition, or obligation in connection with Bonds Similarly Secured, and the ordinances authorizing same, and that the Interest and Redemption Fund contains the amount then required to be therein.

(b) An independent certified public accountant, or independent firm of certified public accountants, signs a written certificate to the effect that, during either the next preceding year, or any twelve consecutive calendar month period ending not more than ninety days prior to the passage of the ordinance authorizing the issuance of the then proposed Additional Bonds, the Pledged Revenues were, in his or its opinion, at least equal to 1.25 times the principal and interest requirements of all Bonds Similarly Secured to be Outstanding after the issuance of the then proposed Additional Bonds for the year during which such requirements are scheduled to be the greatest.

SECTION 23: General Covenants. The City further covenants and agrees that in accordance with and to the extent required or permitted by law:

(a) Performance. It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance, and each ordinance authorizing the issuance of Additional Bonds, and in each and every Bond Similarly Secured; that it will promptly pay or cause to be paid the principal of and interest on every Bond Similarly Secured, on the dates and in the places and manner prescribed in such ordinances and Bonds Similarly Secured; and that it will, at the times and in the manner prescribed, deposit or cause to be deposited the amounts required to be deposited into the Interest and Redemption Fund; and any holder of the Bonds Similarly Secured may require the City, its officials, and employees, to carry out, respect, or enforce the covenants and obligations of this Ordinance, or any ordinance authorizing the issuance of Additional Bonds, by all legal and equitable means, including specifically, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the City, its officials, and employees.

(b) City's Legal Authority. It is a duly created and existing home rule city of the State of Texas, and is duly authorized under the laws of the State of Texas to create and issue the Bonds; that all action on its part for the creation and issuance of the Bonds has been duly and effectively taken, and that the Bonds registered in the names of the registered owners thereof are and will be valid and enforceable special obligations of the City in accordance with their terms.

(c) Title. It has or will obtain lawful title to the lands, buildings, structures, and facilities constituting the System, that it warrants that it will defend the title to all the aforesaid lands, building, structures, and facilities, and every part thereof, for the benefit of the holders and owners of the Bonds Similarly Secured, against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Pledged Revenues to the payment of the Bonds Similarly Secured in the manner prescribed herein, and has lawfully exercised such rights.

(d) Liens. It will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or the System, that it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the liens granted hereunder shall be fully preserved in the manner provided herein, and that it will not create or suffer to be created any mechanic's, laborer's, materialman's, or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the liens hereof might or could be impaired; provided, however, that no such tax, assessment, or charge, and that no such claims which might be used as the basis of a mechanic's, laborer's, materialman's, or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the City.

(e) Operation of System; No Free Service. While the Bonds Similarly Secured are Outstanding and unpaid the City shall continuously and efficiently operate the System, and shall maintain the System in good condition, repair, and working order, at all reasonable cost. No free service of the System shall be allowed, and should the City or any of its agencies or instrumentalities make use of the services and facilities of the System, payment of the reasonable value shall be made by the City out of funds from sources other than the revenues of the System, unless made from surplus or excess Pledged Revenues as permitted in Section 18(b) hereof.

(f) Further Encumbrance. While the Bonds Similarly Secured are Outstanding and unpaid, the City shall not additionally encumber the Pledged Revenues in any manner, except as permitted in this Ordinance in connection with Additional Bonds, unless said encumbrance is made junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Ordinance or such pledge is equal to or less than \$10,000; but the right of the City to issue revenue bonds payable from a subordinate lien on the Pledged Revenues is specifically recognized and retained.

(g) Sale or Disposal of Property. While the Bonds Similarly Secured are Outstanding and unpaid, the City shall not sell, convey, mortgage, encumber, lease, or in any manner transfer title to, or otherwise dispose of the System, or any significant or substantial part thereof; provided that whenever the City deems it necessary to dispose of any property, machinery, fixtures, or equipment, it may sell or otherwise dispose of such property, machinery, fixtures, or equipment when it has made arrangements to replace the same or provide substitutes therefor, unless it is determined by resolution of the City Council that no such replacement or substitute is necessary.

(h) Insurance.

(1) The City shall cause to be insured such parts of the System as would usually be insured by corporations operating like properties, with a responsible insurance company or companies or through self insurance, against risks, accidents, or casualties against which and to the extent insurance is usually carried by corporations operating like properties, including, to the extent reasonably obtainable, fire and extended coverage insurance, insurance against damage by floods, and use and occupancy insurance. Public liability and property damage insurance shall also be carried unless the City Attorney of the City gives a written opinion to the effect that the City is not liable for claims which would be protected by such insurance. At any time while any contractor engaged in construction work shall be fully responsible therefor, the City shall not be required to carry insurance on the work being constructed if the contractor is required to carry appropriate insurance. All such policies shall be open to the inspection of the owners of the Bonds and their representatives at all reasonable times. Upon the happening of any loss or damage covered by insurance from one or more of said causes, the City shall make due proof of loss and shall do all things necessary or desirable to cause the insuring companies to make payment in full directly to the City. The proceeds of insurance covering such property, together with any other funds necessary and available for such purpose, shall be used forthwith by the City for repairing the property damaged or replacing the property destroyed; provided, however, that if said insurance proceeds and other funds are insufficient for such purpose, then said insurance proceeds pertaining to the System shall be used promptly as follows:

(i) for the redemption prior to maturity of the Bonds Similarly Secured, ratably in the proportion that the outstanding principal of each series or issue of Bonds Similarly Secured bears to the total outstanding principal of all Bonds

Similarly Secured, provided that if on any such occasion the principal of any such series or issue is not subject to redemption, it shall not be regarded as Outstanding in making the foregoing computation; or

(ii) if none of the Bonds Similarly Secured is subject to redemption, then for the purchase on the open market and retirement of said Bonds Similarly Secured in the same proportion as prescribed in the foregoing clause (i), to the extent practicable; provided that the purchase price for any Bond Similarly Secured shall not exceed the redemption price of such Bond Similarly Secured on the first date upon which it becomes subject to redemption; or

(iii) to the extent that the foregoing clauses (i) and (ii) cannot be complied with at the time, the insurance proceeds, or the remainder thereof, shall be deposited in a special and separate trust fund, at an official depository of the City, to be designated the Insurance Account. The Insurance Account shall be held until such time as the foregoing clauses (i) and/or (ii) can be complied with, or until other funds become available which, together with the Insurance Account, will be sufficient to make the repairs or replacements originally required, whichever of said events occurs first.

(2) The annual audit hereinafter required shall contain a section commenting on whether or not the City has complied with the requirements of this Section with respect to the maintenance of insurance, and listing all policies carried, and whether or not all insurance premiums upon the insurance policies to which reference is hereinbefore made have been paid.

(i) Rate Covenant. The City Council of the City will fix, establish, maintain, and collect such rates, charges, and fees for the use and availability of the System at all times as are necessary to produce Gross Revenues sufficient, together with any other Pledged Revenues, (1) to pay all current operation and maintenance expenses of the System, and (2) to produce Pledged Revenues for each year at least equal to 1.25 times the principal and interest requirements of all then Outstanding Bonds Similarly Secured for the year during which such requirements are scheduled to be the greatest.

(j) Records. It will keep proper books of record and account in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the System, the Pledged Revenues, and the Funds mentioned in this Ordinance, and all books, documents, and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of any owner of a Bond.

(k) Audits. After the close of each year while any of the Bonds are Outstanding, an audit will be made of the books and accounts relating to the System and the Pledged Revenues by an independent certified public accountant, or an independent firm of certified public accountants. As soon as practicable after the close of each such year, and when said audit has been completed and made available to the City, which is anticipated to be within 180 days of the close of the fiscal year, a copy of such audit for the preceding year shall be mailed to the Texas Water Development Board, the Municipal Advisory Council of Texas and to any holder of 5% or more in aggregate principal amount of then Outstanding Bonds Similarly Secured who shall so request in writing. Such annual audit reports shall be open to the inspection of the owners of the Bonds Similarly Secured and their agents and representatives at all reasonable times.

(l) Governmental Agencies. It will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to the System, and which have been obtained from any governmental agency; and the City has or will obtain and keep in full force and effect all franchises, permits, authorization, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of the System.

(m) Competition. It will not grant any franchise or permit for the acquisition, construction, or operation of any competing facilities which might be used as a substitute for the System's facilities, and, to the extent that it legally may, the City will prohibit any such competing facilities.

SECTION 24: Amendment of Ordinance.

(a) The owners of Bonds Similarly Secured aggregating in principal amount of 51% of the aggregate principal amount of then Outstanding Bonds Similarly Secured shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City, provided, however, that nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions in this Ordinance or in the Bonds Similarly Secured so as to:

(1) Make any change in the maturity of the Outstanding Bonds Similarly Secured;

(2) Reduce the rate of interest borne by any of the Outstanding Bonds Similarly Secured;

(3) Reduce the amount of the principal payable on the Outstanding Bonds Similarly Secured;

(4) Modify the terms of payment of principal of or interest on the Outstanding Bonds Similarly Secured, or impose any conditions with respect to such payment;

(5) Affect the rights of the owners of less than all of the Bonds Similarly Secured then Outstanding; or

(6) Change the minimum percentage of the principal amount of Bonds Similarly Secured necessary for consent to such amendment.

(b) If at any time the City shall desire to amend the Ordinance under this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal published in the City of New York, New York, once during each calendar week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of Bonds Similarly Secured. Such publication is not required, however, if notice in writing is given to each owner of Bonds Similarly Secured.

(c) Whenever at any time not less than thirty days, and within one year, from the date of the first publication of said notice or other service of written notice the City shall receive an instrument or instruments executed by the owner of at least 51% in aggregate principal amount of all Bonds Similarly Secured then outstanding, which instrument or instruments shall refer to the

proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file with the Paying Agent/Registrar, the City Council may pass the amendatory ordinance in substantially the same form.

(d) Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties, and obligations under this Ordinance of the City and all the owners of then Outstanding Bonds Similarly Secured and all future Bonds Similarly Secured shall thereafter be determined, exercised, and enforced hereunder, subject in all respects to such amendments.

(e) Any consent given by the owner of a Bond Similarly Secured pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bond Similarly Secured during such period. Such consent may be revoked at any time after six months from the date of the first publication of notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the owners of 51% in aggregate principal amount of the then Outstanding Bonds Similarly Secured as in this Section defined have, prior to the attempted revocation, consented to and approved the amendment.

(f) For the purpose of this Section, the fact of the holding of Bonds Similarly Secured, which are not required to be in registered form, by any bondholder and the amount and numbers of such Bonds Similarly Secured and the date of their holding same, may be proved by the affidavit of the person claiming to be such holder, or by a certificate executed by any trust company, bank, banker, or any other depository wherever situated showing that at the date therein mentioned such person had on deposit with such trust company, bank, banker, or other depository, the Bonds Similarly Secured described in such certificate. The City may conclusively assume that such ownership continues until written notice to the contrary is served upon the City.

SECTION 25: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Interest and Redemption Fund as required by this Ordinance or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the registered owner of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the City Council and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specifications of such remedies shall not be deemed to be exclusive.

SECTION 26: Covenants to Maintain Tax-Exempt Status.

(a) **Definitions.** When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds, or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding

Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Redemption Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, City Manager, Deputy City Manager, any Assistant City Manager or Director of Finance, either individually or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

SECTION 27: Notices to Holders-Waiver. Wherever this Ordinance provides for notice to Bondholders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Bondholder as it appears in the Security Register.

In any case where notice to Bondholders is given by mail, neither the failure to mail such notice to any particular Bondholders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Bondholder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Bondholders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 28: Damaged, Mutilated, Lost, Stolen, or Destroyed Bonds.

(a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, Stated Maturity, and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the applicant for a replacement bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every cause of damage or mutilation of a Bond, the applicant shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing replacement bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the registered owner of such Bond with all legal, printing and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Texas Government Code, Chapter 1201, as amended, this Section of the Ordinance shall constitute authority for the issuance of any such replacement bond without necessity of further action by the governing body

of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such bonds in the form and manner and with the effect, as provided in the Ordinance for Bonds issued in conversion and exchange for other Bonds.

SECTION 29: Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Bonds held by the Paying Agent/Registrar shall be disposed of as directed by the City.

SECTION 30: Sale of the Bonds. The sale of the Bonds to the Texas Water Development Board (the "Purchasers" or the "Board") at the price of par, less a 1.75% origination fee, which shall be paid via wire transfer at no expense to the Board, pursuant to a loan commitment received from the Purchasers is hereby confirmed. Delivery of the Bonds shall be made to the Purchasers as soon as practical after the adoption of this Ordinance, upon payment therefor in accordance with the terms of sale, which terms of sale the City has determined and does determine to be in the best interests of the City. The Initial Bond shall be registered in the name of the Purchasers.

SECTION 31: Control and Custody of Bonds. The Mayor of the City is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, Mayor Pro Tem, City Secretary, City Manager, Deputy City Manager, any Assistant City Manager and Director of Finance, any one or more of said officials, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including certifications as to facts, estimates, circumstances and reasonable expectations pertaining to the use, expenditure and investment of the proceeds of the Bonds, as may be necessary for the approval of the Attorney General, the registration by the Comptroller of Public Accounts and the delivery of the Bonds to the purchasers and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond(s) to the Purchasers and the initial exchange thereof for definitive Bonds.

SECTION 32: Proceeds of Sale. Immediately following the delivery of the Bonds to the Board, the proceeds of sale of the Bonds (less any amounts used to pay costs of issuance) shall be deposited in an account to be maintained at ZB, National Association dba Amegy Bank (the "Escrow Agent") and held in escrow pending written authorization to release said moneys. An escrow deposit agreement (the "Escrow Agreement") by and between the City and the Escrow Agent providing for the deposit, safekeeping and administration of such funds pending their release from escrow is attached hereto as **Exhibit B** and incorporated herein by reference as a part of this Ordinance for all purposes, and such Escrow Agreement is hereby approved as to form and content. The Mayor, Mayor Pro Tem, City Manager or Deputy City Manager, any Assistant City Manager and City Secretary of the City are each hereby authorized and directed

to execute the Escrow Agreement for and on behalf of the City and as the act and deed of the City Council.

Upon the release of funds from such escrow account maintained pursuant to the Escrow Agreement, the released amount shall be deposited to the credit of the Construction Fund. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including specifically guaranteed investment contracts permitted in Texas Government Code, Section 2256.015, et seq., as amended, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Interest and Redemption Fund as shall be determined by the City Council. All surplus proceeds of sale of the Bonds, including investment earnings, remaining in the Construction Fund after completion of all authorized projects or purposes and after satisfying the requirements of Section 36 hereof shall be applied to the following purposes as approved by the Executive Administrator of the Board: (1) to redeem, in inverse annual order, the Bonds owned by the Board, (2) to deposit into the Interest and Redemption Fund; or (3) to fund eligible project costs as authorized by the Executive Administrator of the Board.

SECTION 33: Legal Opinion. The Purchasers' obligation to accept delivery of the Bonds herein authorized is subject to their being furnished a final legal opinion of Norton Rose Fulbright US LLP, Attorneys, Dallas, Texas, Bond Counsel to the City, approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payable for the Bonds.

SECTION 34: CUSIP Numbers. CUSIP numbers may be printed on the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

SECTION 35: Continuing Disclosure Undertaking.

(a) Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2 12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports.

The City shall provide annually to the MSRB (1) within 12 months after the end of each fiscal year, beginning in or after 2018, financial statements of the City, and (2) if audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time, and audited financial statements when and if such audited statements become available. Any financial statements so provided shall be prepared in accordance with the generally accepted accounting principles as applicable to governmental units

as prescribed by the Government Accounting Standards Board, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial statements to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than ten (10) business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding Subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB.

All financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Subsection (c) of this Section of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial statements and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the City does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the City's financial results, condition, or prospects; nor does the City undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to Subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 36: Compliance with Rules and Regulations of the Texas Water Development Board. In compliance with the State Revolving Loan Fund Permanent Rules of the Board, the City agrees and covenants:

(a) to keep and maintain full and complete records and accounts pertaining to the construction of the project financed with the proceeds of sale of the Bonds, including the construction fund account created below, in accordance with the standards set forth by the Government Accounting Standards Board;

(b) to create and establish at an official depository of the City a "Special 2018A City of Amarillo Loan Construction Fund" (the "Construction Fund") for the receipt and disbursement of all proceeds from the sale of the Bonds and all other funds acquired by the City in connection with the planning and construction of the projects financed, in whole or in part, by the Board pursuant to a loan evidenced by the Bonds and all funds deposited to the credit of the Construction Fund shall be held at a designated State depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, and the Public Funds Collateral Act, Texas Government Code, Chapter 2257, as amended, and shall be disbursed in a timely and expeditious manner only for the payment of costs and expenses incurred in connection with the planning and building of such projects as approved by the Board in accordance a project schedule approved by the Executive Administrator of the Board (which schedule will not be altered except for good cause shown and only with the written approval of the Executive Administrator of the Board) and as otherwise allowed by the rules;

(c) upon completion of the construction of the projects financed, in whole or in part, by the loan evidenced by the Bonds, to provide (i) to the Executive Administrator of the Board a complete set of as-built drawings and (ii) to the Board a final accounting of the total costs of the

projects. If the projects as finally completed were built at a total cost less than the amount of available funds for building the projects, then the City may use such surplus proceeds of the Bonds remaining after completion of the projects for the following purposes as approved by the Executive Administrator of the Board: (1) to redeem Bonds owned by the Board, in inverse annual order of Stated Maturities, (2) to deposit into the Interest and Redemption Fund or other debt service account for the payment of capitalized interest or principal on the Bonds or (3) to pay eligible project costs as authorized by the Executive Administrator of the Board. In determining the amount of available funds for building the project, the City agrees to account for all amounts deposited to the credit of the Construction Fund, including all loan funds extended by the Board, all other funds available from the projects as described in the project engineer's or fiscal representative's sufficiency of funds statement and all interest earned by the City on money in the Construction Fund;

(d) to maintain adequate insurance coverage customarily maintained by municipal corporations on the projects financed with the proceeds of the Bonds in amounts adequate to protect the Board's interest;

(e) maintain current, accurate and complete records and accounts necessary to demonstrate compliance with financial assistance related legal and contractual provisions;

(f) to comply with any special conditions specified by the Board's environmental determination until all financial obligations to the State have been discharged;

(g) to abide by the Board's rules and relevant state statutes, including the Texas Water Code, Chapters 15, 16 and 17, as amended;

(h) to annually review its water and sewer rates to ensure that such rates are sufficient to produce required revenues;

(i) loan proceeds will not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site and to the extent permitted by law, the City agrees to indemnify, hold harmless and protect the Board from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport and/or removal and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project;

(j) that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations;

(k) it will not use Bond proceeds to acquire or replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments which produce a yield materially higher than the yield on the Board's bonds that were issued to provide financing for the loan of the Board (the "Source Series Bonds") to the City, evidenced by the Bonds, other than Nonpurpose Investments acquired with

(i) proceeds of Source Series Bonds invested for a reasonable temporary period of up to three (3) years (reduced by the period of investment by the Board) until such proceeds are needed for the facilities to be financed;

(ii) amounts invested in a bona fide debt service fund, within the meaning of §1.148-1(b) of Regulations (as defined in Section 26 hereof);

(iii) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Bonds, 125% of average annual debt service on the Bonds, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Bonds;

(l) neither the City nor a related party will acquire any of the Source Series Bonds;

(m) the City shall provide the Board with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252 (the "FFATA Act") and, pursuant to the FFATA Act, the City shall obtain a Data Universal Numbering System ("DUNS") Number and shall register with the System for Award Management ("SAM"), and maintain current registration at all times while the Bonds are outstanding;

(n) all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d) and the City shall adhere to the approved project schedule;

(o) the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388 and related State Revolving Fund Policy Guidelines;

(p) the Board may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the Board's full exercise of these remedies shall be of no force and effect;

(q) the City will not use any portion of the proceeds of the Bonds in a manner that would cause the Bonds to become "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder;

(r) To maintain project accounts containing financial assistance for planning, design, acquisition or construction, as applicable, in accordance with generally accepted accounting principles (GAAP); and

(s) so long as the use of tax-exempt bond proceeds is precluded to advance refund obligations of the City under Section 149(d) of the Internal Revenue Code of 1986, as amended, the City will not use the proceeds of the Bonds to advance refund obligations of the City.

SECTION 37: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms

and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 38: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar, Bond Counsel for the City and the Bondholders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar, Bond Counsel for the City and the Bondholders.

SECTION 39: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 40: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 41: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 42: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 43: Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall take effect and be in full force immediately from and after its date of adoption shown below.

[Remainder of page intentionally left blank]

FINALLY PASSED AND ADOPTED, this June 19, 2018.

CITY OF AMARILLO, TEXAS

Mayor

ATTEST:

City Secretary



(CITY SEAL)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
PAYING AGENT/REGISTRAR AGREEMENT

EXHIBIT B
ESCROW AGREEMENT

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Pillar	Economic Development and Redevelopment
Department	Finance		
Contact	Laura Storrs, Finance Director		

Agenda Caption

DISCUSSION AND CONSIDERATION OF ORDINANCE

(Contact: Laura Storrs)

Discussion and consideration of all matters incident and related to the issuance and sale of “City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018B”, including the adoption of an ordinance authorizing the issuance of such bonds.

Agenda Item Summary

This ordinance authorizes the City to issue the Waterworks and Sewer System Revenue Bonds, New Series 2018B (bonds) to finance improvement and extension of the City’s waterworks and sewer system.

Requested Action

Adopt the Ordinance authorizing the issuance of the Waterworks and Sewer System Revenue Bonds, New Series 2018B.

Funding Summary

N/A

Community Engagement Summary

At the May 1, 2018 City Council meeting, the City’s financial advisor, Specialized Public Finance, reviewed the June 2018 bond issues that include the 2018 General Obligation Bonds, the 2018 Certificates of Obligation and the Water and Sewer Revenue Bond issues.

Staff Recommendation

City staff is recommending approval of the Ordinance.

ORDINANCE NO. 7137

AN ORDINANCE authorizing the issuance of "CITY OF AMARILLO, TEXAS, WATERWORKS AND SEWER SYSTEM REVENUE BONDS, NEW SERIES 2018B"; prescribing the forms, terms, and provisions of said bonds; pledging the net revenues of the City's Waterworks and Sewer System to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security, sale and delivery of said bonds, including the approval and execution of a Paying Agent/Registrar Agreement; and the approval and distribution of an Official Statement pertaining thereto; and providing an effective date.

WHEREAS, under the provisions of Texas Government Code, Chapter 1502, as amended, the City Council of the City of Amarillo, Texas (the "City") is authorized to issue waterworks and sewer system revenue bonds for the improvement and extension of the City's waterworks and sewer system; and

WHEREAS, the City Council of the City finds and determines that it is necessary and in the best interests of the City and its citizens that it issue such bonds authorized by this Ordinance, and that the proceeds of such bonds are to be used solely for the purposes specified in this Ordinance, which the City Council hereby determines to be necessary and economically feasible; and

WHEREAS, the bonds to be issued pursuant to the terms and provisions of this Ordinance will be secured by a pledge of and lien on the Pledged Revenues of the System (as hereinafter defined); and

WHEREAS, this City Council is now authorized and empowered to proceed with the issuance of said bonds; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose. Revenue bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____ to be designated and bear the title "City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2018B" (hereinafter referred to as the "Bonds"), for the improvement and extension of the City's waterworks and sewer system and to pay costs of issuance, in conformity with the Constitution and laws of the State of Texas, including particularly Texas Government Code, Chapter 1502, as amended.

SECTION 2: Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates - Date. The Bonds are issuable in fully registered form only; shall be dated June 15, 2018 (the "Bond Date") and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity) and the Bonds shall become due and payable on April 1 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at per annum rates in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		

The Bonds shall bear interest on the unpaid principal amounts from the date of initial delivery of the Bonds at the rate(s) per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on April 1 and October 1 in each year, commencing April 1, 2019, until maturity or prior redemption.

SECTION 3: Terms of Payment-Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books (the "Security Register") maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of ZB, National Association dba Amegy Bank, Houston, Texas, to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the principal office of the Paying Agent/Registrar, and at a location within the State of Texas, books and records for the registration, payment and transfer of the Bonds (the "Security Register"), all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement" substantially in the form of attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe; and the Mayor and the City Secretary are authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written

notice thereof to be sent to each Holder by United States mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or on a date of earlier redemption thereof only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holder whose name appears in the Security Register at the close of business on the Record Date (the 15th day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4: Redemption.

(a) Optional Redemption. The Bonds maturing on and after April 1, 2029 shall be subject to redemption prior to maturity, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on any date beginning on or after April 1, 2028 at the redemption price of par plus accrued interest to the redemption date.

(b) Exercise of Redemption. At least forty-five (45) days prior to a date set for the optional redemption of Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date set for the redemption thereof.

(c) [Mandatory Redemption]. The Bonds having Stated Maturities of April 1, 20__ (the "Term Bonds") shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

<u>Term Bonds due April 1, 20__</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>

April 1, 20__
April 1, 20__ (maturity)

At least forty-five (45) days prior to the mandatory redemption date for the Term Bonds, the Paying Agent/Registrar shall select by lot the numbers of the Term Bonds to be redeemed on the next following April 1 from moneys set aside for that purpose in the Interest and Redemption Fund (as hereinafter defined). Any Term Bond not selected for prior redemption shall be paid on the date of its Stated Maturity.

The principal amount of the Term Bonds required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph (a) of this Section and not theretofore credited against a mandatory redemption requirement.]

(d) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bond as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bond by \$5,000 and shall select the Bonds to be redeemed within such Stated Maturity by lot.

(e) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Bond (or the principal amount thereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys sufficient for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(f) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving

of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

SECTION 5: Registration - Transfer - Exchange of Bonds - Predecessor Bonds. A Security Register relating to the registration, payment, and transfer or exchange of the Bonds shall at all times be kept and maintained by the City at the principal office of the Paying Agent/Registrar, and the Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Bonds issued under and pursuant to the provisions of this Ordinance. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Bondholder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Bondholder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds executed on behalf of, and furnished by, the City of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Bondholder, Bonds may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are so surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds executed on behalf of, and furnished by, the City to the Bondholder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States mail, first class postage prepaid, to the Bondholder at his request, risk, and expense and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Bondholder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Bondholder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any Bond registered and delivered pursuant to Section 28 hereof in lieu of a mutilated, lost, destroyed,

or stolen Bond which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within 30 days of the date fixed for redemption of such Bond; provided, however, that such limitation of transfer shall not be applicable to an exchange by the Bondholder of an unredeemed balance of a Bond called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained herein relating to the payment, redemption and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the Letter of Representation from the Paying Agent/Registrar to DTC (collectively, the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and attested by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in the Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9C, manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9D, manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed

upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

SECTION 8: Initial Bond(s). The Bonds herein authorized shall be initially issued as a single fully registered bond in the total principal amount of this series with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as one bond for each year of maturity in the applicable principal amount and denomination as referenced in Section 2 hereof and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts, and bearing applicable interest rates for transfer and delivery to the Bondholders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms

A. Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of Registration, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds shall be printed, typed, lithographed, or engraved or produced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof, but the Initial Bond(s) submitted to the Attorney General of Texas may be typewritten or photocopied or otherwise reproduced.

The City may provide for registration of the Bonds in the name of a securities depository, or the nominee thereof. While any Bond is registered in the name of a securities depository or its nominee, references herein and in the Bonds to the holder or owner of such Bond shall mean the securities depository or its nominee and shall not mean any other person.

B. Form of Definitive Bond.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
WATERWORKS AND SEWER SYSTEM REVENUE BOND
NEW SERIES 2018B

Bond Date: June 15, 2018 Interest Rate: _____ Stated Maturity: _____ CUSIP NO: _____

Registered Owner: _____

Principal Amount: _____ DOLLARS

The City of Amarillo, Texas (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter defined, on the Stated Maturity date specified above, the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount thereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of initial delivery of the Bonds) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on April 1 and October 1 of each year commencing April 1, 2019, until maturity or prior redemption. Principal of this Bond shall be payable to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest shall be payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts and shall be made by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds") for the purpose of providing money for the improvement and extension of the City's waterworks and sewer system and paying costs of issuance, under and in strict conformity with the Constitution and laws of the State of Texas,

including Texas Government Code, Chapter 1502, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

[The Bonds maturing on the date hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Redemption Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the mandatory redemption date on the respective dates and in principal amounts as follows:

Term Bonds due April 1, 20__	Principal
Redemption Date	Amount (\$)
April 1, 20__	
April 1, 20__ (maturity)	

The particular Term Bonds to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Bonds maturing on and after April 1, 2029 are subject to redemption prior to maturity, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on any date beginning on or after April 1, 2028 at the redemption price of par plus accrued interest to the redemption date.

At least thirty days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount hereof redeemed.

In the event of a partial redemption of the principal amount of this Bond, payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of this Bond to the Paying Agent/Registrar at its principal office and, there shall be issued, without charge therefor, to the registered owner hereof, a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided in the Ordinance for the then unredeemed balance of the principal sum hereof. If this Bond is called for redemption, in whole or in part, the City or the Paying Agent/Registrar shall not be required to transfer this Bond to an assignee of the Bondholder within 45 days of the redemption date therefor; provided,

however, such limitation on transferability shall not be applicable to an exchange by the Bondholder of the unredeemed balance hereof in the event of its redemption in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are special obligations of the City and, together with the outstanding and unpaid Bonds Similarly Secured (as defined in the Ordinance authorizing the issuance of the Bonds), are payable solely from and secured by a lien on and pledge of the Pledged Revenues (as defined in the Ordinance) of the City's Waterworks and Sewer System (the "System"). The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Pledged Revenues. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from and equally and ratably secured by a parity lien on and pledge of the Pledged Revenues of the System, in the same manner and to the same extent as the Bonds.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Bondholder by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the properties constituting the System; the Pledged Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Bondholders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions thereof. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of non-payment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each Bondholder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited and represented and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid special obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a pledge of the Pledged Revenues of the System as aforesated. In case any provision in this Bond or any application thereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

CITY OF AMARILLO, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

C. Form of Registration Certificate of Comptroller of Public Accounts, to appear on Initial Bond only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
)
OF PUBLIC ACCOUNTS) REGISTER NO. _____
)
THE STATE OF TEXAS)

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

D. Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in Salt Lake City, Utah, is the "Designated Payment/Transfer Office" for this Bond.

ZB, NATIONAL ASSOCIATION dba AMEGY BANK,
as Paying Agent/Registrar

Registration date:

By _____
Authorized Signature

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:)

(Social Security or other identifying number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

F. The Initial Bond(s) shall be substantially in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

Heading and first paragraph shall read as follows:

REGISTERED
NO. T-1

REGISTERED
\$

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AMARILLO, TEXAS
WATERWORKS AND SEWER SYSTEM REVENUE BOND
NEW SERIES 2018B

Bond Date: June 15, 2018

Registered Owner:

Principal Amount: MILLION THOUSAND DOLLARS

The City of Amarillo (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Potter and Randall, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, on the 1st day of April in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

<u>Year of</u> <u>Stated Maturity</u>	<u>Principal</u> <u>Amount (\$)</u>	<u>Interest</u> <u>Rate (%)</u>
--	--	------------------------------------

(Information to be inserted from schedule in Section 2 hereof).

(or so much thereof as shall not have been prepaid prior to maturity) and to pay interest on the unpaid principal amounts hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the date of the initial delivery of the Bonds) at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on April 1 and October 1 of each year, commencing April 1, 2019, until maturity or prior redemption. Principal of this Bond shall be payable to the registered owner hereof, upon presentation and surrender, to ZB, National Association dba Amegy Bank, Houston, Texas (the "Paying Agent/Registrar") upon its presentation and surrender at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest shall be payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10: Definitions. That for all purposes of this ordinance and in particular for clarity with respect to the issuance of the Bonds herein authorized and the pledge and appropriation of revenues therefor, the following definitions are provided:

(a) The term "Additional Bonds" shall mean the additional parity revenue bonds which the City reserves the right to issue in the future, as provided in this Ordinance, as may be outstanding from time to time.

(b) The term "Board" shall mean Texas Water Development Board.

(c) The term "Bonds" or "New Series 2018B Bonds" shall mean the "City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2018B", authorized by this Ordinance, as may be outstanding from time to time.

(d) The term "Bonds Similarly Secured" means the Bonds, the proposed "City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2018A" (the "Series 2018A Bonds") to be issued concurrently with the Bonds, the Previously Issued Bonds and Additional Bonds.

(e) The term "City" shall mean the City of Amarillo, in Potter and Randall Counties, Texas.

(f) The term "Gross Revenues of the City's Waterworks and Sewer System" and "Gross Revenues" shall mean all revenues, income, and receipts of every nature derived or received by the City from the operation and ownership of the System, including the interest income from the investment or deposit of money in any Fund mentioned in this Ordinance.

(g) The term "Net Revenues of the City's Waterworks and Sewer System" and "Net Revenues" shall mean all Gross Revenues after deducting and paying the current expenses of operation and maintenance of the System, as required by Texas Government Code, Chapter 1502, as amended, including all salaries, labor, materials, repairs, and extensions necessary to render efficient service, provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised by the adoption of appropriate resolutions, are necessary to keep the System in operation and render adequate service to said City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the Bonds or Additional Bonds, shall be deducted in determining "Net Revenues". Depreciation shall never be considered as an expense of operation and maintenance. Capital expenditures shall never be considered as an expense of operation and maintenance.

(h) The terms "Outstanding" and "outstanding" when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

(1) those Bonds theretofore canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds for which payment has been duly provided by the City by the irrevocable deposit with the Paying Agent/Registrar of money in the amount necessary to fully pay the principal of and interest thereon to maturity or redemption, as the case may be, provided that, if such Bonds are to be redeemed, notice of redemption thereof shall have been duly given pursuant to this Ordinance or irrevocably provided to be given to the satisfaction of the Paying Agent/Registrar, or waived;

(3) those Bonds that have been mutilated, destroyed, lost or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 28 hereof; and

(4) those Bonds for which the payment of the principal of and interest on which has been duly provided for by the City in accordance with law.

(i) The term "Pledged Revenues" shall mean (i) the Net Revenues, plus (ii) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations, or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter may be pledged to the payment of the Bonds or Additional Bonds.

(j) The term "Previously Issued Bonds" shall mean the following outstanding and unpaid revenue bonds, payable from and secured by a lien on and pledge of the Pledged Revenues of the System, further identified by issue or series as follows:

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2011," dated August 1, 2011, in the original principal amount of \$16,300,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2013," dated July 1, 2013, in the original principal amount of \$1,310,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2014," dated January 1, 2014, in the original principal amount of \$8,495,000;

"City of Amarillo, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2015," dated August 1, 2015, in the original principal amount of \$17,195,000;

"City of Amarillo, Texas, Waterworks and Sewer System Revenue Refunding Bonds, New Series 2015A," dated August 15, 2015, in the original principal amount of \$21,145,000; and

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2017," dated April 1, 2017, in the original principal amount of \$31,005,000.

(k) The term "Water Development Board Bonds" shall mean the Bonds Similarly Secured which are owned by the Texas Water Development Board and further identified by issue or series as follows:

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2013," dated July 1, 2013, in the original principal amount of \$1,310,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2014," dated January 1, 2014, in the original principal amount of \$8,495,000;

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2015," dated August 15, 2015, in the original principal amount of \$17,195,000; and

"City of Amarillo, Texas Waterworks and Sewer System Revenue Bonds, New Series 2018A," dated June 15, 2018, in the original principal amount of \$12,500,000.

(l) The term "Waterworks and Sewer System" and "System" shall mean and include the City's existing combined waterworks and sewer system, together with all future extensions, improvements, enlargements, and additions thereto, and all replacements thereof; provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term System shall not include any waterworks or sewer facilities which are declared not to be a part of the System and which are acquired or constructed by the City with the proceeds from the issuance of "Special Facilities Bonds", which are hereby defined as being special revenue obligations of the City which are not secured by or payable from the Pledged Revenues as defined herein, but which are secured by and payable solely from special contract revenues or payments received from any other legal entity in connection with such facilities; and such revenues or

payments shall not be considered as or constitute Gross Revenues of the System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such "Special Facilities Bonds".

(m) The term "year" shall mean the regular fiscal year used by the City in connection with the operation of the System, which may be any twelve consecutive months period established by the City.

SECTION 11: Pledge. That the City hereby covenants and agrees that the Pledged Revenues, with the exception of those in excess of the amounts required for the payment and security of the Bonds Similarly Secured, are hereby irrevocably pledged to the payment and security of the Bonds Similarly Secured, and the Pledged Revenues are further pledged irrevocably to the establishment and maintenance of the Interest and Redemption Fund as hereinafter provided. The Bonds Similarly Secured are and will be secured by and payable only from the Pledged Revenues, and are not secured by or payable from a mortgage or deed of trust on any real, personal, or mixed properties constituting the System.

Such lien on and pledge of the Pledged Revenues shall be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer of control of the Pledged Revenues, the filing of this Ordinance or any other act; all as provided in Texas Government Code, Chapter 1208, as amended. Texas Government Code, Chapter 1208, as amended, applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the City under this Section 11, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Pledged Revenues granted by the City under this Section 11 is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 12: Revenue Fund and Reserve Fund. There has been created and established and shall be maintained on the books of the City, and accounted for separate and apart from all other funds of the City, a special fund entitled the "City of Amarillo Waterworks and Sewer System Revenue Bonds Revenue Fund" (hereinafter called the "Revenue Fund"). All Gross Revenues shall be credited to the Revenue Fund immediately upon receipt and revenues deposited to said Revenue Fund shall be pledged and appropriated to the following uses and in the priority shown below:

- First: To the payment of all necessary and reasonable maintenance and operation expenses of the System as said expenses are defined by law.
- Second: To the payment, equally and ratably, of the amounts required to be deposited in the special funds or accounts created and established for the payment and security of the Bonds Similarly Secured in accordance with the ordinances authorizing the issuance of the Bonds Similarly Secured.
- Third: To the payment of any other indebtedness payable from and secured, in whole or in part, by a lien on and claim against the revenues of the System.

Fourth: Any revenues remaining in the Revenue Fund after satisfying the foregoing payments, or making adequate and sufficient provisions for the payment thereof, may be appropriated and used for any other purpose now or hereafter permitted by law.

Reserve Fund. There is no Reserve Fund for the Bonds Similarly Secured other than the Water Development Board Bonds and the City has established and shall maintain the "City of Amarillo, Texas, New Series Waterworks and Sewer System Reserve Fund" (the "Reserve Fund") for the Water Development Board Bonds as long as the Board is the owner of the Water Development Board Bonds for the purposes of (i) finally retiring the last of the Water Development Board Bonds and (ii) paying principal of and interest on the Water Development Board Bonds in the event moneys on hand in the Interest and Redemption Fund are insufficient for such purpose.

The amount to be accumulated in the Reserve Fund shall be equal to not less than the lesser of (i) the maximum annual debt service requirement on all outstanding Water Development Board Bonds, (ii) 125% of the average annual debt service requirements on all outstanding Water Development Board Bonds, or (iii) 10% of the stated principal amount of the outstanding Water Development Board Bonds (the "Required Reserve"). The Required Reserve shall be established and maintained with Pledged Revenues of the System or other lawfully available funds of the City, the proceeds of sale of Water Development Board Bonds or by depositing to the credit of the Reserve Fund, to the extent permitted by law, one or more surety bonds or insurance policies issued by a company or institution having a rating in the highest rating category by two nationally recognized rating agencies or services, or any combination thereof. The City hereby covenants and agrees that the initial Required Reserve to be deposited in the Reserve Fund in connection with the issuance of the Bonds shall be accumulated in equal monthly installments over the initial sixty (60) months following the initial delivery of the Bonds. If additional Water Development Board Bonds are issued to refund a portion of the then outstanding Water Development Board Bonds and there is a reduction in the average annual debt service of all the Water Development Board Bonds to be outstanding upon the issuance of the additional Water Development Board Bonds, the Required Reserve shall be reduced to reflect the average annual debt service requirements associated with such reduced requirement.

So long as the Water Development Board Bonds are outstanding and owned by the Board, prior to the City utilizing one or more surety bonds or insurance policies to fund all or a portion of the Required Reserve, the City shall notify the Executive Administrator of the Board no less than 30 days prior to converting from a cash reserve fund to a surety policy. Such a conversion may only be made if the proposed insurer or surety meets the financial guarantees established in the Board's rules and has been approved by the Executive Administrator of the Board.

As and when additional Water Development Board Bonds are delivered or incurred, the Required Reserve shall be increased, if required, to an amount equal to the lesser of (i) the average annual debt service requirements calculated on a Fiscal Year basis for all Water Development Board Bonds then Outstanding and owned by the Board, as determined on the date each series of additional Water Development Board Bonds is initially delivered or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder. Any additional amount required to be maintained in the Reserve Fund shall be so accumulated (i) by depositing to the credit of the Reserve Fund (immediately after the delivery of the then proposed additional Water Development Board Bonds) cash or an additional surety bond or insurance policy or revised surety bond or revised insurance policy with coverage in an amount sufficient to provide for the new Required Reserve to be fully

or partially funded, or (ii) at the option of the City, by making monthly deposits from funds in the Revenue Fund on or before the 1st day of each month following the month of delivery of the then proposed additional Water Development Board Bonds, of not less than 1/24th of the additional amount to be maintained in said Reserve Fund by reason of the issuance of the additional Water Development Board Bonds then being issued (or 1/24th of the balance of the additional amount not deposited immediately in cash or provided by a surety bond or insurance policy.)

When and so long as the cash and investments in the Reserve Fund and/or coverage afforded by a surety bond or insurance policy held for the account of the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but, if and when the Reserve Fund at any time contains less than the Required Reserve (or so much thereof as shall then be required to be contained therein if additional Water Development Board Bonds have been issued and the City has elected to accumulate all or a portion of the Required Reserve with Pledged Revenues), the City covenants and agrees to cause monthly deposits to be made to the Reserve Fund on or before the 1st day of each month (beginning the month next following the month the deficiency in the Required Reserve occurred by reason of a draw on the Reserve Fund or as a result of a reduction in the market value of investments held for the account of the Reserve Fund) from Pledged Revenues of the System in an amount equal to either (1) 1/24th of the Required Reserve until the total Required Reserve then required to be maintained in said Fund has been fully restored or (2) the amounts to pay principal of and interest on Water Development Board Bonds held by an insurer, or evidenced by an instrument of assignment entitling an insurer to payment of principal of and interest on Water Development Board Bonds, as a result of payments or draws made on a surety bond or insurance policy held for the account of the Reserve Fund and such payments will result in the principal of and/or interest on such Water Development Board Bonds to be paid, as well as the restoration and replenishment of the surety bond or insurance policy coverage representing all or a portion of the Required Reserve. The City further covenants and agrees that, subject only to the payments to be made to the Interest and Redemption Fund, the Pledged Revenues of the System shall be applied and appropriated and used to establish and maintain the Required Reserve and to cure any deficiency in such amounts as required by the terms of this Ordinance and any other ordinance pertaining to the issuance of additional Water Development Board Bonds.

During such time as the Reserve Fund contains the total Required Reserve, the City may, at its option, withdraw any surplus above the Required Reserve and deposit such surplus in the Revenue Fund; provided, however, that to the extent the surplus, including investment earnings, are derived from proceeds of bonds used to fund all or a portion of the Required Reserve such surplus may only be used for the same purposes for which said bond proceeds may be used.

SECTION 13: Interest and Redemption Fund. That for the sole purpose of paying the principal of and interest on all Outstanding Bonds Similarly Secured, as the same come due, there has been created and established and shall be maintained at any official depository bank of the City a separate fund entitled the "City of Amarillo New Series Waterworks and Sewer System Revenue Bonds Interest and Redemption Fund" (hereinafter called the "Interest and Redemption Fund").

SECTION 14: Deposits of Pledged Revenues; Investments.

(a) The Pledged Revenues shall be deposited into the Interest and Redemption Fund when and as required by this Ordinance.

(b) To the extent permitted by law, money in any Fund mentioned in this Ordinance may, at the option of the City, be invested in investments authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, and the City's investment policy; provided that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times. All interest and income derived from such deposits and investments immediately shall be credited to, and any losses debited to, the Fund from which the deposit or investment was made, and surpluses in any Fund shall or may be disposed of as hereinafter provided. Such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds Similarly Secured.

SECTION 15: Funds Secured. Money in all Funds mentioned in this Ordinance, to the extent not invested, shall be secured in the manner prescribed by law for securing funds of the City.

SECTION 16: Debt Service Requirements.

(a) Promptly after the delivery of the Bonds the City shall cause to be deposited to the credit of the Interest and Redemption Fund any accrued interest received from the sale and delivery of the Bonds, and any such deposit shall be used to pay part of the interest next coming due on the Bonds.

(b) In addition to amounts required to be transferred by the ordinances authorizing the Bonds Similarly Secured, the City shall transfer from the Pledged Revenues and deposit to the credit of the Interest and Redemption Fund the amounts, at the times, as follows:

(1) such amounts, deposited in approximately equal monthly installments on or before the 25th day of each month hereafter, commencing with the month during which the Bonds are delivered, or the month thereafter if delivery is made after the 25th thereof, as will be sufficient, together with other amounts, if any, then on hand in the Interest and Redemption Fund and available for such purpose, to pay the interest scheduled to accrue and come due on the Bonds and any Additional Bonds on the next succeeding interest payment date; and

(2) such amounts, deposited in approximately equal monthly installments on or before the 25th day of each month hereafter, commencing with the month during which the Bonds are delivered, or the month thereafter if delivery is made after the 25th day thereof, as will be sufficient, together with other amounts, if any, then on hand in the Interest and Redemption Fund and available for such purpose, to pay the principal scheduled to mature and come due on the Bonds and any Additional Bonds on the next succeeding principal payment date.

SECTION 17: Reserved.

SECTION 18: Deficiencies; Excess Pledged Revenues.

(a) If on any occasion there shall not be sufficient Pledged Revenues to make the required deposits into the Interest and Redemption Fund, then such deficiency shall be made up as soon as possible from the next available Pledged Revenues, or from any other sources available for such purpose.

(b) Subject to making the required deposits to the credit of the Interest and Redemption Fund when and as required by this Ordinance, or any ordinance authorizing the issuance of Additional Bonds, the excess Pledged Revenues may be used by the City for any lawful purpose.

SECTION 19: Payment of Bonds and Additional Bonds. On or before April 1, 2019, and semiannually on or before each April 1 and October 1 thereafter while any of the Bonds Similarly Secured are outstanding and unpaid, the City shall make available to the paying agents therefor, out of the Interest and Redemption Fund, money sufficient to pay such interest on and such principal of the Bonds Similarly Secured as will occur or mature on such dates, respectively. The Paying Agent/Registrar shall destroy all paid Bonds Similarly Secured and furnish the City with an appropriate certificate of cancellation or destruction.

SECTION 20: Final Deposits, Governmental Obligations.

(a) Any Bonds Similarly Secured shall be deemed to be paid, retired, and no longer Outstanding within the meaning of this Ordinance when payment of the principal of, redemption premium, if any, on such Bond Similarly Secured, plus interest thereon to the due date thereof (whether such due date be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption), or (ii) shall have been provided by irrevocably depositing with, or making available to, the Paying Agent/Registrar therefor, in trust and irrevocably set aside exclusively for such payment, (1) money sufficient to make such payment or (2) Governmental Obligations, as hereinafter defined in this Section, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, or sufficient money to make such payment, and all necessary and proper fees, compensation, and expenses of such paying agent pertaining to the Bonds Similarly Secured with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of such Paying Agent/Registrar. At such time as a Bond Similarly Secured shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefit of this Ordinance or a lien on and pledge of the Pledged Revenues, and shall be entitled to payment solely from such money or Government Obligations.

(b) Any moneys so deposited with a paying agent may at the direction of the City also be invested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the paying agent pursuant to this Section which is not required for the payment of the Bonds Similarly Secured, the redemption premium, if any, and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City or deposited as directed by the City.

(c) The City hereby covenants that no deposit will be made or accepted under clause (a)(ii) of this Section and no use made of any such deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended.

(d) For the purpose of this Section, the term "Government Obligations" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized

investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

(e) Notwithstanding any other provisions of this Ordinance, all money or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of the Bonds Similarly Secured, the redemption premium, if any, and interest thereon, shall be applied to and used for the payment of such Bonds Similarly Secured, the redemption premium, if any, and interest thereon.

SECTION 21: Additional Bonds.

(a) The City shall have the right and power at any time and from time to time and in one or more series or issues, to authorize, issue, and deliver additional parity revenue bonds (herein called "Additional Bonds"), in accordance with law, in any amounts, for any lawful purpose, including the refunding of any Bonds Similarly Secured. Such Additional Bonds, if and when authorized, issued, and delivered in accordance with this Ordinance, shall be secured by and made payable equally and ratably on a parity with the Bonds, and all other outstanding Previously Issued Bonds from an irrevocable lien on and pledge of the Pledged Revenues.

(b) The Interest and Redemption Fund mentioned in this Ordinance shall secure and be used to pay all Bonds Similarly Secured. However, each ordinance under which Additional Bonds are issued shall provide and require that, in addition to the amounts required by the provisions of this Ordinance and the provisions of any other ordinance or ordinances authorizing Additional Bonds to be deposited to the credit of the Interest and Redemption Fund, the City shall deposit to the credit of the Interest and Redemption Fund at least such amounts as are required for the payment of all principal of and interest on said Additional Bonds then being issued, as the same come due.

(c) That all calculations of average annual principal and interest requirements made pursuant to this Section shall be made as of and from the date of the Additional Bonds then proposed to be issued.

(d) That the principal of all Additional Bonds must be scheduled to be paid or mature on April 1 or October 1, or both, of the years in which such principal is scheduled to be paid or mature; and all interest thereon must be payable on April 1 and October 1.

SECTION 22: Further Requirements for Additional Bonds. Additional Bonds shall be issued only in accordance with this Ordinance, but notwithstanding any provisions of this Ordinance to the contrary, no installment, series, or issue of Additional Bonds shall be issued or delivered unless:

(a) The Mayor and the City Secretary of the City sign a written certificate to the effect that the City is not in default as to any covenant, condition, or obligation in connection with Bonds Similarly Secured, and the ordinances authorizing same, and that the Interest and Redemption Fund contains the amount then required to be therein.

(b) An independent certified public accountant, or independent firm of certified public accountants, signs a written certificate to the effect that, during either the next preceding year, or any twelve consecutive calendar month period ending not more than ninety days prior to the passage of the ordinance authorizing the issuance of the then proposed Additional Bonds, the Pledged Revenues were, in his or its opinion, at least equal to 1.25 times the principal and interest requirements of all Bonds Similarly Secured to be Outstanding after the issuance of the then proposed Additional Bonds for the year during which such requirements are scheduled to be the greatest.

SECTION 23: General Covenants. The City further covenants and agrees that in accordance with and to the extent required or permitted by law:

(a) Performance. It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance, and each ordinance authorizing the issuance of Additional Bonds, and in each and every Bond Similarly Secured; that it will promptly pay or cause to be paid the principal of and interest on every Bond Similarly Secured, on the dates and in the places and manner prescribed in such ordinances and Bonds Similarly Secured; and that it will, at the times and in the manner prescribed, deposit or cause to be deposited the amounts required to be deposited into the Interest and Redemption Fund; and any holder of the Bonds Similarly Secured may require the City, its officials, and employees, to carry out, respect, or enforce the covenants and obligations of this Ordinance, or any ordinance authorizing the issuance of Additional Bonds, by all legal and equitable means, including specifically, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the City, its officials, and employees.

(b) City's Legal Authority. It is a duly created and existing home rule city of the State of Texas, and is duly authorized under the laws of the State of Texas to create and issue the Bonds; that all action on its part for the creation and issuance of the Bonds has been duly and effectively taken, and that the Bonds registered in the names of the registered owners thereof are and will be valid and enforceable special obligations of the City in accordance with their terms.

(c) Title. It has or will obtain lawful title to the lands, buildings, structures, and facilities constituting the System, that it warrants that it will defend the title to all the aforesaid lands, building, structures, and facilities, and every part thereof, for the benefit of the holders and owners of the Bonds Similarly Secured, against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Pledged Revenues to the payment of the Bonds Similarly Secured in the manner prescribed herein, and has lawfully exercised such rights.

(d) Liens. It will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or the System, that it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the liens granted hereunder shall be fully preserved in the manner provided herein, and that it will not create or suffer to be created any mechanic's, laborer's, materialman's, or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the liens hereof might or could be impaired; provided, however, that no such tax, assessment, or charge, and that no such claims which might be used as the basis of a mechanic's, laborer's, materialman's, or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the City.

(e) Operation of System; No Free Service. While the Bonds Similarly Secured are Outstanding and unpaid the City shall continuously and efficiently operate the System, and shall maintain the System in good condition, repair, and working order, at all reasonable cost. No free service of the System shall be allowed, and should the City or any of its agencies or instrumentalities make use of the services and facilities of the System, payment of the reasonable value shall be made by the City out of funds from sources other than the revenues of the System, unless made from surplus or excess Pledged Revenues as permitted in Section 18(b) hereof.

(f) Further Encumbrance. While the Bonds Similarly Secured are Outstanding and unpaid, the City shall not additionally encumber the Pledged Revenues in any manner, except as permitted in this Ordinance in connection with Additional Bonds, unless said encumbrance is made junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Ordinance or such pledge is equal to or less than \$10,000; but the right of the City to issue revenue bonds payable from a subordinate lien on the Pledged Revenues is specifically recognized and retained.

(g) Sale or Disposal of Property. While the Bonds Similarly Secured are Outstanding and unpaid, the City shall not sell, convey, mortgage, encumber, lease, or in any manner transfer title to, or otherwise dispose of the System, or any significant or substantial part thereof; provided that whenever the City deems it necessary to dispose of any property, machinery, fixtures, or equipment, it may sell or otherwise dispose of such property, machinery, fixtures, or equipment when it has made arrangements to replace the same or provide substitutes therefor, unless it is determined by resolution of the City Council that no such replacement or substitute is necessary.

(h) Insurance.

(1) The City shall cause to be insured such parts of the System as would usually be insured by corporations operating like properties, with a responsible insurance company or companies or through self insurance, against risks, accidents, or casualties against which and to the extent insurance is usually carried by corporations operating like properties, including, to the extent reasonably obtainable, fire and extended coverage insurance, insurance against damage by floods, and use and occupancy insurance. Public liability and property damage insurance shall also be carried unless the City Attorney of the City gives a written opinion to the effect that the City is not liable for claims which would be protected by such insurance. At any time while any contractor engaged in construction work shall be fully responsible therefor, the City shall not be required to carry insurance on the work being constructed if the contractor is required to carry appropriate insurance. All such policies shall be open to the inspection of the owners of the Bonds and their representatives at all reasonable times. Upon the happening of any loss or damage covered by insurance from one or more of said causes, the City shall make due proof of loss and shall do all things necessary or desirable to cause the insuring companies to make payment in full directly to the City. The proceeds of insurance covering such property, together with any other funds necessary and available for such purpose, shall be used forthwith by the City for repairing the property damaged or replacing the property destroyed; provided, however, that if said insurance proceeds and other funds are insufficient for such purpose, then said insurance proceeds pertaining to the System shall be used promptly as follows:

(i) for the redemption prior to maturity of the Bonds Similarly Secured, ratably in the proportion that the outstanding principal of each series or issue of Bonds Similarly Secured bears to the total outstanding principal of all Bonds

Similarly Secured, provided that if on any such occasion the principal of any such series or issue is not subject to redemption, it shall not be regarded as Outstanding in making the foregoing computation; or

(ii) if none of the Bonds Similarly Secured is subject to redemption, then for the purchase on the open market and retirement of said Bonds Similarly Secured in the same proportion as prescribed in the foregoing clause (i), to the extent practicable; provided that the purchase price for any Bond Similarly Secured shall not exceed the redemption price of such Bond Similarly Secured on the first date upon which it becomes subject to redemption; or

(iii) to the extent that the foregoing clauses (i) and (ii) cannot be complied with at the time, the insurance proceeds, or the remainder thereof, shall be deposited in a special and separate trust fund, at an official depository of the City, to be designated the Insurance Account. The Insurance Account shall be held until such time as the foregoing clauses (i) and/or (ii) can be complied with, or until other funds become available which, together with the Insurance Account, will be sufficient to make the repairs or replacements originally required, whichever of said events occurs first.

(2) The annual audit hereinafter required shall contain a section commenting on whether or not the City has complied with the requirements of this Section with respect to the maintenance of insurance, and listing all policies carried, and whether or not all insurance premiums upon the insurance policies to which reference is hereinbefore made have been paid.

(i) Rate Covenant. The City Council of the City will fix, establish, maintain, and collect such rates, charges, and fees for the use and availability of the System at all times as are necessary to produce Gross Revenues sufficient, together with any other Pledged Revenues, (1) to pay all current operation and maintenance expenses of the System, and (2) to produce Pledged Revenues for each year at least equal to 1.25 times the principal and interest requirements of all then Outstanding Bonds Similarly Secured for the year during which such requirements are scheduled to be the greatest.

(j) Records. It will keep proper books of record and account in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the System, the Pledged Revenues, and the Funds mentioned in this Ordinance, and all books, documents, and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of any owner of a Bond.

(k) Audits. After the close of each year while any of the Bonds Similarly Secured are Outstanding, an audit will be made of the books and accounts relating to the System and the Pledged Revenues by an independent certified public accountant, or an independent firm of certified public accountants. As soon as practicable after the close of each such year, and when said audit has been completed and made available to the City, a copy of such audit for the preceding year shall be mailed to the Municipal Advisory Council of Texas and to any holder of 5% or more in aggregate principal amount of then Outstanding Bonds Similarly Secured who shall so request in writing. Such annual audit reports shall be open to the inspection of the owners of the Bonds Similarly Secured and their agents and representatives at all reasonable times.

(l) Governmental Agencies. It will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to the System, and which have been obtained from any governmental agency; and the City has or will obtain and keep in full force and effect all franchises, permits, authorization, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of the System.

(m) Competition. It will not grant any franchise or permit for the acquisition, construction, or operation of any competing facilities which might be used as a substitute for the System's facilities, and, to the extent that it legally may, the City will prohibit any such competing facilities.

SECTION 24: Amendment of Ordinance.

(a) The owners of Bonds Similarly Secured aggregating in principal amount of 51% of the aggregate principal amount of then Outstanding Bonds Similarly Secured shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City, provided, however, that nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions in this Ordinance or in the Bonds Similarly Secured so as to:

- (1) Make any change in the maturity of the Outstanding Bonds Similarly Secured;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds Similarly Secured;
- (3) Reduce the amount of the principal payable on the Outstanding Bonds Similarly Secured;
- (4) Modify the terms of payment of principal of or interest on the Outstanding Bonds Similarly Secured, or impose any conditions with respect to such payment;
- (5) Affect the rights of the owners of less than all of the Bonds Similarly Secured then Outstanding; or
- (6) Change the minimum percentage of the principal amount of Bonds Similarly Secured necessary for consent to such amendment.

(b) If at any time the City shall desire to amend the Ordinance under this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal published in the City of New York, New York, once during each calendar week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of Bonds Similarly Secured. Such publication is not required, however, if notice in writing is given to each owner of Bonds Similarly Secured.

(c) Whenever at any time not less than thirty days, and within one year, from the date of the first publication of said notice or other service of written notice the City shall receive an instrument or instruments executed by the owner of at least 51% in aggregate principal amount of all Bonds Similarly Secured then outstanding, which instrument or instruments shall refer to the

proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file with the Paying Agent/Registrar, the City Council may pass the amendatory ordinance in substantially the same form.

(d) Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties, and obligations under this Ordinance of the City and all the owners of then Outstanding Bonds Similarly Secured and all future Bonds Similarly Secured shall thereafter be determined, exercised, and enforced hereunder, subject in all respects to such amendments.

(e) Any consent given by the owner of a Bond Similarly Secured pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bond Similarly Secured during such period. Such consent may be revoked at any time after six months from the date of the first publication of notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the owners of 51% in aggregate principal amount of the then Outstanding Bonds Similarly Secured as in this Section defined have, prior to the attempted revocation, consented to and approved the amendment.

(f) For the purpose of this Section, the fact of the holding of Bonds Similarly Secured, which are not required to be in registered form, by any bondholder and the amount and numbers of such Bonds Similarly Secured and the date of their holding same, may be proved by the affidavit of the person claiming to be such holder, or by a certificate executed by any trust company, bank, banker, or any other depository wherever situated showing that at the date therein mentioned such person had on deposit with such trust company, bank, banker, or other depository, the Bonds Similarly Secured described in such certificate. The City may conclusively assume that such ownership continues until written notice to the contrary is served upon the City.

SECTION 25: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Interest and Redemption Fund as required by this Ordinance or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the registered owner of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the City Council and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specifications of such remedies shall not be deemed to be exclusive.

SECTION 26: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds, or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding

Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Underwriters and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Redemption Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, City Manager, Deputy City Manager, any Assistant City Manager or Director of Finance, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

SECTION 27: Notices to Holders-Waiver. Wherever this Ordinance provides for notice to Bondholders of any event, such notice shall be sufficiently given (unless otherwise herein

expressly provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Bondholder as it appears in the Security Register.

In any case where notice to Bondholders is given by mail, neither the failure to mail such notice to any particular Bondholders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Bondholder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Bondholders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 28: Damaged, Mutilated, Lost, Stolen, or Destroyed Bonds.

(a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new bond of the same principal amount, Stated Maturity, and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the applicant for a replacement bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every cause of damage or mutilation of a Bond, the applicant shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing replacement bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the registered owner of such Bond with all legal, printing and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Texas Government Code, Chapter 1201, as amended, this Section of the Ordinance shall constitute authority for the issuance of any such replacement bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall

authenticate and deliver such bonds in the form and manner and with the effect, as provided in the Ordinance for Bonds issued in conversion and exchange for other Bonds.

SECTION 29: Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Bonds held by the Paying Agent/Registrar shall be disposed of as directed by the City.

SECTION 30: Sale of the Bonds; Official Statement. Pursuant to a public sale for the Bonds, the bid submitted by _____ (herein referred to collectively as the "Underwriters") is declared to be the best bid received producing the lowest true interest cost rate to the City, and the sale of the Bonds to said Underwriters at the price of par plus a cash premium of \$_____, is hereby determined to be in the best interests of the City and is approved and confirmed. Delivery of the Bonds to the Underwriters shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale. The Initial Bond shall be registered in the name as provided in the winning bid.

Furthermore, the use of the Preliminary Official Statement in connection with the public offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects. The final Official Statement reflecting the terms of sale (together with such changes approved by the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager or Director of Finance, any one or more of said officials), shall be and is hereby in all respects approved and the Underwriters are hereby authorized to use and distribute said final Official Statement, dated June 19, 2018, in the offering, sale and delivery of the Bonds to the public. The Mayor and City Secretary are further authorized and directed to manually execute and deliver for and on behalf of the City copies of said Official Statement in final form as may be required by the Underwriters, and such Official Statement in the final form and content manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Underwriters.

SECTION 31: Control and Custody of Bonds. The Mayor of the City is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Underwriters.

Furthermore, the Mayor, Mayor Pro Tem, City Secretary, City Manager, Deputy City Manager, any Assistant City Manager and Director of Finance, any one or more of said officials, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including certifications as to facts, estimates, circumstances and reasonable expectations pertaining to the use, expenditure and investment of the proceeds of the Bonds, as may be necessary for the approval of the Attorney General, the registration by the Comptroller of Public Accounts and the delivery of the Bonds to the Underwriters and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond(s) to the Underwriters and the initial exchange thereof for definitive Bonds.

SECTION 32: Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale of the Bonds shall be deposited for the payment of costs of issuance and to finance the permanent public improvements referenced in Section 1 hereof. Any investment earnings realized shall be expended for such authorized projects and purposes or deposited in the Interest and Redemption Fund. All surplus proceeds of sale of the Bonds, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Interest and Redemption Fund or to another fund created for the payment of any Bond.

SECTION 33: Legal Opinion. The Underwriters' obligation to accept delivery of the Bonds herein authorized is subject to their being furnished a final legal opinion of Norton Rose Fulbright US LLP, Attorneys, Dallas, Texas, Bond Counsel to the City, approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payable for the Bonds.

SECTION 34: CUSIP Numbers. CUSIP numbers may be printed on the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

SECTION 35: Continuing Disclosure Undertaking.

(a) Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2 12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports.

The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year ending in or after 2018, financial information and operating data with respect to the City of the general type of information contained in Tables 1 through 13 in the Official Statement, and (2) within twelve months after the end of each fiscal year ending in or after 2018, audited financial statements of the City. If audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time, and audited financial statements when and if such audited statements become available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in Appendix B to the Official Statement, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial statements to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than ten (10) business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding Subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in

possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB.

All financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Subsection (c) of this Section of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial statements and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the City does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the City's financial results, condition, or prospects; nor does the City undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change

in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to Subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 36: Reserved.

SECTION 37: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, City Manager, Deputy City Manager, any Assistant City Manager, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 38: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar, Bond Counsel for the City and the Bondholders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar, Bond Counsel for the City and the Bondholders.

SECTION 39: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 40: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 41: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 42: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 43: Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall take effect and be in full force immediately from and after its date of adoption shown below.

[Remainder of page intentionally left blank]

FINALLY PASSED AND ADOPTED, this June 19, 2018.

CITY OF AMARILLO, TEXAS

Mayor

ATTEST:

City Secretary



(CITY SEAL)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
PAYING AGENT/REGISTRAR AGREEMENT

6

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	6/19/2018	Council Priority	Fiscal Responsibility
Department	Drainage Utility		
Contact	Damen Ratliff		

Agenda Caption

Consideration of Ordinance 7323 Changes

Agenda Item Summary

The proposed changes to Ordinance 7323 will change the billing process. Currently the Ordinance allows the Drainage Bill to be designated to the tenant of either a commercial or residential rental property. The proposed changes will make the Drainage Fee the responsibility of the owner of the Benefitted Property.

Requested Action

Adoption of changes to Ordinance 7323

Funding Summary

N/A

Community Engagement Summary

Drainage Utility conducted three (3) Public Outreach meetings as follows: Monday, November 13th - North Branch Library (1500 N.E. 24th), Wednesday , November 15th – Downtown Library (413 E. 4th), and Monday, November 20th - Southwest Branch Library (6801 W. 45th)

Staff Recommendation

Recommend the Council adopt changes to Ordinance 7323

ORDINANCE NO. 7738

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS, AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 18-4, TO REVISE CERTAIN DEFINED TERMS AND TO PROVIDE THAT OWNERS OF PROPERTY ARE RESPONSIBLE FOR PAYING DRAINAGE UTILITY CHARGES FOR THEIR PROPERTIES; CORRECTING NUMBERING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Amarillo City Council has established a municipal drainage utility system in accordance with the Texas Local Government Code, Chapter 552, Subchapter C, and the Charter of the City of Amarillo, Texas, Article II Sections 10 and 13;

WHEREAS, the Council has provided rules for use, operation and financing, and other rules related to the drainage utility system;

WHEREAS, the Council desires to clarify certain defined terms and provide that owners of property are responsible for paying drainage utility charges for their properties;

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

SECTION 1. That the Amarillo Municipal Code, Title XVIII, Chapter 18-4, Section 18-4-11 is amended as follows:

Sec. 18-4-11. – Definitions.

Terms defined herein are specific to this chapter and shall not be construed as conflicting with similar terms in other parts of this code. Terms not otherwise defined herein shall be given the definitions contained in the Texas Local Government Code, Subchapter C.

(a)-(b) [NO CHANGES]

(c) “Commercial Property” shall mean all improved lots or tracts ~~properties~~ within the City other than residential property, including, but not limited to, commercial, industrial, institutional, government, multi-family, residential commercial containing more than four units, mobile-home park, and religious organization land uses.

(d) “Cost of Service” shall mean the costs for drainage system service to a Benefited Property, which shall be the total of:

(1)-(2) [NO CHANGES]

(3) Prorated cost of architectural, engineering, legal and related services, plans ~~plant~~ and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the Benefited Property;

(4)-(6) [NO CHANGES]

- (7) Administrative costs of operating and maintaining a Drainage Utility System.
- (e)-(l) [NO CHANGES]
- (m) “Drainage Public Utility” shall mean drainage service that is regularly provided by the City through City property dedicated to that service to the users of benefited property within the service area and that is based on:
 - (1) An established schedule of charges;
 - (2) Use of the police power to implement the service; and
 - (3) Nondiscriminatory, reasonable, and equitable terms consistent with the Act.
- (n)-(o) [NO CHANGES]
- (p) “User” or “Customer” shall mean the person or entity that owns ~~or occupies~~ a Benefited Property.
- (q) [NO CHANGES]

SECTION 2. That the Amarillo Municipal Code, Title XVIII, Chapter 18-4, Section 18-4-13 is amended to read as follows:

Sec. 18-4-13. - Administration of Drainage Utility.

The Director of Public Works or his designee shall be responsible for the administration of the Drainage Utility, including, but not limited to, enacting any procedures necessary for the administration of the Drainage Utility Charges ~~drainage charges~~ and the consideration of appeals, development, and implementation of maintenance and facility improvement programs, state and federal regulatory compliance, and establishing drainage criteria and standards for the drainage system. The Director of Public Works shall keep an accurate record of all properties benefited by the services and facilities of the Drainage Utility.

SECTION 3. That the Amarillo Municipal Code, Title XVIII, Chapter 18-4, Section 18-4-14 is amended to read as follows:

Sec. 18-4-14. - Drainage Utility Charge.

- (a) A Drainage Utility Charge is hereby imposed upon each improved lot, ~~and parcel, and tract~~ within the Service Area. The first Drainage Utility Charge shall be billed after September 30, 2012. Like Drainage Utility Charges shall be billed on a monthly basis thereafter for the duration of the Drainage Utility.
- (b)-(j) [NO CHANGES]

SECTION 4. That the Amarillo Municipal Code, Title XVIII, Chapter 18-4, Section 18-4-15 is amended to read as follows:

- (a) [NO CHANGES]
- (b) The Director of Public Works shall assume that each utility account in the service area serves one (1) or more Users of a Benefitted Property, and shall assess the Drainage Charges to the owner of the Benefitted Property ~~person responsible for payment of the utility account~~. The Director of Public Works shall calculate the Drainage Charges for all Users and shall assess the Drainage Charges to the owner of the Benefitted Property ~~person responsible for payment of the utility account~~. ~~If there is more than one User of a Benefitted Property (which is non-Residential), then the charges shall be assessed to the owner of the Benefitted Property, unless instructed by the owner of the Benefitted Property, in writing, to bill Users on a prorated basis.~~
- (c)-(f) [NO CHANGES]

SECTION 5. That the Amarillo Municipal Code, Title XVIII, Chapter 18-4, Section 18-4-16 is amended to read as follows:

- (a) Requests for adjustment of a Drainage Utility Charge shall be submitted to the Director of Public Works or his designee. A User may apply for an adjustment if:
 - (1)-(2) [NO CHANGES]
 - (3) The User's or Occupant's Drainage Charge has been assessed in error.
- (b) The following procedures shall apply to all requests for adjustment of the Drainage Utility Charge:
 - (1)-(2) [NO CHANGES]
 - (3) Requests for adjustment of Drainage Utility Charges paid by ~~an owner,~~ the User or customer making the request shall be in writing and set forth in detail the grounds upon which relief is sought.
 - (4)-(6) [NO CHANGES]
- ~~(c)(b)~~ If the Director of Public Works denies the adjustment request, the User may, within ten (10) days from the date of notification, appeal the decision to a panel consisting of the Building Official, Planning Director, and either an Assistant City Manager or the Deputy City Manager. The appeal shall be in writing, contain a succinct and clear statement of the User's argument and suggested remedy, and be filed with the Planning Director who shall convene the panel. The panel shall have ten (10) business days from the date the appeal is received to review the appeal, make a determination, and notify the User.
- ~~(d)(e)~~ If the panel denies the appeal, the User shall have five (5) business days from the date of notification to appeal the decision to the City Council. The appeal shall be in writing, containing the information stated above in

(b), and be filed with the City Secretary. The City Council shall grant a public hearing within sixty (60) days of receipt of the request for review. The City Councils' decision shall be final.

(e)(d) Before imposing a lien for delinquent Drainage Utility Charges, the City shall send notice to the record owner of the Benefitted Property stating the amount of the charges ~~owned~~ owed, and of the owner's right to appeal the placement of the lien by producing evidence the delinquent charges are not rightfully owed, by providing such within ten (10) business days from the date of notification to the Director of Utility Billing. The Director of Utility Billing shall not file the lien if the owner shows that the Drainage Utility Charge made the basis of the lien is not owed. When a person pays all of the charges, a lien filed pursuant to this Chapter, shall be released. The paying party shall be responsible for the filing costs of the release.

SECTION 6. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 7. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 8. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the 19th day of June, 2018; and PASSED on Second and Final Reading the 26th day of June, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, Interim City Attorney

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Regular Agenda Item – Public Hearing
Department	Planning Department		
Contact	Sherry Bailey, Senior Planner; Cody Balzen, Planner 2/Project Manager		

Agenda Caption
First reading of an ordinance rezoning Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR). (Vicinity: S Washington St. & Wolflin Ave.)

Agenda Item Summary
Item was previously acted on by the Planning and Zoning Commission at its scheduled meeting on February 26, 2018 with a recommendation of approval. At the scheduled March 6th City Council meeting, residents to the east of the proposed rezoning attended and spoke against the rezoning. Since this type of discussion did not happen at the previous P&Z meeting, City Council voted to send the rezoning request back to the Planning and Zoning Commission for further discussion and reconsideration. The citizens in attendance were advised to attend the rescheduled P&Z meeting as well as meet as a group with the applicant and planning department.

A meeting was held on March 30th with the applicant, city planning staff, and some of the neighbors: Larry & Belinda Winters, Joseph Kutin, and Don Michel. At which the neighbors submitted a petition against the zoning which included 2000, 2002, 2006, and 2008 S Madison Street addresses. The petition constitutes 9.64% of the total area of the lots within the 200’ notification area (does not meet the 20% to require a three/fourths vote by city commission). Notifications have been resent to all property owners within the 200’ radius for the new meeting dates. No other comments have been received besides the petition.

At its rescheduled Planning and Zoning Commission meeting on June 11th, the item was recommended for approval to the City Council.

Below is attached the staff summary from the original meeting.

Adjacent zoning consists of Residential District 3 (R-3) to the east, Office District 2 (O-2) to the north, General Retail District (GR) and Neighborhood Services District (NS) to the west, and Planned Development District 216 (PD216) to the south for Amarillo College.

Adjacent land use consists of residences to the east, office use to the north, gas station to the west, and Amarillo College parking lot and service center to the south.

Staff’s analysis of zoning change requests begins with referring to the Comprehensive Plan’s Future Land Use and Character 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

Amarillo City Council

Agenda Transmittal Memo



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 as existing zoning and development patterns in the area.

This rezoning request is consistent with the intensity of the type of retail uses established across Washington Street and further to the north closer to Interstate 40 which is located approximately 600 feet from the north property line of the property under consideration. Washington Street is also a designated arterial street through the city which indicates high traffic volumes and an auto oriented character. The adjacent lots that also front on this arterial street are of non-residential type of uses.

The adopted 2010 Comprehensive Future Land Use and Character Map designates this area for a future “Neighborhood Conservation” land use. The Comprehensive Plan states that the development type in this designation should be that associated with detached residential dwellings, parks or public spaces, and public or institutional facilities. This designation is designed to preserve existing housing stock and also govern periodic infill and/or redevelopment activity within a neighborhood to ensure compatibility; however, there is also a statement that says “depending on the particular neighborhood, the customized zoning may provide for small-scale office or retail uses on vacant sites at the edge of the neighborhood or other appropriate locations”. This location would be considered on the edge as Washington is considered an arterial.

The Neighborhood Unit Concept is also a key piece of the adopted plan, in which zoning transitions from areas of higher intensity at section line corners to areas of lower intensity toward the center of the section. This concept of development ensures that commercial areas will have less of an impact to residential areas. This rezoning request does follow the Neighborhood Unit Concept as it would allow for a higher intensity type of use to be established at the arterial street intersection of Washington and Wolflin Avenue.

It should also be noted that non-residential development on this property would be required to provide a screening fence from the alley to the east and also meet landscaping requirements which will be reviewed during the site plan process. This type of development will also be unable to utilize the alley for any vehicular traffic onto or off of this site, and all traffic should be directed to S Washington Street. It had been discussed with the applicant that a Neighborhood Services District (NS) zoning would be better suited for this location and could be utilized with a specific use permit for a restaurant; however, the current zoning ordinance does not allow for a specific use permit within NS for a restaurant with a drive-thru.

Considering the above, staff and the Planning and Zoning Commission believe the applicant’s request is appropriate and recommend approval as submitted.

Requested Action

The applicant is requesting the rezoning of Lot 3A to change from R-3 to GR district with the expressed purpose of developing the property with a restaurant with drive-thru service.

Funding Summary

Amarillo City Council

Agenda Transmittal Memo



N/A

Community Engagement Summary

The item was distributed to all applicable internal and external entities. Notices have been sent out to 19 property owners within 200 feet regarding this proposed rezoning for each of the public meetings held. At the time of this writing, the Planning Department has received a petition in opposition by 4 neighbors totaling 9.65% of the area notified which does not meet the 20% requirement to necessitate a super majority vote by the City Council.

The item was recommended for approval by the Planning and Zoning Commission at its June 11, 2018 public meeting.

Community Impact: Level 1 – Modest on selected area and/or community group.

Staff Recommendation

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

Attachments

1. Drafted Ordinance
 2. Maps of area
 3. Site Pictures
-

ORDINANCE NO. 57739

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 WASHINGTON STREET AND WOLFLIN AVENUE, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the "Amarillo Comprehensive Plan" on October 12, 2010, which established guidelines in the future development of the community for the purpose of promoting the health, safety, and welfare of its citizens; and

WHEREAS, the Amarillo Municipal Code established zoning districts and regulations in accordance with such land use plan, and proposed changes must be submitted to the Planning and Zoning Commission; and

WHEREAS, after a public hearing before the Planning and Zoning Commission for proposed zoning changes on the property hereinafter described, the Commission 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; and

WHEREAS, the City Council further determined that the request to rezone the location indicated herein is consistent with the goals, policies, and future land use map of the Comprehensive Plan for the City of Amarillo, Texas.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. 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 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR).

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

SECTION 5. 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 19th day of June, 2018 and **PASSED** on Second and Final Reading on this the 26th day of June, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
Interim City Attorney



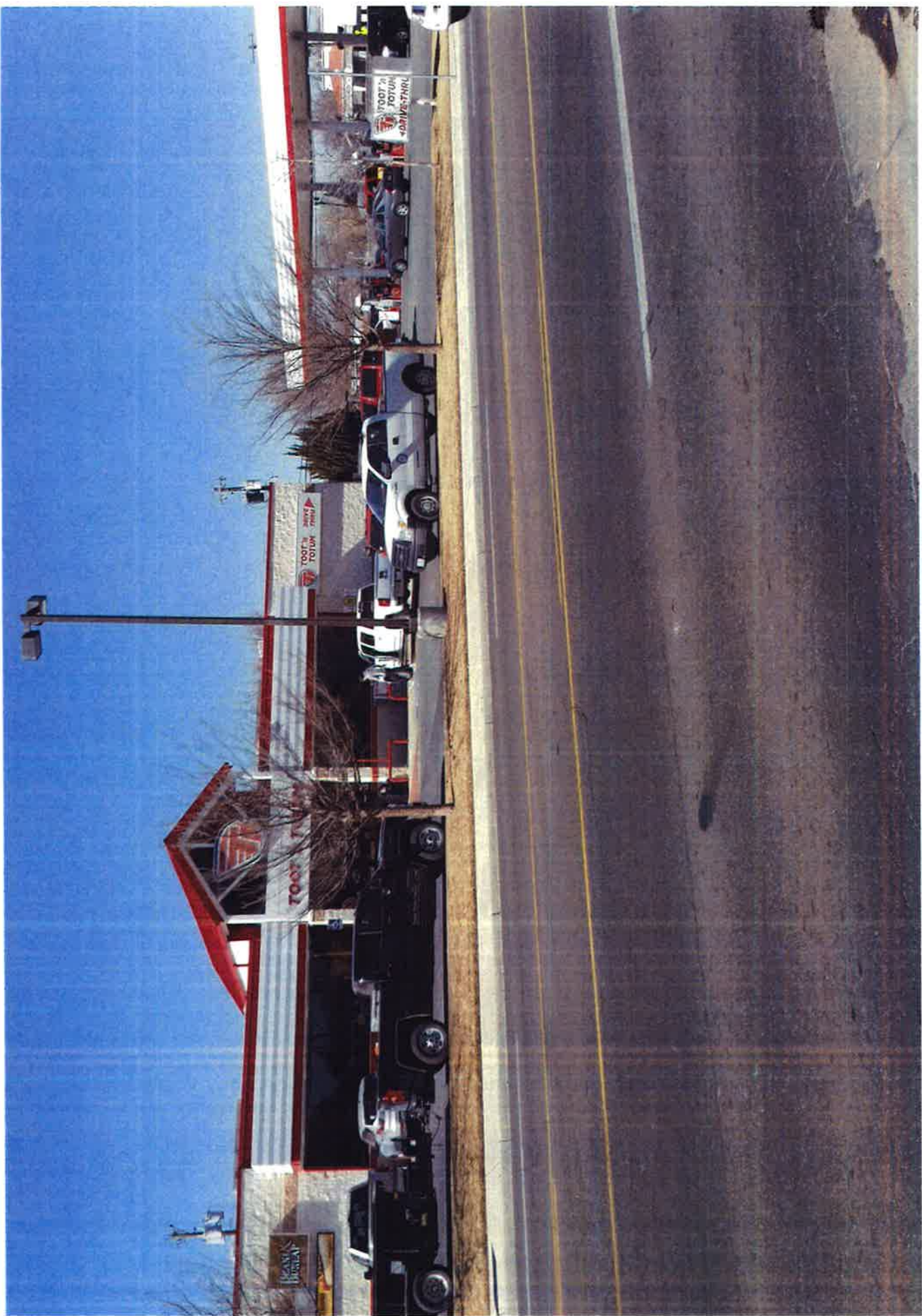
Looking south from Wolflin & Washington at proposed rezoning tract.



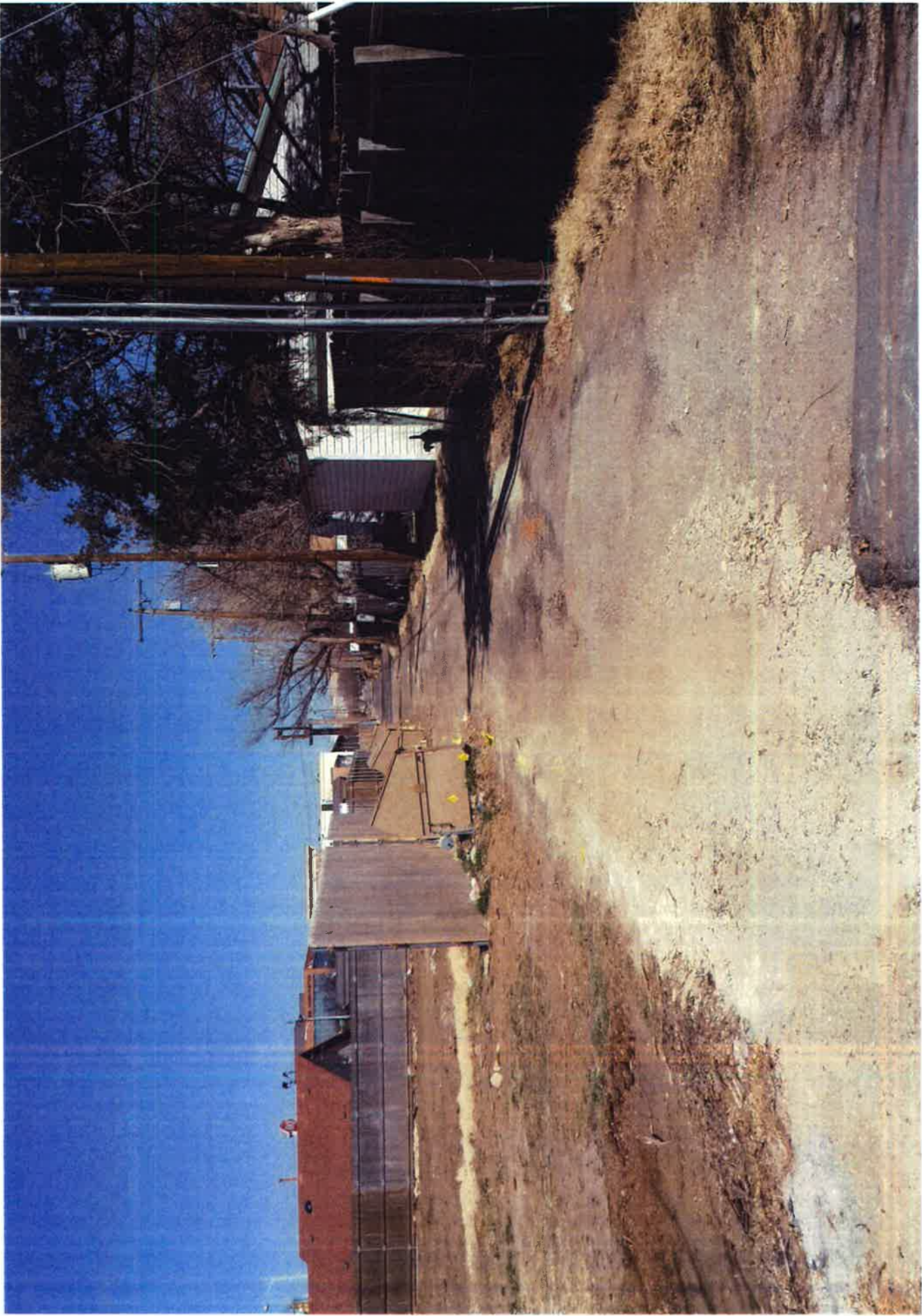
Looking north from Washington at the proposed rezoning tract and existing conditions.



Looking south along Washington at existing conditions south of subject property.

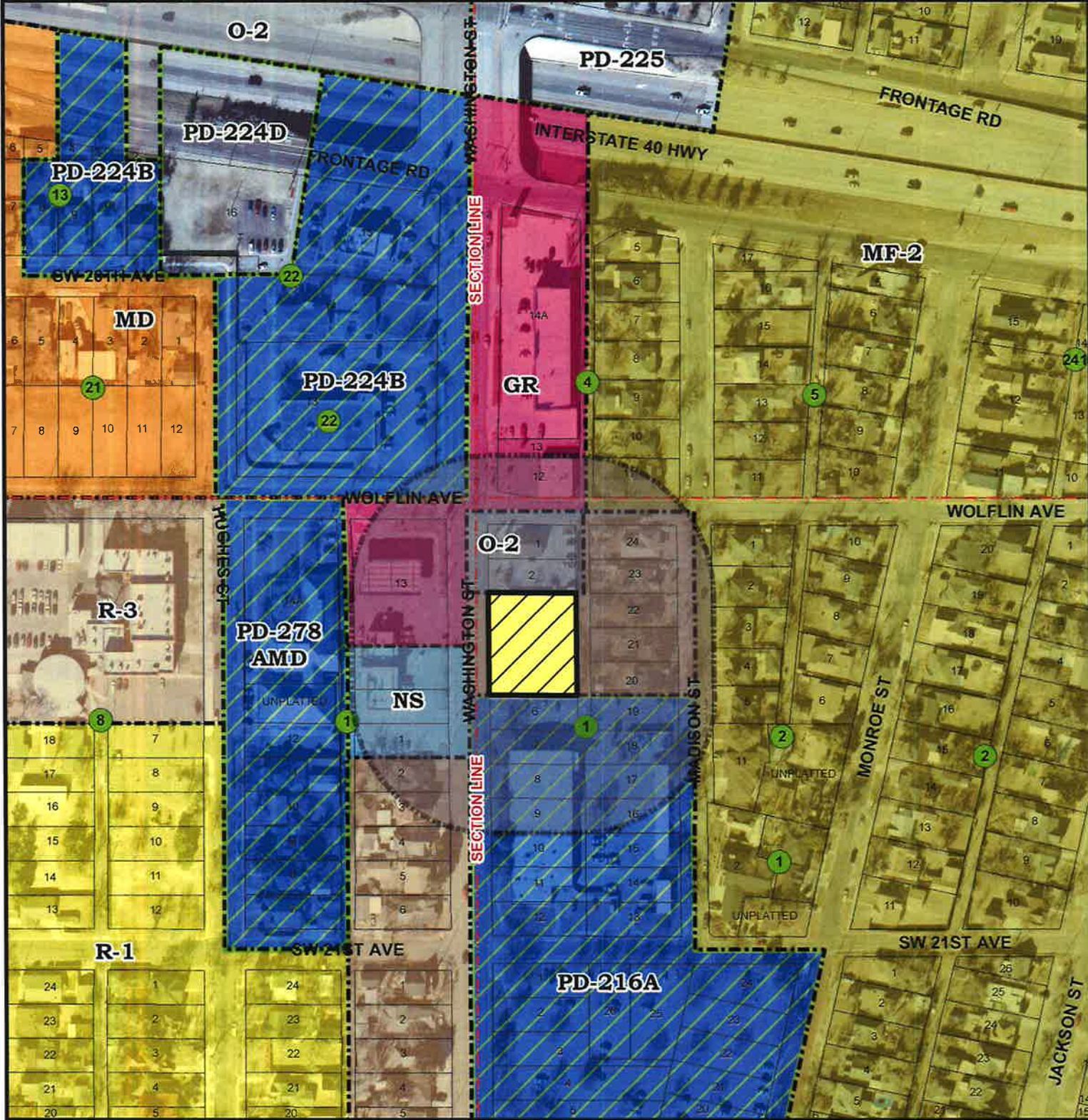


Looking west from Washington at view from front of subject property.



Looking north up alley at existing conditions and fencing.

CASE Z-18-04
REZONING FROM RESIDENTIAL DISTRICT 3 (R-3)
TO GENERAL RETAIL (GR)



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 200 feet
Date: 2/23/2018

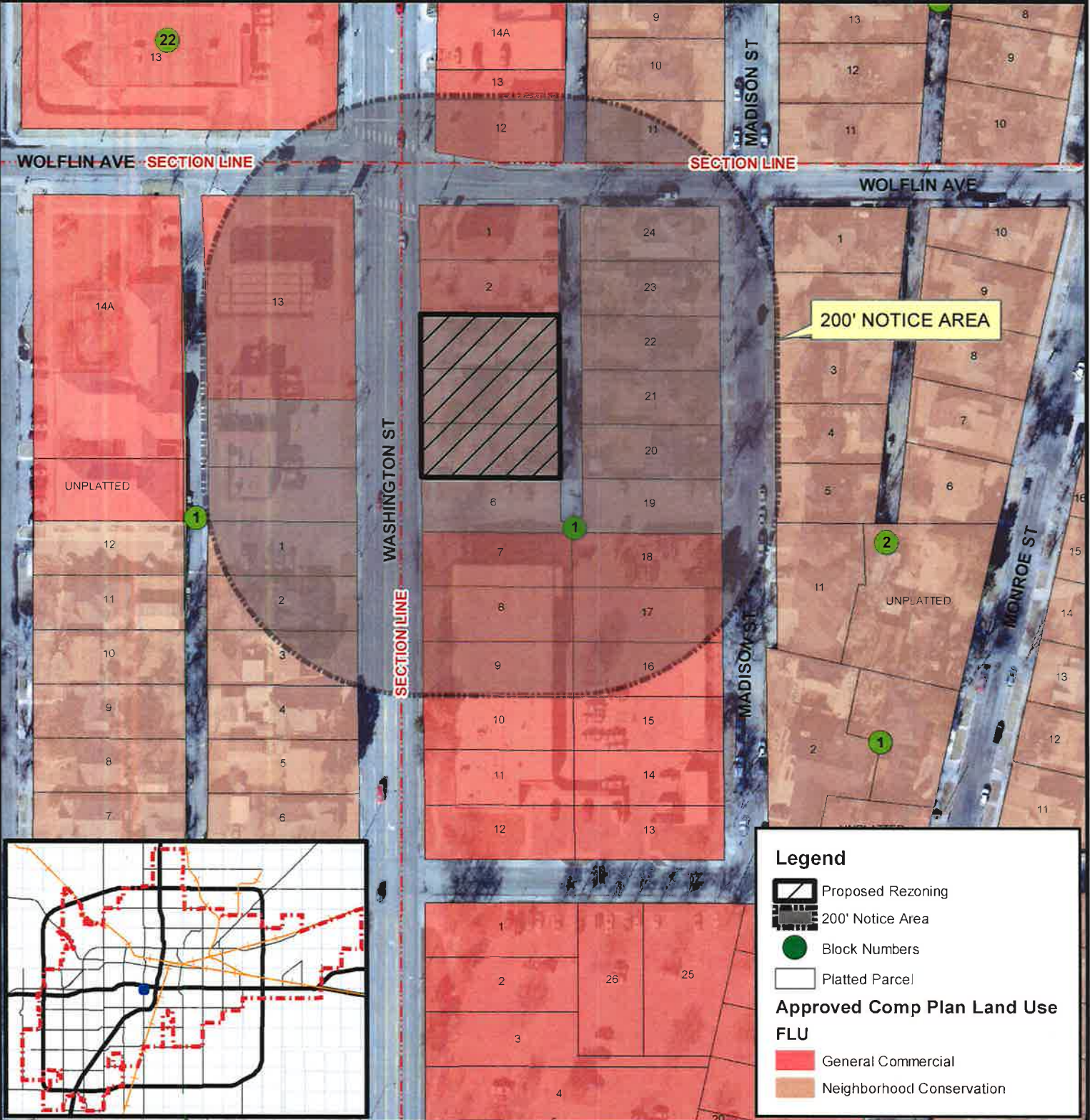


Rezoning of Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR).

Applicant: Daryl Furman
Vicinity: S Washington St & Wolflin Ave.

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-18-04
REZONING FROM RESIDENTIAL DISTRICT 3 (R-3)
TO GENERAL RETAIL (GR)



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 126 feet
Date: 2/13/2018



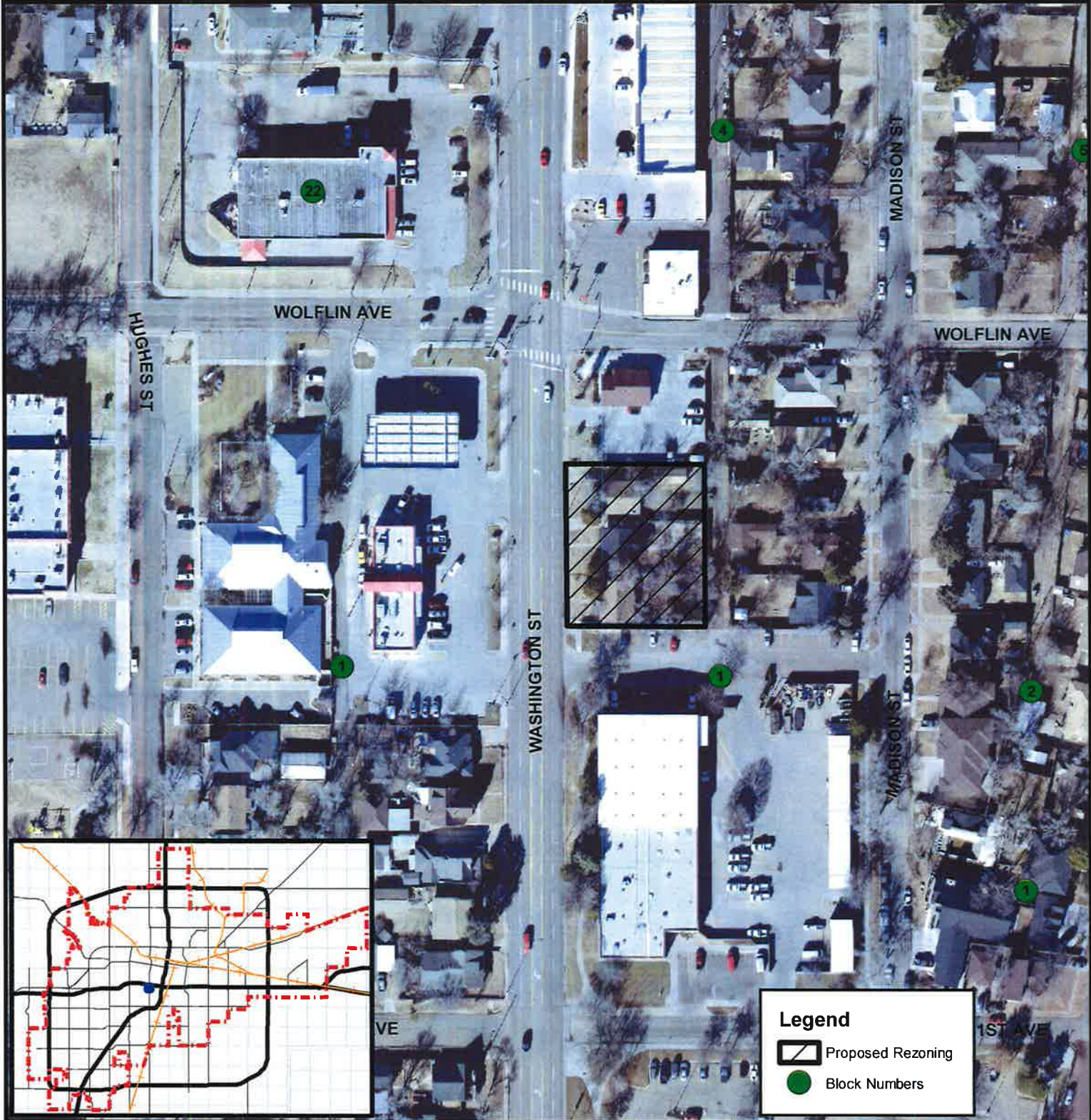
Rezoning of Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR).

Applicant: Daryl Furman

Vicinity: S Washington St & Wolflin Ave.

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-18-04
REZONING FROM RESIDENTIAL DISTRICT 3 (R-3)
TO GENERAL RETAIL (GR)



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 126 feet
Date: 2/13/2018



Rezoning of Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR).

Applicant: Daryl Furman
Vicinity: S Washington St & Wolfli Ave.

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.

STATE OF TEXAS §
COUNTIES OF POTTER §
AND RANDALL §
CITY OF AMARILLO §

On the 26th day of February, 2018, the Amarillo Planning and Zoning Commission met in a work session at 2:45 PM to review agenda items, and then convened in regular session at 3:00 PM in the City Council Chamber on the third floor of City Hall, 509 East 7th Avenue, Amarillo, Texas, with the following members present:

VOTING MEMBERS	PRESENT	NO. MEETINGS HELD	NO. MEETINGS ATTENDED
Joshua Raef	N	4	1
Royce Gooch	Y	4	4
Rob Parker, Chairman	Y	86	71
Rick Thomason	N	56	46
Bowden Jones	Y	47	36
Dick Ford	Y	31	25
Terry Harman	Y	30	30

PLANNING DEPARTMENT STAFF:

AJ Fawver, AICP, CNU-A, Planning Director
Cody Balzen, Planner I
Hannah Green, Recording Secretary

Sherry Bailey, Senior Planner
Jeffrey English, Planner I

Chairman Parker opened the meeting, established a quorum and conducted the consideration of the following items in the order presented. Cody Balzen and Jeffrey English gave the recommendations for the agenda items.

- I. Call to order and establish a quorum is present.
- II. Public Comment: Citizens who desire to address the Planning and Zoning Commission with regard to matters on the agenda or having to do with policies, programs, or services will be received at this time. The total time allotted for comments is three (3) minutes per speaker. Planning and Zoning Commission may not discuss items not on this agenda, but may respond with factual, established policy information, or refer to staff.
(Texas Attorney General Opinion. JC-0169)

No comments were made.

- III. Consent Agenda: The Commission may request a consent agenda item to be moved to the Regular Agenda for presentation and comment. Otherwise, the consent agenda will be considered in one vote. Consent agenda items are routine items recommended for approval, and which do not include requests for waivers or variances.

1: Approval of the minutes of the February 12th, 2018 meeting.

A motion to approve the consent agenda was made by Commissioner Harman, seconded by Commissioner Gooch, and carried unanimously.

IV. Regular Agenda:

- 1: Vacations: The Planning & Zoning Commission makes recommendation to approval or denial; appeals may be directed to City Council.
- A. V-17-07 Vacation of a 22,420 square foot portion of 60' ROW known as SW 8th Avenue directly east of S Coulter Street, previously dedicated by Medical Institute Unit No. 8 plat, in Sections 25 & 44, Block 9, BS&F Survey, Potter County, Texas. (Vicinity: SW 8th Ave. & S Coulter St.)

Cody Balzen, Planner I presented this item, explaining that the applicant is requesting the City of Amarillo vacate a portion of a cul-de-sac that was never constructed.

Mr. Balzen gave a brief presentation, concluding with a staff recommendation of approval of this vacation.

Chairman Parker asked if anyone wanted to speak in favor of or against said request. No comments were made.

A motion to approve V-17-07 was made by Commissioner Ford, seconded by Commissioner Jones, and carried unanimously.

2: Rezoning: The Planning & Zoning Commission makes recommendation for approval or denial; appeals may be directed to City Council.

A. Z-18-03 Rezoning of Lot 4B, Block 124, Original Town of Amarillo Unit No. 16, in Section 188, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Multiple Family District 1 with Specific Use Permit 115 (MF-1/S-115) to Planned Development 388 (PD-388) for Tiny Houses. (0.14 Acres) (Vicinity: N Rusk St. & NW 3rd Ave.)

Jeffrey English, Planner I, presented this item, and advised that the applicant is requesting a zone change from Multiple Family District 1 with Specific Use Permit 115 to Planned Development 388 in order to build four tiny houses on this lot. Mr. English ended the presentation with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor, Dan Ferguson, 3807 Beaver Dr, stood to further explain the reasons and purpose for the request and to answer questions. Kidd Rudd, 6850 Grande, also stood to express his thanks to the Board. Chairman Parker asked if anyone wanted to speak against said request. No comments were made.

A motion to approve Z-18-03 was made by Commissioner Jones, and seconded by Commissioner Ford, and carried unanimously.

B. Z-18-04 Rezoning of Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR). (0.44 Acres) (Vicinity: S Washington St. & Wolflin Ave.)

Cody Balzen, Planner I, presented this item, and advised the applicant is requesting a change in zoning from Residential District 3 to General Retail in order to develop the property with a restaurant with drive-in service. Mr. Balzen ended the presentation with a staff recommendation of approval.

Chairman Parker asked if anyone wanted to speak in favor of said request. No comments were made. Joseph Kutin, 2006 S Madison, stood to inquire what a screen fence would mean. Mr. Balzen explained further what type of fencing would be permitted. Rick Crawford, 500 S Taylor, also stood to speak in favor of said request.

Chairman Parker asked if anyone wanted to speak against this item. No comments were made.

A motion to approve Z-18-04 was made by Commissioner Gooch and seconded by Commissioner Harman, and carried unanimously.

3: Discuss Items for Future Agendas.

No comments were made.

4: Director's Report

AJ Fawver, Planning Director, gave an update for a few zoning cases. Ms. Fawver also invited the Commission to the Barrio Neighborhood Plan reveal, taking place in the evening. She noted the hopes for a positive turnout. Ms. Fawver ended by saying that the department will be working to update the Zoning Ordinance, and that the department will continue to keep the Commission informed throughout the process.

No further comments were made and the meeting was adjourned at 3:30 P.M.



AJ Fawver, AICP, CNU-A
Planning & Zoning Commission

STATE OF TEXAS §
COUNTIES OF POTTER §
AND RANDALL §
CITY OF AMARILLO §

On the 11th day of June, 2018, the Amarillo Planning and Zoning Commission met in a work session at 2:45 PM to review agenda items, and then convened in regular session at 3:00 PM in the City Council Chamber on the third floor of City Hall, 509 East 7th Avenue, Amarillo, Texas, with the following members present:

VOTING MEMBERS	PRESENT	NO. MEETINGS HELD	NO. MEETINGS ATTENDED
Joshua Raef	N	9	3
Royce Gooch	Y	9	8
Rob Parker, Chairman	Y	91	76
Rick Thomason	Y	61	50
Bowden Jones	Y	52	40
Dick Ford	Y	36	30
Terry Harman	Y	35	35

PLANNING DEPARTMENT STAFF:
Sherry Bailey, Senior Planner
Hannah Green, Recording Secretary

Cody Balzen, Planner I

Chairman Parker opened the meeting, established a quorum and conducted the consideration of the following items in the order presented. Sherry Bailey and Cody Balzen gave the recommendations for the agenda items.

- I. Call to order and establish a quorum is present.
- II. Public Comment: Citizens who desire to address the Planning and Zoning Commission with regard to matters on the agenda or having to do with policies, programs, or services will be received at this time. The total time allotted for comments is three (3) minutes per speaker. Planning and Zoning Commission may not discuss items not on this agenda, but may respond with factual, established policy information, or refer to staff.
(Texas Attorney General Opinion. JC-0169)

No comments were made.

- III. Consent Agenda: The Commission may request a consent agenda item to be moved to the Regular Agenda for presentation and comment. Otherwise, the consent agenda will be considered in one vote. Consent agenda items are routine items recommended for approval, and which do not include requests for waivers or variances.

- 1: Approval of the minutes of the April 23rd, 2018 meeting.

A motion to approve the consent agenda was made by Commissioner Thomason seconded by Commissioner Jones, and carried unanimously.

- IV. Regular Agenda:

- 1: Vacations: The Planning & Zoning Commission makes recommendation for approval or denial; appeals may be directed to City Council.

- A. V-18-02 Vacation of a 20' alley located at Block 16 Benton Highland Addition, an addition to the City of Amarillo, Potter County, Texas (Vicinity: S. Vernon St & S. Spring St. and SE 17th Ave. & Interstate – 40 East)

Sherry Bailey, Senior Planner, gave a brief presentation and concluded with a staff recommendation of approval.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve V-18-02 was made by Commissioner Thomason seconded by Commissioner Gooch, and carried unanimously.

- B. V-18-03 Vacation of a 25' Drainage Easement (DE) located on Lots 1 and 2, Block 37, Lawrence Park Unit No. 25, in Section 227, Block 2, AB&M Survey, Potter County, Texas. (0.16 acres) (Vicinity: Lometa Dr. & Olsen Blvd.)

Sherry Bailey, Senior Planner, gave a brief presentation and concluded with a staff recommendation of approval.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve V-18-03 was made by Commissioner Ford, seconded by Commissioner Harman, and carried unanimously.

- 2: Subdivision Plats: The Planning & Zoning Commission has final authority for approval; appeals may be directed to City Council.

- A. P-18-41 Blair Addition Unit No. 3, a suburban subdivision to the City of Amarillo, being a replat of a portion of Lot 1-A, Block 1, Blair Addition Unit No. 2 and an unplatted tract of land in Section 36, Block 2, AB&M Survey, Potter County, Texas. (8.40 Acres) (Vicinity: South US Hwy 287 & Jackrabbit Rd.)

Sherry Bailey, Senior Planner, presented this item, explaining that a public hearing is required per Texas Local Government Code 212.015(c).

Ms. Bailey gave a brief presentation and concluded with a staff recommendation of approval as submitted. City staff and the board discussed any liability involving this case.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve P-18-41 was made by Commissioner Thomason, seconded by Commissioner Gooch, and carried unanimously.

- B. P-18-51 Lonesome Dove Estates Unit No. 9, a suburban subdivision to the City of Amarillo, being an unplatted tract of land in Section 111, Block 2, AB&M Survey, Randall County, Texas. (38.35 Acres) (Vicinity: Cpt. Woodrow Call Trl. & Cpt. Augustus McCrae Trl.)

Sherry Bailey, Senior Planner, presented this item, explaining that a public hearing is required per Texas Local Government Code 212.015(c).

Ms. Bailey gave a brief presentation and concluded with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve P-18-51 was made by Commissioner Ford, seconded by Commissioner Jones, and carried unanimously.

- C. P-18-52 The Colonies Unit No. 70, an addition to the City of Amarillo, being an unplatted tract of land out of Section 40, Block 9, BS&F Survey, Randall County, Texas. (2.51 Acres) (Vicinity: Wesley Rd. & Liberty Cir. S)

Sherry Bailey, Senior Planner, presented this item, explaining that a public hearing is required per Texas Local Government Code 212.015(c).

Ms. Bailey gave a brief presentation and concluded with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve P-18-52 was made by Commissioner Harman, seconded by Commissioner Thomason, and carried unanimously.

- D. P-18-53 Hamlet Addition Unit No. 21, an addition to the City of Amarillo being an unplatted tract of land in Section 157, Block 2, AB&M Survey, Potter County, Texas. (7.53 Acres) (Vicinity: N Hayes St. & NE 15th Ave.)

Sherry Bailey, Senior Planner, presented this item, explaining that a public hearing is required per Texas Local Government Code 212.015(c).

Ms. Bailey gave a brief presentation and concluded with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve P-18-53 was made by Commissioner Jones, seconded by Commissioner Ford, and carried unanimously.

- E. P-18-58 Heritage Hills Unit No. 9, an addition to the City of Amarillo being an unplatted tract of land in Section 65, Block 9, BS&F Survey, Randall County, Texas. (14.97 Acres) (Vicinity: Crestline Dr. & Cagle Dr.)

Cody Balzen, Planner I, presented this item, explaining that a public hearing is required per Texas Local Government Code 212.015(c).

Mr. Balzen gave a brief presentation and concluded with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve P-18-58 was made by Commissioner Thomason, seconded by Commissioner Harman, and carried unanimously.

- F. P-18-56 Time Square Village Unit 2, a replat of Lots 12, 13, 14, 15, 16, 17, 18, 19 and 20, Block 2, Time Square Village Unit No. 1 in Section 64, Block 9, B.S.&F. Survey Randall County, Texas (0.04 Acres) (Vicinity: Staten Island & Mosely St.)

Sherry Bailey, Senior Planner, presented this item, explaining that a public hearing is required per Texas Local Government Code 212.015(c).

Ms. Bailey gave a brief presentation and concluded with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor of or against this item. No comments were made.

A motion to approve P-18-56 was made by Commissioner Ford, seconded by Commissioner Jones, and carried unanimously.

- 3: Rezoning: The Planning & Zoning Commission makes recommendation for approval or denial; appeals may be directed to City Council.

- A. Z-18-11 Rezoning of The Colonies Unit No. 70, in Section 40, Block 9, BS&F Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and publicways to change from Agricultural District (A) to Residential District 2 (R-2). (2.51 Acres) (Vicinity: Wesley Rd. & Liberty Cir. S)

Sherry Bailey, Senior Planner, presented this item, and advised that the applicant is requesting a zone change in order to develop another residential phase of The Colonies subdivision. Ms. Bailey ended the presentation with a staff recommendation of approval as submitted. Commissioner Ford made an observation regarding the plat and zoning procedures.

Chairman Parker asked if anyone wanted to speak in favor or against this item. No comments were made.

A motion to approve Z-18-11 was made by Commissioner Thomason, seconded by Commissioner Gooch, and carried unanimously.

- B. Z-18-12 Rezoning of Lots 39-46, Block 476, Mirror Addition Unit 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to amend Planned Development District -107 to allow offsite parking to Planned Development 107 (PD-107) for Wesley Community Center (vicinity: between Roberts St and Williams St. and SE 15th Ave. and SE 16th Ave.)

Sherry Bailey, Senior Planner, presented this item, and advised that the applicant is requesting a zone change in order to continue to provide for more parking for the Wesley. Ms. Bailey ended the presentation with a staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor or against this item. No comments were made.

A motion to approve Z-18-12 was made by Commissioner Jones, seconded by Commissioner Harman, and carried unanimously.

- C. Z-18-13 Rezoning of Lot 1, Block 1, Fox Hollow Unit No. 2, in Section 160, Block 2, AB&M Survey, Potter County, Texas, plus one half of all bounding streets, alleys, and public ways to change from Agricultural District (A) to Planned Development 389 (PD-389) for Mini-Storage. (2.642 Acres) (Vicinity: Pavillard Dr. & E Saint Francis Ave. (Loop 335))

Sherry Bailey, Senior Planner, presented this item, and advised that the applicant is requesting a zone change in order to build mini-storage on the site. Ms. Bailey ended the presentation with a request that the item be tabled, to be heard at a future meeting at the wishes of the applicant.

A motion to table Z-18-13 was made by Commissioner Harman, seconded by Commissioner Gooch, and carried unanimously.

- D. Z-18-14 Rezoning of Lots 7 - 9, Block 2, Denver Heights Unit No. 1, in Section 138, Block 2, AB&M Survey, Potter County, Texas, plus one half of all bounding streets, alley, and public ways to change from Heavy Commercial District (HC) to Heavy Commercial District with a Specific Use Permit 194 (HC/S-194) for a crematorium. (0.49 Acres) (Vicinity: S Bivins St. & SE 4th Ave.)

Sherry Bailey, Senior Planner, presented this item, and advised that the applicant is requesting a zone change in order to operate a crematorium on the property in conjunction with an already operational mortuary business. Ms. Bailey ended the presentation with a staff recommendation of approval as submitted. The city staff and board discussed the item's history further.

Chairman Parker asked if anyone wanted to speak in favor of this item. Eric Shafer, owner of Shafer Mortuary Services, stood in favor of the item, explaining the process they followed and that they continued to follow regarding what was needed to maintain operations on the property.

Chairman Parker asked if anyone wanted to speak against this item. Joel Carver, owner of A to D Mortuary Services, stood to speak against this item, expressing his desire that Shafer Mortuary Services be held to current procedures and that operations be held until the applicant can get official approval to continue.

Tyler Carver, owner of A to D Mortuary Services stood against this item as well to express his desire for the enforcement of the zoning policies, and explained why he wanted the operation to follow the process.

In a rebuttal by Candice Shafer, general manager of Cox Funeral Home, Mrs. Shafer spoke explaining the process they followed in choosing the property and noting they would have followed the procedure had they known the needed process or any changes to it.

Tyler Carver stood to offer a rebuttal to discuss the importance of following the process through.

A motion to approve Z-18-14 was made by Commissioner Ford, seconded by Commissioner Thomason, and carried unanimously.

- E. Reconsideration of Z-18-04 Rezoning of Lot 3A, Block 1, Sunset Addition Unit No. 4, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to General Retail District (GR). (0.44 Acres) (Vicinity: S Washington St. & Wolflin Ave.)

Cody Balzen, Planner I, presented this item, and advised that the applicant is requesting a zone change in order to develop the property with a restaurant with drive-in service. Mr. Balzen noted

that this item was previously acted on by the Planning and Zoning Commission and that City Council had voted to send this zoning request back to the Planning and Zoning Commission for reconsideration. Mr. Balzen also noted that another meeting had been held with the applicant, city planning staff, and some of the concerned neighbors to discuss this item and a submitted petition. Mr. Balzen ended his presentation with staff recommendation of approval as submitted.

Chairman Parker asked if anyone wanted to speak in favor of this item. Rick Crawford, applicant, stood to speak in favor of this item. Mr. Crawford spoke about his plans for the property.

Chairman Parker asked if anyone wanted to speak against this item. Joseph Kutin, 2006 South Madison, spoke against this item to further explain why he and the neighboring residents continued to stand in opposition.

Mr. Crawford stood in rebuttal to explain the reasons for the residents desiring a change to Neighborhood Service zoning and his plans for fence placement and material.

In a rebuttal by Mr. Kutin, he stood to further explain the discussion of the desires of the neighborhood, their approval if it was a change to Neighborhood Services and his concerns about the proposed change to General Retail.

A motion to approve Z-18-04 was made by Commissioner Thomason, seconded by Commissioner Ford at a 5-1 vote with Commissioner Jones against.

4: Discuss Items for Future Agendas.

No further comments were made and the meeting was adjourned at 4:10 P.M.

Sherry Bailey, Senior Planner
Planning & Zoning Commission

Amarillo City Council Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Community Appearance
--------------	---------------	------------------	----------------------

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

Agenda Caption

ORDINANCE NO. _____:

This is the first reading of an ordinance rezoning Lots 39-46, Block 476, Mirror Addition Unit 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to amend Planned Development District -107 to allow offsite parking to Planned Development 107 (PD-107) for Wesley Community Center (vicinity: between Roberts St and Williams St. and SE 15th Ave. and SE 16th Ave.)

Agenda Item Summary

This section of the City is part of the Barrio Neighborhood. It has a strong sense of history and the cultural diversity of the area. The Wesley Community Center has been an anchor for this neighborhood for many years. In order to continue to provide for the neighborhood the Wesley needs to provide more parking. Their existing lot is overflowing. When the property across the street to the north became available the board felt that would be a perfect expansion area. However, that land is zoned Residential-3 (R-3). Expanding the site to include the new parking area meets the needs of this neighborhood, continues a local community service and utilizes vacant lots in an infill approach that does not impact the neighborhood. During site plan review the parking lot will be required to adhere to design, lighting and landscape buffering standards in order to protect the residential character of the neighborhood.

Requested Action

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

(Draft minutes from the P&Z meeting on the 11th will be submitted on the 12th)

Community Engagement Summary

The Planning and Zoning Commission met and held a **Public Hearing** on the 11th of June, 2018. 16 notices had been mailed to the surrounding property owners within 200 ft. fifteen days prior to the

Amarillo City Council

Agenda Transmittal Memo



public meeting

Staff Recommendation

Planning Staff recommends the approval of this Ordinance.

ORDINANCE NO. 7740

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 ROBERTS ST. AND S.E. 16TH AVE., POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the "Amarillo Comprehensive Plan" on October 12, 2010, which established guidelines in the future development of the community for the purpose of promoting the health, safety, and welfare of its citizens; and

WHEREAS, the Amarillo Municipal Code established zoning districts and regulations in accordance with such land use plan, and proposed changes must be submitted to the Planning and Zoning Commission; and

WHEREAS, after a public hearing before the Planning and Zoning Commission for proposed zoning changes on the property hereinafter described, the Commission 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; and

WHEREAS, the City Council further determined that the request to rezone the location indicated herein is consistent with the goals, policies, and future land use map of the Comprehensive Plan for the City of Amarillo, Texas.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of Lots 39 - 46, Block 476, Mirror Addition, Unit No. 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District-3 (R-3) to Planned Development District 107 (PD-107) Amended.

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

SECTION 5. 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 19th day of June, 2018 and **PASSED** on Second and Final Reading on this the 26th day of June, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
Interim City Attorney





Rs 140.00'

63 PROPOSED
PARKING SPACES
(SUBJECT TO CHANGE
UPON FINAL DESIGN)

1505 - 1513 S.E. 16TH AVENUE

DATE: 05/01/2018



TEXAS FIRM # 10092400 & 10092401
P.O. BOX 1416 - AMARILLO, TEXAS 79105 - (806) 574-4246 - FAX (806) 374-4248
P.O. BOX 464 - DUMAS, TEXAS 79029 - (806) 934-1405 - FAX (806) 934-1482

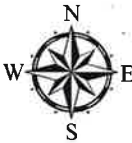
PROJECT NO. 1821723-PARKING FILE NO. 0-12
DRAWING NO. P:\SUB 18\ POTTER\0-12\1821723\

FUTURE LAND USE FOR CASE Z-18-12
REZONING FROM R-3 RESIDENTIAL
ZONING TO PLANNED DEVELOPMENT -107
(PD- 107) INCORPORATED INTO THE
EXISTING PD-107 FOR WESLEY COMMUNITY CENTER



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 250 feet
Date: 6/7/2018



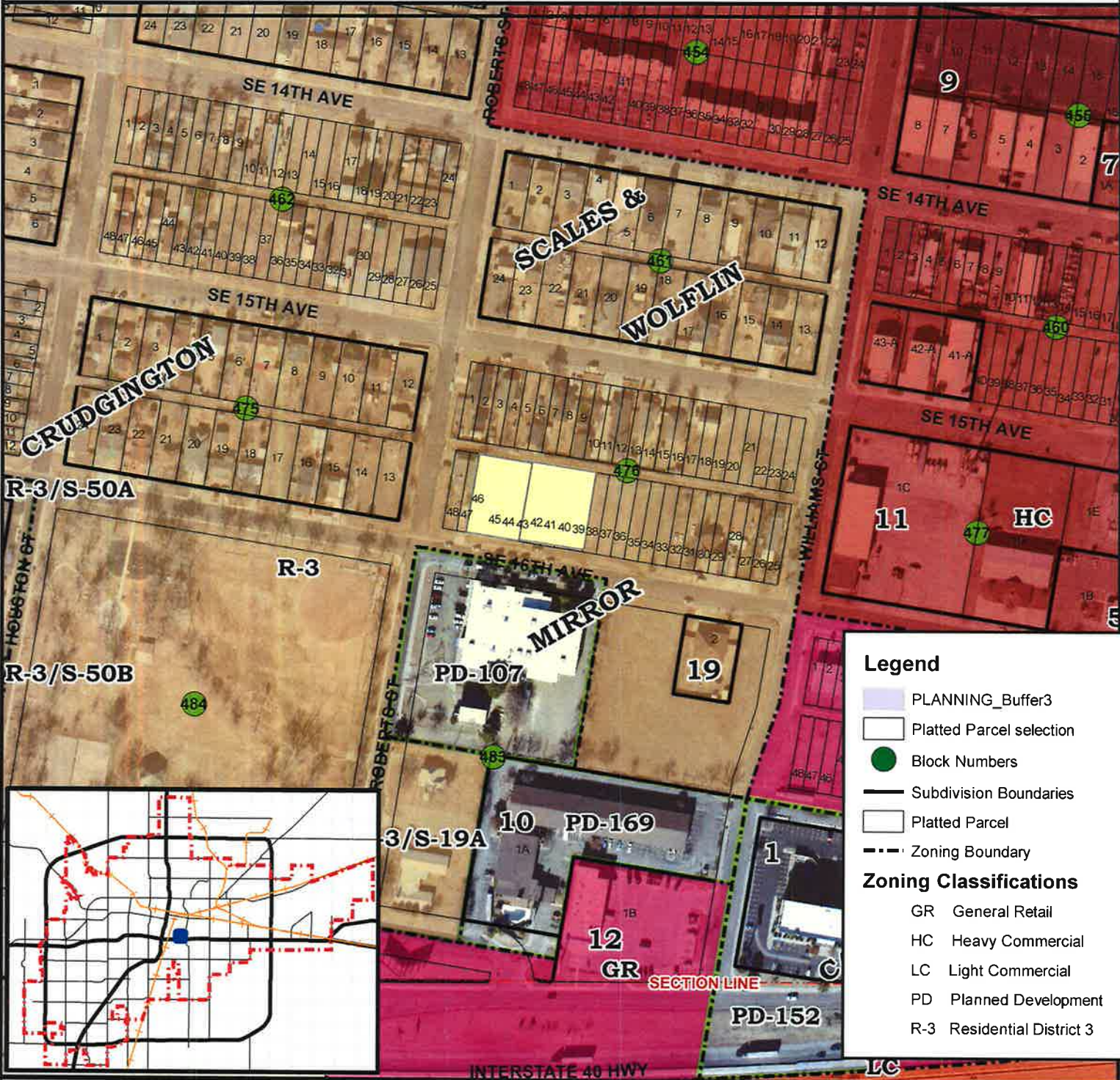
Rezoning of Lots 39 to 43, Block 476, Mirror Addition Unit 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public way to amend the Planned Development District PD-107 to add five lots presently zoned Residential -3 (R-3) in order to allow off site parking for the Wesley Community Center.

Applicant: Wesley Community Center

Agent: Furman Land Surveyors

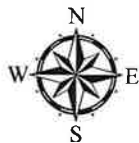
DISCLAIMER: The City of Amarillo is providing this information as a public service. The information shown is for information purposes only and except where noted, all of the data or features shown or depicted on this map is not to be construed or interpreted as accurate and/or reliable; the City of Amarillo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

CASE Z-18-12
REZONING FROM R-3 RESIDENTIAL
ZONING TO PLANNED DEVELOPMENT -107
(PD- 107) INCORPORATED INTO THE
EXISTING PD-107 FOR WESLEY COMMUNITY CENTER



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 250 feet
Date: 6/7/2018



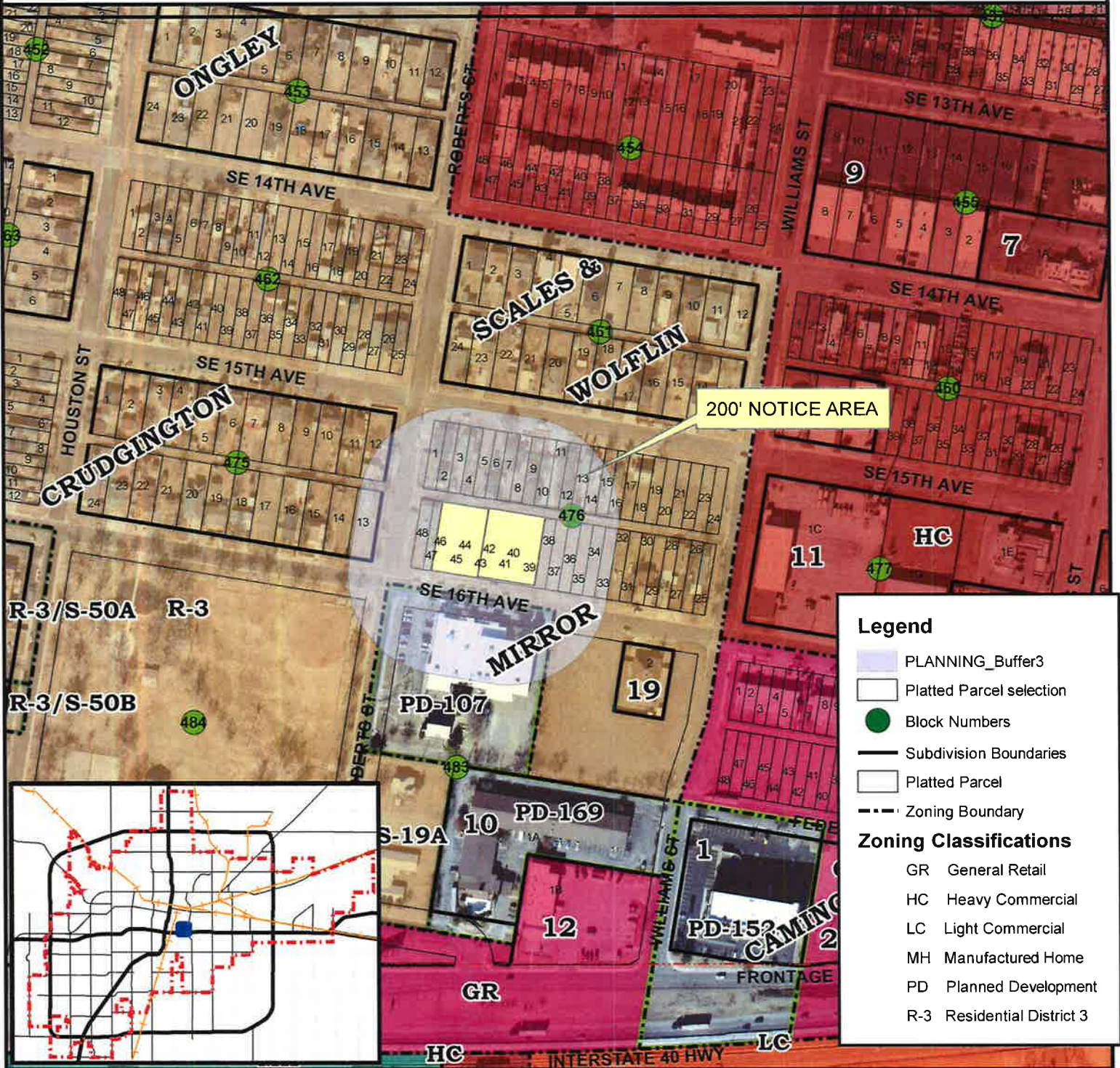
Rezoning of Lots 39 to 43, Block 476, Mirror Addition Unit 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public way to amend the Planned Development District PD-107 to add five lots presently zoned Residential -3 (R-3) in order to allow off site parking for the Wesley Community Center.

Applicant: Wesley Community Center

Agent: Furman Land Surveyors

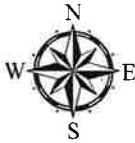
DISCLAIMER: The City of Amarillo is providing this information as a public service. The information shown is for information purposes only and except where noted, all of the data or features shown or depicted on this map is not to be construed or interpreted as accurate and/or reliable; the City of Amarillo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

CASE Z-18-12
REZONING FROM R-3 RESIDENTIAL
ZONING TO PLANNED DEVELOPMENT -107
(PD- 107) INCORPORATED INTO THE
EXISTING PD-107 FOR WESLEY COMMUNITY CENTER



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 282 feet
Date: 6/7/2018



Rezoning of Lots 39 to 43, Block 476, Mirror Addition Unit 1, in Section 155, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public way to amend the Planned Development District PD-107 to add five lots presently zoned Residential -3 (R-3) in order to allow off site parking for the Wesley Community Center.

Applicant: Wesley Community Center

Agent: Furman Land Surveyors

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.

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Infrastructure
Department	Planning		

Agenda Caption

ORDINANCE NO. _____:

This is the first reading of an ordinance determining the lack of Public Necessity for a 20 foot alley in the vicinity of S. Vernon Street, S Spring St., S.E. 17th Ave. and Interstate – 40: vacating and abandoning the described right –of –way.

Agenda Item Summary

This Ordinance is being passed for the purpose of allowing the owner of the entire block to utilize this space for the loading and unloading of his large transport trucks. He would like to leave them in a stationary position which at his plumbing storage warehouse facility. This would also allow him to fence and lock the entire block for security. The city would retain a public Utilities Easement in order to access the existing lines in the alley.

Requested Action

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

Draft Minutes for P&Z

(Due for placement June 12th)

Community Engagement Summary

This item was on the Planning and Zoning Commission agenda on June 11, 2018. The item was recommended for approval by the Planning and Zoning Commission at its Public Meeting

Staff Recommendation

This item underwent review by the city departments concerned and all recommended approval. Planning Staff now recommends approval as presented.

ORDINANCE NO. 7741

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF AMARILLO, TEXAS DETERMINING LACK OF PUBLIC NECESSITY FOR AN ALLEY IN THE VICINITY OF S. VERNON STREET, S. SPRING STREET, S.E. 17TH AVENUE AND INTERSTATE-40, POTTER COUNTY, TEXAS; VACATING AND ABANDONING THE HEREIN DESCRIBED RIGHT-OF-WAY SAVE AND EXCEPT A PUBLIC UTILITY EASEMENT; AUTHORIZING THE CITY MANAGER TO CONVEY SUCH REAL PROPERTY TO ABUTTING LANDOWNERS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Amarillo has been petitioned to abandon an existing twenty foot alley in the vicinity of S. Vernon Street, S. Spring Street, S.E. 17th Avenue and Interstate 40 in Potter County, Texas except for a public utility easement to retain for current and existing utilities; and

WHEREAS, after reviewing information presented in the petition, the Planning and Zoning Commission of the City of Amarillo has recommended to the City Council that there is no public necessity for the following described Alley; and

WHEREAS, the City Council, having reviewed said recommendation and having considered all relevant information pertaining to the proposed vacation described below, is of the opinion that the alley right-of-way described is no longer necessary and no longer serves a public purpose; and

WHEREAS, the City Council further decides that such vacation of alley right-of-way excepted the public utility easement, which is retained for current utilities; and

WHEREAS, the City Council further determined that this alley closure is not detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood.

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

SECTION 1. The herein-described Alley is vacated and abandoned for public purposes:

V-18-02 Vacation of an existing 20 ft. alley in Block 16, Benton Highland Addition, in Section 123, Block 2, AB&M Survey, Potter County, Texas (Vicinity: S. Vernon St., S. Spring St., S.E. 17th Ave. and Interstate-40) and being further described in attached Exhibit 2.

SAVE AND EXCEPT: The City of Amarillo is reserving a Public Utility Easement retained over the entire area of abandonment.

SECTION 2. The City Manager is authorized to execute an instrument of conveyance to abutting land owner(s) in accordance with this Ordinance and the law.

SECTION 3. Repealer. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of conflict with this Ordinance.

SECTION 4. Severability. If any provision, section, subsection, clause or the application of sale to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this Ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this Ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality of any other portion or provision.

SECTION 5. Effective Date. This Ordinance shall be 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 19th day of June, 2018 and PASSED on Second and Final Reading on this the 26th day of June, 2018.

ATTEST:

Ginger Nelson, Mayor

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
Interim City Attorney

EXHIBIT 2

1821681 – Alley vacation, Benton Highland Block 16

The 20' wide alley lying between Lots 1 thru 6 and 7 thru 12 of Block 16 of Benton Highland Addition, an addition to the City of Amarillo in Potter County, Texas, according to the map or plat thereof, recorded in Volume 139, Page 53 of the Deed Records of Potter County, Texas, being a portion of that certain tract of land described in that certain instrument of conveyance recorded under Clerk's File No. 2017OPR0017338 of the Official Public Records of Potter County, Texas. Said 20' alley being described by metes and bounds as follows:

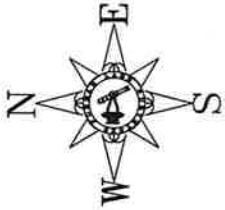
BEGINNING at a 1/2 inch iron rod with cap found in the East Right-of-Way line of S. Spring Street at the Northwest corner of Lot 7 of said Block 16, same being the Southwest corner of this alley;

THENCE N. 00° 02' 34" W., 20.00 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set at the Southwest corner of Lot 6 of said Block 16, same being the Northwest corner of this alley;

THENCE EAST (base line) 299.93 feet along the South lines of Lots 6, 5, 4, 3, 2, and 1 of said Block 16 to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set in the West Right-of-Way line of S. Vernon Street at the Southeast corner of said Lot 1, same being the Northeast corner of this alley;

THENCE S. 00° 04' 52" E., 20.00 feet to a 1/2 inch iron rod with cap found at the Northeast corner of Lot 12 of said Block 16, same being the Southeast corner of this alley;

THENCE WEST 299.94 feet along the North lines of Lots 12, 11, 10, 9, 8, and 7 of said Block 16 to the POINT OF BEGINNING.

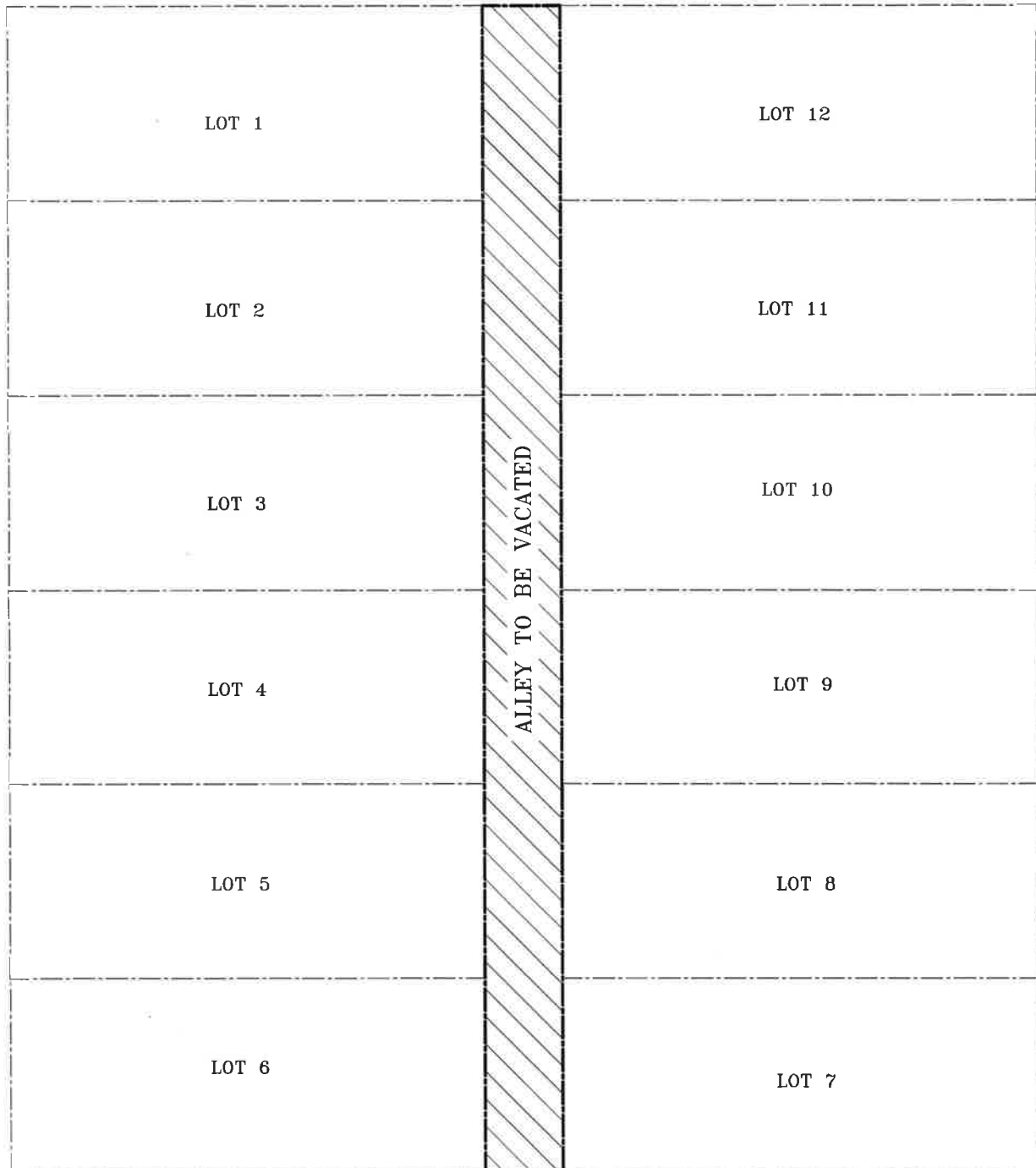


SCALE: 1" = 40'

BLOCK 16
BENTON HIGHLAND ADDITION

S. VERNON STREET

S.E. 17TH AVENUE



INTERSTATE -40 EAST

S. SPRING STREET

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT. THIS DOCUMENT HAS BEEN RELEASED BY DARYL R. FURMAN RPLS 5374 FOR REVIEW PURPOSES ONLY.
DATE: 02/26/2018

FURMAN LAND SURVEYORS, INC.

SURVEYING · MAPPING · CONSULTING
TEXAS · OKLAHOMA · NEW MEXICO
KANSAS · COLORADO

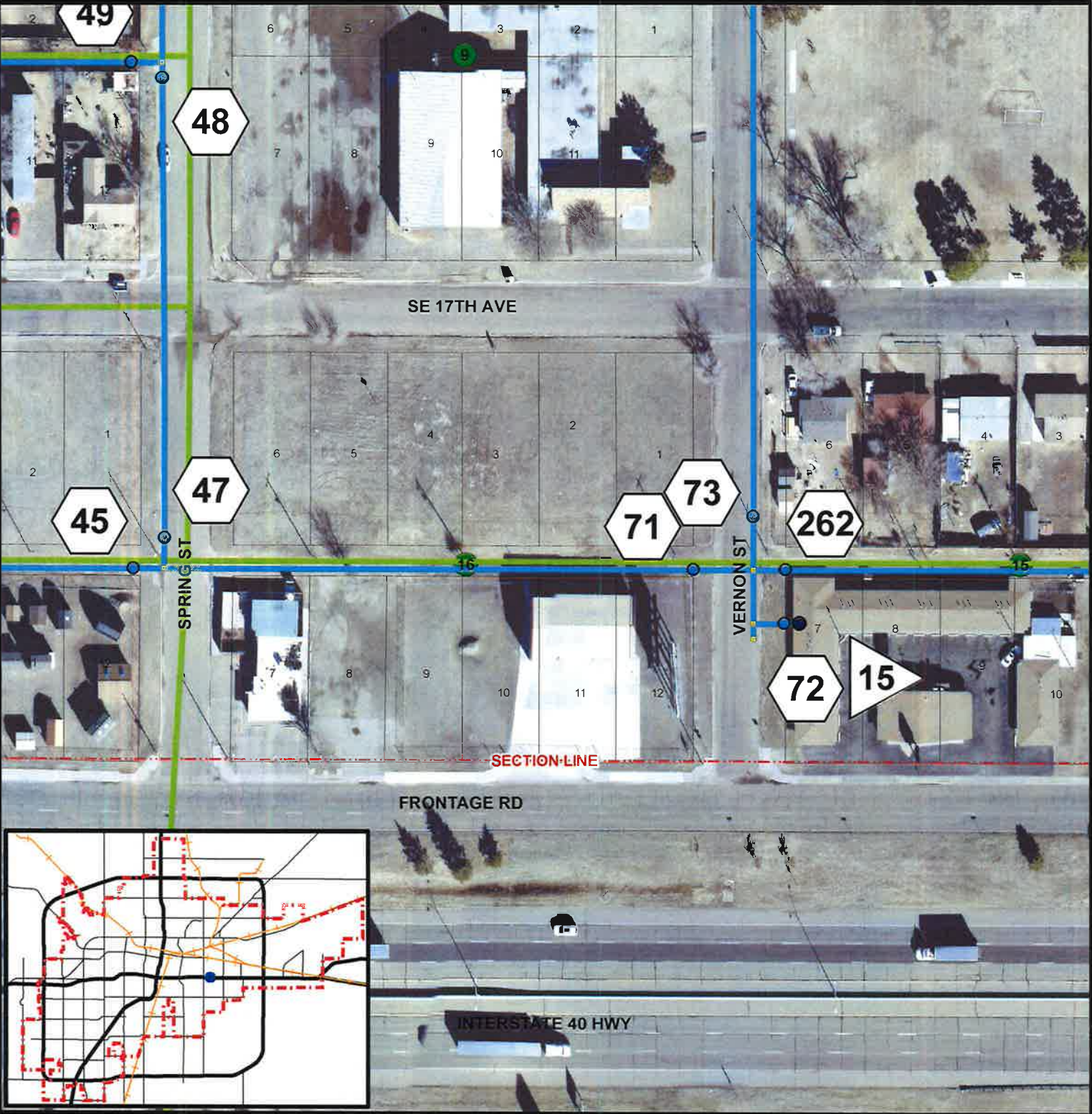
DARYL R. FURMAN, RPLS · DANIEL R. FURMAN, RPLS · DONALD R. FURMAN, RPLS
CASEY A. MANN, RPLS · LANDON M. STOKES, RPLS
HEATHER LYNN LEMONS, RPLS · NOAH C. HUNTINGTON, RPLS
M.K. McENTIRE, RPLS · KYLE L. BRADY, RPLS
TEXAS FIRM #10092400 & 10092401
P.O. BOX 1416 · AMARILLO, TEXAS 79105 · (806) 374-4246 · FAX (806) 374-4248
P.O. BOX 464 · DUMAS, TEXAS 79029 · (806) 934-1405 · FAX (806) 934-1482

PROJECT NO. 1821681-VACATE FILE NO. Q-12
DRAWING NO. P:\SUB 18\POTTER\Q-12\1821681\



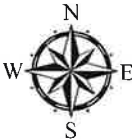


Benton Highland Addition Alley Vacation
ZB1800574/V-18-02



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 90 feet
Date: 4/10/2018



Applicant: Furman Land Surveyors
Vicinity: Vernon St. and I-40 Access Road
Case Manager: Sherry L. Bailey

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.

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	June 19, 2018	Council Priority	Fiscal Responsibility/Civic Pride/Safety
Department	Public Works, Division of Solid Waste		
Contact	Raymond Lee, Director of Public Works		

Agenda Caption

Purchase – Software for Automated Curbside Collection.

Award by HGAC Contract:

Software for Automated Curbside Collection

Total Award \$200,107.00. This item is the purchase of software for the automated curbside collection program. It will enable the Solid Waste Division to efficiently route the collection of trash in those neighborhoods that are currently served by hand collection or by dumpsters set in the front yards.

Agenda Item Summary

Purchase of software to begin the automated curbside collection of trash.

Requested Action

Approval

Funding Summary

The account number 1431.84700 request total award of \$200,107. The beginning fund balance was \$200,107 and the remaining account balance is \$0.

Community Engagement Summary

NA

Staff Recommendation

Approval

Bid No. 6090 ROUTING SOFTWARE FOR SOLID WASTE COLLECTION
Opened 4:00 p.m. April 26, 2018

To be awarded as one lot		ROUTEWARE INC
Line 1 Pads and tablets, per specifications		
13 ea		
Unit Price	\$3,750.000	
Extended Price		48,750.00
Line 2 Cameras, digital, per specifications		
13 ea		
Unit Price	\$450.000	
Extended Price		5,850.00
Line 3 Purchasing Software, per specifications		
1 ea		
Unit Price	\$15,996.000	
Extended Price		15,996.00
Line 4 License, application software, camera license, per specifications		
13 ea		
Unit Price	\$156.000	
Extended Price		2,028.00

To be awarded as one lot	ROUTEWARE INC	
Line 5 License, application software, PM&T, per specifications 1 ea		
	Unit Price	\$10,000.000
	Extended Price	10,000.00
Line 6 Software, network, vehicle & camera , per specifications 13 ea		
	Unit Price	\$375.000
	Extended Price	4,875.00
Line 7 Software, network, routemaker , per specifications 1 ea		
	Unit Price	\$14,875.000
	Extended Price	14,875.00
Line 8 Project management , per specifications 1 ea		
	Unit Price	\$10,000.000
	Extended Price	10,000.00
Line 9 In-service training , per specifications 1 ea		
	Unit Price	\$3,799.000
	Extended Price	3,799.00

To be awarded as one lot		ROUTEWARE INC
Line 10 Software, microcomputer communications, per specifications		
1 ea		
Unit Price	\$7,140.000	
Extended Price		7,140.00
Line 11 Installation & repair services, on-board computer support, per specifications		
13 ea		
Unit Price	\$708.000	
Extended Price		9,204.00
Line 12 License, application software, camera system, per specifications		
13 ea		
Unit Price	\$60.000	
Extended Price		780.00
Line 13 Installation & repair services for water wells, per specifications		
13 ea		
Unit Price	\$360.000	
Extended Price		4,680.00
Line 14 License, application software, interface support, per specifications		
1 ea		
Unit Price	\$1,900.000	
Extended Price		1,900.00

To be awarded as one lot		ROUTEWARE INC
Line 15 Shipping, handling & misc fees, per specifications		
1 ea		
Unit Price	(\$2,340.000)	
Extended Price		(2,340.00)
Line 16 License, application software, initial route optimization, per specifications		
1 ea		
Unit Price	\$45,000.000	
Extended Price		45,000.00
Line 17 In-service training, route optimization, per specifications		
1 ea		
Unit Price	\$7,500.000	
Extended Price		7,500.00
Line 18 License, application software, per specifications		
13 ea		
Unit Price	\$390.000	
Extended Price		5,070.00

To be awarded as one lot		ROUTEWARE INC
Line 19 In-service training, per specifications		
1 ea		
Unit Price	\$5,000.000	
Extended Price		5,000.00
Bid Total		200,107.00

Award by Vendor 200,107.00

Amarillo City Council Agenda Transmittal Memo



Meeting Date	6/19/2018	Council Priority	Civic Pride, Public Safety
Department	Public Works		
Contact	Raymond C. Lee III		

Agenda Caption

Award by US Communities Contract:
95 Gallon Rollout Carts for Automated Curbside Collection

Total Award \$252,172.40. This item is the purchase of 95 gallon rollout carts for the automated curbside collection program. It will enable the Solid Waste Division to provide curbside collection of trash in those neighborhoods that are currently served by hand collection or by dumpsters set in the front yards.

Agenda Item Summary

Purchase of rollout carts to begin the automated curbside collection of trash.

Requested Action

Approval

Funding Summary

The account number 430036 request tot al award of \$252,172.40. The beginning fund balance was \$825,371.42 and the remaining account balance is \$573,199.02.

Community Engagement Summary

NA

Staff Recommendation

Approval

Bid No. 6125 95 GALLON ROLLOUT CARTS
Opened 4:00 p.m. May 24, 2018

To be awarded as one lot		REHRIG PACIFIC COMPANY
Line 1 Refuse carts, chutes, containers and holders, per specifications		
5,616 ea		
Unit Price	\$42.650	
Extended Price		239,522.40
Line 2 One-time artwork set up fee, per specifications		
1 ea		
Unit Price	\$650.000	
Extended Price		650.00
Line 3 Freight handling, materials handling, per specifications		
1 ea		
Unit Price	\$12,000.000	
Extended Price		12,000.00
Bid Total		252,172.40
Award by Vendor		252,172.40

Amarillo City Council

Agenda Transmittal Memo



12

Meeting Date	June 19, 2018	Council Priority	Economic Development and Redevelopment
--------------	---------------	------------------	--

Department	Office of Economic Development	Contact Person	Andrew Freeman, Economic Development Manager
------------	--------------------------------	----------------	--

Agenda Caption
Discussion and consider approval of estoppel documents to allow NewcrestImage to obtain financing from Simmons Bank (Prime Lease), and authorizing the City Manager to execute such documents.

Agenda Item Summary
NewcrestImage has requested approval of the attached estoppel documents related to the Prime Lease for the Embassy Suites Hotel construction project. The additional financing from Simmons Bank is for \$3 million.

The reason for the additional loan is that the project had a cost overrun of approximately \$4.5 million during construction. The Developer, NewcrestImage, advanced this amount to complete the construction. The lender, Simmons Bank, is increasing the original loan amount by \$3 million to help reduce the developer loan NewcrestImage advanced to complete the project. This will in turn rebalance the loan to cost.

Requested Action
Approve as presented
Funding Summary
n/a
Community Engagement Summary
n/a
Staff Recommendation
Staff recommends approval as presented

SIMMONS BANK

ESTOPPEL, CONSENT, AND RECOGNITION AGREEMENT
(City of Amarillo – Prime Leases)

This ESTOPPEL, CONSENT, AND RECOGNITION AGREEMENT (the "Agreement") is made and entered into as of June 7, 2018, by CITY OF AMARILLO, TEXAS, a Texas municipal corporation ("Owner"), for the benefit of SIMMONS BANK, an Arkansas state bank ("Bank").

WITNESSETH:

WHEREAS, pursuant to that certain Prime Lease (Hotel) dated November 24, 2014 (the "Hotel Prime Lease"), Owner, as landlord, conveyed to Amarillo Local Government Corporation ("ALGC"), as tenant, a leasehold interest in certain premises located in Amarillo, Potter County, Texas, more particularly described as Tract 1 and Tract 2 on Exhibit "A" attached hereto and made a part hereof (said Tract 1, together with all rights and appurtenances thereto and all improvements presently located or hereafter constructed thereon, being hereinafter referred to as the "Hotel Premises"; said Tract 2, together with all rights and appurtenances thereto and all improvements presently located or hereafter constructed thereon, being hereinafter referred to as the "Parking Lot Premises");

WHEREAS, pursuant to that certain Prime Lease (Parking Garage) dated November 24, 2014 (the "Parking Garage Prime Lease"), Owner, as landlord, conveyed to ALGC, as tenant, a leasehold interest in certain premises located in Amarillo, Potter County, Texas, more particularly described as Tract 3 on Exhibit "A" attached hereto and made a part hereof (said Tract 3, together with all rights and appurtenances thereto and all improvements presently located or hereafter constructed thereon, being hereinafter referred to as the "Parking Garage Premises"; the Hotel Premises, the Parking Lot Premises, and the Parking Garage Premises hereinafter collectively referred to as the "Premises");

WHEREAS, pursuant to that certain Amended and Restated Lease and Development Agreement dated November 25, 2014 (the "Ground Lease"), ALGC, as sub-lessor, conveyed to SUPREME BRIGHT AMARILLO II, LLC, a Texas limited liability company ("Borrower"), as sub-lessee, a leasehold interest in the Hotel Premises and the Parking Garage Premises;

WHEREAS, pursuant to that certain Sublease Agreement (Parking Lot) dated September 30, 2015 (the "Parking Lease"), ALGC, as sub-lessor, conveyed to Borrower, as sub-lessee, a leasehold interest in the Parking Lot Premises;

WHEREAS, Owner understands that Southwest Bank, a Texas state bank ("Southwest Bank"), predecessor-in-interest by merger to Bank, previously extended a loan to Borrower (the "Prior Loan") for use by Borrower in developing and constructing a hotel on the Hotel Premises, which Prior Loan is evidenced by that certain Promissory Note dated October 2, 2015, executed by Borrower and payable to Bank, as successor-in-interest by merger to Southwest Bank, and which Prior Loan is secured by, among other things, a first priority lien on Borrower's leasehold interest in the Premises (as defined above), as set forth in that certain Leasehold Deed of Trust, Security Agreement, Financing Statement, and Assignment of Rents (the "Prior Deed of Trust") dated October 2, 2015, and recorded under County Clerk's File No. 1281765 in the Official Public Records of Potter County, Texas;

WHEREAS, Owner understands that Bank has extended, or will extend, a second loan to Borrower (the "Loan") to reimburse Borrower for certain costs and expenses incurred by Borrower in developing and constructing the aforementioned hotel on the Hotel Premises, which Loan is, or will be, evidenced by that certain Promissory Note dated June 7, 2018, executed by Borrower and payable to Bank, and which Loan is, or will be, secured by, among other things, a subordinate lien on Borrower's leasehold interest in the

Premises, as set forth in that certain Subordinate Leasehold Deed of Trust, Security Agreement, Financing Statement, and Assignment of Rents (the "Deed of Trust") dated June 7, 2018; and

WHEREAS, as a condition to Bank extending the Loan to Borrower, Bank has required that Owner execute and deliver to Bank a written statement as to certain matters with respect to the Hotel Prime Lease and the Parking Garage Prime Lease (individually and collectively, the "Prime Leases") and the Premises.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Bank to extend the Loan to Borrower, Owner agrees and represents and warrants to Bank that:

1. Prime Leases. A true, correct, and complete copy of the Hotel Prime Lease, including any and all amendments thereto, is attached hereto as Exhibit "B" and is incorporated herein by reference for all purposes, and a true, correct, and complete copy of the Parking Garage Prime Lease, including any and all amendments thereto, is attached hereto as Exhibit "C" and is incorporated herein by reference for all purposes. As of the date of this Agreement: (a) the Prime Leases are both in full force and effect and are enforceable against Owner and ALGC in accordance with their terms; (b) the Prime Leases have not been amended or modified except as otherwise disclosed to Bank in a document attached hereto; and (c) to Owner's knowledge, no default (as defined in Paragraphs 8 and 9 of the Hotel Prime Lease and Paragraphs 8 and 9 of the Parking Garage Prime Lease) exists, and no event has occurred which, with the passage of time or giving of notice or both, would constitute a default, under either of the Prime Leases (a "Prime Lease Default"). For so long as any indebtedness or obligations secured by the Prior Deed of Trust or the Deed of Trust remain outstanding as determined by Bank in its sole discretion, and until such time as Bank releases its liens and security interests created by the Prior Deed of Trust and the Deed of Trust, Owner shall not, without the prior written consent of Bank (which consent shall not be unreasonably withheld), (y) disaffirm, cancel, or terminate either of the Prime Leases, or consent to any of the foregoing, or accept a surrender of either of the Prime Leases by ALGC, or (z) amend, modify or otherwise alter the terms of either of the Prime Leases; provided, however, that Owner may terminate, cancel, or accept a surrender of the Prime Leases without Bank's prior written consent if, and only if, upon such termination, cancellation, or surrender (i) the Ground Lease and the Parking Lease shall remain in full force and effect, (ii) Owner shall assume all obligations and liabilities of ALGC under the Ground Lease and Parking Lease, (iii) Bank's status as the Leasehold Mortgagee under the Ground Lease and the Parking Lease shall remain in effect, and (iv) Owner shall explicitly recognize Bank as the Leasehold Mortgagee under the Ground Lease and the Parking Lease and agree not to accept any designation by Borrower of any person other than Bank as the Leasehold Mortgagee, without Bank's prior written consent, for so long as any indebtedness or obligations secured by the Prior Deed of Trust or the Deed of Trust remain outstanding as determined by Bank in its sole discretion, or until such time as Bank releases its liens and security interests created by the Prior Deed of Trust and the Deed of Trust.

2. No Encumbrances. As of the date of this Agreement, Owner owns the Premises in fee simple, and the Premises are free of all liens and other encumbrances, except only for the Permitted Encumbrances (as defined in the Ground Lease) and those exceptions that appear in Schedule B of the Mortgagee's Title Insurance Policy obtained by Bank in connection with the closing of the Loan, and Owner has not assigned, transferred, mortgaged, or hypothecated the Prime Leases or any interest therein, or any other interest of Owner in the Premises. Further, for so long as any indebtedness or obligations secured by the Prior Deed of Trust or the Deed of Trust remain outstanding as determined by Bank in its sole discretion, and until such time as Bank releases its liens and security interests created by the Prior Deed of Trust and the Deed of Trust, Owner agrees not to assign, transfer, mortgage, or hypothecate the Prime Leases, or any interest therein, or any other interest of Owner in the Premises without the prior written consent of Bank; provided, however, that Bank will consent to such assignment, transfer, mortgage, or hypothecation as long as said assignment, transfer, mortgage, or hypothecation is and shall remain subject to this Agreement, and the assignee, transferee, or mortgagee, as applicable, acknowledges the same in writing.

3. Consent to and Recognition of the Ground Lease, the Parking Lease, and the Deed of Trust; Leasehold Mortgagee. In accordance with Section 8.1.9 of the Ground Lease, Owner hereby confirms that Owner has (a) agreed that Borrower, as lessee under the Ground Lease, is a third party beneficiary under the Hotel Prime Lease, (b) consented to the execution of the Ground Lease by ALGC and the performance by ALGC of its obligations under the Ground Lease, (c) recognized the existence and validity of the Ground Lease, and (d) agreed that, as long as a Tenant Default (as defined in the Ground Lease) has not occurred and is continuing, the rights and remedies of Borrower under the Ground Lease shall not be diminished or interfered with by Owner, and such rights and remedies of Borrower under the Ground Lease shall be recognized by Owner in the event Owner terminates the Hotel Prime Lease and/or the Parking Garage Prime Lease or otherwise exercises any right of reentry or remedy under the Hotel Prime Lease and/or the Parking Garage Prime Lease (subject to terms and conditions of this Agreement). Owner also confirms that it has (a) consented to the execution and delivery by ALGC and the performance by ALGC of its obligations under the Parking Lease, (b) recognized the existence and validity of the Parking Lease, and (c) agreed that, as long as a Tenant Default (as defined in the Parking Lease) has not occurred and is continuing, the rights and remedies of Borrower under the Parking Lease shall not be diminished or interfered with by Owner, and such rights and remedies of Borrower under the Parking Lease shall be recognized by Owner in the event Owner terminates the Hotel Prime Lease or otherwise exercises any right of reentry or remedy under the Hotel Prime Lease (subject to terms and conditions of this Agreement). Owner further hereby consents to the execution, delivery, performance and recordation, and recognizes the existence and validity, of the Deed of Trust, and Owner acknowledges and agrees that the execution, delivery, performance and recordation of the Deed of Trust will not constitute a Prime Lease Default. Owner understands, acknowledges, and agrees that Bank, as the successor-in-interest by merger to Southwest Bank, has been designated by Borrower as, and is, the Leasehold Mortgagee (as that term is defined in the Ground Lease and the Parking Lease) under the Ground Lease and the Parking Lease, that Bank's status as the Leasehold Mortgagee applies to Bank's rights, title and interest under and pursuant to both the Prior Deed of Trust and the Deed of Trust, and, as such, Bank is and shall be entitled to all rights and protections afforded to the Leasehold Mortgagee under the Ground Lease and Parking Lease, as applicable, which rights and protections Owner shall not diminish or interfere with, and which rights and protections Owner shall recognize in the event Owner terminates the Prime Leases or otherwise exercises any right of reentry or remedy under the Prime Leases (subject to terms and conditions of this Agreement).

4. Notice of Default; Right to Cure. Owner hereby agrees to use its best efforts to deliver to Bank copies of any written notices described in Sections 8 and 9 of the Hotel Prime Lease and in Sections 8 and 9 of the Parking Garage Prime Lease simultaneously with delivery of such notices to Borrower and/or ALGC. Owner additionally agrees to provide Bank with all rights provided to Borrower, as "Developer", under Section 17.A. of the Hotel Prime Lease, including, without limitation, the right to receive at least twenty (20) days' written notice prior to any termination of the Hotel Prime Lease (which termination shall be subject to the terms and conditions of this Agreement) and the right (but not the obligation) to cure any default of Owner, as "Landlord", or ALGC, as "Tenant", under the Hotel Prime Lease. Owner further agrees to provide Bank with all rights provided to Borrower, as "Developer", under Section 17.A. of the Parking Garage Prime Lease, including, without limitation, the right to receive at least ten (10) days' written notice prior to any termination of the Hotel Prime Lease (which termination shall be subject to the terms and conditions of this Agreement) and the right (but not the obligation) to cure any default of Owner, as "Landlord", or ALGC, as "Tenant", under the Parking Garage Prime Lease

5. Bankruptcy. As of the date of this Agreement, there has not been any receiver appointed for Owner or any assets of Owner; there has been no assignment for the benefit of the creditors of Owner of any of Owner's assets; and there have been no voluntary or involuntary bankruptcy or other insolvency proceedings involving Owner as the debtor. If, at any time after the date of this Agreement, a receiver is appointed for Owner or any assets of Owner, there is an assignment for the benefit of the creditors of Owner of any of Owner's assets, and/or a voluntary or involuntary bankruptcy or other insolvency proceeding involving Owner as the debtor is commenced, Owner agrees to promptly notify Bank of same in writing.

6. Violation of Laws; Condemnation. Owner has not received any written notice that (a) the Premises, or any portion thereof, are in violation of any law, municipal ordinance, rule, or legal requirement, including, without limitation, any environmental law, applicable to the Premises as of the date of this Agreement, or (b) there is pending or threatened any condemnation action or eminent domain proceeding affecting the Premises, or any portion thereof.

7. Miscellaneous.

(a) This Agreement binds Owner and Owner's heirs, personal representatives, successors, and assigns and benefits Bank, its successors and assigns.

(b) Owner acknowledges that Bank is relying on Owner's representations and warranties set forth in this Agreement in extending the Loan and in making lending and other decisions.

(c) The validity, construction, and enforcement of this agreement are governed by the laws of the state of Texas. This Agreement is performable in Potter County, Texas. Venue of any litigation involving this Agreement shall be maintained in an appropriate state or federal court located in Potter County, Texas to the exclusion of all other venues.

(d) This Agreement shall not be affected in any way by, and shall remain in full force and effect notwithstanding, any amendment or modification (including, without limitation, any renewal, extension, or increase in amount) of the Loan and/or the documents executed in connection with the Loan.

(e) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

(f) As between Owner and Bank, in the event of any inconsistencies between the terms of this Agreement and the Prime Leases, the terms of this Agreement shall prevail.

(g) **THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. THIS INSTRUMENT MAY BE AMENDED ONLY BY AN INSTRUMENT IN WRITING EXECUTED BY THE PARTIES HERETO.**

*[Remainder of Page Intentionally Left Blank]
[Signatures Appear on Following Page]*

EXECUTED to be effective as of the date first above written.

OWNER:

CITY OF AMARILLO, TEXAS,
a Texas municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

_____, City Secretary

APPROVED AS TO FORM AND LEGALITY:

_____, City Attorney

Address for Notices to Owner:

City of Amarillo, Texas
509 SE 7th, Suite 303
Amarillo, TX 79101
Attn: City Manager

With a Copy To: City of Amarillo, Texas
509 SE 7th, Suite 303
Amarillo, TX 79101
Attn: City Attorney

Address for Notices to Bank:

Simmons Bank
P.O. Box 7009
Pine Bluff, AR 71611
Attn: Lyle Thornton, Regional President,
Camp Bowie Banking Center

EXHIBIT "A"

The Premises

TRACT1:

Lots 1, 2, 3, 4, 5, 6, 7, 8, and the West 100.5 feet of Lots 9 and 10 plus the Southeast 39.5 feet East and West by 5 feet North and South of Lot 9, and the East thirty-nine and one-half (E/39.5') of the North one hundred fifteen feet (N/115') of Lots 9 and 10, Block 58, Glidden and Sanborn Addition, an addition to the City of Amarillo, Potter County, Texas, according to the map or plat thereof recorded in Volume 65, Page 12, Deed Records, Potter County, Texas.

ALSO DESCRIBED AS:

All of Lots 1 thru 10 and the vacated alley in Block 58, Glidden and Sanborn Addition and Plemons Addition, additions to the City of Amarillo, Potter County, Texas, according to the map or plat of Glidden and Sanborn Addition recorded in Volume 65, Page 12, Deed Records of Potter County, Texas, and Plemons Addition recorded in Volume 59, Page 198, Deed Records of Potter County, Texas.

TRACT 2:

Lots 8, 9, and 10 in Block 26, Glidden and Sanborn Addition, an Addition to the City of Amarillo, Potter County, Texas, according to the map or plat thereof recorded in Volume 65, Page 12 of the Deed Records of Potter County, Texas.

TRACT 3:

150 parking spaces located generally on the west one-half of the ground floor and all of the basement level (as designated by signs indicating reservation thereof) of the parking garage to be constructed on the following property:

Lot Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Block No. 83, Plemons Addition to the City of Amarillo, Potter County, Texas, according to the map or plat thereof filed of record in Volume 59, Page 198, Deed Records of Potter County, Texas.

EXHIBIT "B"

The Hotel Prime Lease

See Attached.

**PRIME LEASE
(HOTEL)**

THIS **PRIME LEASE (HOTEL)** (this "Lease") is made and entered into this 24th day of November, 2014, by and between **CITY OF AMARILLO, TEXAS**, a Texas home rule city ("Landlord"), and **AMARILLO LOCAL GOVERNMENT CORPORATION**, a Texas local government corporation ("Tenant", and together with Landlord, each a "Party" and collectively, the "Parties").

RECITALS

A. On or about June 6, 2012, Landlord and Tenant entered into that certain Prime Lease (the "Original Lease") pursuant to which Landlord leased two parcels of land to Tenant on which it was contemplated a developer would construct a hotel and parking garage pursuant to an approved sublease with Tenant (the "Original Sublease").

B. Contemporaneously with the execution of this Lease, Tenant is amending and restating the Original Sublease and executing two new subleases; one with the original developer for the parking garage; and one with an additional developer for the hotel.

C. Tenant has requested Landlord to: (i) terminate the Original Lease and enter into separate leases, one for the hotel parcel and one for the parking garage parcel, and to also lease to Tenant a parcel of land for a hotel employee parking lot as part of the sublease for the hotel parcel; and (ii) approve the new subleases for development of the hotel and parking garage.

D. Landlord desires to approve Tenant's requests; and, therefore, Landlord and Tenant are entering into this Lease and by separate agreement of even date, terminating the Original Lease.

1. **Demised Premises.**

A. Landlord, for and in consideration of the covenants contained in this Lease and made on the part of Tenant, does hereby demise and lease unto Tenant, and Tenant does hereby lease from Landlord, those certain parcels of land located in the City of Amarillo, County of Potter, State of Texas, and being more particularly described on Exhibit A attached hereto and incorporated herein by reference for all purposes (collectively, the "Demised Premises").

B. Landlord shall deliver the Demised Premises to Tenant in the condition required by the terms of Schedule 1 attached hereto (such status being referred to as "Ready for Construction"). It is acknowledged and agreed that to the extent such condition has not been achieved as of the date of this Lease, Tenant shall, and shall cause Developer (hereinafter defined), to allow Landlord access to the Demised Premises to complete demolition and other activities to achieve Ready for Construction status; provided, however, Landlord's activities after the date of this Lease shall be coordinated with Developer and conducted in a manner so as not to interfere with Developer's permitted use of the Demised Premises.

C. Landlord shall be responsible for performing or causing to be performed, and paying for the cost of performing any and all corrective or remedial investigations (including all investigations, monitoring, etc.) required by Applicable Law to be remedied with respect to any Environmental Event (as defined below) with regard to the Demised Premises prior to the Lease Commencement Date (as defined in the Approved Sublease defined below) or any Pre-Existing Environmental Condition (as defined below), but in each case only to the extent such Environmental Event or Pre-Existing Environmental Condition is not caused by Developer. For purposes of this Lease: (i) "Applicable Law" means any and all laws, ordinances, statutes, regulations, judicial decisions, orders, injunctions, writs, rulings, interpretations, rules, permits, or certificates of any court, arbitrator, or other governmental authority and applicable to the person or property in question (including any activities or operations occurring on, under, over, upon, at, or from such property in question); and Applicable Laws shall include, but not be limited to, the Antiquities Code of Texas (Chapter 191, Texas National Resources Code, as amended), the Americans with Disabilities Act (42 U.S.C. §§ 12101 et seq.), the Texas Architectural Barriers Act (Chapter 469, Texas Government Code, as amended), all City Codes, Environmental Laws, and any applicable Federal wage requirements; (ii) Environmental Event means the occurrence of any of the following: (a) any noncompliance with an Environmental Law; (b) an environmental condition requiring responsive action, including an environmental condition at the Demised Premises caused by a third party; (c) any event on, at, or from the Demised Premises or related to the operation thereof of such a nature as to require reporting to applicable governmental authorities under any Environmental Law; (d) an emergency environmental condition; or (e) the existence or discovery of any spill, discharge, leakage, pumpage, drainage, pourage, interment, emission, emptying, injecting, escaping, dumping, disposing, migration, or other release or any kind of hazardous materials on, at, or from the Demised Premises which may cause a threat or actual injury to human health, the environment, plant, or animal life; (iii) Environmental Law means any applicable Federal, state, or local statute, law (including common law tort law, common law nuisance law and common law in general), rule, regulation, ordinance, code, permit, concession, grant, franchise, license, policy or rule of common law now in effect or adopted in the future, and in each case as may be amended or replaced, and any judicial or administrative interpretation thereof (including any judicial or administrative order, consent decree, or judgment) relating to (a) the environment, health, safety, or hazardous materials, (b) the storage, handling, emission, discharge, release, and use of chemicals and other hazardous materials, (c) the generation, processing, treatment, storage, transport, disposal, investigation, remediation, or other management of waste materials of any kind, and (d) the protection of environmentally sensitive areas, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§ 5101 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.; the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 et seq.; the Texas Solid Waste Disposal Act, Tex. Health & Safety Code Ann. Ch. 361

(Vernon 1990); the Texas Clean Air Act, Tex. Health & Safety Code Ann. Ch. 382 (Vernon 1990); the Texas Water Code, Tex. Water Code Ann. (Vernon 1988 and Supp. 1990); the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code Ann. (Vernon 1988 and Supp. 1990); the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et. seq.; and the Emergency Preparedness and Response Community Right-to-Know Act, 42 U.S.C. § 11001; and (iv) Pre-Existing Environmental Conditions means the hazardous materials and other environmental conditions that existed on or under the Demised Premises prior to the date of this Lease and not caused by or through Tenant.

D. It is acknowledged and agreed that this Lease is entered into to facilitate the sublease of the Demised Premises by Tenant to Supreme Bright Amarillo II, LLC, a Texas limited liability company ("Developer") pursuant to (i) that certain Amended and Restated Lease and Development Agreement, dated of even date herewith, as may be amended from time to time (as amended, the "Approved Hotel Sublease"), which Approved Hotel Sublease provides for the construction and operation by Developer of a convention headquarters hotel (the "Hotel") and; (ii) that certain Lease Agreement, dated of even date herewith (the "Approved Employee Parking Lot Sublease"), which provides for a parking lot for employees of the Hotel (each of the Approved Hotel Sublease and the Approved Employee Parking Lot Sublease being sometimes referred to herein as an "Approved Sublease"). If the Approved Hotel Sublease is terminated by Tenant or Developer prior to the Lease Commencement Date (as defined in the Approved Hotel Sublease) as provided in Section 8.3 of the Approved Hotel Sublease, this Lease shall automatically terminate as to the Demised Premises upon such termination of the Approved Hotel Sublease.

E. Notwithstanding anything in this Lease to the contrary, Landlord hereby reserves: (i) the non-exclusive right of ingress and egress to, from, and across the outside public areas located on the Demised Premises; and (ii) the right, at Landlord's sole cost and expense, to install on, under, over, or below the Demised Premises any and all utilities and appurtenances related thereto that it deems reasonably necessary; provided, however, Landlord shall comply with the terms of the respective Approved Sublease with respect to any such utility installation.

F. If, after the Lease Commencement Date under the Approved Hotel Sublease, a Pre-Existing Environmental Condition or an Environmental Event shall be discovered which is part of Landlord's obligation described in Section 1C above, or it is discovered that the Demised Premises are not Ready for Construction, Tenant and Developer shall have the right, but not the obligation, to perform or cause to be performed any and all corrective or remedial actions pursuant to the terms of this Lease and pursuant to the terms of the Approved Hotel Sublease including the requirements of Section 9.3.1 of the Approved Hotel Sublease as if such work constituted Tenant's Remedial Work (as defined in the Approved Sublease); provided, however, Developer's right to perform or cause to be performed any actions with regard to making the Demised Premises Ready for Construction is subject to Developer's having performed its obligations in the Approved Hotel Sublease in connection with the Demised Premises being Ready for Construction. Notwithstanding the foregoing, in no event shall the

terms of this Section 1F preclude Developer from pursuing, or affect Developer's ability to pursue, a claim against Landlord as a third-party beneficiary of Tenant's rights under this Lease with regard to any Pre-Existing Environmental Conditions.

2. **Lease Term.**

A. Tenant shall have and hold the Demised Premises for a term commencing on the date of this Lease and ending at 11:59 p.m. on the date that is one day and eighty (80) years after the "Lease Commencement Date" under the Approved Hotel Sublease.

B. If, following the Lease Commencement Date under the Approved Hotel Sublease, the Approved Hotel Sublease is terminated by Tenant or Developer prior to the expiration of its stated term, Landlord shall have the option to terminate this Lease upon written notice to Tenant. Alternatively, Landlord may allow this Lease to remain in effect; provided, however, Landlord and Tenant shall, if necessary, negotiate an appropriate amendment based upon the termination of the Approved Hotel Sublease and the status of the improvements and operations on the Demised Premises.

3. **Rent.**

Tenant shall pay Landlord rent in same amounts and upon the same schedule as the rent payable to Tenant, as landlord, by Developer, as tenant, under each Approved Sublease; provided, however, payments by Tenant hereunder shall be in arrears. Rent payments shall be made to Landlord at the address provided in Section 15E of this Lease (or such other address as Landlord may designate in writing from time to time). If the rent commencement date is other than the first day of the calendar year, the first rental payment and the last rental payment shall be adjusted for the proportionate fraction of the whole year.

4. **Landlord's Warranties and Covenants.**

Landlord covenants, represents and warrants as follows:

A. **Possession.** That the Demised Premises are free and clear of all tenancies whether oral or written, and that Tenant shall have sole and actual possession from the date of last execution of this Lease.

B. **Covenant of Title and Quiet Enjoyment.** That Landlord is well seized of and has good title to the Demised Premises and all improvements located on it on the date of this Lease, subject to all matters of record in Potter County, Texas, or readily apparent on the Demised Premises. Subject to Tenant's paying rent as herein provided and complying with all other terms and conditions of this Lease, Tenant may quietly and peacefully hold, occupy, use and enjoy the Demised Premises during the term of this Lease. Landlord warrants and will defend the title against any person claiming by, through or under Landlord, but not otherwise, subject to matters of record in Potter County, Texas and the rights and reservations of Landlord hereunder.

C. **Consents.** No permission, approval, or consent by third parties or any other governmental authority is required in order for Landlord to enter into this Lease,

make the agreements herein contained, or perform the obligations of Landlord hereunder, other than those consents which have been obtained.

D. **Landlord's Remedial Work** To the best knowledge of the Landlord, there are no Pre-Existing Environmental Conditions at the Demised Premises and there are no conditions at the Demised Premises that could reasonably be anticipated to interfere with or prohibit the completion of the work necessary for the Demised Premises to be Ready for Construction.

E. **Taxes**. Landlord agrees to cooperate with Tenant and Developer in seeking the delivery of all notices of any taxes imposed or assessed with respect to or on the Demised Premises or the Improvements (collectively, "**Impositions**") to Tenant and Developer directly from the applicable taxing authorities. In no event shall Tenant be in default under this Agreement for failure to pay any Impositions before the same become delinquent for which the notice of such Impositions shall have been delivered to Landlord and not forwarded or delivered to Tenant at least thirty (30) days before the date the same become delinquent. Landlord hereby agrees to be bound by the terms of Section 13.1.3 of the Approved Hotel Sublease as if such section of the Approved Hotel Sublease were incorporated herein and as if Landlord were the "Landlord" under the Approved Sublease.

5. **Tenant's Covenants.**

Tenant covenants and agrees, during the term of this Lease (including any extensions thereof) and for such further time as Tenant shall hold the Demised Premises or any part of it:

A. **Rent**. To pay the required rent on the days and in the manner as provided in this Lease.

B. **Liens and Encumbrances**. Not to allow the estate of Landlord in the Demised Premises at any time during the term or any extension to become subject to any lien, charge, or encumbrance whatsoever, and to indemnify and keep indemnified Landlord against all such liens, charges, and encumbrances. It is expressly agreed that Tenant shall have no authority, expressed or implied, to create any lien, charge, or encumbrance upon the estate of Landlord in the Demised Premises.

C. **Insurance**. To cause Developer to maintain the insurance required under the Approved Sublease.

D. **Repairs**. To cause Developer to keep the Demised Premises in a safe and good condition and repair, as required by the terms of the Approved Sublease.

E. **Utilities**. To pay or cause Developer to pay when due all charges for all utility services used on the Demised Premises, expressly including all connection charges and tap fees.

F. **Compliance with Law.** To comply and cause Developer to comply with all Applicable Laws relating to the use, development, or operation of the Demised Premises.

G. **Site Conditions.** Except as otherwise provided herein, Tenant expressly acknowledges and agrees that the Demised Premises are being leased to Tenant on an "AS-IS" basis. **EXCEPT AS EXPRESSLY SET FORTH HEREIN, LANDLORD MAKES NO WARRANTY, GUARANTY, OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXPRESSLY DISCLAIMED.**

H. **Taxes.** To pay or cause Developer to pay to the appropriate governmental agencies and discharge all applicable real estate taxes, charges, and assessments with respect to the Demised Premises and any improvements located on the Demised Premises and all applicable personal property taxes with respect to any personal property located on the Demised Premises. Tenant shall pay or cause Developer to pay such taxes directly to the taxing authority and furnish Landlord a paid tax receipt prior to the delinquency date of each calendar year during the original term or any renewal term of this Lease. If Tenant fails to pay or cause Developer to pay any taxes which it is required to pay within the time period provided above, Landlord may, at its option, pay said taxes, together with any and all penalties and said amount shall become immediately due and payable as additional rental. From the date advanced until paid by Tenant, said sums shall bear interest at the rate of ten percent (10%) per annum (the "**Past Due Rate**"). Landlord acknowledges that, under the Approved Hotel Sublease, Developer has certain rights to contest taxes and assessments with respect to a portion of the Demised Premises, and, to the extent that Developer is contesting such taxes and assessments in accordance with the terms of the Approved Hotel Sublease, neither Tenant nor Developer shall be in default hereunder as a result of the failure to pay such taxes and assessments during such contest.

6. **Use, Alterations and Title to Improvements.**

A. **Use.** Notwithstanding any other provision in this Lease to the contrary, the Demised Premises may only be used for the purpose of designing, developing, constructing, furnishing, opening, and operating thereon a "convention center headquarters hotel" and related employee parking lot and such additional facilities and incidental uses found in convention-center headquarters hotels, including, without limitation, commercial retail operations, restaurant uses, health club and spa, and for parking (collectively, the "**Permitted Uses**"). Use of the Demised Premises is subject to compliance with Applicable Law. Notwithstanding any provision of this Lease to the contrary, Tenant agrees it will not, and will cause Developer not to:

- (i) Create, cause, maintain, or permit any public or private nuisance in, on, or about the Demised Premises; *provided, however*, in no event will

Landlord be entitled to assert that a Permitted Use held in compliance with Applicable Laws constitutes a public or private nuisance;

(ii) Operate, or allow any person to operate, in, on, or about the Demised Premises any store or other facility a principal or significant portion of the business of which is a "sexually oriented business" as such term is defined in the city codes of the City of Amarillo, Texas;

(iii) Use or allow the Demised Premises to be used for the sale or display to the public of any lewd, offensive, or immoral sign or advertisement that offends the community standards including any sign or advertisement that promotes lewd, offensive, or immoral activities that offend the community standards or for any public performance of any lewd, offensive, or immoral activities that offends the community standards;

(iv) Use or allow the Demised Premises to be used for the sale of paraphernalia or other equipment or apparatus which is used primarily in connection with the taking or use of illegal drugs;

(v) Use or allow the improvements constructed on the Demised Premises or the Demised Premises to be used as a place of permanent residence by any Person or for any time share purposes;

(vi) Use or permit the Demised Premises to be used for a shooting gallery, target range, vehicle repair facility, car wash facility, warehouse (but any area for the storage of goods intended to be sold or used in connection with operations permitted hereunder shall not be deemed to be a warehouse), convalescent care facility or mortuary; or

(vii) Use or permit the use of the Demised Premises as a casino (or other establishment in which gambling is permitted or games of chance are operated), a gentlemen's club (or other establishment that allows full or partial nudity), a tattoo parlor, a massage parlor (provided that massage services may be offered by a licensed massage therapist as a part of a health, beauty, or fitness operation) or a tanning parlor.

B. **Alterations and Title to Improvements.** Tenant and Developer shall have the right to make alterations, reconstructions, reconfigurations, remodels, additions and improvements to the Demised Premises from time to time as permitted by Landlord. Landlord hereby authorizes the alterations, reconstructions, reconfigurations, remodels, additions, and improvements contemplated by each Approved Sublease, subject to compliance with all Applicable Laws. No approval of Landlord herein contained shall constitute a waiver or estop Landlord from exercising any of its rights, powers, or duties in connection with its governmental functions or be deemed a wavier of any immunities or privileges granted the Landlord when performing its governmental functions. All of such alterations, additions, and improvements constructed by Tenant or Developer during the term of this Lease and any extension of this Lease, shall be and remain the

property of Tenant or Developer, as applicable, at all times during the term of this Lease and any extensions or renewals. All alterations, additions, improvements, or fixtures (other than trade fixtures and signs) located on the Demised Premises upon the termination of this Lease, shall be Landlord's property on termination of this Lease and shall remain a part of the Demised Premises without compensation to Tenant. All furniture, trade fixtures, signs, and equipment installed in the Demised Premises by Tenant or Developer may be removed by Tenant or Developer, as applicable, at the termination of this Lease if Tenant or Developer, as applicable, so elects, and shall be so removed if required by Landlord, or if not so removed shall, at the option of Landlord, become the property of Landlord. In the event of any removal, Tenant or Developer, as applicable, shall at its expense repair and restore any portion of the Demised Premises which is damaged by such removal. All such alterations, additions, and improvements shall be accomplished in good, workmanlike manner so as not to damage any portion of the Demised Premises.

7. **Assignment and Subletting.**

A. **Tenant.** Tenant may not, without the prior written consent of Landlord, which may be granted or withheld in the Landlord's sole discretion, sublease the Demised Premises or assign this Lease or its rights under this Lease to any other party. Any approved assignment shall release Tenant from all of its obligations under this Lease. Notwithstanding the foregoing to the contrary, Tenant may sublease the Demised Premises to Developer pursuant to the terms of each Approved Sublease. If Tenant fails to enforce any provision of this Lease against Landlord, Developer, as a third-party beneficiary hereunder, may enforce such provision in accordance with the terms of this Lease. Further, Landlord may enforce the provisions of each Approved Sublease against Developer if Tenant fails to do so. Notwithstanding the foregoing, Landlord hereby confirms, acknowledges, and agrees that, so long as an Approved Sublease remains in force and effect, (a) Developer, without any review, consent, or approval by Landlord whatsoever, shall have the right, from time to time and at any time, subject to the provisions of the applicable Approved Sublease, to lease, sublease, license, sublicense, and/or grant other rights of use with respect to the development, opening, and operation of the Hotel and any and all related facilities as and on such terms and conditions as Developer shall desire, and (b) Landlord shall have no right or claim to any of the rents (including, without limitation, sublease, license, and sublicense rents), revenues, profits, reimbursements, or other amounts received by or paid to Developer under any such leases, subleases, licenses, sublicenses, or other agreements granting rights to use the Hotel, the Demised Premises, or any portion of either of them.

B. **Landlord.** Except with respect to any entity created by Landlord in which Landlord has the power to appoint the majority of the members of the board of directors or the legal authority to control the actions of such entity, Landlord shall not effect a Landlord Transfer (as defined below) of its interest in the Demised Premises, or any part thereof or interest therein, or this Lease to any Person (as defined in the Approved Hotel Sublease) at any time or from time to time (a "**Landlord Transferee**"), without the prior approval of Tenant and Developer, such approval not to be unreasonably withheld. For purposes of this Section 7B, a "**Landlord Transfer**" shall mean any sale, conveyance,

assignment, or other transfer by Landlord of all or a portion of the Demised Premises or this Lease or any part thereof or interest therein by Landlord. Landlord shall promptly give notice to Tenant and Developer advising Tenant of the name of any Landlord Transferee. Any security given by Tenant to secure performance of Tenant's obligations under this Lease will be transferred by Landlord to the successor in interest of Landlord, and Landlord shall thereby be discharged of any further obligation relating thereto.

8. **Tenant's Default And Landlord's Remedies.**

A. The occurrence of any of the following shall constitute a default by Tenant:

(i) Tenant fails to pay any rent, or any other amount to be paid by Tenant, when due, and such failure continues twenty (20) days after written notice from Landlord to Tenant.

(ii) Tenant fails to perform a requirement of any provision of this Lease other than the payment of rental, charges, or expenses when due, if the failure to perform is not cured within thirty (30) days after written notice has been given to Tenant; provided, however, if a non-monetary default cannot reasonably be cured within the thirty-day right-to-cure period, Tenant shall not be considered as being in default of this Lease if Tenant commences to cure such default as soon as reasonably practicable and diligently and in good faith proceeds to cure same.

B. If Tenant defaults under this Lease and does not cure the default within any applicable cure period permitted hereunder, Landlord, as its sole remedies, shall have the option to pursue any one or more of the following without any further notice or demand whatsoever:

(i) Terminate this Lease by notice in writing to Tenant, in which event Tenant immediately shall surrender the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearages in rent, enter upon and take possession of the Demised Premises. Enter upon and take possession of the Demised Premises; provided that Landlord shall have no obligation to relet the Demised Premises so long as Landlord does not seek any damages or unpaid rental from Tenant for Tenant's default under this Lease.

(ii) Make such payments or enter upon the Demised Premises, and perform whatever Tenant is obligated to perform under the terms of this Lease (including, without limitation, payment of insurance premiums and taxes); and Tenant agrees to reimburse Landlord within ten (10) days after demand for any reasonable expenditures and expenses (together with interest thereon at the Past Due Rate from the date paid by Landlord) which Landlord may make or incur in effecting compliance with Tenant's obligations under this Lease.

C. Notwithstanding the foregoing to the contrary, and subject to the terms of Section 17 hereof, if Developer is not in default under an Approved Sublease, despite

any default by Tenant, Landlord will honor Developer's rights under the Approved Subleases and Tenant will, if requested by Landlord, assign its rights as landlord under each Approved Sublease to Landlord.

9. **Landlord's Default And Tenant's Remedies.**

A. **Defaults and Remedies.** In the event of any breach by Landlord of any covenant of Landlord under this Agreement, Tenant shall have the right to deliver to Landlord, in accordance with the provisions of Section 15E of this Lease, a written notice specifying such breach, and unless within thirty (30) days from and after the date of delivery of such notice, Landlord shall have commenced to remove or to cure such breach or occurrence and shall be proceeding with reasonable diligence to completely remove or cure such breach or occurrence (provided such breach or occurrence must be cured within one hundred twenty (120) days after such notice), then Tenant shall have all remedies available at law or in equity, including, without limitation, termination, injunction, and specific performance, subject, however, to the provisions of Section 9B of this Lease below. All remedies of Tenant under this Agreement shall be cumulative, and the failure to assert any remedy or the granting of any waiver (as provided in Section 15C of this Lease) of any event of default shall not be deemed to be a waiver of such remedy or any subsequent event of default.

B. **Certain Remedy Limitations.** Notwithstanding the provisions of Section 9A above, Tenant shall have the remedy of termination of this Agreement in connection with a default by Landlord only if such default is under Section 4B of this Agreement.

10. **Casualty and Condemnation.**

The provisions of the Approved Sublease shall control in the event of: (a) any damage or destruction to the Demised Premises or any portion thereof by Casualty; or (b) any taking of the Demised Premises, or any portion thereof, by Condemnation. If the Approved Hotel Sublease shall be terminated as a result of any Casualty or Condemnation, then upon such termination, this Lease shall terminate. Any award to Tenant from any Casualty or Condemnation resulting in a termination of this Lease shall be paid to Landlord upon such termination (subject to Tenant's obligation to pay same to Developer pursuant to the Approved Sublease). For purposes of this Lease: (a) Casualty shall mean physical damage, physical destruction, or other property casualty resulting from any fire or any other sudden, unexpected, or unusual cause; and (b) Condemnation shall mean a taking by any governmental authority (or other person with power of eminent domain) by exercise of any right of eminent domain or by appropriation and an acquisition by any governmental authority (or other person with power of eminent domain) through a private purchase in lieu thereof, but shall not include the dedication of any portion of the Demised Premises necessary to obtain governmental authorizations or to comply with any other Applicable Law respecting the construction of any improvements on the Demised Premises.

11. **Trade Fixtures, Machinery and Equipment.**

Landlord agrees that all trade fixtures, machinery, equipment, furniture, or other personal property of whatever kind and nature kept or installed in the Demised Premises by Tenant or Developer shall not become the property of Landlord or a part of the realty no matter how affixed to the Demised Premises, and may be removed by Tenant or Developer, as applicable, in their discretion, at any time and from time to time during the entire term of this Lease and any extensions. Upon request of Tenant or Developer, Landlord shall execute and deliver any real estate consent or waiver forms submitted by any vendors, lessors, chattel mortgagees, or holders or owners of any trade fixtures, machinery, equipment, furniture, or other personal property of any kind and description kept or installed in the Demised Premises by Tenant or Developer, as applicable, setting forth the fact that Landlord waives, in favor of such vendors, lessors, chattel mortgagees, or any holders or owners, any lien, claim, interest, or other right superior to that of such vendors, lessors, chattel mortgagees, owners, or holders. Landlord shall further acknowledge that property covered by such consent or waiver forms is personal property and is not to become a part of the realty no matter how affixed to it, and that such property may be removed from the Demised Premises by the vendors, lessors, chattel mortgagees, owners, or holders at any time upon default by the subtenant in the terms of such chattel mortgage or other similar documents, free and clear of any claim or lien of Landlord. Upon the removal of any personal property in accordance with this Section 11 of this Lease, Tenant or Developer, as applicable, shall repair all damage to the improvements resulting from the removal and shall cap all plumbing and electrical facilities.

12. **Holding Over.**

If Tenant continues to occupy the Demised Premises after the last day of the term, or after the last day of any extension of the term, and Landlord elects to accept rent thereafter, a tenancy from month-to-month only shall be created, and not for any longer period. All provisions of this Lease shall apply to Tenant's holdover occupancy, except that Tenant shall pay rent at the rate of one hundred fifty percent (150%) of the monthly rent payable for the last month of the lease term (or final extension thereof).

13. **Surrender of Possession.**

Tenant shall, on or before the termination date of this lease, peaceably and quietly leave, surrender, and yield up to Landlord the Demised Premises, free of subtenancies (including Developer), and in a clean condition and free of debris, or as otherwise provided for in this Lease, reasonable wear and tear excepted. Upon expiration or termination of this Lease, Tenant shall execute and deliver to Landlord a recordable termination of the leasehold estate.

14. **Estoppel Certificate.**

Landlord shall, at any time and from time to time upon not less than ten (10) days' prior written request by Tenant, execute, acknowledge, and deliver to Tenant a statement in writing certifying: (a) its ownership of the interest of Landlord hereunder, (b) that this Lease is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (c) the dates to which any rent

or other charges required hereunder have been paid, and (d) that, to the best knowledge of Landlord, no default hereunder on the part of Tenant exists (except that if any such default does exist, the certifying Party shall specify such default). Upon request by Tenant, Landlord's estoppel certificate also shall be addressed to Developer or its leasehold mortgagee.

15. **Miscellaneous Provisions.**

A. **Invalidity.** If any term or provision of this Lease or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances other than those as to which it is held invalid or unenforceable, shall not be affected.

B. **Successors, etc.** Subject to Section 7 of this Lease, the terms, conditions, and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties, their representatives, successors or assigns, and shall run with the land.

C. **Writing.** No waivers, alterations, or modifications of this Lease or any agreements in connection with this Lease shall be valid unless in writing duly executed by both Landlord and Tenant.

D. **Construction.** The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope of intent of such paragraphs of this Lease or in any way affect this Lease. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of singular shall be deemed to include the plural and, conversely, the plural shall be deemed to include the singular.

E. **Notices.** If, at any time after the execution of this Lease, it shall become necessary or convenient for one of the parties to serve any notice, demand, or communication upon the other party, such notice, demand, or communication shall be in writing, signed by the party serving the same, sent by registered or certified United States mail, return receipt requested, postage prepaid and (a) if intended for Landlord, shall be addressed to:

City of Amarillo, Texas
509 SE 7th, Suite 303
Amarillo, Texas 79101
Attn: City Manager

with a copy to:

City of Amarillo, Texas
509 SE 7th, Suite 303
Amarillo, Texas 79101
Attn: City Attorney

and (b) if intended for Tenant, shall be addressed to:

Amarillo Local Government Corporation
c/o Amarillo City Manager
509 SE 7th, Suite 303
Amarillo, Texas 79101
Attn: Board President

with copies of all correspondence by either Party sent to:

Supreme Bright Amarillo II, LLC
1141 Kinwest Parkway, Suite 150
Irving, Texas 75063
Phone: (214) 496-9300 x 201
Fax: (469) 519-8801
Attn: Chirag Patel

with a copy to:

Munsch Hardt Kopf & Harr PC
3800 Lincoln Plaza
500 N. Akard Street
Dallas, Texas 75201-6659
Phone: (214) 855-7594
Fax: (214) 978.4379
Attn: Robert Voelker

or to such other address or additional addresses as either party may have furnished to the other in writing as place for the service of notice. Any notice so mailed shall be deemed to have been given as of the time it is deposited in the United States mail.

16. **Zoning and Permits.**

In the event that Tenant and/or Developer deems it necessary or appropriate to obtain use, zoning, site plan approval, or any permit from Landlord or any other governmental authority having jurisdiction over the Demised Premises or any part thereof, Landlord shall, from time to time, upon request of Tenant and/or Developer, and to the extent necessary as fee owner of the Demised Premises, cooperate with Tenant and/or Developer or join in such petitions, applications, and authorizations as may be appropriate. The terms of this Section 16 shall survive the termination of this Lease.

17. **Recognition, Non-Disturbance and Attornment.**

A. **Notice of Default; Termination; Certain Cure Rights.**

(i) **Event of Default.** Landlord and Tenant hereby agree that they will deliver copies of any written notices described in Sections 8 or 9 of this Lease above to Developer simultaneously with delivery of such notices to the

other party. Additionally, Tenant agrees to deliver to Landlord copies of any written notices delivered by Tenant to Developer or received by Tenant from Developer in connection with any "Event of Default", "Tenant Default", or "Landlord Default" under the Approved Sublease or other Project Documents (as defined in the Approved Sublease).

(ii) **Termination**. Landlord and Tenant hereby further agree to provide Developer at least twenty (20) days written notice prior to any termination of this Lease.

(iii) **Right to Cure Defaults**. In the event of any default by Landlord or Tenant hereunder, Developer shall have the right (but not the obligation) to cure such default, and any default cured by Developer hereunder shall be deemed to have been cured by the applicable defaulting party. In the event Developer provides written notice to Landlord or Tenant, as applicable, of Developer's intent to cure any such default within the cure periods set forth in this Lease, such cure periods shall be automatically extended for a reasonable period of time (but in no event less than thirty (30) days) sufficient for Developer to commence and complete such cure. Without in any manner limiting any rights Developer may have under each Approved Sublease, if Developer exercises its right to cure a default by one of the parties hereunder, the amount of any payment made or other reasonable expenses (including reasonable attorneys' fees) incurred by Developer in curing such default (with interest thereon at the rate of ten percent (10%) per annum) shall be payable by the defaulting party to Developer on demand.

B. **Recognition**. Upon any termination or surrender of this Lease prior to the expiration of the term of this Lease, or upon any exercise by Landlord of any right of re-entry or other remedy under this Lease (each of the foregoing, a "Recognition Event"), provided no "Tenant Default" under the applicable Approved Sublease has occurred and remains uncured after the lapse of all applicable notice and cure periods, if any, thereunder: (i) Landlord will recognize (x) Developer as the "Tenant" under such Approved Sublease and (y) all of the rights, titles, and interests of Developer under the Project Documents, (ii) except as provided otherwise in this Lease, Landlord shall be bound to Developer as "Landlord" under such Approved Sublease (to the extent Landlord succeeds to the interest of the Amarillo Local Government Corporation thereunder, as if Landlord were the "Landlord" thereunder from and after the date of the Recognition Event, (iii) Landlord will assume and perform all of the duties and obligations of the "Amarillo Local Government Corporation" arising under all of the Project Documents on and after the date of the Recognition Event, and (iv) Landlord's obligations under this Lease shall survive such Recognition Event and Developer shall continue to be a third party beneficiary of this Lease, fully entitled to enforce the terms, provisions, covenants, and agreements of either party set forth herein.

C. **Nondisturbance**. So long as no "Tenant Default" has occurred and is continuing under the applicable Approved Sublease (beyond the term of any cure period provided in the applicable Approved Sublease) at the time of any early termination or surrender of this Lease, or exercise by Landlord of any right of re-entry or other remedy

under this Lease, Landlord covenants and agrees that upon any such event, Developer's possession and use of the Demised Premises and the Hotel and employee parking lot and Developer's rights and privileges under the applicable Approved Sublease and the other Project Documents shall not be diminished or interfered with by Landlord, and Developer's use and occupancy of the Demised Premises and the Hotel and employee parking lot shall not be disturbed during the term of the applicable Approved Sublease.

D. **Attornment.** Upon any termination of this Lease, Developer (by virtue of the joinder attached to this Lease) agrees to recognize and attorn to Landlord as "Landlord" under each Approved Sublease, and Developer, Landlord, and Tenant hereby agree that the Project Documents shall continue in full force and effect as direct agreements, in accordance with the terms contained therein, between Landlord and Developer.

E. **Further Documentation.** The provisions of this Section 17 shall be effective and self-operative without any need for Landlord, Tenant, or Developer to execute any further documentation. However, upon the receipt of written request, Landlord, Tenant, and/or Developer shall confirm the provisions of this Section 17 in writing to the requesting party within fifteen (15) days of receipt of such written request. Additionally, without in any manner limiting the self-operative provisions of this Section 17, upon the written request of Developer or Tenant, Landlord will enter into a nondisturbance agreement with Developer (or any mortgagee of Developer's interest under the Approved Hotel Sublease). Such nondisturbance agreement shall include such reasonable provisions as requested by Developer (or its mortgagee), subject to the reasonable approval of Landlord, but in any event shall (a) reaffirm Landlord's ownership of the Demised Premises, (b) confirm (if true) that this Lease is in full force and effect without default by Tenant (or, if a default exists, specifying the default and the remedy required by Landlord), and (c) in the case of Developer (or its mortgagee), provide, in substance, that, so long as Developer (or its mortgagee should such mortgagee succeed to Developer's rights under the Approved Hotel Sublease) complies with all of the terms of the Approved Sublease, Landlord, in the exercise of any of its rights or remedies under this Lease, shall not deprive Developer (or its mortgagee, if applicable) of possession, or the right of possession, of the Hotel or employee parking lot during the term of the Approved Sublease, deprive Developer (or its mortgagee, if applicable) of any other rights under the Approved Subleases, or join Developer (or its mortgagee) as a party in any action or proceeding to enforce or terminate this Lease or obtain possession of the property leased in the Approved Subleases, for any reason other than a breach by Developer (or its mortgagee) of the terms of such Approved Sublease, which would entitle Tenant to dispossess Developer thereunder or otherwise terminate Developer's rights thereunder.

F. **No Modification or Amendment.** For so long as the Approved Hotel Sublease shall remain in full force and effect, this Lease shall not be modified or amended in any manner without the prior written consent of Developer, which consent shall not be unreasonably withheld.

G. **Survival.** The terms of this Section 17 shall survive the termination of this Lease.

18. **No Impact Fees.**

Landlord hereby acknowledges and agrees that Landlord does not charge any impact fees or any similar charges or fees permitted by Applicable Law that would be payable by Developer in connection with the Demised Premises, this Lease, the Approved Sublease, and/or any construction, maintenance, repair, alterations, renovations, improvements, remedial, casualty repair or condemnation repair work contemplated by either this Lease or the Approved Sublease.

19. **Waiver of Street Closure Fees.** Tenant and Developer shall have the continuing right to temporarily close any and all City streets in the City of Amarillo, Texas, adjacent to or within the Demised Premises in connection with Construction Work (as defined in the Approved Hotel Sublease) (any such closure, a "Street Closure"); provided that (A) prior to any Street Closure, Developer shall obtain all necessary governmental authorizations to effect same and (B) all Street Closures will be conducted in accordance with, and during such periods as permitted by, such governmental authorizations and Applicable Laws. Notwithstanding any language in this Lease to the contrary, Landlord does hereby waive any and all fees and similar charges (collectively, "Street Closure Fees") that might otherwise be payable by Tenant or Developer in connection with a Street Closure. The terms of this Section 19 shall survive the termination of this Lease.

20. **Development Fees.** Landlord hereby releases Tenant and Developer from, and waives all rights to collect, any and all development fees, including, but not limited to, building permit fees (but not including re-inspection fees) that might otherwise be payable by Tenant or Developer to Landlord in connection with the Demised Premises, this Lease, the Approved Sublease, and/or any construction, maintenance, repair, alterations, renovations, improvements, remedial, casualty repair or condemnation repair work contemplated by either this Lease or the Approved Sublease. The terms of this Section 20 shall survive the termination of this Lease.

21. **Non-Compete.** Neither Landlord nor any entity created by Landlord in which Landlord has the power to appoint the majority of the members of the board of directors or the legal authority to control the actions of such entity (excluding the Amarillo-Potter Events Venue District) shall, directly or indirectly, own, operate, lease, design, develop, construct, or offer incentives with respect to a Comparable Hotel Property (as defined in the Approved Hotel Sublease) within the area within the City of Amarillo, Texas depicted on Exhibit G attached to the Approved Hotel Sublease (the "Restricted Area") during the five (5) year period commencing on the first day of the Operating Term (as defined in the Approved Hotel Sublease). Tenant and Developer shall have the right to enforce the terms of this Section 21 to the same extent that Developer is entitled to enforce its rights as provided in Section 27.2 of the Approved Hotel Sublease. The terms of this Section 21 shall survive the termination of this Lease.

22. **Construction Lay-down Areas.** In the event Developer, pursuant to Section 3.4 of the Approved Hotel Sublease, requests the use of a portion of any real property in the immediate vicinity of the Demised Premises owned or leased by Landlord as a construction lay-down area in connection with Construction Work during the term of this Lease, Landlord agrees

to take any and all reasonable actions necessary to effectuate the terms of Section 3.4 of the Approved Hotel Sublease.

23. **Brokerage Commission.** Landlord and Tenant represent and warrant one to the other that no broker commission, finder's fees, or similar compensation is due to any party claiming by, through, or under Landlord or Tenant, as applicable.

24. **Landlord's Lien Waiver.** Landlord hereby waives all landlord's liens that Landlord might hold, statutory or otherwise, to any of Tenant's (or Developer's or any subtenants of Developer's) inventory, trade fixtures, equipment, or other personal property now or hereafter placed on or within the Demised Premises or any portion thereof.

25. **Non-Waiver.** No Party shall have or be deemed to have waived any default under this Lease by the other Party unless such waiver is embodied in a document signed by the waiving Party that describes specifically the default that is being waived. Further, no Party shall be deemed to have waived its rights to pursue any remedies under this Lease, unless such waiver is embodied in a document signed by such Party that describes specifically any such remedy that is being waived.

26. **Entire Agreement.** This Lease and the documents referenced in this Lease constitute the entire agreement between Landlord and Tenant regarding the subject matter thereof. There are no representations, promises, or agreements of either Landlord or Tenant, one to the other, regarding the subject matter of this Lease not contained in this Lease or the documents referenced in this Lease. The recitals to this Lease are hereby incorporated as part of the Lease.

27. **Covenants Running with the Land.** The Parties hereto covenant and agree that all of the conditions, covenants, agreements, rights, privileges, obligations, duties, specifications, and recitals contained in this Lease, except as otherwise expressly stated herein, shall, during the Term, be construed as covenants running with title to the Demised Premises, and the leasehold estate hereunder, respectively, which shall extend to, inure to the benefit of, and bind Landlord, Tenant, and their respective permitted successors and assigns to the same extent as if such successors and assigns were named as original parties to this Lease, such that this Lease shall, during the Term, bind the owner and holder of any fee or leasehold interest in or to the Demised Premises, or any portion thereof, and shall bind predecessors thereof, except as otherwise expressly provided herein.

28. **Non-Merger of Estates.** The interests of Landlord and Tenant in the Demised Premises shall at all times be separate and apart and shall in no event be merged, notwithstanding the fact that this Lease or the leasehold estate created hereby, or any interest therein, may be held directly or indirectly by or for the account of the same Person who shall own the fee title to the Premises or any portion thereof; and no such merger of estates shall occur by operation of law, or otherwise, unless and until all Persons at the time having any interest in the Demised Premises or under this Lease join in the execution and recordation of a written instrument effecting such merger of estates.

29. **Recording of Memorandum of Ground Lease.** The Parties shall execute a Memorandum of Ground Lease, and Tenant shall file the same in the Real Property Records of Potter County, Texas. Upon the expiration or earlier termination of this Lease, Tenant shall execute such instruments as may be reasonably requested by Landlord in recordable form that are sufficient to release of record any rights or interests of Tenant in and to the Demised Premises.

30. **Third Party Beneficiary Status to this Agreement.** Landlord and Tenant hereby confirm, acknowledge and agree that Developer is, and shall at all times, be a third party beneficiary of this Agreement, fully entitled to enforce the terms, provisions, covenants, and agreements of either Party set forth herein; provided, however, prior to enforcing any particular rights directly against Landlord, Developer must have made written demand on Tenant to enforce such rights directly against Landlord and Tenant shall have failed or refused to do so within a reasonable period of time following Developer's demand. The word "Developer" as used in this Lease shall extend to and include the entity originally executing the Approved Sublease as the tenant thereunder, as well as any and all Persons who at any time or from time to time during the term of the Approved Hotel Sublease shall succeed to the interest and estate of Developer under the Approved Hotel Sublease in accordance with the terms and provisions thereof. All of the covenants, agreements, conditions, and stipulations contained in this Lease which inure to the benefit of Developer shall also inure to the benefit of such Persons who shall at any time or from time to time succeed to the interest and estate of Developer under the Approved Hotel Sublease in accordance with the terms and provisions thereof. All of the obligations contained in this Lease which are binding on Developer shall also bind such Persons who shall at any time or from time to time succeed to the interest and estate of Developer under the Approved Hotel Sublease in accordance with the terms and provisions thereof.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

CITY OF AMARILLO, TEXAS, a Texas home rule city

By: 
Name: W. GARRETT ATKINSON
Title: CITY MANAGER

TENANT:

AMARILLO LOCAL GOVERNMENT CORPORATION, a Texas local government corporation

By: 
Name: RICHARD F. BROWN
Title: PRESIDENT

EXHIBIT "A"
DEMISED PREMISES

Tract 1

LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND THE WEST 100.5 FEET OF LOTS 9 AND 10 PLUS THE SOUTHEAST 39.5 FEET EAST AND WEST BY 5 FEET NORTH AND SOUTH OF LOT 9, AND THE EAST THIRTY-NINE AND ONE-HALF (E/39.5') OF THE NORTH ONE HUNDRED FIFTEEN FEET (N/115') OF LOTS 9 AND 10, BLOCK 58, GLIDDEN AND SANBORN ADDITION, AN ADDITION TO THE CITY OF AMARILLO, POTTER COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 65, PAGE 12, DEED RECORDS, POTTER COUNTY, TEXAS.

Tract 2

LOTS 8, 9 AND 10, BLOCK NO. 26, GLIDDEN & SANBORN, AN ADDITION TO THE CITY OF AMARILLO, POTTER COUNTY, TEXAS, ACCORDING TO THE RECORDED MAP OR PLAT THEREOF RECORD IN VOLUME 65, PAGE 12 OUT OF SECTION 169, BLOCK 2, AB&M SURVEY A/K/A 201 SOUTH FILLMORE STREET, AMARILLO, TEXAS.

Exhibit "A"

SCHEDULE 1

READY FOR CONSTRUCTION

“Ready for Construction” means the following described work has been performed with respect to the Demised Premises in accordance with all Applicable Laws:

(a) The demolition and removal of all existing vertical improvements (including buildings, light poles, etc.) and the resulting debris located upon the Demised Premises required to be removed in order to deliver the Demised Premises to the Tenant in a construction-ready condition.

(b) All work contemplated by Section 1C of the Lease including abatement of all asbestos.

(c) All on-site archeological work necessary to comply with the Antiquities Code of Texas;

(d) The abandonment and disconnection of all public and private utility lines crossing the Demised Premises or any portion thereof; provided, however, that the buried public and private utility pipelines within former easements and service feeds to the former buildings will remain in place but be removed from service.

(e) The abandonment of any public or private streets and easements within the Demised Premises.

(f) All work necessary to cause utilities to be available at the Demised Premises subject to Developer’s providing Tenant (and Tenant providing Landlord) the necessary description of the location and the capacity of required water, sanitary sewer, storm sewer, electric, gas, telephone and cable, which description and capacity shall be reasonably acceptable to Tenant and Landlord, and not require oversizing of any utilities beyond applicable code requirements unless the cost thereof are to be paid by Developer or such oversizing is otherwise agreed to be provided by Landlord or Tenant.

EXHIBIT "C"

The Parking Garage Prime Lease

See Attached.

**PRIME LEASE
(PARKING GARAGE)**

THIS PRIME LEASE (this "Lease") is made and entered into this 24th day of November 2014, between CITY OF AMARILLO, TEXAS ("Landlord"), and AMARILLO LOCAL GOVERNMENT CORPORATION, a Texas local government corporation ("Tenant") and together with Landlord, each a "Party" and collectively, the "Parties").

RECITALS

A. On or about June 6, 2012, Landlord and Tenant entered into that certain Prime Lease (the "Original Lease") pursuant to which Landlord leased two parcels of land to Tenant on which it was contemplated a developer would construct a hotel and parking garage pursuant to an approved sublease with Tenant (the "Original Sublease").

B. Contemporaneously with the execution of this Lease, Tenant is amending and restating the Original Sublease and executing two new subleases; one with the original developer for the parking garage; and one with an additional developer for the hotel.

C. Tenant has requested Landlord to: (i) terminate the Original Lease and enter into separate leases for the hotel parcel and the parking garage parcel and to also lease to Tenant a parcel of land for a hotel employee parking lot as part of the sublease for the hotel parcel; and (ii) approve the new subleases for development of the hotel and parking garage.

D. Landlord desires to approve Tenant's requests; and, therefore, Landlord and Tenant are entering into this Lease and by separate agreement of even date, terminating the Original Lease.

1. Demised Premises.

A. Landlord, for and in consideration of the covenants contained in this Lease and made on the part of Tenant, does hereby demise and lease unto Tenant, and Tenant does hereby lease from Landlord, that certain parcel of land located in the City of Amarillo, County of Potter, State of Texas, and being more particularly described on Exhibit A attached hereto and incorporated herein by reference for all purposes (the "Demised Premises").

B. Landlord shall deliver the Demised Premises to Tenant in the condition required by the terms of Schedule 1 attached hereto (such status being referred to as "Ready for Construction"). It is acknowledged and agreed that to the extent such condition has not been achieved as of the date of this Lease, Tenant shall, and shall cause Developer (hereinafter defined), to allow Landlord access to the Demised Premises to complete demolition and other activities to achieve Ready for Construction status; provided, however, Landlord's activities after the date of this Lease shall be coordinated

with Developer and conducted in a manner so as not to interfere with Developer's permitted use of the Demised Premises.

C. Landlord shall be responsible for performing or causing to be performed, and paying for the cost of performing any and all corrective or remedial investigations (including all investigations, monitoring, etc.) required by Applicable Law to be remedied with respect to any Environmental Event (as defined below) with regard to the Demised Premises prior to the Lease Commencement Date (as defined in the Approved Sublease defined below) or any Pre-Existing Environmental Condition (as defined below), but in each case only to the extent such Environmental Event or Pre-Existing Environmental Condition is not caused by Developer. For purposes of this Lease: (i) "Applicable Law" means any and all laws, ordinances, statutes, regulations, judicial decisions, orders, injunctions, writs, rulings, interpretations, rules, permits or certificates of any court, arbitrator or other governmental authority and applicable to the person or property in question (including any activities or operations occurring on, under, over, upon, at or from such property in question); and Applicable Laws shall include but not be limited to the Antiquities Code of Texas (Chapter 191, Texas National Resources Code, as amended), the Americans with Disabilities Act (42 U.S.C. §§ 12101 et seq.), the Texas Architectural Barriers Act (Chapter 469, Texas Government Code, as amended), all City Codes, Environmental Laws and any applicable Federal wage requirements; (ii) Environmental Event means the occurrence of any of the following: (a) any noncompliance with an Environmental Law; (b) an environmental condition requiring responsive action, including an environmental condition at the Demised Premises caused by a third party; (c) any event on, at or from the Demised Premises or related to the operation thereof of such a nature as to require reporting to applicable governmental authorities under any Environmental Law; (d) an emergency environmental condition; or (e) the existence or discovery of any spill, discharge, leakage, pumpage, drainage, pourage, interment, emission, emptying, injecting, escaping, dumping, disposing, migration or other release or any kind of hazardous materials on, at or from the Demised Premises which may cause a threat or actual injury to human health, the environment, plant or animal life; (iii) Environmental Law means any applicable Federal, state or local statute, law (including common law tort law, common law nuisance law and common law in general), rule, regulation, ordinance, code, permit, concession, grant, franchise, license, policy or rule of common law now in effect or adopted in the future, and in each case as may be amended or replaced, and any judicial or administrative interpretation thereof (including any judicial or administrative order, consent decree or judgment) relating to (a) the environment, health, safety or hazardous materials, (b) the storage, handling, emission, discharge, release and use of chemicals and other hazardous materials, (c) the generation, processing, treatment, storage, transport, disposal, investigation, remediation or other management of waste materials of any kind, and (d) the protection of environmentally sensitive areas, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§ 5101 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.; the Endangered Species

Act, as amended, 16 U.S.C. §§ 1531 et seq.; the Texas Solid Waste Disposal Act, Tex. Health & Safety Code Ann. Ch. 361 (Vernon 1990); the Texas Clean Air Act, Tex. Health & Safety Code Ann. Ch. 382 (Vernon 1990); the Texas Water Code, Tex. Water Code Ann. (Vernon 1988 and Supp. 1990); the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code Ann. (Vernon 1988 and Supp. 1990); the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et. seq.; and the Emergency Preparedness and Response Community Right-to-Know Act, 42 U.S.C. § 11001; and (iv) Pre-Existing Environmental Conditions means the hazardous materials and other environmental conditions that existed on or under the Demised Premises prior to the date of this Lease and not caused by or through Tenant.

D. It is acknowledged and agreed that this Lease is entered into to facilitate the sublease of the Demised Premises by Tenant to Wallace Bajjali Development Partners, LP ("Developer") pursuant to that certain Amended and Restated Lease and Development Agreement dated of even date herewith, as may be amended from time to time (as amended, the "Approved Sublease"), which Approved Sublease provides for the construction and operation by Developer of a parking garage (the "Garage"). If the Approved Sublease is terminated by Tenant or Developer prior to the Lease Commencement Date (as defined in the Approved Sublease) as provided in Section 8.3 of the Approved Sublease, this Lease shall automatically terminate upon such termination of the Approved Sublease unless Tenant is required to construct the Parking Garage pursuant to a separate Amended and Restated Lease and Development Agreement with Supreme Bright Amarillo II, LLC for construction and operation of a convention headquarters hotel in which event this Lease shall remain in effect.

E. Notwithstanding anything in this Lease to the contrary, Landlord hereby reserves: (i) the non-exclusive right of ingress and egress to, from and across the outside public areas located on the Demised Premises; and (ii) the right, at Landlord's sole cost and expense, to install on, under, over or below the Demised Premises any and all utilities and appurtenances related thereto that it deems reasonably necessary; provided, however, Landlord shall comply with the terms of the Approved Sublease with respect to any such utility installation.

F. If, after the Lease Commencement Date under the Approved Lease, a Pre-Existing Environmental Condition or an Environmental Event shall be discovered which is part of Landlord's obligation described in Section 1C above, or it is discovered that the Demised Premises are not Ready for Construction, Tenant and Developer shall have the right, but not the obligation, to perform or cause to be performed any and all corrective or remedial actions pursuant to the terms of this Lease and pursuant to the terms of the Approved Sublease including the requirements of Section 9.3.1 of the Approved Sublease as if such work constituted Tenant's Remedial Work (as defined in the Approved Sublease); provided, however, Developer's right to perform or cause to be performed any actions with regard to making the Demised Premises Ready for Construction is subject to Developer's having performed its obligations in the Approved Sublease in connection with the Demised Premises being Ready for Construction. Notwithstanding the foregoing, in no event shall the terms of this Section 1F preclude Developer from pursuing, or affect Developer's ability to pursue, a claim against Landlord as a third-party

beneficiary of Tenant's rights under this Lease with regard to any Pre-Existing Environmental Conditions.

2. **Lease Term.**

A. Tenant shall have and hold the Demised Premises for a term commencing on the date of this Lease and ending at 11:59 p.m. on the date that is one day and eighty (80) years after the "**Lease Commencement Date**" under the Approved Sublease.

B. If, following the Lease Commencement Date under the Approved Sublease, the Approved Sublease is terminated by Tenant or Developer prior to the expiration of its stated term, Landlord shall have the option to terminate this Lease upon written notice to Tenant. Alternatively, Landlord may allow this Lease to remain in effect; provided, however, Landlord and Tenant shall, if necessary, negotiate an appropriate amendment based upon the termination of the Approved Sublease and the status of the improvements and operations on the Demised Premises.

3. **Rent.** Tenant shall pay Landlord rent in same amounts and upon the same schedule as the rent payable to Tenant, as landlord, by Developer, as tenant, under the Approved Sublease; provided, however, payments by Tenant hereunder shall be in arrears. Rent payments shall be made to Landlord at the address provided in Section 15E of this Lease (or such other address as Landlord may designate in writing from time to time). If the rent commencement date is other than the first day of the calendar, the first rental payment and the last rental payment shall be adjusted for the proportionate fraction of the whole year.

4. **Landlord's Warranties and Covenants.** Landlord covenants, represents and warrants as follows:

A. **Possession:** That the Demised Premises are free and clear of all tenancies whether oral or written, and that Tenant shall have sole and actual possession from the date of last execution of this Lease.

B. **Covenant of Title and Quiet Enjoyment:** That Landlord is well seized of and has good title to the Demised Premises and all improvements located on it on the date of this Lease, subject to all matters of record in Potter County, Texas, or readily apparent on the Demised Premises. Subject to Tenant's paying rent as herein provided and complying with all other terms and conditions of this Lease, Tenant may quietly and peacefully hold, occupy, use and enjoy the Demised Premises during the term of this Lease. Landlord warrants and will defend the title against any person claiming by, through or under Landlord, but not otherwise, subject to matters of record in Potter County, Texas and the rights and reservations of Landlord hereunder.

C. **Parking Garage Financing:** Subject to Developer's compliance with the terms of the Approved Sublease, Landlord agrees to provide the Parking Garage Financing (as defined in the Approved Sublease) in a timely manner for construction of the parking garage contemplated to be constructed on a portion of the Demised Premises pursuant to the terms of the Approved Sublease.

D. **Consents:** No permission, approval or consent by third parties or any other governmental authority is required in order for Landlord to enter into this Lease, make the agreements herein contained or perform the obligations of Landlord hereunder, other than those consents which have been obtained.

E. **Landlord's Remedial Work:** To the best knowledge of the Landlord, there are no Pre-Existing Environmental Conditions (other than the monitoring well described on Exhibit C to the Approved Sublease) at the Demised Premises and there are no conditions at the Demised Premises that could reasonably be anticipated to interfere with or prohibit the completion of the work necessary for the Demised Premises to be Ready for Construction.

F. **Taxes:** Landlord agrees to cooperate with Tenant and Developer in seeking the delivery of all notices of any taxes imposed or assessed with respect to or on the Demised Premises or the Improvements (collectively, "Impositions") to Tenant and Developer directly from the applicable taxing authorities. In no event shall Tenant be in default under this Agreement for failure to pay any Impositions before the same become delinquent for which the notice of such Impositions shall have been delivered to Landlord and not forwarded or delivered to Tenant at least thirty (30) days before the date the same become delinquent. Landlord hereby agrees to be bound by the terms of Section 13.1.3 of the Approved Sublease as if Landlord were the "Landlord" under the Approved Sublease.

5. **Tenant's Covenants.** Tenant covenants and agrees, during the term of this Lease (including any extensions thereof) and for such further time as Tenant shall hold the Demised Premises or any part of it:

A. **Rent:** To pay the required rent on the days and in the manner as provided in this Lease.

B. **Liens and Encumbrances:** Not to allow the estate of Landlord in the Demised Premises at any time during the term or any extension to become subject to any lien, charge or encumbrance whatsoever, and to indemnify and keep indemnified Landlord against all such liens, charges and encumbrances. It is expressly agreed that Tenant shall have no authority, expressed or implied, to create any lien, charge or encumbrance upon the estate of Landlord in the Demised Premises.

C. **Insurance:** To cause Developer to maintain the insurance required under the Approved Sublease.

D. **Repairs:** To cause Developer to keep the Demised Premises in a safe and good condition and repair, as required by the terms of the Approved Sublease.

E. **Utilities:** To pay or cause Developer to pay when due all charges for all utility services used on the Demised Premises, expressly including all connection charges and tap fees.

F. **Compliance with Law:** To comply and cause Developer to comply with all Applicable Laws relating to the use, development or operation of the Demised Premises.

G. **Site Conditions:** Except as otherwise provided herein, Tenant expressly acknowledges and agrees that the Demised Premises are being leased to Tenant on an "As-Is" basis. **EXCEPT AS EXPRESSLY SET FORTH HEREIN, LANDLORD MAKES NO WARRANTY, GUARANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXPRESSLY DISCLAIMED.**

H. **Taxes:** To pay or cause Developer to pay to the appropriate governmental agencies and discharge all applicable real estate taxes, charges and assessments with respect to the Demised Premises and any improvements located on the Demised Premises and all applicable personal property taxes with respect to any personal property located on the Demised Premises. Tenant shall pay or cause Developer to pay such taxes directly to the taxing authority and furnish Landlord a paid tax receipt prior to the delinquency date of each calendar year during the original term or any renewal term of this Lease. If Tenant fails to pay or cause Developer to pay any taxes which it is required to pay within the time period provided above, Landlord may, at its option, pay said taxes, together with any and all penalties and said amount shall become immediately due and payable as additional rental. From the date advanced until paid by Tenant, said sums shall bear interest at the rate of ten percent (10%) per annum. Landlord acknowledges that, under the Approved Sublease, Developer has certain rights to contest taxes and assessments with respect to the Demised Premises, and, to the extent that Developer is contesting such taxes and assessments in accordance with the terms of the Approved Sublease, neither Tenant nor Developer shall be in default hereunder as a result of the failure to pay such taxes and assessments during such contest.

6. **Use, Alterations and Title to Improvements.**

A. **Use.** Notwithstanding any other provision in this Lease to the contrary, the Demised Premises may only be used for the purpose of designing, developing, constructing, furnishing, opening and operating thereon a public parking garage, commercial retail operations, and restaurant uses as contemplated by the Approved Sublease (collectively, the "**Permitted Uses**"). Use of the Demised Premises is subject to compliance with Applicable Law. Notwithstanding any provision of this Lease to the contrary, Tenant agrees it will not, and will cause Developer not to:

- (i) Create, cause, maintain or permit any public or private nuisance in, on or about the Demised Premises; *provided, however*, in no event will Landlord be entitled to assert that a Permitted Use held in compliance with Applicable Laws constitutes a public or private nuisance;

(ii) Operate, or allow any person to operate, in, on or about the Demised Premises any store or other facility a principal or significant portion of the business of which is a "sexually oriented business" as such term is defined in the city codes of the City of Amarillo, Texas;

(iii) Use or allow the Demised Premises to be used for the sale or display to the public of any lewd, offensive or immoral sign or advertisement that offends the community standards including any sign or advertisement that promotes lewd, offensive or immoral activities that offend the community standards or for any public performance of any lewd, offensive or immoral activities that offends the community standards;

(iv) Use or allow the Demised Premises to be used for the sale of paraphernalia or other equipment or apparatus which is used primarily in connection with the taking or use of illegal drugs;

(v) Use or allow the improvements constructed on the Demised Premises or the Demised Premises to be used as a place of permanent residence by any Person or for any time share purposes;

(vi) Use or permit the Demised Premises to be used for a shooting gallery, target range, vehicle repair facility, car wash facility, warehouse (but any area for the storage of goods intended to be sold or used in connection with operations permitted hereunder shall not be deemed to be a warehouse), convalescent care facility or mortuary; or

(vii) Use or permit the use of the Demised Premises as a casino (or other establishment in which gambling is permitted or games of chance are operated), a gentlemen's club (or other establishment that allows full or partial nudity), a tattoo parlor, a massage parlor (provided that massage services may be offered by a licensed massage therapist as a part of a health, beauty or fitness operation) or a tanning parlor.

B. Alterations and Title to Improvements. Tenant and Developer shall have the right to make alterations, reconstructions, reconfigurations, remodels, additions and improvements to the Demised Premises from time to time as permitted by Landlord. Landlord hereby authorizes the alterations, reconstructions, reconfigurations, remodels, additions and improvements contemplated by the Approved Sublease, subject to compliance with all Applicable Laws. No approval of Landlord herein contained shall constitute a waiver or estop Landlord from exercising any of its rights, powers or duties in connection with its governmental functions or be deemed a wavier of any immunities or privileges granted the Landlord when performing its governmental functions. All of such alterations, additions and improvements constructed by Tenant or Developer during the term of this Lease and any extension of this Lease, shall be and remain the property of Tenant or Developer, as applicable, at all times during the term of this Lease and any extensions or renewals. All alterations, additions, improvements or fixtures (other than trade fixtures and signs) located on the Demised Premises upon the termination of this

Lease, shall be Landlord's property on termination of this Lease and shall remain a part of the Demised Premises without compensation to Tenant. All furniture, trade fixtures, signs and equipment installed in the Demised Premises by Tenant or Developer may be removed by Tenant or Developer, as applicable, at the termination of this Lease if Tenant or Developer, as applicable, so elects, and shall be so removed if required by Landlord, or if not so removed shall, at the option of Landlord, become the property of Landlord. In the event of any removal, Tenant or Developer, as applicable, shall at its expense repair and restore any portion of the Demised Premises which is damaged by such removal. All such alterations, additions and improvements shall be accomplished in good, workmanlike manner so as not to damage any portion of the Demised Premises.

7. **Assignment and Subletting.**

A. **Tenant.** Tenant may not, without the prior written consent of Landlord, which may be granted or withheld in the Landlord's sole discretion, sublease the Demised Premises or assign this Lease or its rights under this to any other party. Any approved assignment shall release Tenant from all of its obligations under this Lease. Notwithstanding the foregoing to the contrary, Tenant may sublease the Demised Premises to Developer pursuant to the terms of the Approved Sublease. If Tenant fails to enforce any provision of this Lease against Landlord, Developer as a third-party beneficiary hereunder may enforce such provision in accordance with the terms of this Lease. Further, Landlord may enforce the provisions of the Approved Sublease against Developer if Tenant fails to do so. Notwithstanding the foregoing, Landlord hereby confirms, acknowledges and agrees that, so long as the Approved Sublease remains in force and effect, (a) Developer, without any review, consent or approval by Landlord whatsoever, shall have the right, from time to time and at any time, subject to the provisions of the Approved Sublease, to lease, sublease, license, sublicense and/or grant other rights of use with respect to the development, opening and operation of the Garage and any and all related facilities as and on such terms and conditions Developer shall desire, and (b) Landlord shall have no right or claim to any of the rents (including, without limitation, sublease, license, and sublicense rents), revenues, profits, reimbursements or other amounts received by or paid to Developer under any such leases, subleases, licenses, sublicenses or other agreements granting rights to use the Garage, the Demised Premises or any portion of either of them.

B. **Landlord.** Except with respect to any entity created by Landlord in which Landlord has the power to appoint the majority of the members of the board of directors or the legal authority to control the actions of such entity, Landlord shall not effect a Landlord Transfer (as defined below) of its interest in the Demised Premises, or any part thereof or interest therein, or this Lease to any Person (as defined in the Approved Sublease) at any time or from time to time (a "Landlord Transferee"), without the prior approval of Tenant and Developer, such approval not to be unreasonably withheld. For purposes of this Section 7B, a "Landlord Transfer" shall mean any sale, conveyance, assignment or other transfer by Landlord of all or a portion of the Demised Premises or this Lease or any part thereof or interest therein by Landlord. Landlord shall promptly give notice to Tenant and Developer advising Tenant of the name of any Landlord Transferee. Any security given by Tenant to secure performance of Tenant's obligations

under this Lease will be transferred by Landlord to the successor in interest of Landlord, and Landlord shall thereby be discharged of any further obligation relating thereto.

8. **Tenant's Default And Landlord's Remedies.**

A. The occurrence of any of the following shall constitute a default by Tenant:

(i) Tenant fails to pay any rent, or any other amount to be paid by Tenant, when due, and such failure continues twenty (20) days after notice from Landlord to Tenant.

(ii) Tenant fails to perform a requirement of any provision of this Lease other than the payment of rental, charges or expenses when due, if the failure to perform is not cured within thirty (30) days after written notice has been given to Tenant; provided, however, if a non-monetary default cannot reasonably be cured within the thirty-day right-to-cure period, Tenant shall not be considered as being in default of this Lease if Tenant commences to cure such default as soon as reasonably practicable and diligently and in good faith proceeds to cure same.

B. If Tenant defaults under this Lease and does not cure the default within any applicable cure period permitted hereunder, Landlord as its sole remedies, shall have the option to pursue any one or more of the following without any further notice or demand whatsoever:

(i) Terminate this Lease by notice in writing to Tenant, in which event Tenant immediately shall surrender the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearages in rent, enter upon and take possession of the Demised Premises. Enter upon and take possession of the Demised Premises; provided that Landlord shall have no obligation to relet the Demised Premises so long as Landlord does not seek any damages or unpaid rental from Tenant for Tenant's default under this Lease.

(ii) Make such payments or enter upon the Demise Premises, and perform whatever Tenant is obligated to perform under the terms of this Lease (including without limitation payment of insurance premiums and taxes); and Tenant agrees to reimburse Landlord within ten (10) days after demand for any reasonable expenditures and expenses (together with interest thereon at Past Due Rate from the date paid by Landlord) which Landlord may make or incur in effecting compliance with Tenant's obligations under this Lease.

C. Notwithstanding the foregoing to the contrary, and subject to the terms of Section 17 hereof, if Developer is not in default under the Approved Sublease, despite any default by Tenant, Landlord will honor Developer's rights under the Approved Sublease and Tenant will, if requested by Landlord, assign its rights as landlord under the Approved Sublease to Landlord.

9. **Landlord's Default And Tenant's Remedies.**

A. **Defaults and Remedies.** In the event of any breach by Landlord of any covenant of Landlord under this Agreement, Tenant shall have the right to deliver to Landlord, in accordance with the provisions of Section 15E of this Lease, a written notice specifying such breach, and unless within thirty (30) days from and after the date of delivery of such notice Landlord shall have commenced to remove or to cure such breach or occurrence and shall be proceeding with reasonable diligence to completely remove or cure such breach or occurrence (provided such breach or occurrence must be cured within one hundred twenty (120) days after such notice), then Tenant shall have all remedies available at law or in equity, including, without limitation, termination, injunction and specific performance, subject, however, to the provisions of Section 9B of this Lease below. All remedies of Tenant under this Agreement shall be cumulative, and the failure to assert any remedy or the granting of any waiver (as provided in Section 15C of this Lease) of any event of default shall not be deemed to be a waiver of such remedy or any subsequent event of default.

B. **Certain Remedy Limitations.** Notwithstanding the provisions of Section 9A above, Tenant shall have the remedy of termination of this Agreement in connection with a default by Landlord only if such default is under Section 4B of this Agreement.

10. **Casualty and Condemnation.** The provisions of the Approved Sublease shall control in the event of: (a) any damage or destruction to the Demised Premises or any portion thereof by Casualty; or (b) any taking of the Demised Premises, or any portion thereof, by Condemnation. If the Approved Sublease shall be terminated as a result of any Casualty or Condemnation, then upon such termination, this Lease shall terminate. Any award to Tenant from any Casualty or Condemnation resulting in a termination of this Lease shall be paid to Landlord upon such termination (subject to Tenant's obligation to pay same to Developer pursuant to the Approved Sublease). For purposes of this Lease: (a) Casualty shall mean physical damage, physical destruction or other property casualty resulting from any fire or any other sudden, unexpected or unusual cause; and (b) Condemnation shall mean a taking by any governmental authority (or other person with power of eminent domain) by exercise of any right of eminent domain or by appropriation and an acquisition by any governmental authority (or other person with power of eminent domain) through a private purchase in lieu thereof, but shall not include the dedication of any portion of the Demised Premises necessary to obtain governmental authorizations or to comply with any other Applicable Law respecting the construction of any improvements on the Demised Premises.

11. **Trade Fixtures, Machinery and Equipment.** Landlord agrees that all trade fixtures, machinery, equipment, furniture or other personal property of whatever kind and nature kept or installed in the Demised Premises by Tenant or Developer shall not become the property of Landlord or a part of the realty no matter how affixed to the Demised Premises and may be removed by Tenant or Developer, as applicable, in their discretion, at any time and from time to time during the entire term of this Lease and any extensions. Upon request of Tenant or Developer, Landlord shall execute and deliver any real estate consent or waiver forms submitted by any vendors, lessors, chattel mortgagees or holders or owners of any trade fixtures,

machinery, equipment, furniture or other personal property of any kind and description kept or installed in the Demised Premises by Tenant or Developer, as applicable, setting forth the fact that Landlord waives, in favor of such vendors, lessors, chattel mortgagees or any holders or owners, any lien, claim, interest or other right superior to that of such vendors, lessors, chattel mortgagees, owners or holders. Landlord shall further acknowledge that property covered by such consent or waiver forms is personal property and is not to become a part of the realty no matter how affixed to it, and that such property may be removed from the Demised Premises by the vendors, lessors, chattel mortgagees, owners or holders at any time upon default by the subtenant in the terms of such chattel mortgage or other similar documents, free and clear of any claim or lien of Landlord. Upon the removal of any personal property in accordance with this Section 11 of this Lease, Tenant or Developer, as applicable, shall repair all damage to the improvements resulting from the removal and shall cap all plumbing and electrical facilities.

12. **Holding Over.** If Tenant continues to occupy the Demised Premises after the last day of the term, or after the last day of any extension of the term, and Landlord elects to accept rent thereafter, a tenancy from month-to-month only shall be created, and not for any longer period. All provisions of this Lease shall apply to Tenant's holdover occupancy, except that Tenant shall pay rent at the rate of one hundred fifty percent (150%) of the monthly rent payable for the last month of the lease term (or final extension thereof).

13. **Surrender of Possession.** Tenant shall, on or before the termination date of this lease, peaceably and quietly leave, surrender and yield up to Landlord the Demised Premises, free of subtenancies (including Developer), and in a clean condition and free of debris or as otherwise provided for in this Lease, and reasonable wear and tear. Upon expiration or termination of this Lease, Tenant shall execute and deliver to Landlord a recordable termination of the leasehold estate.

14. **Estoppel Certificate.** Landlord shall, at any time and from time to time upon not less than ten (10) days' prior written request by Tenant, execute, acknowledge and deliver to Tenant a statement in writing certifying (a) its ownership of the interest of Landlord hereunder, (b) that this Lease is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (c) the dates to which any rent or other charges required hereunder have been paid, and (d) that, to the best knowledge of Landlord, no default hereunder on the part of Tenant exists (except that if any such default does exist, the certifying Party shall specify such default). Upon request by Tenant, Landlord's estoppel certificate also shall be addressed to Developer or its leasehold mortgagee.

15. **Miscellaneous Provisions.**

A. **Invalidity:** If any term or provision of this Lease or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances other than those as to which it is held invalid or unenforceable, shall not be affected.

B. **Successors, etc.:** Subject to Section 7 of this Lease, the terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties, their representatives, successors or assigns, and shall run with the land.

C. **Writing:** No waivers, alterations or modifications of this Lease or any agreements in connection with this Lease shall be valid unless in writing duly executed by both Landlord and Tenant.

D. **Construction:** The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope of intent of such paragraphs of this Lease or in any way affect this Lease. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of singular shall be deemed to include the plural and, conversely, the plural shall be deemed to include the singular.

E. **Notices:** If, at any time after the execution of this Lease, it shall become necessary or convenient for one of the parties to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing, signed by the party serving the same, sent by registered or certified United States mail, return receipt requested, postage prepaid and (a) if intended for Landlord, shall be addressed to:

City of Amarillo, Texas
509 SE 7th, Suite 303
Amarillo, Texas 79101
Attn: City Manager

with a copy to:

City of Amarillo, Texas
509 SE 7th, Suite 303
Amarillo, Texas 79101
Attn: City Attorney

and (b) if intended for Tenant, shall be addressed to:

Amarillo Local Government Corporation
c/o Amarillo City Manager
509 SE 7th, Suite 303
Amarillo, Texas 79101
Attn: Board President

with copies of all correspondence by either Party sent to:

Wallace Bajjali Development Partners, LP
13135 Dairy Ashford Rd., Suite 150
Sugar Land, Texas 77478
Phone: (281) 768-6700
Fax: (281) 768.6719
Attn: Joe Esch

and:

Andrews Kurth LLP
600 Travis St., Suite 4200
Houston, Texas 77002
Phone: (713) 220-3938
Fax: (713) 238-7295
Attn: Mark B. Arnold

or to such other address or additional addresses as either party may have furnished to the other in writing as place for the service of notice. Any notice so mailed shall be deemed to have been given as of the time it is deposited in the United States mail.

16. **Zoning and Permits.** In the event that Tenant and/or Developer deems it necessary or appropriate to obtain use, zoning, site plan approval or any permit from Landlord or any other governmental authority having jurisdiction over the Demised Premises or any part thereof, Landlord shall, from time to time upon request of Tenant and/or Developer and to the extent necessary as fee owner of the Demised Premises, cooperate with Tenant and/or Developer or join in such petitions, applications and authorizations as may be appropriate. The terms of this Section 17 shall survive the termination of this Lease.

17. **Recognition, Non-Disturbance and Attornment.**

A. **Notice of Default; Termination; Certain Cure Rights.**

(i) **Event of Default.** Landlord and Tenant hereby agree that they will deliver copies of any written notices described in Sections 8 or 9 of this Lease above to Developer simultaneously with delivery of such notices to the other party. Additionally, Tenant agrees to deliver to Landlord copies of any written notices delivered by Tenant to Developer or received by Tenant from Developer in connection with any "**Event of Default**", "**Tenant Default**", or "**Landlord Default**" under the Approved Sublease or other Project Documents (as defined in the Approved Sublease).

(ii) **Termination.** Landlord and Tenant hereby further agree to provide Developer at least ten (10) days written notice prior to any termination of this Lease.

(iii) **Right to Cure Defaults.** In the event of any default by Landlord or Tenant hereunder, Developer shall have the right (but not the obligation) to cure such default,

and any default cured by Developer hereunder shall be deemed to have been cured by the applicable defaulting party. In the event Developer provides written notice to Landlord or Tenant, as applicable, of Developer's intent to cure any such default within the cure periods set forth in this Lease, such cure periods shall be automatically extended for a reasonable period of time (but in no event less than thirty (30) days) sufficient for Developer to commence and complete such cure. Without in any manner limiting any rights Developer may have under the Approved Sublease, if Developer exercises its right to cure a default by one of the parties hereunder, the amount of any payment made or other reasonable expenses (including reasonable attorneys' fees) incurred by Developer in curing such default (with interest thereon at the rate of ten percent (10%) per annum) shall be payable by the defaulting party to Developer on demand.

B. **Recognition.** Upon any termination or surrender of this Lease prior to the expiration of the term of this Lease, or upon any exercise by Landlord of any right of re-entry or other remedy under this Lease (each of the foregoing, a "Recognition Event"), provided no Tenant Default under the Approved Sublease has occurred and remains uncured after the lapse of all applicable notice and cure periods, if any, thereunder: (i) Landlord will recognize (x) Developer as the "Tenant" under the Approved Sublease and (y) all of the rights, titles and interests of Developer under the Project Documents, (ii) except as provided otherwise in this Lease, Landlord shall be bound to Developer as "Landlord" under the Approved Sublease (to the extent Landlord succeeds to the interest of the Amarillo Local Government Corporation thereunder, as if Landlord were the "Landlord" thereunder from and after the date of the Recognition Event, (iii) Landlord will assume and perform all of the duties and obligations of the "Amarillo Local Government Corporation" arising under all of the Project Documents on and after the date of the Recognition Event, and (iv) Landlord's obligations under this Lease shall survive such Recognition Event and Developer shall continue to be a third party beneficiary of this Lease, fully entitled to enforce the terms, provisions, covenants and agreements of either party set forth herein.

C. **Nondisturbance.** So long as no Tenant Default has occurred and is continuing under the Approved Sublease (beyond the term of any cure period provided in the Approved Sublease) at the time of any early termination or surrender of this Lease, or exercise by Landlord of any right of re-entry or other remedy under this Lease, Landlord covenants and agrees that upon any such event, Developer's possession and use of the Demised Premises and the Garage and Developer's rights and privileges under the Approved Sublease and the other Project Documents shall not be diminished or interfered with by Landlord, and Developer's use and occupancy of the Demised Premises and the Garage shall not be disturbed during the term of the Approved Sublease.

D. **Attornment.** Upon any termination of this Lease, Developer (by virtue of the joinder attached to this Lease) agrees to recognize and attorn to Landlord as "Landlord" under the Approved Sublease, and Developer, Landlord and Tenant hereby agree that the Project Documents shall continue in full force and effect as direct agreements, in accordance with the terms contained therein, between Landlord and Developer.

E. **Further Documentation.** The provisions of this Section 18 shall be effective and self-operative without any need for Landlord, Tenant or Developer to execute any further documentation. However, upon the receipt of written request, Landlord, Tenant or Developer shall confirm the provisions of this Section 18 in writing to the requesting party within fifteen (15) days of receipt of such written request. Additionally, without in any manner limiting the self-operative provisions of this Section 18, upon the written request of Developer or Tenant, Landlord will enter into a nondisturbance agreement with Developer (or any mortgagee of Developer's interest under the Approved Sublease). Such nondisturbance agreement shall include such reasonable provisions as requested by Developer (or its mortgagee), subject to the reasonable approval of Landlord, but in any event shall (a) reaffirm Landlord's ownership of the Demised Premises, (b) confirm (if true) that this Lease is in full force and effect without default by Tenant (or, if a default exists, specifying the default and the remedy required by Landlord), and (c) in the case of Developer (or its mortgagee), provide, in substance, that, so long as Developer (or its mortgagee should such mortgagee succeed to Developer's rights under the Approved Sublease) complies with all of the terms of the Approved Sublease, Landlord, in the exercise of any of its rights or remedies under this Lease, shall not deprive Developer (or its mortgagee, if applicable) of possession, or the right of possession, of the Garage during the term of the Approved Sublease, deprive Developer (or its mortgagee, if applicable) of any other rights under the Approved Sublease, or join Developer (or its mortgagee) as a party in any action or proceeding to enforce or terminate this Lease or obtain possession of the property leased in the Approved Sublease, for any reason other than a breach by Developer (or its mortgagee) of the terms of the Approved Sublease, which would entitle Tenant to dispossess Developer thereunder or otherwise terminate Developer's rights thereunder.

F. **No Modification or Amendment.** For so long as the Approved Sublease shall remain in full force and effect, this Lease shall not be modified or amended in any manner without the prior written consent of Developer, which consent shall not be unreasonably withheld.

G. **Survival.** The terms of this Section 17 shall survive the termination of this Lease.

18. **No Impact Fees.** Landlord hereby acknowledges and agrees that Landlord does not charge any impact fees or any similar charges or fees permitted by Applicable Law that would be payable by Developer in connection with the Demised Premises, this Lease, the Approved Sublease, and/or any construction, maintenance, repair, alterations, renovations, improvements, remedial, casualty repair or condemnation repair work contemplated by either this Lease or the Approved Sublease.

19. **Waiver of Street Closure Fees.** Tenant and Developer shall have the continuing right to temporarily close any and all City streets in the City of Amarillo, Texas, adjacent to or within the Demised Premises in connection with Construction Work (as defined in the Approved Sublease) (any such closure, a "**Street Closure**"); provided that (A) prior to any Street Closure Developer shall obtain all necessary governmental authorizations to effect same and (B) all Street Closures will be conducted in accordance with, and during such periods as permitted by,

such governmental authorizations and Applicable Laws. Notwithstanding any language in this Lease to the contrary, Landlord does hereby waive any and all fees and similar charges (collectively, "Street Closure Fees") that might otherwise be payable by Tenant or Developer in connection with a Street Closure. The terms of this Section 19 shall survive the termination of this Lease.

20. Development Fees. Landlord hereby releases Tenant and Developer from, and waives all rights to collect, any and all development fees, including building permit fees (but not including re-inspection fees) that might otherwise be payable by Tenant or Developer to Landlord in connection with the Demised Premises, this Lease, the Approved Sublease and/or any construction, maintenance, repair, alterations, renovations, improvements, remedial, casualty repair or condemnation repair work contemplated by either this Lease or the Approved Sublease. The terms of this Section 20 shall survive the termination of this Lease.

21. Construction Lay-down Areas. In the event Developer, pursuant to Section 3.4 of the Approved Sublease, requests the use of a portion of any real property in the immediate vicinity of the Demised Premises owned or leased by Landlord as a construction lay-down area in connection with Construction Work during the term of this Lease, Landlord agrees to take any and all reasonable actions necessary to effectuate the terms of Section 3.4 of the Approved Sublease.

22. Brokerage Commission. Landlord and Tenant represent and warrant one to the other that no broker commission, finder's fees or similar compensation is due to any party claiming by, through or under Landlord or Tenant, as applicable.

23. Landlord's Lien Waiver. Landlord hereby waives all landlord's liens that Landlord might hold, statutory or otherwise, to any of Tenant's (or Developer's) inventory, trade fixtures, equipment or other personal property now or hereafter placed on or within the Demised Premises or any portion thereof.

24. Non-Waiver. No Party shall have or be deemed to have waived any default under this Lease by the other Party unless such waiver is embodied in a document signed by the waiving Party that describes specifically the default that is being waived. Further, no Party shall be deemed to have waived its rights to pursue any remedies under this Lease, unless such waiver is embodied in a document signed by such Party that describes specifically any such remedy that is being waived.

25. Entire Agreement. This Lease and the documents referenced in this Lease constitute the entire agreement between Landlord and Tenant regarding the subject matter thereof. There are no representations, promises or agreements of either Landlord or Tenant, one to the other, regarding the subject matter of this Lease not contained in this Lease or the documents referenced in this Lease.

26. Covenants Running with the Land. The Parties hereto covenant and agree that all of the conditions, covenants, agreements, rights, privileges, obligations, duties, specifications and recitals contained in this Lease, except as otherwise expressly stated herein, shall during the Term be construed as covenants running with title to the Demised Premises, and the leasehold

estate hereunder, respectively, which shall extend to, inure to the benefit of and bind Landlord, Tenant and their respective permitted successors and assigns to the same extent as if such successors and assigns were named as original parties to this Lease, such that this Lease shall during the Term bind the owner and holder of any fee or leasehold interest in or to the Demised Premises, or any portion thereof, and shall bind predecessors thereof except as otherwise expressly provided herein.

27. **Non-Merger of Estates.** The interests of Landlord and Tenant in the Demised Premises shall at all times be separate and apart and shall in no event be merged, notwithstanding the fact that this Lease or the leasehold estate created hereby, or any interest therein, may be held directly or indirectly by or for the account of the same Person who shall own the fee title to the Premises or any portion thereof; and no such merger of estates shall occur by operation of law, or otherwise, unless and until all Persons at the time having any interest in the Demised Premises or under this Lease join in the execution and recordation of a written instrument effecting such merger of estates.

28. **Recording of Memorandum of Ground Lease.** The Parties shall execute a Memorandum of Ground Lease, and Tenant shall file the same in the Real Property Records of Potter County, Texas. Upon the expiration or earlier termination of this Lease, Tenant shall execute such instruments as may be reasonably requested by Landlord in recordable form that are sufficient to release of record any rights or interests of Tenant in and to the Demised Premises.

29. **Third Party Beneficiary Status to this Agreement.** Landlord and Tenant hereby confirm, acknowledge and agree that Developer is, and shall at all times, be a third party beneficiary of this Agreement, fully entitled to enforce the terms, provisions, covenants and agreements of either Party set forth herein; provided, however, prior to enforcing any particular rights directly against Landlord, Developer must have made written demand on Tenant to enforce such rights directly against Landlord and Tenant shall have failed or refused to do so within a reasonable period of time following Developer's demand. The word "Developer" as used in this Lease shall extend to and include the entity originally executing the Approved Sublease as the tenant thereunder, as well as any and all Persons who at any time or from time to time during the term of Approved Sublease shall succeed to the interest and estate of Developer under the Approved Sublease in accordance with the terms and provisions thereof. All of the covenants, agreements, conditions and stipulations contained in this Lease which inure to the benefit of Developer shall also inure to the benefit of such Persons who shall at any time or from time to time succeed to the interest and estate of Developer under the Approved Sublease in accordance with the terms and provisions thereof. All of the obligations contained in this Lease which are binding on Developer shall also bind such Persons who shall at any time or from time to time succeed to the interest and estate of Developer under the Approved Sublease in accordance with the terms and provisions thereof.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

CITY OF AMARILLO, TEXAS, a Texas home rule city

By: W. L. [Signature]
Name: W. L. [Signature] ATKINSON
Title: CITY MANAGER

TENANT:

AMARILLO LOCAL GOVERNMENT CORPORATION, a Texas local government corporation

By: Richard F. Brown
Name: Richard F. Brown
Title: President

EXHIBIT "A"

DEMISED PREMISES

LOT NOS. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, BLOCK NO. 83, PLEMONS ADDITION TO THE CITY OF AMARILLO, POTTER COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF FILED OF RECORD IN VOLUME 59, PAGE 198, DEED RECORDS OF POTTER COUNTY, TEXAS.

Exhibit "A"

SCHEDULE 1

READY FOR CONSTRUCTION

“Ready for Construction” means the following described work has been performed with respect to the Demised Premises in accordance with all Applicable Laws:

(a) The demolition and removal of all existing vertical improvements (including buildings, light poles, etc.) and the resulting debris located upon the Demised Premises required to be removed in order to deliver the Demised Premises to the Tenant in a construction-ready condition.

(b) All work contemplated by Section 1C of the Lease including abatement of all asbestos.

(c) All on-site archeological work necessary to comply with the Antiquities Code of Texas;

(d) The abandonment and disconnection of all public and private utility lines crossing the Demised Premises or any portion thereof; provided, however, that the buried public and private utility pipelines within former easements and service feeds to the former buildings will remain in place but be removed from service.

(e) The abandonment of any public or private streets and easements within the Demised Premises.

(f) All work necessary to cause utilities to be available at the Demised Premises subject to Developer’s providing Tenant (and Tenant providing Landlord) the necessary description of the location and the capacity of required water, sanitary sewer, storm sewer, electric, gas, telephone and cable, which description and capacity shall be reasonably acceptable to Tenant and Landlord, and not require oversizing of any utilities beyond applicable code requirements unless the cost thereof are to be paid by Developer or such oversizing is otherwise agreed to be provided by Landlord or Tenant.