

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

DURANT CITY UTILITIES AUTHORITY

6:00 PM

**Roscoe J. Hatfield
Council Chambers
300 West Evergreen
Durant, Oklahoma**

October 10, 2023

AGENDA

CALL TO ORDER

ROLL CALL

ORDER OF BUSINESS

1. Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

- a. Consider Approval of Regular Meeting Minutes of September 12, 2023

2. Consider Items Removed from Consent

3. Information Items

4. Administration

- a. Discussion, Consideration and Possible Action on Approving the Purchase of Parts to Repair the UV System at the Waste Water Treatment Plant at the Cost of \$50,965.00
- b. Discussion, Consideration and Possible Action on Accepting a Quote from Custom Manufacturing for 5 Open Top 20 Yard Roll-Off Containers and 5 Enclosed Top 20 Yard Roll-off Containers for the Total Amount of \$64,500.24
- c. Consider Approval of Amended Water Purchase Contract Between the Durant City Utilities Authority and Rural Water and Sewer District No. 5 (C-2023-70)

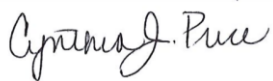
- d. Consider Approval of Amended industrial Water Purchase Contract Between the Durant City Utilities Authority and Rural Water and Sewer District No. 5 (C-2023-71)

5. New Business

ADJOURNMENT

CERTIFICATE

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 8th day of November, 2022 and that an agenda of said meeting was posted at the place of such meeting at 5:00 p.m. on the 5th day of October, 2023.



Cynthia J. Price, City of Durant



The City of Durant

Memorandum

Date: 10/10/2023
To: Mayor and City Council
From: Cynthia Price, City Clerk
Re: Consider Approval of Regular Meeting Minutes of September 12, 2023

Council Information / Action Requested

Approval of Regular Meeting Minutes of September 12, 2023

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

ATTACHMENTS:

1. Durant City Utilities Authority Minutes 09122023 cjp

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 8th day of November, 2022 and that an agenda of said meeting was posted at the place of such meeting at 5:35 p.m. on the 7th day of September, 2023. An amended agenda of said meeting was posted at the place of such meeting at 2:35 p.m. on the 11th day of September, 2023.



Cynthia J. Price, City of Durant

**MINUTES OF THE MEETING OF DURANT CITY UTILITIES AUTHORITY
September 12, 2023 AT 6:00 PM
Roscoe J. Hatfield Council Chambers
300 West Evergreen
Durant, Oklahoma**

CALL TO ORDER

Chairman Tucker called the meeting to order at 7:50 p.m.

ROLL CALL

Present:

Trustee Lauran Fuller
Trustee Humphrey Miller
Trustee Danny Sherrer
Vice Chairman Mike Simulescu
Chairman Martin Tucker
City Attorney Tom Marcum
Interim City Manager Rick Rumsey
City Clerk Cynthia J. Price

Absent:

None

ORDER OF BUSINESS

1. Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

- a. Consider Approval of Regular Meeting Minutes of August 8, 2023
- b. Consider Approval of Special Called Meeting Minutes of August 14, 2023

Motion To: Approve Consent Items as Presented

Motion By: Humphrey Miller

Seconded By: Lauran Fuller

Ayes: Fuller, Miller, Sherrer, Simulescu, Tucker

Nays: None

Abstain: None

2. Consider Items Removed from Consent

3. Information Items

4. Administration

- a. Consider Approval of Resolution Establishing Fees and Costs Charged by the City of Durant and Durant City Utility Authority for Durant Services (R-2023-15)

Motion To: Approve Resolution Establishing Fees and Costs Charged by the City of Durant and Durant City Utility Authority for Durant Services (R-2023-15)

Motion By: Martin Tucker

Seconded By: Humphrey Miller

Ayes: Fuller, Miller, Sherrer, Simulescu, Tucker

Nays: None

Abstain: None

5. New Business

There was no new business.

ADJOURNMENT

Motion To: Adjourn Meeting

Motion By: Martin Tucker

Seconded By: Michael Simulescu

Ayes: Fuller, Miller, Sherrer, Simulescu, Tucker

Nays: None

Abstain: None



The City of Durant

Memorandum

Date: 10/10/2023
To: Mayor and City Council
From: Phillip Hightower, Public Works Director
Re: Discussion, Consideration and Possible Action on Approving the Purchase of Parts to Repair the UV System at the Waste Water Treatment Plant at the Cost of \$50,965.00

This cost is to bring our UV System up to DEQ requirements. Our system is outdated and this company will be a sole source purchase.

Council Information / Action Requested

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

ATTACHMENTS:

1. UV Parts (1)

UltraTech Systems, Inc.

33 Sunset Ridge
Carmel, NY 10512
Tel (845) 225-5444
Fax (845) 225-5455

Quotation

DATE	QUOTE #
9/5/2023	UTS-1632

NAME / ADDRESS
Jody Bush Durant WWTP 1222 Davis Road Durant, OK 74701

Ship To
Jody Bush Durant WWTP 1222 Davis Road Durant, OK 74701

TERMS	REP	FOB	Est. Ship Date
Net 30		Ship Point	6 - 8 Weeks ARO

ITEM	DESCRIPTION	QTY	U/M	COST	TOTAL
UVPWR2000	Power Board Assembly - 20 Lamps	15		2,699.00	40,485.00
				TOTAL	\$40,485.00

This quote is valid for 30 days and subject to review at such time.

UltraTech Systems, Inc.

33 Sunset Ridge
Carmel, NY 10512
Tel (845) 225-5444
Fax (845) 225-5455

Quotation

DATE	QUOTE #
9/5/2023	UTS-1634

NAME / ADDRESS
Haynes Equipment Company 117 NW 132nd Street Oklahoma City, OK 73114 Attn: Accounts Payable - Rita Todd

Ship To
UltraTech Systems, Inc. % BRB Contractors Durant OK -WWTP Improvements 1222 Davis Road Durant, OK 74701

TERMS	REP	FOB	Est. Ship Date
Net 20	HAY	Ship Point	

ITEM	DESCRIPTION	QTY	U/M	COST	TOTAL
T40i020	Wiring Assembly for T40 Vertical UV modules. Harness including wiring and cables	5		1,898.00	9,490.00
T40I023-73	UltraTech Ribbon Cable - 73" (cable-between Power Board and MUX Board)	5		198.00	990.00
TOTAL					\$10,480.00

This quote is valid for 30 days and subject to review at such time.



The City of Durant

Memorandum

Date: 10/10/2023
To: Mayor and City Council
From: Phillip Hightower, Public Works Director
Re: Discussion, Consideration and Possible Action on Accepting a Quote from Custom Manufacturing for 5 Open Top 20 Yard Roll-Off Containers and 5 Enclosed Top 20 Yard Roll-off Containers for the Total Amount of \$64,500.24

The Landfill is seeking quotes to order 10 new 20 yard roll-offs. 5 closed top containers and 5 open top containers. We have three quotes, Texoma MFG with a total cost of \$83,950.00, Roll-Offs USA with a total cost of \$68,500.00 and Custom Manufacturing with a total cost of \$64,500.24. These items are in the budget and we are asking to accept the quote from Custom Manufacturing.

Council Information / Action Requested

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

ATTACHMENTS:

1. 20230929104312292 (1)



Kenny Cooper <kcooper@durant.org>
to Purchasing ▾

Can I also get a quote for 5 close top 20yd containers

Kenny Cooper
City of Durant
Landfill Manager
580-931-6661

...



Purchasing - Texoma MFG
to me ▾

\$9,895ea

...



Chase Crain

Purchasing

3324 N. First St

Durant OK, 74701

PH 580.920.0878

9,895
x
49,475

Kenny Cooper <kcooper@durant.org>
to Purchasing ▴

Can I get a quote for five 20yd open top roll-off containers with dual hook up.

Kenny Cooper
City of Durant
Landfill Manager
580-931-6661

Purchasing - Texoma MFG
to me ▴

\$6,895ea

Chase Crain

> On Aug 30, 2023, at 6:19 AM, Kenny Cooper <kcooper@durant.org> wrote:

6,895
x 5

34,475

Quote

Order Number: 0049239
Order Date: 8/29/2023
Salesperson: HOUS
Customer Number: DURANT

ROLL-OFFS USA
P.O. BOX 727
DURANT, OKLAHOMA 74702-0727
(580) 924-6355

Sold To:
CITY OF DURANT
Attn: Accounts Payable Clerk
P.O. Box 578
DURANT, OK 74702
Confirm To:
KENNY 580-920-2579

Ship To:
CITY OF DURANT
CUSTOMER PICK UP
Mead, OK 73449

Item Number	Unit	Ordered	Shipped	Back Order	Price	Amount
RR20S	ONE	5.000	0.000	0.000	5,050.000	25,250.00
20YD STD RECT						
SN: TBD						
Bill Option 1 Option 2 WHITE						
Bill Option 2 Option 3 61 3/4" AFFRAME						
Bill Option 5 Option 105 STD RET FLR AFFRAME DUAL HOOK						
20YD STD DUTY RECT						
DUAL HOOK UP (CABLE AND A-FRAME)						
61 3/4" HOOK HEIGHT						
COLOR: WHITE						
DISCOUNTED PRICE						
CUSTOMER PICK UP						

Net Order: 25,250.00
Less Discount: 0.00
Freight: 0.00
Sales Tax: 0.00
Order Total: 25,250.00

Quote

ROLL-OFFS USA
P.O. BOX 727
DURANT, OKLAHOMA 74702-0727
(580) 924-6355

Order Number: 0049252
Order Date: 8/30/2023
Salesperson: HOUS
Customer Number: DURANT

Sold To:
CITY OF DURANT
Attn: Accounts Payable Clerk
P.O. Box 578
DURANT, OK 74702
Confirm To:
KENNY 580-920-2579

Ship To:
CITY OF DURANT
CUSTOMER PICK UP
Weed, OK 73449

Customer P.O.		Ship Via	F.O.B.	Terms		
CPU				NET 30		
Item Number	Unit	Ordered	Shipped	Back Order	Price	Amount

RR20S	ONE	5.000	0.000	0.000	8,850.000	43,250.00
20YD STD RECT						
SN: TBD						
BIII Option 1 Option 2 WHITE						
BIII Option 2 Option 3 61 3/4" AFRAME						
BIII Option 4 Option 3 RECYCLE ROOF 4 DOOR						
BIII Option 5 Option 5 STD RET FLR AFRAME DUAL HOOK						
30YD STD DUTY RECYCLER						
20YD STD DUTY BASE, 10YD PEAKED ROOF						
4 DOORS PER SIDE						
DUAL HOOK UP (CABLE AND A-FRAME)						
61 3/4" HOOK HEIGHT						
COLOR: WHITE						
DISCOUNTED PRICE						
CUSTOMER PICK UP						

Net Order: 43,250.00
Less Discount: 0.00
Freight: 0.00
Sales Tax: 0.00
Order Total: 43,250.00



Date	8/31/2023
Estimate #	8300

Name / Address	
City of Durant 300 W. Evergreen Durant, OK 74701	

Ship To	
City of Durant - Landfill 1620 Blanchard Road Durant, OK 74701 Attn: Kenny Cooper Ph #580-924-8358	
Terms	FOB
Net 30	OK, OK
Other	

Item	Description	Qty	Cost	Total
RO2220B	20-Yd Open Top Roll-Off Container. Approx Inside Dimensions: 43" T x 84" W x 265" L Specs: 10 Ga., Walls, BH & Door; 4x4x3/16 Top Rail; 3/16" Floor; 6x2x3/16 Main Rails; Crossmembers On 18" Centers; (2) Hinges Per Rear Door.	5	5,175.00	25,875.00
OPTION-AMP	Stellar, Ampliroll, Etc., Lift Option. Customer To Advise On Ht. 45 Degree Mitre Cut On Front Side Of Main Rails To Keep Rails From Hitting Rollers On Truck. Customer Requests Combo Pull (Cable & A-Frame). Customer Must Provide Model & Drawing Of Container Requirements.	5	185.00	925.00
Push	Push Plate, 3/8x6 FB. Located Above Each Bull Nose Roller. Approx 40"	5	0.005	0.03
SERIAL NU...	Weld On Serial Numbers. #'S To Be Located On Driver's Side Front Top Rail (Approx 4" T) Customer To Advise On #'s.	5	0.005	0.03
PAINT	Paint Color - Customer To Advise *Interior / Exterior Primed Prior To Painting	5	0.005	0.03
ANSI	**ANSI Safety Decals Included On All Equipment.	5	0.005	0.03
Subtotal				
Sales Tax (9.375%)				
Total				

Thank You For The Opportunity To Quote On Your Container Needs. We
Look Forward To Working With You!

Certified Women Owned Small Business

Web Site:
www.custommanufacturing.us

jamie@custommanufacturing.us

405-692-6311

405-691-8190

Phone #

Fax #

Signed / Date _____
E-mail Acceptance To: jamie@custommanufacturing.us
or Fax To: 405-691-8190

Name / Address	City of Durant 300 W. Evergreen Durant, OK 74701
----------------	--

Item	Description	Qty	Cost	Total			
FREIGHT OUT	FOB Oklahoma City, OK. Based On The Current Diesel Rates, Freight To Be Determined @ Time Of Shipment. Note: Containers Will Be Nested. During Nesting (Loading) & Unloading Some Paint Damage Will Occur. Touch Up Paint Will Be Sent With Containers. If A Lower Freight Rate Can Be Obtained @ Time Of Shipment, The Savings Will Be Passed Onto The Customer.	1	600.00	600.00			
Thank You For The Opportunity To Quote On Your Container Needs. We Look Forward To Working With You!							
Phone #		405-692-6311					
Fax #		405-691-8190					
Web Site: www.custommanufacturing.us							
jamie@custommanufacturing.us							
<i>Certified Women Owned Small Business</i>							
Total		\$27,400.12					
Sales Tax (9.375%)		\$0.00					
Subtotal		\$27,400.12					

Page 2



City of Durant
300 W. Evergreen
Durant, OK 74701

Name / Address

City of Durant - Landfill
1620 Blanchard Road
Durant, OK 74701
Attn: Kenny Cooper
Ph #580-924-8358

Ship To

Net 30

OKC, OK

Terms

FOB

Other

Date

9/19/2023

Estimate #

8322

Item	Description	Qty	Cost	Total
RO2220	20-Yd Open Top Rectangular Style Roll-Off Container. Inside Dim: 42" T x 84" W x 265" L Specs: 12 Ga, Walls, BH & Door, Flat Bulkhead; 4x4x11 Ga, Top Rail; 3/16" Floor; 6x2x3/16 Main Rails; Crossmembers On 18" Centers; (2) Rear Door Hinges	5	5,300.00	26,500.00
RORR	10-Yd Roof (Recycling Container)	5	1,095.00	5,475.00
RORC	Covers, 30" x 30" Plastic Sliding Door .. Customer Requests (3) Unit Cost Per Door = \$75.00 x 6 = 450.00	5	450.00	2,250.00
OPTION-AMP	Stellar, Ampliroll, Etc., Lift Option. Customer To Advise On Ht. 45 Degree Mitre Cut On Front Side Of Main Rails To Keep Pull (Cable Hitting Rollers On Truck. Customer Requests Combo Pull (Cable & A-Frame). Customer Must Provide Model & Drawing Of Container Requirements.	5	185.00	925.00
Push	Push Plate, 3/8x6 FB. Located Above Each Bull Nose Roller. Approx 40"	5	0.005	0.03
SERIAL NU...	Weld On Serial Numbers. #S To Be Located On Driver's Side Front Top Rail (Approx 4" T) Customer To Advise On #s.	5	0.005	0.03
Subtotal				
Sales Tax (9.375%)				
Total				

Thank You For The Opportunity To Quote On Your Container Needs. We Look Forward To Working With You!

Phone #

Fax #

405-692-6311

405-691-8190

Web Site:

jamie@custommanufacturing.us

www.custommanufacturing.us

Certified Women Owned Small Business

Signed / Date _____
E-mail Acceptance To: jamie@custommanufacturing.us
or Fax To: 405-691-8190



City of Durant
300 W. Evergreen
Durant, OK 74701

Name / Address

City of Durant - Landfill
1620 Blanchard Road
Durant, OK 74701
Attn: Kenny Cooper
Ph #580-924-8358

Ship To

Net 30

OKC, OK

Terms

FOB

Other

9/19/2023

8322

Date

Estimate #

Net 30	OKC, OK
Terms	FOB
Other	

Item	Description	Qty	Cost	Total
PAINT	Paint Color - Customer To Advise *Interior / Exterior Primed Prior To Painting	5	0.005	0.03
ANSI	**ANSI Safety Decals Included On All Equipment.	5	0.005	0.03
FREIGHT OUT	FOB Oklahoma City, OK. Based On The Current Diesel Rates, Freight To Be Determined @ Time Of Shipment. Note: Containers Will Be Nested. During Nesting (Loading) & Unloading Some Paint Damage Will Occur. Touch Up Paint Will Be Sent With Containers. Up To (2) Containers Can Be Shipped Per Load. Mileage To Durant, OK = 169 Miles. If A Lower Freight Rate Can Be Obtained @ Time Of Shipment, The Savings Will Be Passed Onto The Customer.	3	650.00	1,950.00

Thank You For The Opportunity To Quote On Your Container Needs. We
Look Forward To Working With You!

Subtotal

\$37,100.12

Sales Tax (9.375%)

\$0.00

Total

\$37,100.12

Certified Women Owned Small Business

405-692-6311

405-691-8190

Phone #

Fax #

jamie@custommanufacturing.us

Web Site:
www.custommanufacturing.us

Signed / Date _____
E-mail Acceptance To: jamie@custommanufacturing.us
or Fax To: 405-691-8190



The City of Durant

Memorandum

Date: 10/10/2023
To: Mayor and City Council
From: Rick Rumsey, Interim City Manager
Re: Consider Approval of Amended Water Purchase Contract Between the Durant City Utilities Authority and Rural Water and Sewer District No. 5 (C-2023-70)

The proposed contract was approved by the Rural Water District 5 Board at their meeting on October 3, 2023.

Council Information / Action Requested

Approval of Amended Water Purchase Contract Between the Durant City Utilities Authority and Rural Water and Sewer District No. 5 (C-2023-70)

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

ATTACHMENTS:

1. C-2023-70 RWD5 Amended Water Purchase Contract Final Distribution

AMENDED WATER PURCHASE CONTRACT

The contract for the sale and purchase of water is entered into as of the ____ day of _____, 2023 between The Durant City Utilities Authority, an Oklahoma Public Trust, located at 300 West Evergreen, Durant, OK 74701, hereinafter referred to as the "Seller" and Rural Water and Sewer District No. 5, Bryan County, Oklahoma, 22404 State Road 78 South, Durant, OK 74701, hereinafter referred to as the "Purchaser". This Amended Water Purchase Contract replaces and supersedes that certain Water Purchase Contract dated July 9, 2002, between the Seller and Purchaser and any amendments, additions or modifications thereto;

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of 82 O.S. §1324.1, et. seq., for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the Purchaser, and

Now, therefore in consideration of the foregoing and the mutual agreements hereinafter set forth.

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the State of Oklahoma, Department of Environmental Quality in such quantity as may be required by the Purchaser not to exceed 2,400,000 average gallons per day. .

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant average pressure calculated at a minimum of forty (40) pounds per square inch from the most easily accessible point of supply which would be located in Bryan County, State of Oklahoma. If greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be born by the Purchaser. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire, and use of water to fight the fire, earthquake, or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to

restore service.

3. (Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the 12 months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read between the 10th and 20th day of each month. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings.

4. (Billing Procedure) To furnish the Purchaser at the above address no later than the tenth (10th) day of each month, with an itemized statement of the amount and cost of water furnished to the Purchaser during the preceding month.

B: The Purchaser Agrees:

5. (Rates and Payment Date) To pay the Seller, not later than the fifteenth (15th) day of each month, for water delivered in accordance with the following schedule of rates:

Purchaser agrees to pay \$3.05 per thousand gallons, or pay to Seller the sum of \$500,000.00 annually, whichever is greater. The rate shall increase two percent (2%) annually from the previous year's rate effective each July 1 unless otherwise agreed by the parties in writing.

6. (Tax Covenants) Purchase acknowledges that Seller has advised Purchaser that the requirements of the Internal Revenue Code of 1986 and regulations adopted thereunder (collectively, the "Code") applicable to obligations issued and to be issued by Seller to finance water facilities must be complied with in order for interest on such obligations to be and remain exempt from Federal income taxation. To ensure and maintain compliance with such Code requirements, Purchaser makes the following covenants:

a. Purchaser will not sell any water purchased under this Contract in any manner that could cause such sale to result in any facility of Seller being deemed to be used for a private business use under the Code.

b. Purchaser shall not be prohibited from reselling any water purchased under

this Contract, whether directly or as a part of a sale of water from Purchaser's water system, to a wholesale purchaser for resale by such wholesale purchaser provided that Purchaser may charge a wholesale purchaser not more than ten percent (10%) above the cost to Purchaser to provide the wholesale water. Purchaser will be deemed to be reselling water to a wholesale purchaser under the terms set forth herein if Purchaser took delivery of any water from Seller on the day of sale to the wholesale purchaser or on the day immediately preceding the delivery to wholesale purchaser regardless of the source of the water actually delivered to wholesale purchaser.

c. Purchaser will not enter into any arrangements for water purchased under this Contract and resold to Purchaser's retail customers except for arrangements for water sale that is available to the general public at either (i) no charge, or (ii) on the basis of rates that are generally applicable and uniformly applied it being understood that for this purpose, rates may be treated as generally applicable and uniformly applied even if different rates apply to different classes of users, such as volume purchasers, if the differences in rates are customary and reasonable; or a specifically negotiated rate arrangement is entered into, but only if the user is prohibited by federal law from paying the generally applicable rates, and the rates established are as comparable as reasonably possible to the generally applicable rates; and

d. Purchaser will not enter into any arrangement for water purchased under this Contract and resold to Purchaser's retail customers that conveys priority rights or other preferential benefits or that would obligate any retail customer to make payments that are not contingent on the amount of water purchased by such customer such as take or payor take and pay contracts.

In the event such Code requirements, or interpretations thereof, change after the date hereof, any or all of the foregoing may be modified, by notice in writing from seller to Purchaser based on the advice of counsel, to reflect such changes.

Purchaser shall confirm to Seller at least annually by December 31 that it has not sold any water purchased under this Contract other than in compliance with the foregoing. Nothing contained in this Section shall affect the ability of Purchaser to sell water to any customers under any conditions if and to the extent such sales are made solely from resources other than water purchased under this Contract.

7. (Additional Tax Covenants) Purchaser represents and confirms that it is a rural water district duly organized and established under the provisions of 82 O.S. 1324.1 et seq. and covenants that it will continue to be such a rural water district for the term of this Contract. Purchaser further represents and confirms that it is exempt and will remain exempt from federal income taxation for the term of this Contract and, by virtue of such exemption, has not and will not file Federal income tax returns or paid and will not pay any Federal income tax for the term of this Contract.

8. (Remedies and Indemnification for Breach of Tax Covenants) Purchaser and Seller agree that (a) the provisions of Section 8.2. and 8.3. constitute material terms and conditions of this Contract; (b) Seller has the right to terminate this Contract by giving thirty (30) days' written notice to Purchaser in the event Seller determines, in good faith, that Purchaser has breached either Section 8.2. or 8.3. and (c) because of the importance to Seller of preserving the tax-exempt treatment of the interest on its obligations, determinations by Seller, in good faith as to Purchaser's compliance with the provisions of Sections 8.2. and 8.3. Shall be conclusive. Notwithstanding the foregoing, Purchaser agrees to indemnify and hold harmless Seller for all costs incurred by Seller, including reasonable fees of counsel and other professions, with respect to any action required to be taken by seller to prevent, defend or settle any threatened, preliminary or final action or investigation by the Internal Revenue Service questioning or attacking the tax-exempt status under the Code of the interest on obligations issued by Seller arising from any violation by Purchaser of either Section 8.2. or 8.3., except to the extent such violation result from any sale or resale approved in writing by Seller in its sole discretion. Any provisions contained herein which provide for indemnification shall not apply to the United States in the event that it or one of its agencies becomes a successor in interest to the Purchaser. The Section shall survive the expiration or earlier termination of this Contract.

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. (Term of Contract) That this contract shall extend for a term of twenty-five (25) years from the date of execution of this contract and thereafter shall be automatically extended for a term that is sufficient to cover the term of any outstanding indebtedness of the Purchaser to the United States of America; provided, however, that this Contract may be terminated at any time by the mutual consent of the Seller and Purchaser, and with the consent of the State Director of Rural Utilities Service.

2. (Water for Testing) When requested by the Purchaser, the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a charge of fifty cents (\$0.50) per thousand gallons, which will be paid by the contractor or, on his failure to pay, by the Purchaser.

3. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of a shortage of

water, or the supply of water available to the Seller is otherwise diminished, the supply of water to Purchaser shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.

4. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of each year. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system that does not provide any benefit to the Purchaser. The Seller shall keep enterprise accounts of the direct cost of producing water and delivering water to the point of delivery as described in paragraph A-2. Other provisions of this contract may be modified or altered by mutual agreement and with the approval of the State Director of Rural Utilities Service.

5. (Covenant Not to Sue) Purchaser, as additional consideration, covenants that it will not institute any suit or action at law or otherwise against Seller or the beneficiary of the Seller, the City of Durant, of any claim, hold Seller responsible for any damage it may have suffered in the past and as of the date of this agreement for Seller's failure to implement an *enterprise accounting system* as required by 11 O.S. Section 37-119 and Section 37-119a.

6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

7. (Miscellaneous) That the construction of the water improvements to the water supply distribution system of the Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Rural Utilities Service of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of the Rural Utilities Service.

8. (Successor to the Purchaser) That in the event of any occurrence rendering the purchaser incapable of performing under this contract, any successor to the Purchaser, whether as the result of legal process, assignment or otherwise, shall succeed to the rights of the respective parties hereto.

9. (Fee Collection, Compensation, and Termination of Fee Collection Agreement) Purchaser Agrees to send billing statements for sanitary sewer and solid waste customers of the Seller for those customers which receive water service from Purchaser. The parties mutually agree on a billing procedure and a policy on service termination of customers for non-payment.

Purchaser shall, as compensation for providing the foregoing billing service, receive a sum equal to ten percent (10%) of all sanitary sewer and solid waste bills collected by Purchaser. All funds so collected shall be paid directly to Seller upon receipt. Seller shall pay purchaser within 30 days of receipt of the collected funds.

Either party hereto may terminate that portion of this Agreement stated in this section C.10. (Fee Collection, Compensation, and Termination of Fee Collection Agreement) upon giving sixty (60) days notice to the other party. However, cancellation of this portion of the agreement shall in no way affect the provisions of this Amended Water Purchase Contract between the parties and its term shall remain unaffected by any such cancellation.

10. This contract and any amendments thereto may be pledged as security to the United States of America acting through the Rural Utilities Service of the United States Department of Agriculture for the purpose of securing loans made to the Purchaser.

In witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in multiple counterparts, each of which shall constitute an original.

Martin Tucker, Chair
Durant City Utilities Authority

Stan Presley, Chair
Bryan County Rural Water District 5



The City of Durant

Memorandum

Date: 10/10/2023
To: Mayor and City Council
From: Rick Rumsey, Interim City Manager
Re: Consider Approval of Amended industrial Water Purchase Contract Between the Durant City Utilities Authority and Rural Water and Sewer District No. 5 (C-2023-71)

The proposed contract was approved by the Rural Water District 5 Board at their meeting on October 3, 2023.

Council Information / Action Requested

Approval of Amended industrial Water Purchase Contract Between the Durant City Utilities Authority and Rural Water and Sewer District No. 5 (C-2023-71)

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

ATTACHMENTS:

1. C-2023-71 RWD5 Amended Industrial Water Purchase Agreement Final Distribution

AMENDED INDUSTRIAL WATER PURCHASE AGREEMENT

This Amended Industrial Water Purchase Agreement ("Agreement") for the sale and purchase of industrial water is entered into as of the ____ day of _____, 2021, by and among The Durant City Utilities Authority, an Oklahoma Public Trust, located at 300 West Evergreen, Durant, OK 74701, hereinafter referred to as the "Seller", and Rural Water and Sewer District No. 5, Bryan County, Oklahoma, 22404 State Road 78 South, Durant, OK 74701, hereinafter referred to as "Purchaser", and shall replace and supersede the Industrial Water Purchase Agreement of June 14, 2016, and any amendments thereto.

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of 82 O.S. 1324.1 et.seq., for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the State Director of Rural Utilities Services and to accomplish this purpose, the Purchaser will require a supply of treater water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the State Director of Rural Utilities Services, and

Now, therefore in consideration of the foregoing and the mutual agreements hereinafter set forth.

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this Agreement or any renewal or extension thereof, potable treated water meeting applicable purity standards of the State of Oklahoma, Department of Environmental Quality in such quantity as may be required by the Purchaser not to exceed 600,000 average gallons per day.

2. (Point of Delivery and Pressure) That water will be furnished at typical static pressure range of 38 pounds per square inch to 55 pounds per square inch and a low dynamic pressure of 25 pounds per square inch, at a minimum flow rate of 750 gallons per minute, from no more than two agreed upon points of delivery (master meter locations) which would be located at the takeover point as determined by Purchaser (also known as the "TOP") at the Site in Bryan County, State of Oklahoma. Emergency failures of pressure of supply due to main supply line breaks, power failure, flood, fire, and use of water to fight the fire, earthquake, or other catastrophe shall excuse the Seller from this provision for time as may be necessary to restore service. Seller may deliver water to Purchaser through two separate water lines (the

"Water Lines"); provided, however, if both Water Lines are used, the requirements of this Section A.2. and Section A.1. above (i) with respect to the quantity and flow rate shall be met in the aggregate from both Water Lines, and (ii) with respect to water pressure shall be met independently by each of the Water Lines.

3. 3.(Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery at the Site, the necessary metering equipment, including, but not limited to, a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the 12 months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read between the 10th and 20th day of each month. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings. Purchaser shall have the right to review and approve the metering equipment and locations.

4. 4. (Billing Procedure) To furnish the Purchaser at the above address not later than the last workday of each month, with an itemized statement of the amount and cost of water furnished to the Purchaser during the preceding month.

B. The Purchaser Agrees:

1. (Industrial Water Rate Class) To establish an industrial user rate structure for industrial customers located within the corporate city limits..

2. Purchaser Rates and Payment Date) To pay the Seller, not later than the fifteenth (15th) day of each month, for water delivered in accordance with the following schedule of rates:

Purchaser agrees to pay **\$3.05** per thousand gallons per month. The rate shall increase two percent (2%) annually from the previous year's rate effective each July 1 unless otherwise agreed by the parties in writing.

3. (Tax Covenants) Purchaser acknowledges that Seller has advised Purchaser that the requirement of the Internal Revue Code of 1986 and regulations adopted there under (collectively, the "Code") applicable to obligations issued and to be issued by Seller to finance water facilities must be complied with in order for interest on such obligations to be and remain exempt from Federal income taxation. To ensure and maintain compliance with such Code requirements, Purchaser makes the following covenants:

a. Purchaser will not sell any water purchased under this Agreement in any

manner that could cause such sale to result in any facility of Seller being deemed to be used for a private business use under the Code.

b. Purchaser will not resell any water under this Agreement, whether directly or as a part of a sale of water from Purchaser's water system, to a wholesale purchaser for resale by such purchaser (i.e.) Purchaser will only sell water purchased under this Agreement to its industrial customers for ultimate consumption or use).

c. Purchaser will not enter into any arrangement for water purchased under this Agreement and resold to Purchaser's retail industrial customers that conveys priority rights or other preferential benefits or that would obligate any retail industrial customer to make payments that are not contingent on the amount of water purchased by such customer as take or pay or take and pay contracts.

In the event such Code requirements or interpretations thereof, change after the date hereof, any or all of the foregoing may be modified by agreement of the parties.

Upon Seller request Purchaser shall confirm to Seller that it has not sold any water purchased under this Agreement other than in compliance with the foregoing.

4. (Additional Tax Covenants) Purchaser represents and confirms that it is a rural water district duly organized and established under the provisions of 82 O.S. §1324.1 et.seq. and covenants that it will continue to be such a rural water district for the term of this Agreement. Purchaser further represents and confirms that it is exempt and will remain exempt from federal income taxation for the term of this Agreement and, by virtue of such exemptions, has not and will not file Federal income tax returns or paid and will not pay any Federal income tax for the term of this Agreement.

5. (Remedies and Indemnification for Breach of Tax Covenants) Purchaser and Seller agree that:

a. The provisions of Section B.3. and B.4. constitute material terms and conditions of this Agreement.

C. It is further agreed among the Seller and the Purchaser as follows:

1. (Term of Agreement) That this Agreement shall extend for a term of twenty-five (25) years from the date of this Agreement.

2. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser in accordance with Section A. 1. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of a shortage of water, or the supply of water available to the Seller is otherwise diminished, the supply of water to the Purchaser's consumers shall be reduced or diminished in

the same ratio or proportion as the supply to the Seller's consumers is reduced or diminished.

3. (Modification of Agreement) That the provisions of this Agreement pertaining to the schedule of rates to be charged by the Purchaser for water delivered to industrial consumers are subject to modification in accordance with rate changes approved by Seller. Likewise, the schedule of rates to be paid by the Purchaser to the Seller shall be modified to reflect any rate changes approved by Seller proportionally. Other provisions of this agreement may be modified or altered by written agreement of the Seller and Purchaser.

4. (Regulatory Agencies) That this Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

5. (Infrastructure Improvements in Conjunction with Commercial Metals Company Steel Rebar Manufacturing Facility) That Rural Water and Sewer District No. 5 has actual jurisdiction over a portion of the project construction related to infrastructure improvements necessary to facilitate an economic development project in which Commercial Metals Company has committed to construction and operation of a steel rebar manufacturing facility within the City limits of Durant, Oklahoma.

6. (Fee Collection for Sanitary Sewer Billing Service) A meter will be installed and read monthly by City of Durant staff to measure the sanitary sewer discharge of Commercial Metals Company into The Durant City Utilities Authority sanitary sewer collection system, therefore Rural Water and Sewer District No. 5 will not be responsible for sending billing statements to Commercial Metals Company for sanitary sewer service and a collection fee will not be applicable.

In Witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this agreement to be duly executed in multiple counterparts, each of which shall constitute an original.

Martin Tucker, Chair
Durant City Utilities Authority

Stan Presley, Chair
Bryan County Rural Water District 5

