

AGENDA
Special Meeting of the Board of City Commissioners
September 6, 2018 - 12:00 pm
City Hall – Williston, North Dakota

1. Roll Call of Commissioners and Pledge of Allegiance

2. XWA Taxiway A Contract

3. Adjourn



DATE: Thursday, September 6, 2018

TO: City Commission

FROM: Anthony Dudas, Airport Director

**RE: Report of Commissioners – Water Works, Sewer, Airport, Building and Planning
Commissioner**

1: XWA Taxiway A Contract

On August 9th, 2018 the City Commission took action to terminate the Taxiway A contract with J.M. Marschuetz Construction (JMMC). After this action, the project team and City legal staff worked through JMMC's Surety as required by the contract. Our team provided the necessary documentation for the Surety to investigate the claim for breach of contract.

After formal discussions on August 24th with the Surety, it has been mutually agreed by both parties to abey the August 9th termination of JMMC and allow them to complete the work pursuant to the contract with the following additional financial and legal conditions:

1. JMMC will release all previous claims prior to this abeyance.
2. JMMC shall submit a schedule establishing substantial completion of the project on or before June 15, 2019 and is subject to approval by the City.
3. The City can terminate the Abeyance immediately for any reason, and this will restore rights the Parties had prior to the Abeyance.
4. JMMC shall submit daily progress reports to the CA/CO engineer and bi-weekly progress reports via email to the project group.
5. Liquidated damages after June 15, 2019 will increase to \$5,000/day.
6. Surety will hire a consultant at their own cost and expense to provide oversight of the project to be onsite every 2 weeks and attending weekly construction meetings via conference line.
7. JMMC shall provide updated Disadvantaged Business Enterprise information if it has changed.
8. The City shall agree to pay for increased aggregate prices through the standard change order process with appropriate documentation justifying the additional costs.

Should this agreement be agreed upon today, JMMC will be back to work this afternoon. This document of agreement is seen as a vital and necessary step towards our mutual goal of building and opening XWA by October 10th, 2019 as planned.

As noted in the final condition, there has emerged another request of the JMMC team. They have identified an unanticipated emergent expense related to restarting the project with JMMC at XWA. This unanticipated emergent cost is for \$276K due to the higher costs for the P209 aggregate for the sub-base provided by Bakken Aggregates for the XWA Taxiway-A project. The project team will review the necessary documentation when it is provided by JMMC and bring this change order before the commission for your review.

I recommend approval of the abeyance agreement between the City of Williston, Zurich Surety & Financial Claims, and J.M. Marschuetz Construction for the Taxiway A PCC Pavements, Lighting, and Signage.

Attachments:

1: Abeyance Agreement