

AGENDA

FOR A REGULAR MEETING OF THE AMARILLO CITY COUNCIL TO BE HELD ON TUESDAY, AUGUST 2, 2022, AT 1:00 P.M., CITY HALL, 601 SOUTH BUCHANAN STREET, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

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

Please note: The City Council may take up items out of the order shown on any Agenda. The City Council reserves the right to discuss all or part of any item in an executive session at any time during a meeting or work session, as necessary and allowed by state law. Votes or final decisions are made only in open Regular or Special meetings, not in either a work session or executive session.

INVOCATION: Margie Gonzales, VIDA Church

PUBLIC ADDRESS:

(For items on the agenda for City Council consideration)

The public will be permitted to offer public comment on agenda items. Public Address signup times are available from Sunday at 8:00 a.m. until Tuesday at 12:45 p.m. at <https://www.amarillo.gov/departments/city-manager/city-secretary/public-address-registration-form> or by calling the City Secretary's office at (806) 378-3014.

AGENDA

1. City Council will discuss or receive reports on the following current matters or projects:

- A. Review agenda items for regular meeting and attachments;
- B. Updates from Councilmembers serving on outside boards and commissions
 - i. Amarillo Local Government Corporation
 - ii. Convention and Visitors Bureau;
- C. Discuss Comprehensive Plan Update; and
- D. Request future agenda items and reports from City Manager.

2. CONSENT ITEMS:

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

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

A. CONSIDER APPROVAL – MINUTES:

(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the regular meeting held on July 26, 2022.

B. CONSIDERATION OF ORDINANCE NO. 7997:

(Contact: Kevin Carter, Amarillo Economic Development Corporation)

This item is a second and final reading of an ordinance designating certain areas of the City as Reinvestment Zone No. 19 for commercial and industrial tax abatement. The zone is approximately 20.70 acres in the vicinity of S. Georgia St. and Farmers Ave.

C. CONSIDERATION OF ORDINANCE NO. 7998:
(Contact: Kevin Carter, Amarillo Economic Development Corporation)

This item is a second and final reading of an ordinance to consider designating certain areas of the City as Reinvestment Zone No. 20 for commercial and industrial tax abatement. The zone is approximately 30.00 acres in the vicinity of Airport Boulevard and SE Third Avenue.

D. CONSIDERATION OF ORDINANCE NO. 7999:
(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning an 8.29-acre tract of unplatted land, in Section 191, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District to Residential District 3. (VICINITY: W Hastings Ave. and Broadway Dr.; APPLICANT/S: Tommy Nielson for Nielson Communities.)

E. CONSIDERATION OF ORDINANCE NO. 8000:
(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning Lots 10 and 11, Block 11, Lawrence Park Addition Unit No. 4, an addition to the City of Amarillo, in Section 227, Block 2, A.B.&M. Survey, Potter and Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Office District 2 to Neighborhood Service District.

F. CONSIDERATION OF ORDINANCE NO. 8001:
(Contact: Emily Koller, Assistant Director of Planning)

This item is a second and final reading to consider an ordinance to amend the Amarillo Municipal Code Title IV – Building Codes, Development and Zoning, by adding Chapter 4-12 regarding the City's Recognized Neighborhood Association program.

G. CONSIDER APPROVAL – INTERLOCAL AGREEMENT BETWEEN THE CITY OF AMARILLO, TEXAS AND AMARILLO COLLEGE:
(Contact: Michael Kashuba, Parks and Recreation Director)

This item considers the approval of an interlocal agreement defining Amarillo College's rental of Rick Klein Sports Complex from the City of Amarillo Parks and Recreation department.

H. CONSIDER AWARD – TUBERCULOSIS FEDERAL GRANT:
(Contact: Casie Stoughton, Public Health Director)
Grantor: Texas Department of State Health Services
Grant Amount: \$44,024.00

This item accepts the award of a grant from the Texas Department of State Health Services, from January 1, 2023 thru December 31, 2024, to continue funding to prevent and control the transmission of active and latent tuberculosis.

I. CONSIDERATION OF RESOLUTION NO. 08-02-22-1:
(Contact: Kashion Smith, Convention and Visitors Bureau Executive Director)

This item considers a resolution approving the fiscal 2022/2023 budget for the Convention and Visitors Bureau which is funded through a tax levied upon hotel occupancy.

J. CONSIDER APPROVAL – CHANGE ORDER NO. 3 FOR LIFT STATION NO. 32:

(Contact: Kyle Schniederjan, Capital Projects and Development Engineering Director)

Award to: Williams Ditching, LLC

Original Contract Amount:	\$15,862,850.71
Change Order No. 1	\$ (567,466.40)
Current Change Order No. 2:	\$ 60,090.09
Revised Contract Total:	\$15,355,474.40

This item considers approval of a change order to the Lift Station No. 32 project to add additional paving related to the project.

K. CONSIDER AWARD – TRANSFER STATION IMPROVEMENTS PROFESSIONAL SERVICES AGREEMENT:

(Contact: Donny Hooper, Public Works Director)
Award to: CH Guernsey & Company - \$89,750.00

This item considers the award of a professional services agreement for the design of improvements at the City of Amarillo Solid Waste Transfer Station.

L. CONSIDER AWARD – GPS MONITORING/TRACKING SYSTEM RENEWAL:

(Contact: Donny Hooper, Public Works Director)
Award to: Synovia Solutions, LLC - \$402,840.00 (Sourcewell Contract #020221-CAW)

This item considers the award of a three-year contract to provide GPS Fleet Tracking services for approximately 480 selected vehicles and equipment.

3. NON-CONSENT ITEM:

A. DISCUSS AND CONSIDER PROPOSED TAX RATE:

(Contact: Laura Storrs, Assistant City Manager)

This item is to discuss and consider the proposed tax rate for maintenance and operation and debt service for the proposed fiscal 2022/2023 City of Amarillo budget.

B. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 08-02-22-2:

(Contact: Jason Riddlespurger, Community Development Director)

This item is a public hearing and consideration of a resolution approving the 2022/2023 Community Development Block Grant and HOME Investment Partnership Allocations for the FY22 Annual Action Plan.

C. CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND A-5 REALTY, LLC (TEXAS COMPANY) AND A-7 AUSTIN, LLC (TEXAS COMPANY) DOING BUSINESS AS AUSTIN HOSE:

(Contact: Kevin Carter, Amarillo Economic Development Corporation)

This item considers approval of a Location Incentive Agreement (LIA) between Amarillo Economic Development Corporation (AEDC) and A-5 Realty, LLC (Texas Company) And A-7 Austin, LLC (Texas Company) doing business as Austin Hose, for a project estimated at \$10,000,000 in improvements, 20 new employees projected in first phase and up to 30 in future phases. Under the LIA, AEDC will provide Austin Hose \$300,000 for the creation of jobs to be paid out over five years as they are created and will convey 20.7 acres, valued at \$724,500, to Austin Hose.

D. CONSIDER APPROVAL – TAX ABATEMENT AGREEMENT BETWEEN CITY OF AMARILLO AND AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND A-5 REALTY, LLC (TEXAS COMPANY) AND A-7 AUSTIN, LLC (TEXAS COMPANY) DOING BUSINESS AS AUSTIN HOSE:

(Contact: Kevin Carter, Amarillo Economic Development Corporation)

This item considers approval of a Tax Abatement Agreement between the City of Amarillo, the Economic Development Corporation, and A-5 Realty, LLC (Texas Company) And A-7 Austin, LLC (Texas Company) doing business as Austin Hose. The agreement would provide for an abatement on the future taxes on the construction and equipment costs at 60% abatement for six years on \$10,000,000 estimated cost of improvements.

E. CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND UNMANNED SYSTEMS, INC. (NEVADA) DOING BUSINESS AS ALBERS AEROSPACE:

(Contact: Kevin Carter, Amarillo Economic Development Corporation)

This item considers approval of a Location Incentive Agreement (LIA) between Amarillo Economic Development Corporation (AEDC) and Unmanned Systems, Inc. (Nevada) doing business as Albers Aerospace, for a project estimated at \$50,000,000 in improvements and 400 new employees. Under the LIA, AEDC will provide Albers Aerospace \$8,000,000 for the creation of jobs, to be paid out half within 30 days of LIA approval and half after one year, and will convey 30.0 acres, valued at \$1,800,000, to Albers Aerospace.

F. CONSIDER APPROVAL – TAX ABATEMENT AGREEMENT BETWEEN CITY OF AMARILLO AND AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND UNMANNED SYSTEMS, INC. (NEVADA) DBA ALBERS AEROSPACE:

(Contact: Kevin Carter, Amarillo Economic Development Corporation)

This item considers approval of a Tax Abatement Agreement between the City of Amarillo, Amarillo Economic Development Corporation (AEDC) and Unmanned Systems, Inc. (Nevada) doing business as Albers Aerospace. The agreement would provide for an abatement on the future taxes on the construction and equipment costs at 100% abatement for 10 years on \$50,000,000 estimated cost of improvements.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (601 S. Buchanan Street) of the building. An access ramp leading to the main entry is located at the southwest corner of the building. Parking spaces for individuals with disabilities are available in the south parking lot. City Hall is equipped with restroom facilities, communications equipment and elevators that are accessible. Individuals with disabilities who require special accommodations, or a sign language interpreter must contact the City Secretary's Office 48 hours prior to meeting time by telephoning 378-3014 or the City TDD number at 378-4229.

Watch the meeting live: <http://amarillo.gov/city-hall/city-government/view-city-council-meetings>.

I certify that the above notice of meeting was posted on the electronic bulletin board in City Hall, 601 S. Buchanan, Amarillo, Texas, and the City website (www.amarillo.gov) on or before the 29th day of July 2022, at 4:00 p.m. in accordance with the Open Meetings Laws of the State of Texas, Chapter 551, Texas Government Code.


Stephanie Coggins, City Secretary

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 26th day of July 2022, the Amarillo City Council met at 1:00 p.m. for a regular meeting held in Council Chamber, located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

GINGER NELSON	MAYOR
FREDA POWELL	MAYOR PRO TEM/COUNCILMEMBER NO. 2
COLE STANLEY	COUNCILMEMBER NO. 1
HOWARD SMITH	COUNCILMEMBER NO. 4

Joining the meeting late was Eddy Sauer, Councilmember No. 3. Absent were none. Also in attendance were the following administrative officials:

JARED MILLER	CITY MANAGER
ANDREW FREEMAN	ASSISTANT CITY MANAGER
FLOYD HARTMAN	ASSISTANT CITY MANAGER
LAURA STORRS	ASSISTANT CITY MANAGER
BRYAN MCWILLIAMS	CITY ATTORNEY
STEPHANIE COGGINS	CITY SECRETARY
JENIFER RAMIREZ	ASSISTANT TO THE CITY MANAGER
CARTER ESTES	ASSISTANT TO THE CITY MANAGER

A quorum was established by Mayor Nelson and Councilmembers Powell, Smith and Stanley. Mayor Nelson called the meeting to order at 1:01 p.m., welcomed those in attendance, and the following items of business were conducted.

The invocation was given by Gene Shelburne with Anna Street Church of Christ. Mayor Nelson led the Pledge of Allegiance.

Mayor Nelson read a proclamation for "Parks and Recreation Month" that was presented to Michael Kashuba, Parks and Recreation Director.

PUBLIC ADDRESS

Alan Abraham, of Amarillo, spoke for Agenda Item No. 3E. Sherrie Ferguson, of Amarillo, spoke for Agenda Item No. 3E. There were no further comments.

ITEM 1 – CITY COUNCIL WILL DISCUSS OR RECEIVE REPORTS ON THE FOLLOWING CURRENT MATTERS OR PROJECTS:

- A. Review agenda items for regular meeting and attachments;
- B. Updates from Councilmembers serving on outside boards and commissions
 - d. Amarillo Metropolitan Planning Organization;
- C. Update on City of Amarillo Drought Contingency Plan; and
- D. Request future agenda items and reports from City Manager.

ITEM 2 – CONSENT AGENDA

Mayor Nelson presented the consent agenda and asked if any item should be removed for discussion or separate consideration. A motion was made to approve the consent agenda as presented by Councilmember Powell, seconded by Councilmember Stanley.

- A. **CONSIDER APPROVAL – MINUTES:**
(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the regular meeting held on July 12, 2022.

B. CONSIDER APPROVAL – MINUTES:

(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the special meeting held on July 13, 2022.

C. CONSIDER APPROVAL – MINUTES:

(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the special meeting held on July 14, 2022.

D. CONSIDER APPROVAL – MINUTES:

(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the special meeting held on July 15, 2022.

E. CONSIDERATION OF ORDINANCE NO. 7970:

(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning a 20.36-acre tract of unplatted land in Section 58, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Heavy Commercial District (HC) and Agricultural District (A) to Heavy Commercial District (HC). (Vicinity: Interstate 40 and Airport Blvd.; Applicant/s: Drew Donosky for Attebury Farm LLC)

F. CONSIDERATION OF ORDINANCE NO. 7993:

(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an Ordinance annexing into the City of Amarillo, in Randall County, Texas, on petition of property owner, territory generally described as a 244.97-acre tract of unplatted land, in Sections 61, 62, 75, and 76, Block 9, B.S.&F. Survey, Randall County, Texas. (VICINITY: Soncy Rd. and S.W. 34th Ave.; APPLICANT/S: Daryl Furman for the Emeline Bush O'Brien/Sobieski Trust)

G. CONSIDERATION OF ORDINANCE NO. 7994:

(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an Ordinance providing for the establishment of zoning districts on the Official Zoning Map of the City of Amarillo, Texas, establishing Agricultural District, Residential District 3, Moderate Density District, Multiple-Family District 1, Planned Development District 400 for single-family detached homes with reduced lot depth and area, and Planned Development District 401 for single-family detached homes with reduced lot width, all in Section 61, Block 9, B.S.&F. Survey, Randall County, Texas. (VICINITY: Soncy Rd. and S.W. 34th Ave.; APPLICANT/S: Daryl Furman for the Emeline Bush O'Brien/Sobieski Trust.)

H. CONSIDERATION OF ORDINANCE NO. 7995:

(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning a 13.50-acre tract of land, being a portion of Lot 1, Block 2, South Side Acres Unit No. 4, an addition to the City of Amarillo, and unplatted land, all in Section 231, Block 2, A.B.&M. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Residential District 1 and Residential District 2 to Moderate Density District. (VICINITY: Western St.

and Arden Rd.; APPLICANT/S: Daryl Furman for Valleyview Church of the Nazarene.)

I. CONSIDERATION OF ORDINANCE NO. 7996:
(Contact: Brady Kendrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning Lots 3 through 5, Block 93, Plemons Addition, in Section 170, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Light Commercial District to Planned Development District 399 for increased lot coverage and reduced onsite parking. (VICINITY: SW 8th Ave. and Monroe St.; APPLICANT/S: Charles R. Lynch for Amarillo Steam Team, LLC.)

J. CONSIDER AWARD – OFFICE SUPPLIES ANNUAL CONTRACT:
(Contact: Trae Kepley, Purchasing Agent)

Award to: Officewise/Navajo Office Products – Not to exceed \$275,000.00
(TexBuy Purchasing Cooperative RFP #022-001)

This item considers award of an annual contract to purchase office supplies that will be used by various city departments in their daily office duties.

K. CONSIDER APPROVAL – CHANGE ORDER NO. 1 FOR 34TH AVENUE PUMP STATION SWITCHGEAR REPLACEMENT:

(Contact: Kyle Schniederjan, Capital Projects & Development Engineering Director)
Award to: Brown Construction Services PLLC

Original Contract Amount:	\$2,165,000.00
Current Change Order No. 1:	\$ 65,750.00
Revised Contract Total:	\$2,230,750.00

This item considers approval of a change order to the 34th Avenue Pump Station Switchgear Replacement project that was necessitated by an unexpected increase in commodity item and material costs.

L. CONSIDER AWARD – CONTRACT FOR RECOATING OF THREE STORAGE TANKS:

(Contact: Kyle Schniederjan, Capital Projects & Development Engineering Director)
Award to: Dixie Painting and Sandblasting, Inc. - \$2,621,455.00

This item considers the award of a construction services contract that consists of surface preparation and application of high-performance coating systems for the Independence Elevated Storage Tank and two identical, welded steel ground storage tanks located at NE 24th Avenue Pump Station.

M. CONSIDER APPROVAL – CHANGE ORDER NO. 2 FOR FY 20/21 MILLING AND OVERLAY OF VARIOUS STREETS:

(Contact: Matthew Thomas, City Engineer)
Award to: L.A. Fuller & Sons, LTD

Original Contract Amount:	\$2,084,695.73
Change Order No. 1	\$ 20,375.00
Current Change Order No. 2:	\$ (430,168.67)
Revised Contract Total:	\$1,674,902.06

This item considers approval of a change order to the FY 20/21 Milling and Overlay of Various Streets project to establish final installed quantities and adjust the scope of the project.

N. CONSIDER PURCHASE – TASERS AND ACCESSORIES FOR AMARILLO POLICE DEPARTMENT:

(Contact: Martin Birkenfeld, Police Chief)
Award to: Axon Enterprise - \$59,932.32

This item considers purchase of tasers and related accessories for the Amarillo Police Department academy personnel. This item will be funded through a Justice Assistance Grant (JAG).

O. CONSIDER AWARD – CONTRACT FOR ONLINE LEARNING MANAGEMENT SYSTEM SERVICE:

(Contact: Mitchell Normand, Human Resources Director)
Award to: Cornerstone on Demand - \$116,836.00

This item considers award of a contract for Learning Management System (LMS) services that will be utilized by multiple city departments. The contract will be for a term of three years.

P. CONSIDERATION OF RESOLUTION NO. 07-26-22-1:

(Contact: Donny Hooper, Public Works Director)

This item considers a resolution modifying the original Resolution No. 01-11-22-1 to authorize additional funds to support the advance funding agreement for highway safety improvement program with the Texas Department of Transportation (TXDOT).

Q. CONSIDER APPROVAL – LAND DEDICATION:

(Contact: Brady Kendrick, Planner II)

This item considers the dedication of a 1.90-acre tract of land for Public Right-of-way purposes lying in Section 182, Block 2, A.B.&M. Survey, Randall County, Texas. (VICINITY: S Georgia St. and Hollywood Rd. (Loop 335); APPLICANT/S: Kevin Carter for Amarillo Economic Development Corporation.)

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

ITEM 3 – NON-CONSENT ITEMS:

ITEM 3A: Mayor Nelson introduced an ordinance designating certain areas of the City as Reinvestment Zone No. 19 for commercial and industrial tax abatement for a zone that is approximately 20.70 acres in the vicinity of S. Georgia St. and Farmers Ave. Kevin Carter, with Amarillo Economic Development Corporation, presented the item. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. A motion was made that the following captioned ordinance be passed by Councilmember Powell, seconded by Councilmember Smith.

ORDINANCE NO. 7997

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS CITY COMMISSION: DESIGNATING CERTAIN AREAS AS REINVESTMENT ZONE NO. 19 FOR COMMERCIAL / INDUSTRIAL TAX ABATEMENT, CITY OF AMARILLO, TEXAS, PURSUANT TO TEXAS TAX CODE, CHAPTER 312, SUBCHAPTERS A & B, ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; PROVIDING A SEVERANCE CLAUSE; PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

ITEM 3B: Mayor Nelson introduced an ordinance designating certain areas of the City as Reinvestment Zone No. 20 for commercial and industrial tax abatement for a zone that is approximately 30.00 acres in the vicinity of Airport Blvd. and SE Third Ave. Mr. Carter presented the item. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. A motion was made that the following captioned ordinance be passed by Councilmember Powell, seconded by Councilmember Stanley.

ORDINANCE NO. 7998

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS
CITY COMMISSION: DESIGNATING CERTAIN AREAS AS
REINVESTMENT ZONE NO. 20 FOR COMMERCIAL /
INDUSTRIAL TAX ABATEMENT, CITY OF AMARILLO,
TEXAS, PURSUANT TO TEXAS TAX CODE, CHAPTER
312, SUBCHAPTERS A & B, ESTABLISHING THE
BOUNDARIES THEREOF AND OTHER MATTERS
RELATING THERETO; PROVIDING A SEVERANCE
CLAUSE; PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

ITEM 3C: Mayor Nelson introduced an ordinance rezoning an 8.29-acre tract of unplatted land, in Section 191, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District to Residential District 3. (VICINITY: W Hastings Ave. and Broadway Dr.; APPLICANT/S: Tommy Nielson for Nielson Communities.) Cris Valverde, Director of Planning and Development Services, presented the item. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. A motion was made that the following captioned ordinance be passed by Councilmember Powell, seconded by Councilmember Stanley.

ORDINANCE NO. 7999

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS:
PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL
ZONING MAP OF THE CITY OF AMARILLO, TEXAS;
PROVIDING FOR CHANGE OF USE DISTRICT
CLASSIFICATION OF SPECIFIED PROPERTY IN THE
VICINITY OF WEST HASTINGS AVENUE AND BROADWAY
DRIVE, POTTER COUNTY, TEXAS; PROVIDING A
SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE;
AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

ITEM 3D: Mayor Nelson introduced an ordinance rezoning Lots 10 and 11, Block 11, Lawrence Park Addition Unit No. 4, an addition to the City of Amarillo, in Section 227, Block 2, A.B.&M. Survey, Potter and Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Office District 2 to Neighborhood Service District. VICINITY: SW 28th Ave. and Paramount Blvd.; APPLICANT/S: Charles Leard for CPL-BLL Holdings) Mr. Valverde presented the item. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. A motion was made that the following captioned ordinance be passed by Councilmember Powell, seconded by Councilmember Smith.

ORDINANCE NO. 8000

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 SOUTHWEST TWENTY-EIGHTH AVENUE AND PARAMOUNT BOULEVARD, POTTER AND RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

ITEM 3E: Mayor Nelson introduced an ordinance to amend the Amarillo Municipal Code Title IV – Building Codes, Development and Zoning, by adding Chapter 4-12 regarding the City's Recognized Neighborhood Association program. Emily Koller, Assistant Director of Planning, presented the item. A motion was made that the following captioned ordinance be passed by Councilmember Powell, seconded by Councilmember Smith.

ORDINANCE NO. 8001

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, TITLE IV – BUILDING CODES, DEVELOPMENT AND ZONING, BY ADDING CHAPTER 4-12 REGARDING THE CITY'S RECOGNIZED NEIGHBORHOOD ASSOCIATION PROGRAM; DEFINING TERMS; PROVIDING ELIGIBILITY CRITERIA FOR RECOGNITION OF A NEIGHBORHOOD ASSOCIATION; ESTABLISHING THE RESPONSIBILITIES OF A RECOGNIZED NEIGHBORHOOD ASSOCIATION; CLARIFYING THE PROCESS FOR SUSPENSION OR REVOCATION OF RECOGNITION STATUS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

ITEM 3I: Mayor Nelson introduced an item to consider approval of a contract to purchase up to 15,768 acres of groundwater rights in Roberts County. Mr. Hartman presented the item. A motion was made approve a contract to purchase up to 15,768 acres of groundwater rights in Roberts County at a cost of \$1,875 per acre, with a total cost of up to \$29,565,000 plus closing and other related costs and authorize the City Manager to execute all necessary documents by Councilmember Powell, seconded by Councilmember Smith.

Voting AYE were Mayor Nelson and Councilmembers Powell, Smith and Stanley; voting NO were none; absent was Councilmember Sauer; the motion passed by a 4-0 vote.

Mayor Nelson called a recess of the meeting at 2:03 p.m. Mayor Nelson resumed the meeting at 2:34 p.m. Councilmember Sauer joined the meeting at this time.

ITEM 1 – CITY COUNCIL WILL DISCUSS OR RECEIVE REPORTS ON THE FOLLOWING CURRENT MATTERS OR PROJECTS:

- B. Updates from Councilmembers serving on outside boards and commissions
 - a. Beautification and Public Arts Advisory Board
 - b. Parks and Recreation Advisory Board

ITEM 3F: Mayor Nelson introduced an item to consider approval of an agreement between Amarillo Economic Development Corporation (AEDC) and Amarillo College to renovate Amarillo College's existing facility at 11th and Polk for the creation of the Innovation Outpost, a job training facility for primary employees. Mr. Carter presented the item. A motion was made to approve an agreement between Amarillo Economic Development Corporation and Amarillo College for \$3 million to be paid to Amarillo College over a five-year period by Councilmember Powell, seconded by Councilmember Sauer.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3G: Mayor Nelson introduced an item to consider approval of an agreement between Amarillo Economic Development Corporation (AEDC), Panhandle Regional Planning Commission (PRPC), and the Texas Workforce Commission (TWC) to support High Demand Job Training. Mr. Carter presented the item. A motion was made an agreement between Amarillo Economic Development Corporation, the Panhandle Regional Planning Commission, and the Texas Workforce Commission in the amount of \$150,000 by Councilmember Powell, seconded by Councilmember Smith.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 4 – EXECUTIVE SESSION:

Mr. McWilliams advised at 3:01 p.m. that the City Council would convene in Executive Session per Texas Government Code: A) 551.072 – Discussion regarding the purchase, exchange, lease, or value of real property: (i) Purchase of real property in the Eastern Texas panhandle, and (ii) purchase of real property located in the Northeast quadrant of the City of Amarillo; B) 551.071 – Consult with an attorney regarding pending or contemplated litigation, or settlement of the same; consult with an attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter: (i) City of Amarillo v. Mission Clay Pipe, et. al.; and C) 551.087 – Discussion regarding commercial or financial information received from a business prospect and/or to deliberate the offer of a financial or other incentive to a business prospect: (i.) Project # 22-02-05 (Manufacturing); (ii.) Project # 22-05-01 (Manufacturing); (iii.) Project # 22-05-04 (Manufacturing); and (iv.) Project # 22-06-01 (Manufacturing).

Mr. McWilliams announced that Executive Session was adjourned at 4:34 p.m., and the regular meeting resumed.

ITEM 3H: Mayor Nelson introduced an item to consider authorizing the City Manager to execute a settlement agreement related to the case styled as City of Amarillo, Texas v. Brandt Engineers Group, Ltd., L.A. Fuller & Sons Construction, Ltd., and Mission Clay Products, LLC.; Cause No. 106315-E-CV pending in the 108th Judicial District Court of Potter County, Texas. A motion was made to approve a settlement agreement related to the case styled as City of Amarillo, Texas v. Brandt Engineers Group, Ltd., L.A. Fuller & Sons Construction, Ltd., and Mission Clay Products, LLC.; Cause No. 106315-E-CV pending in the 108th Judicial District Court of Potter County, Texas in the amount of \$11.1 million and authorize the City Manager to execute such agreement by Councilmember Powell, seconded by Councilmember Sauer.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

Mayor Nelson adjourned the regular meeting at 4:38 p.m.

ATTEST:

Stephanie Coggins, City Secretary

Ginger Nelson, Mayor

Amarillo City Council Agenda Transmittal Memo

AMARILLO
ECONOMIC
DEVELOPMENT



Item No. 2B

Meeting Date	August 2, 2022	Council Pillar	Economic Development
Department	Amarillo Economic Development Corporation		
Contact	Kevin Carter, President and CEO		

Agenda Caption

CONSIDERATION OF ORDINANCE NO. 7997

Second and final reading of an ordinance to consider designating certain areas of the City as Reinvestment Zone No. 19 for commercial and industrial tax abatement. The zone is approximately 20.70 acres in the vicinity of S. Georgia Street and Farmers Avenue.

Agenda Item Summary

Designating a reinvestment zone is a step in the property tax abatement process under Chapter 312 of the Tax Code. Local governments often use tax abatements to attract new industry and commercial enterprises and to encourage the retention and development of existing businesses. Designation of an area as a reinvestment zone is required before City Council has the ability to offer a tax abatement.

The 20.70 acres proposed for Reinvestment Zone No. 19 is located at S. Georgia Street and Farmers Avenue. The reason for creating this zone is to provide Council the option to offer an economic development incentive to a prospective manufacturing facility.

Before Council may consider a new zone, it must be preceded by a public hearing, with 7 days written notice of the hearing provided to the presiding officer of each of the other taxing entities with jurisdiction in the zone and notice of the hearing in a newspaper of general circulation in the city.

Council must make findings that the improvements sought in the zone are feasible and practical and would be a benefit to the zone after expiration of a tax abatement agreement. Zones must also meet one of the applicable criteria for reinvestment zones. For the case of this zone, the criteria met is that with designation of the zone it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City.

Requested Action

Consider second and final reading.

Funding Summary

N/A

Community Engagement

N/A

Staff Recommendation

AEDC staff is recommending approval of the designation of Reinvestment Zone 19.

ORDINANCE NO. 7997

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS CITY COMMISSION: DESIGNATING CERTAIN AREAS AS REINVESTMENT ZONE NO. 19 FOR COMMERCIAL / INDUSTRIAL TAX ABATEMENT, CITY OF AMARILLO, TEXAS, PURSUANT TO TEXAS TAX CODE, CHAPTER 312, SUBCHAPTERS A & B, ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; PROVIDING A SEVERANCE CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Amarillo, Texas ("City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a Reinvestment Zone for commercial/industrial tax abatement, as authorized by Texas Tax Code Chapter 312, Subchapters A & B; and

WHEREAS, City has elected by Resolution No. 08-24-21-1 to become eligible to participate in tax abatements; and

WHEREAS, a public hearing in a regularly scheduled meeting before the City Council was held on June 14, 2022, such date being at least seven (7) days after the date of publication of the notice of such public hearing as required by the Texas Tax Code; and

WHEREAS, notice of the public hearing was delivered to the presiding officer of the governing body of each taxing unit located within the proposed Reinvestment Zone at least seven (7) days before the date of the public hearing; and

WHEREAS, the City at such hearing invited all interested persons, or their counsel, to appear and speak for or against the creation of the proposed Reinvestment Zone, the boundaries of the proposed Reinvestment Zone, and whether all or part of the property described in this ordinance should be included in such proposed Reinvestment Zone; and

WHEREAS, all interested persons were given the opportunity to be heard and the proponents of the Reinvestment Zone offered evidence in favor of the creation of the proposed Reinvestment Zone and the proponents also submitted evidence as to the proposed improvements, and any opponents of the proposed Reinvestment Zone were given the opportunity to contest creation of the proposed Reinvestment Zone; and

WHEREAS, the area to be designated meets the statutory requirement that, it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality, and/or meets other criteria that satisfies state law for establishment of a reinvestment zone;

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

SECTION 1. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and are adopted as findings of fact by this body and as part of its official record.

SECTION 2. The City, after conducting such hearing and having heard such evidence and testimony, has made the following findings and determinations based on the testimony and evidence presented to it:

- a) That a public hearing on the designation of the Reinvestment Zone has been properly called, held and conducted and that notice of such hearing was published as required by law and delivered to all taxing units overlapping the territory inside the proposed reinvestment zones; and
- b) That the boundaries of the area to be known as City of Amarillo Reinvestment Zone No. 19 shall be the area of land described on the document attached hereto as Exhibit "A", which is incorporated herein for all purposes; and
- c) That the creation of the City of Amarillo Reinvestment Zone No. 19 with the boundaries as described in (b) above, will result in benefits to the City and to the land included in the zone and to the City after the expiration of any Tax Abatement Agreement entered into, and the improvements sought are feasible and practical; and
- d) That the Reinvestment Zone as described in (b) above meets the criteria for the creation of a Reinvestment Zone as set forth in Texas Tax Code Chapter 312, Subchapters A & B in that it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the Reinvestment Zone that would be a benefit to the property and that would contribute to the economic development of the City; and
- e) That the City of Amarillo Reinvestment Zone No. 19 as defined herein satisfies the requirement of a Reinvestment Zone and is eligible under the Guidelines and Criteria for Tax Abatement in the City of Amarillo, Resolution No. 08-24-21-1.

SECTION 3. That pursuant to Texas Tax Code Chapter 312, Subchapter B, the City hereby creates a Reinvestment Zone for commercial/industrial tax abatement encompassing the area described by the legal description in Section 2 (b) above and such Reinvestment Zone is hereby designated and shall hereafter be designated City of Amarillo Reinvestment Zone No. 19 for a period of five (5) years.

SECTION 4. If any portion of this ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof.

SECTION 5. That the establishment of City of Amarillo Reinvestment Zone No. 19 shall take effect on the date of the final passage of this Ordinance.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the 26th day of July 2022 and PASSED on Second and Final Reading on this the 2nd day of August 2022.

Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, City Attorney

DRAFT

EXHIBIT A
LEGAL DESCRIPTION OF REINVESTMENT ZONE NO. 19

LEGAL DESCRIPTION for a 20.70 acre tract of land out of Section 182, Block 2, A. B. & M. Survey, Randall County, Texas, and more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found with a yellow cap on the south right-of-way line of Farmers Ave. which bears S. 89° 50' 39" E. a distance of 361.61 feet and S. 00° 09' 21" W. a distance of 59.10 feet from a 1/2" iron rod found at the northwest corner of said Section 182 for the northwest corner of this tract.

THENCE S. 89° 50' 39" E., along said south right-of-way line, a distance of 1433.16 feet to the northeast corner of this tract.

THENCE S. 17° 00' 16" W. a distance of 710.03 feet to the southeast corner of this tract.

THENCE N. 89° 41' 02" W. a distance of 1226.20 feet to a 1/2" iron rod found for the southwest corner of this tract.

THENCE N. 0° 03' 26" E., at a distance of 434.76 feet pass a 1/2" iron rod found with a yellow cap, a total distance of 676.12 feet to the place of BEGINNING and containing 20.70 acres (901,479 square feet) of land.

Amarillo City Council Agenda Transmittal Memo

AMARILLO
ECONOMIC
DEVELOPMENT



Item No. 2C

Meeting Date	August 2, 2022	Council Pillar	Economic Development
Department	Amarillo Economic Development Corporation		
Contact	Kevin Carter, President and CEO		

Agenda Caption

CONSIDERATION OF ORDINANCE NO. 7998

Second and final reading of an ordinance to consider designating certain areas of the City as Reinvestment Zone No. 20 for commercial and industrial tax abatement. The zone is approximately 30.00 acres in the vicinity of Airport Boulevard and SE Third Avenue.

Agenda Item Summary

Designating a reinvestment zone is a step in the property tax abatement process under Chapter 312 of the Tax Code. Local governments often use tax abatements to attract new industry and commercial enterprises and to encourage the retention and development of existing businesses. Designation of an area as a reinvestment zone is required before City Council has the ability to offer a tax abatement.

The 30.00 acres proposed for Reinvestment Zone No. 20 is located at Airport Boulevard and SE Third Avenue. The reason for creating this zone is to provide Council the option to offer an economic development incentive to a prospective manufacturing facility.

Before Council may consider a new zone, it must be preceded by a public hearing, with 7 days written notice of the hearing provided to the presiding officer of each of the other taxing entities with jurisdiction in the zone and notice of the hearing in a newspaper of general circulation in the city.

Council must make findings that the improvements sought in the zone are feasible and practical and would be a benefit to the zone after expiration of a tax abatement agreement. Zones must also meet one of the applicable criteria for reinvestment zones. For the case of this zone, the criteria met is that with designation of the zone it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City.

Requested Action

Consider second and final reading.

Funding Summary

N/A

Community Engagement

N/A

Staff Recommendation

AEDC staff is recommending approval of the designation of Reinvestment Zone 20.

ORDINANCE NO. 7998

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS
CITY COMMISSION: DESIGNATING CERTAIN AREAS AS
REINVESTMENT ZONE NO. 20 FOR COMMERCIAL /
INDUSTRIAL TAX ABATEMENT, CITY OF AMARILLO,
TEXAS, PURSUANT TO TEXAS TAX CODE, CHAPTER 312,
SUBCHAPTERS A & B, ESTABLISHING THE BOUNDARIES
THEREOF AND OTHER MATTERS RELATING THERETO;
PROVIDING A SEVERANCE CLAUSE; PROVIDING AN
EFFECTIVE DATE.

WHEREAS, the City Council of the City of Amarillo, Texas ("City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its extra territorial jurisdiction by the creation of a Reinvestment Zone for commercial/industrial tax abatement, as authorized by Texas Tax Code Chapter 312, Subchapters A & B; and

WHEREAS, City has elected by Resolution No. 08-24-21-1 to become eligible to participate in tax abatements; and

WHEREAS, a public hearing in a regularly scheduled meeting before the City Council was held on July 26, 2022, such date being at least seven (7) days after the date of publication of the notice of such public hearing as required by the Texas Tax Code; and

WHEREAS, notice of the public hearing was delivered to the presiding officer of the governing body of each taxing unit located within the proposed Reinvestment Zone at least seven (7) days before the date of the public hearing; and

WHEREAS, the City at such hearing invited all interested persons, or their counsel, to appear and speak for or against the creation of the proposed Reinvestment Zone, the boundaries of the proposed Reinvestment Zone, and whether all or part of the property described in this ordinance should be included in such proposed Reinvestment Zone; and

WHEREAS, all interested persons were given the opportunity to be heard and the proponents of the Reinvestment Zone offered evidence in favor of the creation of the proposed Reinvestment Zone and the proponents also submitted evidence as to the proposed improvements, and any opponents of the proposed Reinvestment Zone were given the opportunity to contest creation of the proposed Reinvestment Zone; and

WHEREAS, the area to be designated meets the statutory requirement that it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality, and/or meets other criteria that satisfies state law for establishment of a reinvestment zone;

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

SECTION 1. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and are adopted as findings of fact by this body and as part of its official record.

SECTION 2. The City, after conducting such hearing and having heard such evidence and testimony, has made the following findings and determinations based on the testimony and evidence presented to it:

- a) That a public hearing on the designation of the Reinvestment Zone has been properly called, held and conducted and that notice of such hearing was published as required by law and delivered to all taxing units overlapping the territory inside the proposed reinvestment zone; and
- b) That the boundaries of the area to be known as City of Amarillo Reinvestment Zone No. 20 shall be the area of land described on the document attached hereto as Exhibit "A", which is incorporated herein for all purposes; and
- c) That the creation of the City of Amarillo Reinvestment Zone No. 20 with the boundaries as described in (b) above, will result in benefits to the City and to the land included in the zone and to the City after the expiration of any Tax Abatement Agreement entered into, and the improvements sought are feasible and practical; and
- d) That the Reinvestment Zone as described in (b) above meets the criteria for the creation of a Reinvestment Zone as set forth in Texas Tax Code Chapter 312, Subchapters A & B in that it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the Reinvestment Zone that would be a benefit to the property and that would contribute to the economic development of the City; and
- e) That the City of Amarillo Reinvestment Zone No. 20 as defined herein satisfies the requirement of a Reinvestment Zone and is eligible under the Guidelines and Criteria for Tax Abatement in the City of Amarillo, Resolution No. 08-24-21-1.

SECTION 3. That pursuant to Texas Tax Code Chapter 312, Subchapter B, the City hereby creates a Reinvestment Zone for commercial/industrial tax abatement encompassing the area described by the legal description in Section 2 (b) above and such Reinvestment Zone is hereby designated and shall hereafter be designated City of Amarillo Reinvestment Zone No. 20 for a period of five (5) years.

SECTION 4. If any portion of this ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof.

SECTION 5. That the establishment of City of Amarillo Reinvestment Zone No. 20 shall take effect on the date of the final passage of this Ordinance.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on
First Reading on this the 26th day of July 2022 and PASSED on Second and Final Reading on
this the 2nd day of August 2022.

Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, City Attorney

DRAFT

EXHIBIT A

LEGAL DESCRIPTION OF REINVESTMENT ZONE NO. 20

FIELD NOTES for a 30.00 acre tract of land out of Section 74, Block 2, A. B & M. Survey, City of Amarillo, Potter County, Texas, and more particularly described as follows:

BEGINNING at a 1/2" iron rod set with a yellow cap on the west right-of-way line of Airport Boulevard which bears S. 00° 08' 16" E. a distance of 2262.39 feet and S. 89° 51' 44" W. a distance of 55.16 feet from the northeast corner of said Section 74 for the northeast corner of this tract.

THENCE S. 09° 16' 27" W., along said west right-of-way line, a distance of 31.74 feet to a brass cap monument found on said west right-of-way line at the beginning of a curve to the right for a corner of this tract.

THENCE continuing along said west right-of-way line and along said curve with a radius equal to 1392.40 feet, with a long chord bearing of S. 13° 00' 45" W. and a long chord distance of 201.18 feet, a curve length of 201.35 feet to a brass cap monument found on said west right-of-way line at the end of said curve for a corner of this tract.

THENCE S. 16° 59' 18" W., continuing along said west right-of-way line, a distance of 170.90 feet to a brass cap monument found on said west right-of-way line at the beginning of a curve to the left for a corner of this tract.

THENCE continuing along said west right-of-way line and along said curve with a radius equal to 1472.40 feet, with a long chord of S. 13° 35' 52" W. and a long chord distance of 205.89 feet, a curve length of 206.05 feet to a brass cap monument found on said west right-of-way line at the end of said curve for a corner of this tract.

THENCE S. 10° 01' 22" W., continuing along said west right-of-way line, a distance of 90.28 feet to a 1/2" iron rod found on said west right-of-way line for the southeast corner of this tract.

THENCE N. 80° 34' 16" W. a distance of 241.14 feet to a 1-1/4" iron pipe found for the most southerly southwest corner of this tract.

THENCE N. 09° 33' 47" E. a distance of 301.34 feet to a 4" metal fence post found for a corner of this tract.

THENCE N. 80° 35' 29" W. a distance of 1543.94 feet to a 5/8" iron rod found for the most westerly southwest corner of this tract.

THENCE N. 46° 05' 09" E. a distance of 1414.14 feet to a 1/2" iron rod set with a yellow cap for the northwest corner of this tract.

THENCE S. 43° 54' 25" E. a distance of 1235.40 feet to the place of BEGINNING and containing 30.00 acres (1,306,604 square feet) of land.

Amarillo City Council Agenda Transmittal Memo



Meeting Date	July 26, 2022	Council Priority	Consent Agenda Item
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Department	Brady Kendrick – Planner II Planning and Development Services
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Agenda Caption

CONSIDERATION OF ORDINANCE NO. 7999

Second and final reading to consider an ordinance rezoning an 8.29-acre tract of unplatted land, in Section 191, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District to Residential District 3.

VICINITY: W Hastings Ave. and Broadway Dr.

APPLICANT/S: Tommy Nielson for Nielson Communities

Agenda Item Summary

Adjacent land use and zoning

Adjacent zoning consists of Residential District 3 to the north and west and Agricultural District in all other directions.

Adjacent land uses consist of single-family homes and vacant land to the north and undeveloped land in all other directions.

Proposal

The applicant is requesting a change in zoning to develop the tract with single-family detached homes as part of the next phase of The Vineyards Subdivision.

Analysis

Future Land Use and Character Map, which identifies recommended future land uses. Additionally, staff considers what impact on area existing zoning and development patterns as well as its conformity to the Neighborhood Unit Concept of development (NUC).

The Future Land Use and Character Map identifies the applicant's tract as being in the Rural Category. The Rural category calls for residential homesteads and agricultural related land uses being the primary focus of development.

This rezoning request is consistent with the adopted 2010 Comprehensive Future Land Use and Character Map, in that the applicant's request is for zoning of a residential nature. That said, it is worth noting that it does differ from the recommended type of residential character (Rural). Rural calls for a higher degree of open space and larger lots.

Although the land to be rezoned and developed with higher density residential homes will not strictly align with the recommended development type, it is also recognized that since the Rural category was assigned, there has been a change in development characteristics within the section of land surrounding the applicant's site whereby higher density single-family homes have become the predominate development pattern in the section.

The Neighborhood Unit Concept of Development calls for more intensive uses such as retail, office, and multi-family development to be located at or near Section Line Arterial Intersections with intensity of use and/or zoning decreasing inward towards the center/middle of a section towards single-family development. The applicant's request would conform with the Neighborhood Unit Concept as the applicant's tract is located internal to the Section of land as recommended.

Considering the just mentioned information, the Planning and Zoning Commission is of the opinion that the applicant's request is a logical continuation of existing zoning and development patterns in the area and would not result in any detrimental impacts to existing development in the area.

Requested Action/Recommendation

Notices have been sent to all property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has not received any comments regarding the request.

Considering the just mentioned, the Planning and Zoning Commission recommends **APPROVAL** of the rezoning request as presented.

ORDINANCE NO. 7999

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF WEST HASTINGS AVENUE AND BROADWAY DRIVE, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

DRAFT

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 a 8.29 acre tract of unplatted land, in Section 191, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District to Residential District 3, and being further described in attached Exhibit A, incorporated herein:

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 26th day of July 2022 and PASSED on Second and Final Reading on this the 2nd day of August 2022.

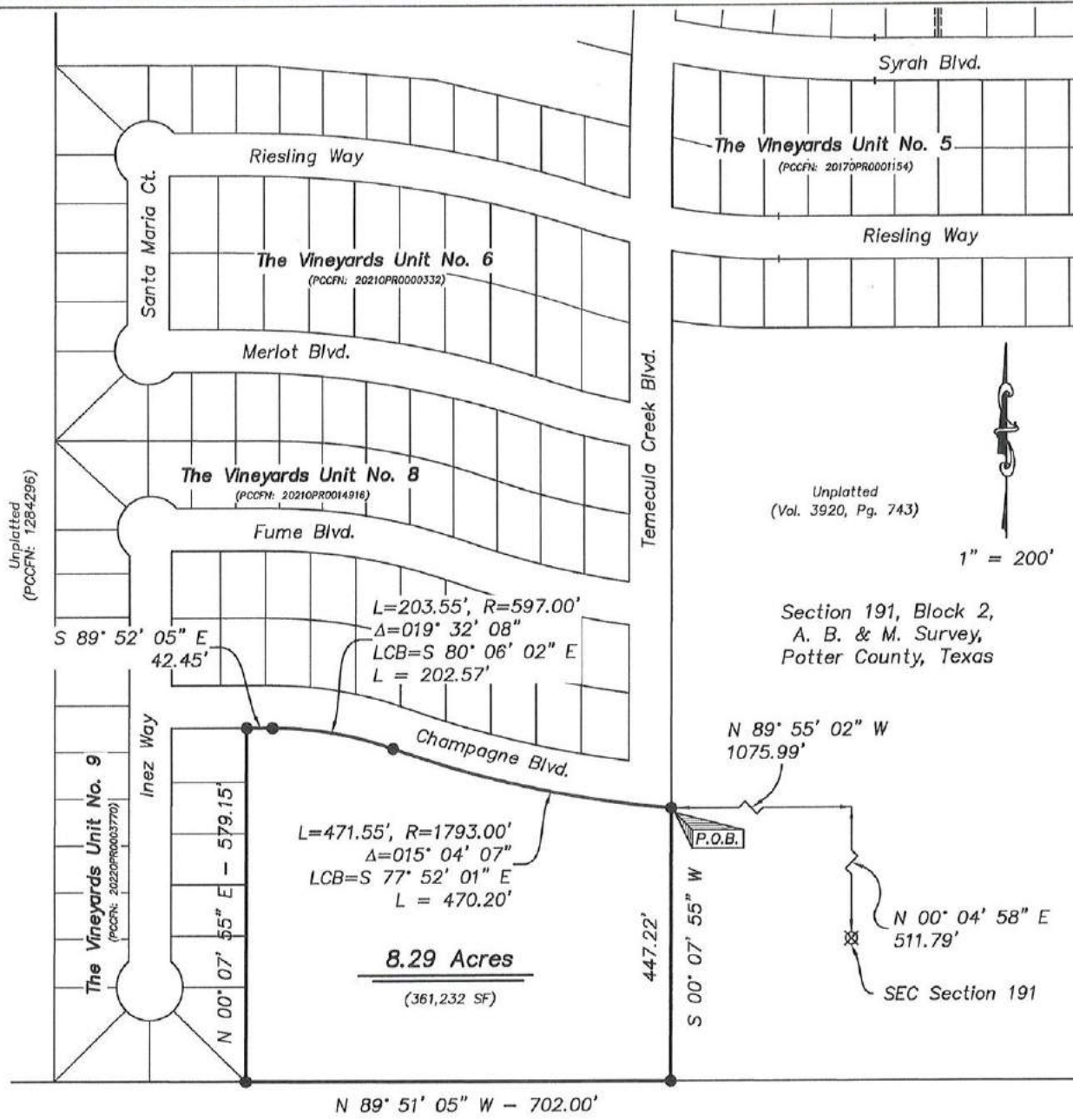
Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
City Attorney



LEGEND

- = 1/2" Iron Rod Set w/ Yellow Cap
- = 1/2" Iron Rod Found w/ Yellow Cap
- ⊗ = Iron Rod Found w/ Apex Cap

NOTES

Bearings based on the U.S. State Plane Coordinate System (NAD83) – Texas North Zone 4201

Distances shown are ground distances. Grid to ground scale factor: 1.0002507

STATE OF TEXAS : KNOW ALL MEN BY THESE PRESENTS, that I, Richard E. Johnson, Registered
 COUNTY OF COLLINGSWORTH : Professional Land Surveyor, do hereby certify that I did cause to be surveyed on the ground the tract of land shown on this plat, and to the best of my knowledge and belief, the said description is true and correct.

IN WITNESS THEREOF, my hand and seal, this the 3rd day of June, A.D., 2022.



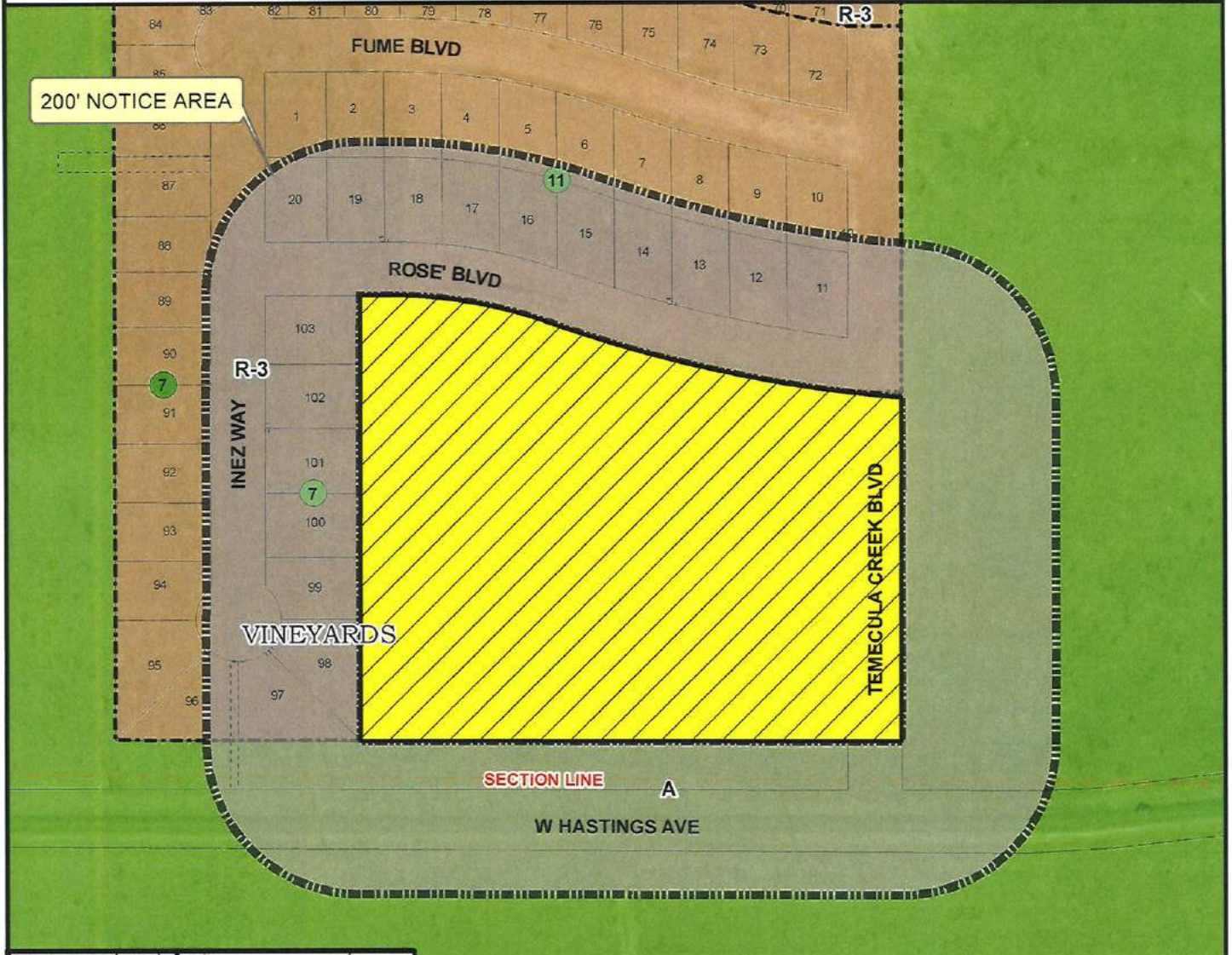
Richard E. Johnson
 Richard E. Johnson
 Registered Professional
 Land Surveyor #4263

Exhibit A

A Plat of 8.29 Acres out of Section 191, Block 2, A. B. & M. Survey, Potter County, Texas

SCALE: 1" = 200'	Firm No. 10090900	DRAWN BY: JA
DATE: June 2022		FILE NAME:
OJD Engineering, L.L.C. Consulting Engineers & Surveyors		806-352-7117 2420 Lakeview Drive Amarillo, Texas 79109
Rezone from Ag to R-3		DRAWING NUMBER

REZONING FROM A TO R-3



Legend

- Proposed Rezoning
- 200' Notice Area
- City Limits
- Block Numbers
- Platted Parcel
- Zoning Boundary
- A Agricultural
- R-3 Residential District 3

Source: Esri, Maxar, EarthStar Geographi

CITY OF AMARILLO PLANNING DEPARTMENT

Scale: 1 inch = 200 feet
Date: 6/10/2022
Case No: Z-22-24



Rezoning of a 8.29 acre tract of unplatted land, in Section 191, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District to Residential District 3

Owner: Tommy Nielson for Nielson Communities

Vicinity: W Hastings Ave. and Broadway Dr.

AP: M-9

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	July 26, 2022	Council Priority	Consent Agenda Item
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Department	Planning and Development Services Brady Kendrick – Planner II
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Agenda Caption

CONSIDERATION OF ORDINANCE NO. 8000

Second and final reading to consider an ordinance rezoning Lots 10 and 11, Block 11, Lawrence Park Addition Unit No. 4, an addition to the City of Amarillo, in Section 227, Block 2, A.B.&M. Survey, Potter and Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Office District 2 to Neighborhood Service District.
VICINITY: SW 28th Ave. and Paramount Blvd.
APPLICANT/S: Charles Leard for CPL-BLL Holdings

Agenda Item Summary

Adjacent land use and zoning

Adjacent zoning consists of General Retail to the north, Office District 2 and Planned Development District 49 to the south, Planned Development District 61 to the east, and Office District 2 to the west.

Adjacent land uses consist of a spa and drycleaners to the north, single-family attached townhomes and an office to the south, single-family attached townhomes to the east, and a real estate office to the west.

Proposal

The applicant is requesting a change in zoning in order to continue to utilize the existing building for office and storage that support several of the applicant’s retail liquor store (M&R Liquor) locations in Amarillo.

Considering the fact that portions of the building will store alcoholic products and that before TABC can issue a permit, a zoning district that allows for Off-Premise Alcoholic Beverage Sales is needed.

Analysis

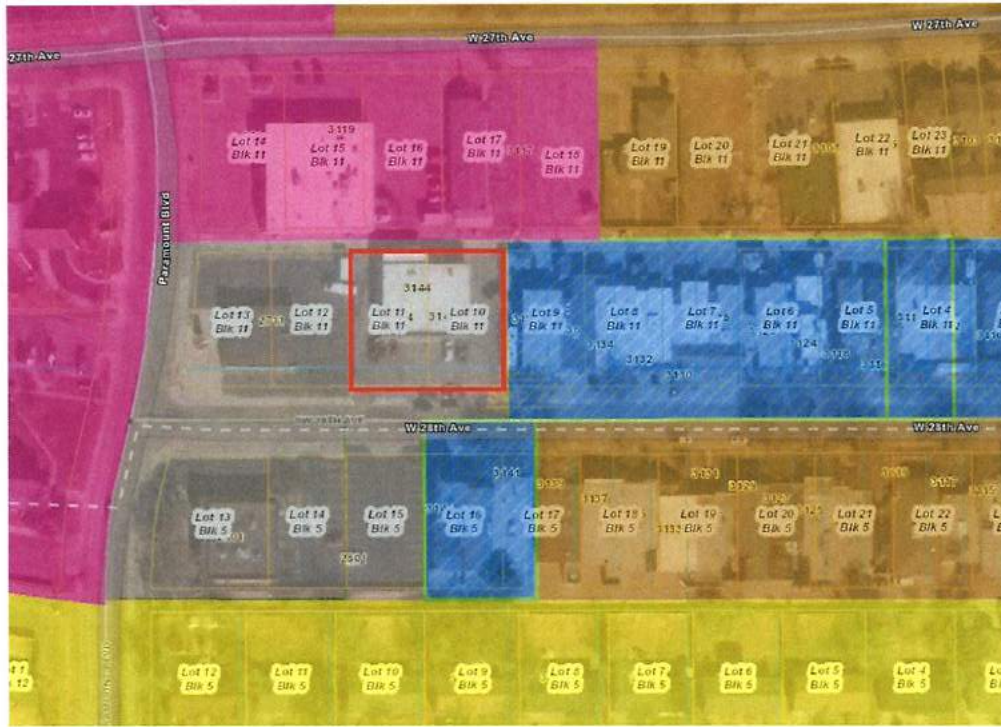
The Planning and Zoning Commission’s analysis of zoning change requests begins with referring to the Comprehensive Plan’s Future Land Use and Character Map, which identifies recommended future land uses. Additionally, the Planning and Zoning Commission considers what impact on area existing zoning and development patterns as well as its conformity to the Neighborhood Unit Concept of development (NUC).

The Future Land Use and Character Map (FLUCM) identifies the applicant’s tract as being in the General Commercial and the Multi-Family Residential categories (with the lot and building being split evenly between the two categories).

The General Commercial category (west half) calls for a wide range of commercial, retail, and office uses while the Multi-Family Residential category (east half) calls for multi-family dwellings to be the primary focus. While the applicant’s request would conform with the General Commercial category, Neighborhood Service District would not comply with the Multi-Family Residential category. It is worth nothing that the long-utilized office building predated the FLUCM.

Given the location of the applicant’s tract, Neighborhood Service District is a zoning district that in the Planning and Zoning Commission’s opinion, can provide an appropriate transition in zoning by providing a step down in zoning from General Retail to the north and possibly to the west (the FLUCM recommends General Commercial) that could not only provide neighborhood amenities should the applicant’s use no longer occupy the building but a buffer to residential to the east and south (see below map). Some of the allowed uses in this district would include the following:

- Antique Shop
- Bank
- Barber or Beauty Shop
- Office (medical/dental, general business)
- Pet Grooming
- Food and Beverage Sale Store



Expanding on the Neighborhood Unit Concept of Development (NUC) theme, as illustrated by the map below, this area has not followed this concept. Approximately the northern two-thirds of the Section is either developed with or zoned non-residential as much of the zoning includes Light Commercial District, General Retail District, and a mix of retail and commercial Planned Developments, while the southern one-third is composed of a mix of single-family, multi-family, and non-residential land uses and zoning districts.



As was mentioned previously, the applicant's tract is located in what can be considered a transitional area between higher intensity uses and zoning to lower intensity uses and zoning to the south and east. Given the tracts location in addition to area zoning and development patterns, the Planning and Zoning Commission is of the opinion that the applicant's request would not be out of character with the area and that a logical zoning district that would not result in any additional impacts to the surrounding area would be provided.

Requested Action/Recommendation

Notices have been sent to all property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has not received any comments regarding the request.

Considering the just mentioned, the Planning and Zoning Commission recommends **APPROVAL** of the rezoning request as presented.

ORDINANCE NO. 8000

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 SOUTHWEST TWENTY-EIGHTH AVENUE AND PARAMOUNT BOULEVARD, POTTER AND RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

DRAFT

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 10 and 11, Block 11, Lawrence Park Addition Unit No. 4, an addition to the City of Amarillo, in Section 227, Block 2, A.B.&M. Survey, Potter and Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Office District 2 to Neighborhood Service District.

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 26th day of July 2022 and **PASSED** on Second and Final Reading on this the 2nd day of August 2022.

Ginger Nelson, Mayor

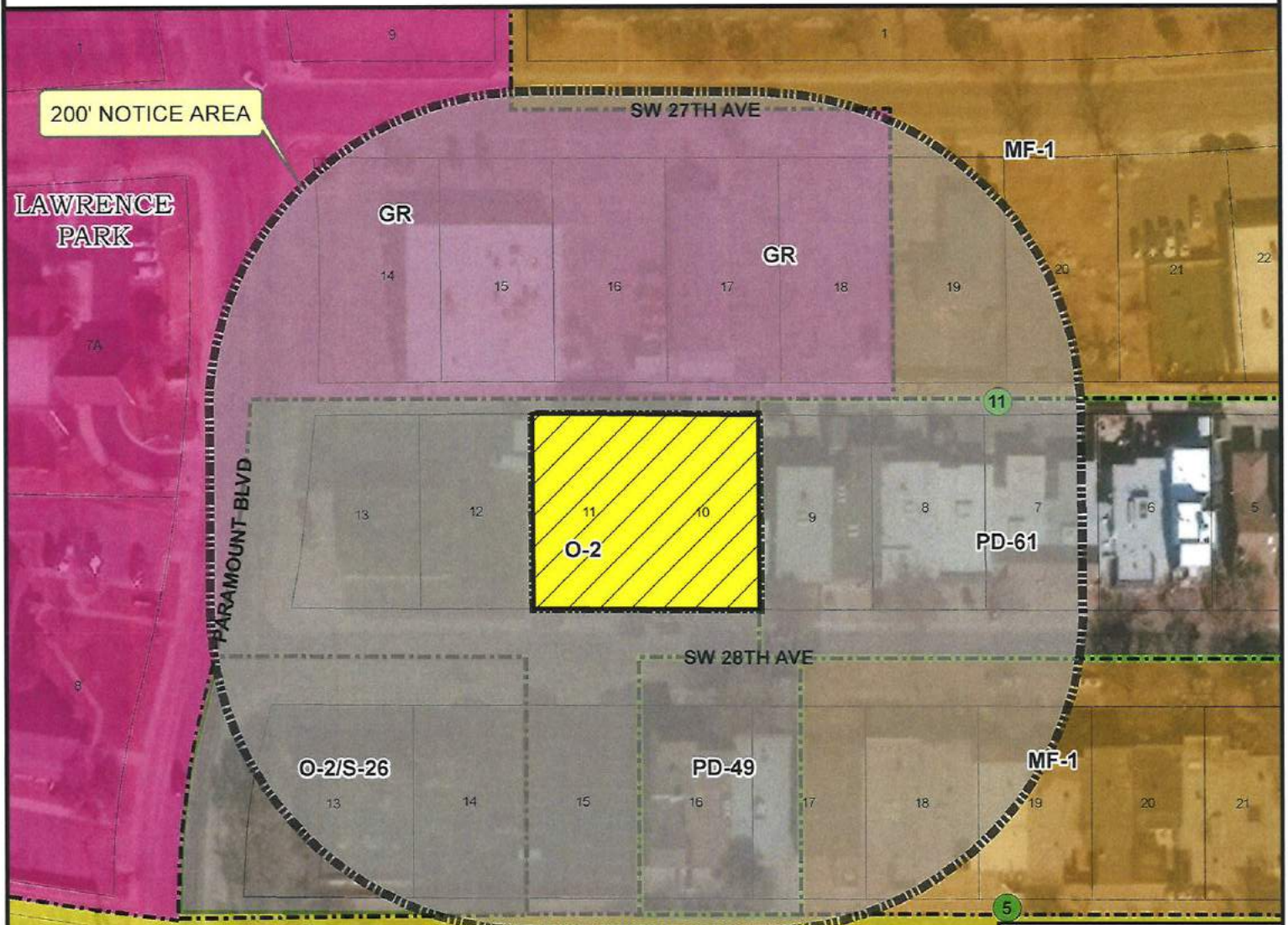
ATTEST:

Stephanie Coggins
City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
City Attorney

REZONING FROM O2 TO NS



Legend

- Proposed Rezoning
- 200' Notice Area
- City Limits
- Block Numbers
- Platted Parcel
- Zoning Boundary
- GR General Retail
- MF-1 Multiple Family 1
- O-2 Office District 2
- PD Planned Development
- R-1 Residential District 1

Source: Esri, Maxar, Earthstar Geograp

CITY OF AMARILLO PLANNING DEPARTMENT

Scale: 1 inch = 100 feet
 Date: 6/10/2022
 Case No: Z-22-25



Z-22-25 Rezoning of Lots 10 and 11, Block 11, Lawrence Park Addition Unit No. 4, an addition to the City of Amarillo, in Section 227, Block 2, A.B.&M. Survey, Potter and Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Office District 2 to Neighborhood Service District.

VICINITY: SW 28th Ave. and Paramount Blvd.
 APPLICANT/S: Charles Leard for CPL-BLL Holdings

AP: L-13

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	July 26, 2022	Council Priority	Economic Development and Redevelopment
Department	Planning	Contact Person	Emily Koller, Assistant Director of Planning

Agenda Caption

CONSIDERATION OF ORDINANCE NO. 8001

This item is a second and final reading and consideration of an ordinance to amend the Amarillo Municipal Code Title IV – Building Codes, Development and Zoning, by adding Chapter 4-12 regarding the City’s Recognized Neighborhood Association program; defining terms; providing eligibility criteria for Recognition of a neighborhood association; establishing the responsibilities of a Recognized Neighborhood Association; clarifying the process for suspension or revocation of Recognition status; providing for severability; providing for a repealer; and providing for publication and effective date.

Agenda Item Summary

This ordinance amendment creates a new program to formally recognize the partnership between the City and the neighborhood associations for coordination on neighborhood plan projects and other initiatives related to the plan areas.

In order to become a Recognized Neighborhood Association (RNA), the ordinance proposes that neighborhood groups must meet certain eligibility criteria that ensures that they are running transparent, organized associations that are open to all residents, business owners, and property owners within their boundaries. They must demonstrate their eligibility through an application process and are then Recognized by a resolution adopted by City Council. The program also states ongoing responsibilities for both Planning staff and neighborhood associations including a project submittal process.

Neighborhood groups who represent their purpose as implementation of the adopted neighborhood plan are required to become Recognized. Neighborhood associations that have not participated in a planning effort through the Neighborhood Planning Initiative may also be Recognized if they meet the eligibility requirements.

The eligibility criteria are listed below:

1. Be governed by a board of directors with a minimum of seven members in regular attendance. The composition of the board shall include at least one representative of each of the following types of members: resident; property owner; non-profit/institutional/educational; neighborhood business owner; and at-large providing expertise in other priority areas as identified by the organization such as finance, historic preservation, marketing, etc.
2. Maintain open membership to any person who lives, rents, or owns any real property in the neighborhood.
3. Be an organized entity recognized by the Texas Secretary of State through the filing of a Certificate of Formation and abiding by adopted bylaws.
4. Establish and maintain 501 (c)(3) nonprofit status as a tax-exempt, charitable organization approved by the Internal Revenue Service.
5. Hold an annual meeting at which all members vote.
6. Hold regularly scheduled board of directors' meetings at which business is conducted in an organized manner following best practices for meeting procedures.
7. Hold regularly scheduled community meetings and/or events at which all members are invited to participate in ongoing neighborhood initiatives.
8. Post notice of all meetings in advance in public places and in readily obtained online and print publications.
9. Have clearly stated boundaries.
10. Not discriminate in policies, recommendations, or actions.
11. Follow a strategic plan of work demonstrating active engagement in projects that improve neighborhood quality of life (this refers to annual action items such as the Projects in Motion top ten list, rather than the long-range neighborhood plan document).

Requested Action

Approval as presented.

Amarillo City Council

Agenda Transmittal Memo



Funding Summary

N/A

Community Engagement Summary

August 2020 - First draft of ordinance complete and presented to City Council

Fall 2020 - Outreach postponed due to COVID-19

October 2021 - First annual Neighborhood Leadership Day focuses on RNA program benefits and eligibility for neighborhoods with adopted plans

January-February 2022 - Ordinance revised with comments from Leadership Day. Follow-up presentations to clarify changes are made to existing neighborhood associations

March 2022 - Final draft posted for public comment

May-June 2022 - Review and final comment by Neighborhood Planning Oversight Committee

Staff Recommendation

Staff recommends approval as presented.

ORDINANCE NO. 8001

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, TITLE IV – BUILDING CODES, DEVELOPMENT AND ZONING, BY ADDING CHAPTER 4-12 REGARDING THE CITY'S RECOGNIZED NEIGHBORHOOD ASSOCIATION PROGRAM; DEFINING TERMS; PROVIDING ELIGIBILITY CRITERIA FOR RECOGNITION OF A NEIGHBORHOOD ASSOCIATION; ESTABLISHING THE RESPONSIBILITIES OF A RECOGNIZED NEIGHBORHOOD ASSOCIATION; CLARIFYING THE PROCESS FOR SUSPENSION OR REVOCATION OF RECOGNITION STATUS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the City Council has been presented evidence that the City's adopted Neighborhood Plans rely on voluntary organizations to actively engage in improving the quality of life in their neighborhoods and bear significant responsibility in the implementation of the neighborhood plan projects; and

WHEREAS, the City Council desires to formalize and clarify the ongoing implementation partnership between the City and neighborhoods with adopted plans; and

WHEREAS, the City Council desires to establish a neighborhood association recognition program that provides a standardized policy and sets forth the association's responsibilities and benefits;

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

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 Amarillo Municipal Code, Title IV – Building Codes, Development and Zoning is hereby amended by adding a new Chapter 4-12 and reads as follows:

Chapter 4.12 Recognized Neighborhood Associations

Article I. In General

Section 4-12-1. Purpose

The Recognized Neighborhood Association program will assist Amarillo's redeveloping neighborhoods through official recognition by the City of those that are voluntarily organizing and actively engaged in improving the quality of life in their neighborhoods.

The Recognized Neighborhood Association program will:

- A. Formalize and clarify the ongoing implementation partnership between the City and neighborhoods with adopted plans;
- B. Increase access to the various departments of the City for Recognized Neighborhoods and to improve the flow of information between these groups and the City; and

C. Help neighborhood associations understand how to navigate local government and be active participants in the process.

Neighborhood organizations are encouraged to work cooperatively among their own membership and with any adjacent or overlapping neighborhood organizations to determine positions on issues affecting the neighborhood and to conduct business in an organized, representative, and fair manner, which is designed to obtain informed participation from as many neighborhood citizens as possible. Neighborhoods are also encouraged to cultivate neighborhood participation that reflects the ethnic and socio-economic composition of the neighborhood they represent.

Section 4-12-2. Definitions

“Adopted Neighborhood Plan” refers to those neighborhoods that coordinated with the City to create a Neighborhood Plan, which was adopted as an amendment to the Amarillo Comprehensive Plan by the City Council.

“Neighborhood” means a geographically contiguous area within a designated boundary which is characterized by a substantial commonality of interest and identification as a neighborhood separate from others within the City of Amarillo.

“Neighborhood Association or Organization” means a voluntary association or organization formed by persons within a neighborhood for the purpose of considering and acting on issues affecting the livability and quality of life in their neighborhood. An association is open to all members within the boundaries of the neighborhood without bias and has as a regulated and predictable meeting pattern which is advertised in an appropriate manner to all members of the community. An association must have an organizing document ratified by the group.

“Neighborhood Planning Initiative” means the Interlocal Agreement created in 2016 between the City of Amarillo and Potter County to develop neighborhood plans as a revitalization tool for Amarillo’s distressed neighborhoods.

“Homeowners Association” means a mandatory organization in a subdivision, planned community or condominium that makes and enforces rules for the properties and their residents. Those who purchase property within an HOA's jurisdiction automatically become members and are required to pay dues and follow the codes, covenants, and restrictions (CC&Rs) which are recorded legal documents in the county records.

“Projects in Motion” means priority projects identified annually by the neighborhood association. Any project where City assistance is requested must be submitted on a Projects in Motion form to the Planning Department with Neighborhood Association Board approval.

“Public Improvement District” is a designated area where property owners elect to pay a special assessment for improvements and services within that area. The services must benefit the PID area only and are supplemental to any City service. PIDs are created by the authority of Chapter 372 of the Texas Local Government Code.

Section 4-12-3. Relation to the Neighborhood Planning Initiative

One of the important outcomes of the Neighborhood Planning Initiative is the formation of an organized neighborhood association to continue stewardship of the plans and partner with the City for ongoing implementation. Neighborhood groups who represent their purpose as implementation of the adopted neighborhood plan are required to become Recognized. This ensures an ongoing mutual commitment on behalf of the City and the neighborhood to the plan goals.

Recognized Neighborhood Associations for plan areas must represent the boundary as adopted in the neighborhood plan and only one organization may be Recognized for each neighborhood boundary.

Neighborhood associations that have not participated in a planning effort through the Neighborhood Planning Initiative may also be Recognized if they meet the eligibility requirements in 4-12-5.

Section 4-12-4. Relation to Mandatory Homeowners' Organizations and Public Improvement Districts

Homeowners Organizations and Public Improvement Districts are not eligible for participation in the neighborhood associations.

Article II. Eligibility and Filing for Recognition

Section 4-12-5. Eligibility and Boundaries

To be eligible for Recognition as provided in this article, neighborhood associations shall meet the following eligibility standards:

- A. They shall be governed by a board of directors with a minimum of seven members in regular attendance. The composition of the board shall include at least one representative of each of the following types of members: resident; property owner; non-profit/institutional/educational; neighborhood business owner; and at-large providing expertise in other priority areas as identified by the organization such as finance, historic preservation, marketing, etc.
- B. They shall maintain an open membership policy to any person who lives, rents, or owns any real property within the recognized boundaries of the neighborhood. The membership shall be a majority of residents and owners of real property within their prescribed boundary; other individuals or organizations may be members as further set forth in each neighborhood's bylaws or rules and regulations.
- C. They shall be an organized entity as recognized by filing a Certificate of Formation with the Texas Secretary of State.
- D. They shall establish and maintain 501 (c)(3) nonprofit status as a tax-exempt, charitable organization approved by the Internal Revenue Service.
- E. They shall hold an annual meeting at which all members may vote.
- F. They shall hold regularly scheduled board of directors' meetings at which business is conducted in an organized manner following best practices for meeting procedures such as Robert's Rules of Order or similar as identified in the organization's bylaws.
- G. They shall hold regularly scheduled community meetings and/or events at which all members are invited to participate in ongoing neighborhood initiatives.
- H. Notice of all meetings shall be posted in advance of such meeting, in public places and/or in readily obtained publications such as social media and newsletters, within their boundaries, as permitted and prescribed by law, and a record of said notice shall be maintained by the neighborhood organization;
- I. They shall have clearly stated boundaries in their bylaws. The boundary of a neighborhood association shall be determined in one of two ways: 1) identified by the adopted Neighborhood Plan; or, 2) drawn by the association membership after consultation with City staff. The boundary shall be reasonable and representative of physical and social characteristics of the neighborhood; represent a geographic area that is no smaller than four square blocks; and, have parameters that correspond with street center lines and property parcel lines. The boundaries of adjacent neighborhood organizations may not overlap. If they do overlap, the Recognition of organizations with overlapping boundaries is not allowed.
- J. They shall not discriminate against individuals or groups on the basis of race, religion, color, sex, sexual orientation, age, disability, national origin, income, or political affiliation in any of its policies, recommendations, or actions.

- K. They shall follow a strategic plan of work demonstrating active engagement in projects that improve the quality of life in the respective neighborhood.

Section 4-12-6. Recognition

A. Any neighborhood association may file for recognition at any time in the calendar year with a form provided by the Planning Department with the following information:

1. Official name;
2. Current boundary;
3. The name, email, mailing address, and telephone number of the primary contact whom the City or a member of the public may contact;
4. A roster for the board of directors including officer positions; the schedule for electing directors and officers; and board of directors' composition as set forth in Section 4-12-5 (A).
5. The number of persons the organization represents and number of dues paying members, if any;
6. Methods used to communicate with members and the neighborhood;
7. A copy of the organization's articles of incorporation and/or bylaws;
8. Proof that the IRS currently recognizes the organization's status as an active 501 (c)(3);
9. The time and place of the board and community meetings and/or events;
10. Agenda and minutes of the required annual general membership meeting;
11. A copy of a current work plan or strategic plan demonstrating active engagement in activities that improve the quality of life in the respective neighborhood.

B. A new and/or previously Recognized neighborhood association may file with the Planning Department on a year-round basis.

C. There is no fee for filing for Recognition.

D. If the information filed by the neighborhood association is incomplete, staff will notify the neighborhood contact within 14 days. If no revisions are submitted, the filing will be considered incomplete, and the neighborhood association will not be Recognized. Neighborhoods may reapply in the same calendar year.

E. For complete submittals staff will, within 30 days, take one of the following actions:

1. Provide a recommendation to the Neighborhood Planning Oversight Committee for Recognition. The Committee will approve the recommendation and direct staff to extend official notice of Recognition, list the organization on the City's website, and prepare a resolution for City Council approval; or
2. Deny recognition by providing written notice of the denial, which will include the reason for denial. Neighborhood associations may re-apply for recognition the following year.

F. Only one organization may be recognized as the neighborhood association for a defined neighborhood boundary including a neighborhood plan area. If there is an existing Recognized Neighborhood Association in good standing, no new filings will be considered for the boundary area. If a Recognized Neighborhood Association is non-compliant, new filings may be considered. Should multiple organizations exist and file for Recognition to represent a previously unrepresented area, the following criteria will be used in addition to that which is described in Sec. 4-12-5 to determine which organization will be Recognized:

1. The size, composition, and attendance of the board of directors. Larger, active boards shall be given preference.
2. The total number of members. Larger membership will be given preference.
3. The total number of committees. Organizations with active committees will be given preference.
4. Organizations with active projects that demonstrate past success in collaborating with other neighborhood partners and governmental entities on neighborhood improvement projects will be given preference.

Section 4-12-7. Annual Renewal

In addition to the ongoing responsibilities in Section 4-2-10, Recognized Neighborhood Associations shall file the following renewal materials by March 31st each year to maintain their status:

1. Number of members for the previous year;
2. The name, email, mailing address, and telephone number of the primary contact whom the City or a member of the public may contact;
3. A roster for the board of directors including current officers;
4. Date, time and location of board and general membership meetings;
5. Agenda and minutes of the required annual general membership meeting;
6. Current bylaws or rules and regulation, if such bylaws or rules and regulation have been amended in the prior year;
7. Proof that the IRS currently recognizes the organization's status as an active 501 (c)(3); and,
8. A copy of a current work plan or strategic plan demonstrating active engagement in activities that improve the quality of life in the respective neighborhood.

Section 4-12-8. De-listing and Re-listing

Any Recognized Neighborhood Association which does not meet, or ceases to meet, the eligibility standards of section 4-12-5, the responsibilities of section 4-12-10, or which does not apply for renewal as required by section 4-12-7 shall be considered non-compliant. Non-compliant neighborhoods shall receive a written letter stating necessary steps to achieve compliance. If those steps are not achieved within six months, neighborhoods will be deactivated for a period of one year during which time the duties outlined in Section 4-12-9 shall not be required. After one year of non-compliance, neighborhoods will be recommended for removal from the list of Recognized Neighborhoods by the City Council.

Article III. Duties, Benefits and Responsibilities

Section 4-12-9. Duties of the Planning Department

Planning Department shall have the following duties in connection with all Recognized Neighborhood Associations:

- A. To maintain a current map of the boundaries and a current list of the official names, boundaries, officers, and primary contact persons of all Recognized Neighborhood Associations on the City's official website;
- B. To provide regular email communication about City-related events, policies, land use proposals, and projects to the president of each Recognized Neighborhood Association;
- C. To notify all Recognized Neighborhood Associations each January of their requirement to renew their status by March 31st;
- D. To collaborate with neighborhood leadership for implementation of City-related projects, including cost estimating, scheduling, and other feasibility items;
- E. To administer Recognized Neighborhood Association specific programs as outlined in Department policies such as welcome signs, street sign toppers, community crosswalks, public arts grants, and other projects related to the beautification and enhancement of neighborhoods; and,
- F. To proactively seek new funding and other resources for neighborhood plan projects on a continual basis.

Section 4-12-10. Recognized Neighborhood Association Responsibilities

Recognized Neighborhood Organizations commit to the following responsibilities:

- A. Organize and undertake activities, projects, or programs which foster a sense of community and improve livability within the neighborhood;
- B. Work in collaboration with City staff and other partners to mutually further the goals of adopted neighborhood plans;
- C. Comply with their adopted bylaws or rules and regulations;
- D. Establish and utilize an orderly and democratic process for making representative decisions;

- E. Provide board meeting agendas and approved meeting minutes on a monthly basis to the Planning Department; and,
- F. Follow an established Projects in Motion submittal process in the Planning Department for those projects where City coordination is requested regardless of funding source. Project submittals must have Neighborhood Association Board approval.
- G. Recognized Neighborhood Associations may also establish and follow a clear method for reporting to the City actions which accurately reflect the Recognized Neighborhood Association's position on a matter that is the subject of a pending City agenda item and identify whether the decision was reached by the board, a survey of the general membership, or by a vote at a general membership meeting, and the vote for and against the position.

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

SECTION 4. Repealer. All ordinances and resolutions or parts thereof that conflict with this Ordinance are hereby repealed, to the extent of such conflict.

SECTION 5. Publishing and Effective Date. This Ordinance shall be published and 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 this the 26th day of July 2022 and **PASSED** on Second and Final Reading this the 2nd day of August 2022.

Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins, City Secretary

APPROVED AS TO FORM

Bryan McWilliams, City Attorney

Amarillo City Council Agenda Transmittal Memo



Item No. 2G

Meeting Date	August 2, 2022	Council Priority	Civic Pride
Department	Parks and Recreation Administration		
Contact	Michael Kashuba, Director of Parks and Recreation		

Agenda Caption

CONSIDER APPROVAL – INTERLOCAL AGREEMENT BETWEEN THE CITY OF AMARILLO, TEXAS AND AMARILLO COLLEGE

Agenda Item Summary

This item considers the approval of an interlocal agreement defining Amarillo College’s rental of Rick Klein Sports Complex from the Parks and Recreation department.

Requested Action

Approval and authorization for City Manager to execute agreement.

Funding Summary

Amarillo Parks and Recreation Department will be providing Rick Klein Sports Complex to Amarillo College for rental purposes.

Community Engagement Summary

N/A

Staff Recommendation

Parks and Recreation Administration are recommending approval of interlocal agreement (as reviewed and approved by COA legal Dept).

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF AMARILLO, TEXAS
AND AMARILLO COLLEGE
(for Rick Klein Sports Complex Field Rentals and Improvements)**

This Agreement is made between the City of Amarillo, Texas (“City”), a home rule municipality, and Amarillo College (“AC”), a junior college subject to Chapter 130 of the Texas Education Code. Pursuant to the authority granted by the “Texas Interlocal Cooperation Act,” Chapter 791, Texas Government Code, as amended, providing for the cooperation between local governmental bodies, the parties hereto, in consideration of the premises and mutual promises contained herein, agree as follows:

- 1. Entity & Authority.** Each party is a local government within the State of Texas. The governing body of each entity has approved this Agreement in a public meeting and has authorized its signatory to execute this Agreement and thereby legally obligate each party.
- 2. Public Benefit & Purpose.** The respective governing body of each party finds that: the subject of this Agreement is necessary for the benefit of the public; and, that each party has the legal authority to perform and to provide the governmental function, service, or transaction which is the subject matter of this Agreement; and, that the division of costs fairly compensates the performing party for the services performed under this Agreement. The parties agree that this Agreement is for or promotes a governmental function: parks and recreational facilities.
- 3. Current Revenues.** A party hereto which is required to make a payment shall do so from current revenues legally available to the party.
- 4. City Obligation.** City agrees to provide AC access to City’s Rick Klein Sports Complex fields #2 and #3 in accordance with the terms specified in Exhibit A.
- 5. AC Obligation.** AC agrees to reimburse City for improving the Rick Klein Sports Complex field #3 in accordance with the terms specified in Exhibit A.
- 6. Exhibit Incorporated.** The provisions of Exhibit A are incorporated herein by this reference as though stated here verbatim. The governing body of each party hereby authorizes its point-of-contact official to mutually agree (without the need of further approval by either governing body) to minor adjustments in the operational procedures, allocated duties, rights, etc. described in Exhibit A to facilitate greater efficiencies, reduce opportunity for errors, and better serve the public, so long as such adjustments do not require or constitute a material change in fees, costs, or the performance required of a party.
- 7. Liability.** The purpose of this Agreement is only to set forth the rights and duties of the parties with regard to the governmental functions, services, or transactions described. This Agreement does not create any right, benefit, or cause of action for any third party. By executing this Agreement, neither party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising out of the approval or performance of this Agreement. Each party shall be solely responsible for any loss, damage, injury, or death to any third party arising out of or related to the acts or omissions of it’s employees or agents and not those of any other party.
- 8. Venue.** Each party agrees that if legal action is brought under this Agreement, then exclusive venue shall be in a court of competent jurisdiction of Potter County, Texas.
- 9. Effective Date & Term.** This Agreement shall become effective on the first day after it has been approved by the governing body for each respective entity. This Agreement shall remain in full force and effect until June 15, 2023 unless otherwise extended or terminated.
- 10. Severance & Survival.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any aspect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been stated herein. The provisions of paragraph 7, paragraph 8, and Exhibit A shall survive termination, cancellation, expiration, or non-renewal of this Agreement.
- 11. Entire Agreement & Amendments.** This Agreement contains all of the commitments and agreements of the parties. Any oral or written commitment not stated herein shall have no force or affect. This Agreement may be amended or modified only by mutual agreement in a writing signed by both parties. In the event of a conflict between the terms of this Agreement and Exhibit A, the terms of Exhibit A shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized officers the day and year written below.

AMARILLO COLLEGE

CITY OF AMARILLO, TEXAS

By: _____

By: _____

Title: Dr. Russell Lowery-Hart, President

Title: Jared Miller, City Manager

Date: _____

Date: _____

EXHIBIT A

Rick Klein Sports Complex Field Rentals and Improvements

The purpose of this Exhibit A and the Interlocal Agreement to which it is attached is to state the terms, conditions, and consideration upon which the City of Amarillo ("City") will provide to Amarillo College ("AC") access to the City's Rick Klein Sports Complex in exchange for AC funding the City's improving of one of the fields there.

1. Field Rental:

- a. AC may use the Rick Klein Sports Complex fields #2 and #3 for Intercollegiate Baseball related activities, subject to the following terms and conditions:
 - i. **Scheduling.** AC will schedule all games, tournaments, and practices through the City's Parks and Recreation Department ("PARD") by calling 378-6015. AC's use of fields #2 and #3 must be coordinated with the City and the West Texas Youth Baseball Association, but the City and AC, in that order, will have scheduling priority for fields #2 and #3. During practices, AC must keep a copy of its practice permit readily accessible.
 - ii. **Cancellations.** If AC cancels any games, AC must notify PARD within 24 hours prior for a full refund, and must call PARD to schedule makeup games.
 - iii. **Maintenance.** AC will not perform any field maintenance unless authorized by PARD.
 - iv. **AC Branding.** AC may display banners on game days and may apply the school logo and other text to the fields with approval of the Director of PARD.
 - v. **Concessions.** AC may sell concessions only upon PARD prior approval.
 - vi. **Issue Reporting.** AC will report any incidents, accidents, damage, maintenance issues, or safety issues to PARD as soon as possible at 378-6823.
 - vii. **General Terms and Conditions.**
 - (1) No unauthorized use of motorized vehicles or equipment on any fields at any time.
 - (2) Leave the areas clean; follow all City ordinances pertaining to **alcoholic beverages or tobacco products**; follow all park rules; and no profane language; no animals in the complexes; animals in the outlying must be leashed and in the owner's control at all times.
- b. Other items related to the intercollegiate baseball activities may be approved by the Director of PARD.
- c. The City will:
 - i. Provide AC intercollegiate baseball coaches with keys to the facility.
 - ii. Help promote AC's intercollegiate baseball activities through its media contacts.
 - iii. Maintain the fields, including but not limited to:
 - (1) Overseed infield and dugout area with winter rye no later than October 10.
 - (2) Providing mound clay for the pitchers mound and home plate.
 - (3) Mow the infield two days per week with an infield real mower OR provide AC with a real mower so that AC can properly maintain the infield.
 - iv. Decide and communicate playing condition issues by 4:00 pm daily. For condition changes after 4:00 pm, AC must work with PARD to communicate playing condition issues.

2. Field Improvement:

- a. The City is improving field #3. AC agrees to reimburse the City up to \$12,000 for the cost of the improvements.

3. Financial Offset:

- a. AC's use of fields #2 and #3 will be charged at the City's standard field rental rates:
 - a. \$20 per 1.5 hours for unlit fields
 - b. \$30 per 1.5 hours for lit fields
- b. In exchange for paying for \$12,000 of field improvements, AC's first \$12,000 in field rentals due will be waived.
- c. Once \$12,000 value of field rentals is achieved, further field rentals will be charged at the City's standard field rental rates, which may be reduced by an amount approved by the Director of Parks and Recreation in consideration of optional field maintenance performed by AC.

4. Points of Contact: Each party hereby designates the following person as its Point of Contact for administering this agreement:

City of Amarillo
Director of Parks and Recreation
P.O. Box 1971
Amarillo TX 79105

Amarillo College
Director of Intercollegiate Athletics
P.O. Box 447
Amarillo TX 79178

Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 2, 2022	Council Priority	Public Safety
Department	Public Health		
Contact	Casie Stoughton, Director of Public Health		

Agenda Caption

CONSIDER AWARD – TUBERCULOSIS FEDERAL GRANT
 Grantor: Texas Department of State Health Services
 Grant Amount: \$44,024.00

This item accepts the award of a grant from the Texas Department of State Health Services, from January 1, 2023 thru December 31, 2024, to continue funding to prevent and control the transmission of active and latent tuberculosis.

Agenda Item Summary

The public health department will continue tuberculosis prevention and control activities including screening, testing, treatment, management of active cases and contacts, and community education.

Requested Action

Accept grant award.

Funding Summary

This grant is provided by the Texas Department of State Health Services, 20% match provided by the public health department.

Community Engagement Summary

Patients seen through the Public Health Department are tested and treated for both active and latent tuberculosis. Generally, the program averages 2-8 cases of active tuberculosis and around 150 cases of latent tuberculosis per year.

Staff Recommendation

Staff recommend acceptance of this grant.

Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 2, 2022	Council Priority	Economic Development
Department	City Manager's Office		
Contact	Laura Storrs, Assistant City Manager		

Agenda Caption

CONSIDERATION OF RESOLUTION NO. 08-02-22-1 – AUTHORIZING EXPENDITURES OF HOTEL OCCUPANCY TAX REVENUE BY THE AMARILLO CONVENTION AND VISITORS BUREAU FOR THE 2022/2023 FISCAL YEAR

(Kashion Smith, Executive Director)

This resolution approves the 2022/2023 Budget for the Convention and Visitors Bureau which is funded through a tax levied upon hotel occupancy.

Agenda Item Summary

This resolution approves the 2022/2023 budget for the Amarillo Convention and Visitors Bureau. The City of Amarillo levies a tax on hotel occupancy, authorized by law for the promotion, solicitation, encouragement, and development of tourism and conventions for the City.

Requested Action

Council consideration and approval of the resolution authorizing expenditures of hotel occupancy tax revenue by the Amarillo Convention and Visitors Bureau 2022/2023 fiscal year.

Funding Summary

N/A

Community Engagement Summary

The 2022/2023 fiscal year budget has been reviewed and approved for Council consideration at the July 27, 2022 Amarillo Convention and Visitors Bureau Board meeting.

Staff Recommendation

Staff recommendation is to approve the 2022/2023 fiscal year budget for the Amarillo Convention and Visitors Bureau for the fiscal year October 1, 2022 to September 30, 2023.

RESOLUTION NO. 08-02-22-1

A RESOLUTION OF THE CITY OF AMARILLO, TEXAS:
APPROVING EXPENDITURE OF HOTEL OCCUPANCY TAX
REVENUE BY THE AMARILLO CONVENTION AND
VISITORS BUREAU, INC. FOR THE FISCAL YEAR
OCTOBER 1, 2022 TO SEPTEMBER 30, 2023.

WHEREAS, the City of Amarillo desires to promote tourism and conventions for visitors to the City of Amarillo as well as cultural events for the citizens of this City; and

WHEREAS, the City of Amarillo levies a tax upon hotel and motel room occupancy within the City as authorized by law for the promotion, solicitation, encouragement, and development of tourism and conventions for the City; and

WHEREAS, the Amarillo Convention and Visitors Bureau, Inc. is an organization that, among other things, promotes such activities referred to above; and

WHEREAS, the Amarillo Convention and Visitors Bureau proposed a budget for fiscal year October 1, 2022 - September 30, 2023, and it has been filed with the City Secretary of the City of Amarillo; and

WHEREAS, after considering the proposed expenditures, other financial considerations, and public comments, the City Council finds that the proposed budget promotes tourism and the convention and hotel industry in the manner required by state law, and that same should be approved.

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

SECTION 1. The budget as filed, together with any amendments made in public meeting, for the Amarillo Convention and Visitors Bureau, Inc. for the expenditure of hotel/motel occupancy tax for the fiscal year October 1, 2022, to September 30, 2023, be and the same is hereby approved, together with any amendments made in public meeting at which it is considered.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, this 2nd day of August 2022.

Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, City Attorney

EIN	85-3052934	October	November	December	January	February	March	April	May	June	July	August	September	
95600 - Income														
Account	Fund	Month 1 (Oct)	Month 2 (Nov)	Month 3 (Dec)	Month 4 (Jan)	Month 5 (Feb)	Month 6 (Mar)	Month 7 (Apr)	Month 8 (May)	Month 9 (Jun)	Month 10 (Jul)	Month 11 (Aug)	Month 12 (Sep)	Last Year Actuals
4000 - City Contract Income	\$ 2,845,221.00	\$ 216,666.63	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 216,666.67	\$ 1,284,780.00
4010 - Interest Income	\$ 2,246.00	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 187.17	\$ 2,246.00
4020 - Other Income		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
4030 - Grant														\$ 100,000.00
4040 - Reserves	\$ (200,000.00)													\$ 250,000.00
4101 - Fixed Assets Disposal Gain														
\$ 2,647,467.00														\$ 1,637,026.00
95600 - Administration														
Account	Total	Month 1 (Oct)	Month 2 (Nov)	Month 3 (Dec)	Month 4 (Jan)	Month 5 (Feb)	Month 6 (Mar)	Month 7 (Apr)	Month 8 (May)	Month 9 (Jun)	Month 10 (Jul)	Month 11 (Aug)	Month 12 (Sep)	Last Year Actuals
6000 - Contractual Services	\$ -													
9560061200 - Postage	\$ 7,000.00	\$ 350.00	\$ 400.00	\$ 350.00	\$ 2,500.00	\$ 300.00	\$ 600.00	\$ 1,000.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 7,000.00
9560063140 - Audit Fee	\$ 11,000.00					\$ 11,000.00								\$ 10,000.00
9560069100 - Rental Land & Buildings	\$ 16,440.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 1,370.00	\$ 15,600.00
9560069310 - Vehicle Lease	\$ 12,600.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 3,800.00	\$ 9,000.00
7000 - Other Charges	\$ -													
700071100 - Insurance and Bonds	\$ 13,500.00	\$ 1,400.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	
9560075200 - Mileage	\$ 4,100.00	\$ 200.00	\$ 1,300.00	\$ 200.00	\$ 400.00	\$ 200.00	\$ 200.00	\$ 600.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 3,000.00
9560076000 - Depreciation	\$ -													
9560078460 - Executive Office OH	\$ 11,680.00	\$ 680.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 15,000.00
9560078465 - City Services - General OH	\$ 16,000.00		\$ 4,000.00			\$ 4,000.00			\$ 4,000.00			\$ 4,000.00		\$ 20,000.00
\$ 92,320.00														\$ 79,600.00
95600 - Personnel Services														
Account	Total	Month 1 (Oct)	Month 2 (Nov)	Month 3 (Dec)	Month 4 (Jan)	Month 5 (Feb)	Month 6 (Mar)	Month 7 (Apr)	Month 8 (May)	Month 9 (Jun)	Month 10 (Jul)	Month 11 (Aug)	Month 12 (Sep)	Last Year Actuals
41000 - Personnel Services	\$ -													
9560041000 - Salaries & Wages	\$ 708,000.00	\$ 57,750.00	\$ 57,750.00	\$ 57,750.00	\$ 57,750.00	\$ 57,750.00	\$ 57,750.00	\$ 57,750.00	\$ 57,750.00	\$ 61,500.00	\$ 61,500.00	\$ 61,500.00	\$ 61,500.00	\$ 496,000.00
9560041300 - Incentives	\$ 20,000.00			\$ 5,000.00			\$ 5,000.00			\$ 5,000.00			\$ 5,000.00	\$ 10,000.00
9560041620 - OT Unscheduled	\$ -													\$ 1,500.00
9560041860 - Chamber Health	\$ 109,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 10,000.00	\$ 75,200.00
9560041870 - Chamber Long Term Care	\$ 12,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,400.00
9560042010 - Social Security - Medicare	\$ 12,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 5,500.00
9560042020 - Social Security - OASDI	\$ 48,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 26,000.00
9560042135 - Chamber Retirement	\$ 74,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,500.00	\$ 6,500.00	\$ 6,500.00	\$ 6,500.00	\$ 47,400.00
9560042300 - State Unemployment	\$ 8,000.00	\$ 2,000.00			\$ 2,000.00			\$ 2,000.00			\$ 2,000.00			\$ 2,000.00
9560042310 - Federal Unemployment	\$ 2,000.00	\$ 500.00			\$ 500.00			\$ 500.00			\$ 500.00			\$ 200.00
9560042400 - Workers Compensation	\$ 2,400.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 1,800.00
95600.42550 - Communications allowance	\$ 2,200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 100.00	\$ 100.00	
\$ 997,600.00														\$ 667,000.00
95600.51110 - Office Expense	\$ 7,000.00	\$ 2,000.00	\$ 500.00	\$ 2,000.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 300.00	\$ 800.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 6,000.00
Horse Repaint	\$ 1,000.00								\$ 1,000.00					
Staff Photos	\$ 2,000.00	\$ 2,000.00												
Staff Passports x3	\$ 300.00	\$ 300.00												
Furniture	\$ 5,000.00	\$ 5,000.00												
\$ 15,300.00														\$ 6,000.00
95605 - Communications														
Account	Total	Month 1 (Oct)	Month 2 (Nov)	Month 3 (Dec)	Month 4 (Jan)	Month 5 (Feb)	Month 6 (Mar)	Month 7 (Apr)	Month 8 (May)	Month 9 (Jun)	Month 10 (Jul)	Month 11 (Aug)	Month 12 (Sep)	Last Year Actuals
9560578570 - FAM/Site Visits	\$ -													
9560578580 - Community Awareness	\$ 2,400.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 8,500.00
Media lunch	\$ 1,000.00								\$ 1,000.00					

\$ 135,150.00		95650 - Software & Hardware												\$ 31,700.00
Account	Total	Month 1 (Oct)	Month 2 (Nov)	Month 3 (Dec)	Month 4 (Jan)	Month 5 (Feb)	Month 6 (Mar)	Month 7 (Apr)	Month 8 (May)	Month 9 (Jun)	Month 10 (Jul)	Month 11 (Aug)	Month 12 (Sep)	Last Year Actuals
6000.1 - Contractual Services	\$ -													
9565061100 - Communications Billing - Telephone	\$ -													\$ 10,000.42
ESI	\$ 4,800.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00
ATT	\$ 8,400.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00
95650.68620 - Computer Equipment/IT	\$ -													\$ 12,000.00
Computers	\$ 20,000.00	\$ 20,000.00												\$ 10,000.00
New Surfaces (x3)	\$ 4,368.00	\$ 4,368.00												
iPad (x2)	\$ 2,912.00	\$ 2,912.00												
Yogi	\$ 1,029.00	\$ 1,029.00												
Andrews & Associates	\$ 10,800.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00	\$ 900.00
95650.68680 - Other Equipment	\$ 1,000.00	\$ 1,000.00												\$ 2,000.00
Printer	\$ 3,600.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00
51000.1 - Supplies	\$ -													
9565051970 - Software/Research	\$ 6,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 134,470.00
Google Drive Storage	\$ 110.00										\$ 110.00			
GetResponse	\$ 1,060.00	\$ 1,060.00												
Crazy Egg	\$ 350.00	\$ 350.00												
Social Media Software	\$ 1,500.00				\$ 1,500.00									
STR	\$ 8,800.00	\$ 8,800.00												
QR Code	\$ 200.00	\$ 200.00												
Aplos	\$ 1,800.00	\$ 1,800.00												
Muckrack	\$ 5,000.00	\$ 5,000.00												
Zoom	\$ 400.00							\$ 400.00						
Threshold 360	\$ 9,000.00		\$ 9,000.00											
Meltwater	\$ 2,500.00		\$ 2,500.00											
Visit Widget	\$ 6,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
Adobe	\$ 6,900.00		\$ 200.00	\$ 600.00			\$ 6,100.00							
Simpleview CRM	\$ 22,100.00				\$ 22,100.00									
Simpleview CMS	\$ 22,500.00				\$ 22,500.00									
ITI	\$ 5,000.00					\$ 5,000.00								
Slack	\$ 2,400.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00
Bandwango	\$ 14,500.00									\$ 14,500.00				
Accessibility	\$ 6,500.00	\$ 6,500.00												
Canva	\$ 200.00	\$ 200.00												
MINT	\$ -													
Simplefeed	\$ 6,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
Simpleview Support	\$ 6,000.00	\$ 6,000.00												
Economic Impact Calculator	\$ 6,500.00	\$ 6,500.00												
Source Strategies	\$ 1,000.00	\$ 1,000.00												
9565052300 - Unassigned	\$ -													
\$ 199,229.00														\$ 168,470.42
Total Expenses	\$ 2,647,467.00													\$ 1,648,626.00
Total Remaining	\$ -													

Amarillo City Council Agenda Transmittal Memo



Item No. 2J

Meeting Date	August 2, 2022	Council Priority	Infrastructure Initiative
Department	Capital Projects & Development Engineering		
Contact	Kyle Schniederjan, CP&DE Director		

Agenda Caption

CONSIDER APPROVAL - CHANGE ORDER NO. 3 FOR LIFT STATION 32

Project No. 521805, Bid No. 6269
Williams Ditching, LLC – \$60,090.09

Original Contract Amount: \$ 15,862,850.71
Previous Change Orders: \$ (567,466.40)
This Change Order No. 3: \$ 60,090.09
Revised Contract Total: \$ 15,355,474.40

Agenda Item Summary

Change Order No. 3 addresses unanticipated additional pavement needed in Osage St., additional depth needed to be excavated and flowfill used as backfill. Additional Contract Time is included in this change order to account for weather days to date.

Requested Action

Consider approval of Change Order No. 3 to the contract with Williams Ditching, LLC in the amount of \$60,090.09 for execution by the City Manager.

Funding Summary

Funding for this project is available in the Project Budget Number 521805.17400.2040.

Community Engagement Summary

This project will have Level 1, modest impact. City staff, consultant, and contractor will coordinate on necessary traffic controls.

Staff Recommendation

City staff is recommending approval of the change order.

To be awarded as one lot	WILLIAMS DITCHING	UTILITY CONTRACTORS OF AMERICA	MH CIVIL CONTRACTORS	SPIESS CONSTRUCTION CO INC	OSCAR RENDA CONTRACTING
Line 1 Mobilization, Bonding & Insurance, per specifications					
1 If					
Unit Price	\$454,144.660	\$900,000.000	\$510,473.000	\$970,000.000	\$1,000,000.000
Extended Price	454,144.66	900,000.00	510,473.00	970,000.00	1,000,000.00
Line 2 Lift Station, per specifications					
1 Is					
Unit Price	\$5,844,682.470	\$9,750,000.000	\$9,082,000.000	\$10,904,682.000	\$13,106,000.000
Extended Price	5,844,682.47	9,750,000.00	9,082,000.00	10,904,682.00	13,106,000.00
Line 3 18" Dia. HDPE Force Main, per specifications					
2,225 If					
Unit Price	\$159.340	\$145.000	\$266.000	\$170.000	\$220.000
Extended Price	354,531.50	322,625.00	591,850.00	378,250.00	489,500.00
Line 4 24" Dia. HDPE Force Main, per specifications					
14,527 If					
Unit Price	\$237.450	\$226.000	\$289.000	\$235.000	\$290.000
Extended Price	3,449,436.15	3,283,102.00	4,198,303.00	3,413,845.00	4,212,830.00
Line 5 18" Dia. HDPE Carrier Pipe for Bore, per specifications					
182 If					
Unit Price	\$124.840	\$141.000	\$226.000	\$260.000	\$220.000
Extended Price	22,720.88	25,662.00	41,132.00	47,320.00	40,040.00
Line 6 24" Dia. HDPE Carrier Pipe for Bore, per specifications					
744 If					
Unit Price	\$196.610	\$191.000	\$305.000	\$290.000	\$290.000
Extended Price	146,277.84	142,104.00	226,920.00	215,760.00	215,760.00
Line 7 24" Dia. PVC Carrier Pipe for Bore, per specifications					
45 If					

Unit Price	\$131.060		\$206.000		\$216.000		\$260.000		\$175.000	
Extended Price		5,897.70		9,270.00		9,720.00		11,700.00		7,875.00
Line 8 36" Dia. FRP Carrier Pipe for Bore, per specifications										
36 lf										
Unit Price	\$24.350		\$239.000		\$514.000		\$330.000		\$325.000	
Extended Price		876.60		8,604.00		18,504.00		11,880.00		11,700.00
Line 9 48" Bore & Steel Casing, per specifications										
36 lf										
Unit Price	\$1,682.290		\$1,350.000		\$1,377.000		\$1,900.000		\$1,500.000	
Extended Price		60,562.44		48,600.00		49,572.00		68,400.00		54,000.00
Line 10 36" Bore & Steel Casing, per specifications										
920 lf										
Unit Price	\$1,724.630		\$720.000		\$960.000		\$1,400.000		\$850.000	
Extended Price		1,586,659.60		662,400.00		883,200.00		1,288,000.00		782,000.00
Line 11 8" Dia PVC Gravity Sewer 10'-12' Depth, per specifications										
33 lf										
Unit Price	\$45.640		\$222.000		\$59.000		\$300.000		\$80.000	
Extended Price		1,506.12		7,326.00		1,947.00		9,900.00		2,640.00
Line 12 24" Dia PVC Gravity Sewer 8'-10' Depth, per specifications										
49 lf										
Unit Price	\$114.780		\$78.000		\$192.000		\$100.000		\$175.000	
Extended Price		5,624.22		3,822.00		9,408.00		4,900.00		8,575.00
Line 13 24" Dia PVC Gravity Sewer 12'-14' Depth, per specifications										
692 lf										
Unit Price	\$117.770		\$79.000		\$194.000		\$115.000		\$180.000	
Extended Price		81,496.84		54,668.00		134,248.00		79,580.00		124,560.00
Line 14 24" Dia PVC Gravity Sewer 14'-16' Depth, per specifications										
1,248 lf										
Unit Price	\$118.870		\$85.000		\$201.000		\$120.000		\$185.000	
Extended Price		148,349.76		106,080.00		250,848.00		149,760.00		230,880.00

Line 15 24" Dia PVC Gravity Sewer 16'-18'										
Depth, per specifications										
573 lf										
Unit Price	\$123.400		\$87.000		\$209.000		\$125.000		\$190.000	
Extended Price		70,708.20		49,851.00		119,757.00		71,625.00		108,870.00
Line 16 24" Dia PVC Gravity Sewer 18'-20'										
Depth, per specifications										
252 lf										
Unit Price	\$128.260		\$101.000		\$223.000		\$150.000		\$195.000	
Extended Price		32,321.52		25,452.00		56,196.00		37,800.00		49,140.00
Line 17 24" Dia PVC Gravity Sewer 20'-22'										
Depth, per specifications										
169 lf										
Unit Price	\$250.880		\$111.000		\$240.000		\$175.000		\$200.000	
Extended Price		42,398.72		18,759.00		40,560.00		29,575.00		33,800.00
Line 18 24" Dia PVC Gravity Sewer 22'-24'										
Depth, per specifications										
169 lf										
Unit Price	\$141.220		\$122.000		\$262.000		\$200.000		\$205.000	
Extended Price		23,866.18		20,618.00		44,278.00		33,800.00		34,645.00
Line 19 24" Dia PVC Gravity Sewer 24'-26'										
Depth, per specifications										
45 lf										
Unit Price	\$154.810		\$136.000		\$299.000		\$225.000		\$210.000	
Extended Price		6,966.45		6,120.00		13,455.00		10,125.00		9,450.00
Line 20 27" Dia PVC Gravity Sewer 10'-12'										
Depth, per specifications										
34 lf										
Unit Price	\$369.700		\$75.000		\$158.000		\$640.000		\$250.000	
Extended Price		12,569.80		2,550.00		5,372.00		21,760.00		8,500.00
Line 21 36" Dia FRP Gravity Sewer 6'-8'										
Depth, per specifications										
176 lf										
Unit Price	\$200.990		\$220.000		\$269.000		\$240.000		\$325.000	
Extended Price		35,374.24		38,720.00		47,344.00		42,240.00		57,200.00

Line 22 36" Dia FRP Gravity Sewer 8'-10'										
Depth, per specifications										
177 If										
Unit Price	\$202.620		\$222.000		\$270.000		\$250.000		\$330.000	
Extended Price		35,863.74		39,294.00		47,790.00		44,250.00		58,410.00

Line 23 36" Dia FRP Gravity Sewer 10'-12'										
Depth, per specifications										
883 If										
Unit Price	\$180.940		\$225.000		\$274.000		\$260.000		\$335.000	
Extended Price		159,770.02		198,675.00		241,942.00		229,580.00		295,805.00

Line 24 36" Dia FRP Gravity Sewer 12'-14'										
Depth, per specifications										
2,383 If										
Unit Price	\$240.470		\$229.000		\$277.000		\$280.000		\$340.000	
Extended Price		573,040.01		545,707.00		660,091.00		667,240.00		810,220.00

Line 25 36" Dia FRP Gravity Sewer 14'-16'										
Depth, per specifications										
531 If										
Unit Price	\$220.740		\$232.000		\$279.000		\$300.000		\$345.000	
Extended Price		117,212.94		123,192.00		148,149.00		159,300.00		183,195.00

Line 26 36" Dia FRP Gravity Sewer 24'-26'										
Depth, per specifications										
231 If										
Unit Price	\$248.030		\$305.000		\$457.000		\$320.000		\$350.000	
Extended Price		57,294.93		70,455.00		105,567.00		73,920.00		80,850.00

Line 27 3" Combination Air Valve w/ 8'										
Dia, per specifications										
7 ea										
Unit Price	\$24,702.770		\$25,000.000		\$42,814.000		\$29,000.000		\$15,000.000	
Extended Price		172,919.39		175,000.00		299,698.00		203,000.00		105,000.00

Line 28 18" Plug Valve, per specifications										
1 ea										
Unit Price	\$19,574.180		\$16,500.000		\$22,287.000		\$17,000.000		\$20,000.000	
Extended Price		19,574.18		16,500.00		22,287.00		17,000.00		20,000.00

Line 29 24" Plug Valve, per specifications

9 ea										
Unit Price	\$38,100.100		\$36,500.000		\$45,747.000		\$37,000.000		\$40,000.000	
Extended Price		342,900.90		328,500.00		411,723.00		333,000.00		360,000.00

Line 30 6' Dia STD Fiberglass Manhole,
per specifications

7 ea										
Unit Price	\$7,104.625		\$18,000.000		\$10,909.000		\$32,000.000		\$15,000.000	
Extended Price		49,732.38		126,000.00		76,363.00		224,000.00		105,000.00

Line 31 6' Dia Teebase Fiberglass
Manhole, per specifications

5 ea										
Unit Price	\$6,985.680		\$31,000.000		\$19,354.000		\$34,000.000		\$15,000.000	
Extended Price		34,928.40		155,000.00		96,770.00		170,000.00		75,000.00

Line 32 6' Dia Fiberglass Manhole Extra
Depth, per specifications

126 vf										
Unit Price	\$858.990		\$250.000		\$1,255.000		\$200.000		\$200.000	
Extended Price		108,232.74		31,500.00		158,130.00		25,200.00		25,200.00

Line 33 8' Dia STD Fiberglass Manhole,
per specifications

2 ea										
Unit Price	\$9,504.930		\$40,000.000		\$17,595.000		\$48,000.000		\$25,000.000	
Extended Price		19,009.86		80,000.00		35,190.00		96,000.00		50,000.00

Line 34 8' Dia Teebase Fiberglass
Manhole, per specifications

3 ea										
Unit Price	\$9,497.000		\$47,000.000		\$26,392.000		\$50,000.000		\$25,000.000	
Extended Price		28,491.00		141,000.00		79,176.00		150,000.00		75,000.00

Line 35 8' Dia Fiberglass Manhole Extra
Depth, per specifications

112 vf										
Unit Price	\$1,390.950		\$262.000		\$1,806.000		\$300.000		\$500.000	
Extended Price		155,786.40		29,344.00		202,272.00		33,600.00		56,000.00

Line 36 8' Dia STD Fiberglass Doghouse
Manhole, per specifications

1 ea										
Unit Price	\$19,674.720		\$23,000.000		\$12,903.000		\$37,000.000		\$25,000.000	

Extended Price	19,674.72	23,000.00	12,903.00	37,000.00	25,000.00
Line 37 Internal Manhole Drop Assembly - 8" Dia, per specifications					
1 ea					
Unit Price	\$1,067.880	\$860.000	\$1,173.000	\$1,500.000	\$1,000.000
Extended Price	1,067.88	860.00	1,173.00	1,500.00	1,000.00
Line 38 Internal Manhole Drop Assembly - 24" Dia, per specifications					
1 ea					
Unit Price	\$2,457.380	\$2,000.000	\$3,519.000	\$7,500.000	\$2,500.000
Extended Price	2,457.38	2,000.00	3,519.00	7,500.00	2,500.00
Line 39 Abandon 16" Sanitary Sewer Main, per specifications					
82 cy					
Unit Price	\$87.770	\$198.000	\$143.000	\$100.000	\$100.000
Extended Price	7,197.14	16,236.00	11,726.00	8,200.00	8,200.00
Line 40 Abandon 18" Sanitary Sewer Main, per specifications					
5 cy					
Unit Price	\$87.850	\$200.000	\$143.000	\$100.000	\$100.000
Extended Price	439.25	1,000.00	715.00	500.00	500.00
Line 41 Abandon 21" Sanitary Sewer Main, per specifications					
267 cy					
Unit Price	\$87.860	\$210.000	\$143.000	\$100.000	\$100.000
Extended Price	23,458.62	56,070.00	38,181.00	26,700.00	26,700.00
Line 42 Abandon 24" Sanitary Sewer Main, per specifications					
255 cy					
Unit Price	\$87.850	\$220.000	\$143.000	\$100.000	\$100.000
Extended Price	22,401.75	56,100.00	36,465.00	25,500.00	25,500.00
Line 43 Abandon 36" Sanitary Sewer Main, per specifications					
13 cy					
Unit Price	\$87.850	\$280.000	\$143.000	\$100.000	\$100.000
Extended Price	1,142.05	3,640.00	1,859.00	1,300.00	1,300.00

Line 44 Manhole Abandonment, per specifications

6 ea									
Unit Price	\$1,096.370		\$4,500.000		\$2,039.000		\$1,200.000		\$1,500.000
Extended Price		6,578.22		27,000.00		12,234.00		7,200.00	9,000.00

Line 45 Connection to Existing 8" Sanitary Sewer, per specifications

1 ea									
Unit Price	\$298.760		\$3,000.000		\$3,519.000		\$5,000.000		\$500.000
Extended Price		298.76		3,000.00		3,519.00		5,000.00	500.00

Line 46 Connection to Existing 24" Sanitary Sewer, per specifications

1 ea									
Unit Price	\$298.760		\$6,600.000		\$32,844.000		\$5,000.000		\$2,500.000
Extended Price		298.76		6,600.00		32,844.00		5,000.00	2,500.00

Line 47 Connection to Existing 27" Sanitary Sewer, per specifications

1 ea									
Unit Price	\$298.760		\$6,800.000		\$45,747.000		\$10,000.000		\$2,800.000
Extended Price		298.76		6,800.00		45,747.00		10,000.00	2,800.00

Line 48 Connection to Existing 58" Sanitary Sewer, per specifications

1 ea									
Unit Price	\$298.760		\$7,000.000		\$7,038.000		\$20,000.000		\$5,000.000
Extended Price		298.76		7,000.00		7,038.00		20,000.00	5,000.00

Line 49 Connection from 18" HDPE, per specifications

1 ea									
Unit Price	\$298.760		\$6,700.000		\$6,803.000		\$7,500.000		\$2,000.000
Extended Price		298.76		6,700.00		6,803.00		7,500.00	2,000.00

Line 50 24" Plug, per specifications

1 ea									
Unit Price	\$508.470		\$1,900.000		\$962.000		\$1,500.000		\$1,000.000
Extended Price		508.47		1,900.00		962.00		1,500.00	1,000.00

Line 51 36" PLug, per specifications

1 ea									
Unit Price	\$746.190		\$2,000.000		\$962.000		\$1,500.000		- \$1,500.000

Extended Price		746.19		2,000.00		962.00		1,500.00		1,500.00
Line 52 18" RCP Culvert Assembly, per specifications										
9 ea										
Unit Price	\$4,461.500		\$6,900.000		\$3,369.000		\$1,000.000		\$1,500.000	
Extended Price		40,153.50		62,100.00		30,321.00		9,000.00		13,500.00
Line 53 24" RCP Culvert Assembly, per specifications										
8 ea										
Unit Price	\$5,282.970		\$8,000.000		\$3,369.000		\$1,200.000		\$3,000.000	
Extended Price		42,263.76		64,000.00		26,952.00		9,600.00		24,000.00
Line 54 18" CMP Culvert Assembly, per specifications										
1 ea										
Unit Price	\$7,402.240		\$4,800.000		\$3,369.000		\$1,000.000		\$1,500.000	
Extended Price		7,402.24		4,800.00		3,369.00		1,000.00		1,500.00
Line 55 Backfill Replacement, per specifications										
125 cy										
Unit Price	\$87.850		\$120.000		\$143.000		\$100.000		\$80.000	
Extended Price		10,981.25		15,000.00		17,875.00		12,500.00		10,000.00
Line 56 Remove & Replace Concrete Curb & Gutter, per specifications										
2,220 lf										
Unit Price	\$22.630		\$28.000		\$20.000		\$25.000		\$20.000	
Extended Price		50,238.60		62,160.00		44,400.00		55,500.00		44,400.00
Line 57 Asphalt Pavement Repair 24' Width, per specifications										
2,606 sy										
Unit Price	\$32.240		\$50.000		\$51.000		\$47.000		\$25.000	
Extended Price		84,017.44		130,300.00		132,906.00		122,482.00		65,150.00
Line 58 Asphalt Pavement Repair(Curb-Curb), per specifications										
16,206 sy										
Unit Price	\$32.240		\$52.000		\$51.000		\$47.000		\$25.000	
Extended Price		522,481.44		842,712.00		826,506.00		761,682.00		405,150.00

Line 59 Asphalt Pavement Repair- Driveway, per specifications										
261	sy									
	Unit Price	\$27.280		\$30.000		\$27.000		\$24.000		\$25.000
	Extended Price		7,120.08		7,830.00		7,047.00		6,264.00	6,525.00

Line 60 Gravel Pavement Repair, per specifications										
528	sy									
	Unit Price	\$73.870		\$18.000		\$54.000		\$12.000		\$10.000
	Extended Price		39,003.36		9,504.00		28,512.00		6,336.00	5,280.00

Line 61 Concrete Pavement Repair, per specifications										
208	sy									
	Unit Price	\$47.540		\$65.000		\$54.000		\$45.000		\$50.000
	Extended Price		9,888.32		13,520.00		11,232.00		9,360.00	10,400.00

Line 62 Vacuum Testing of Sanitary Sewer Manholes, per specifications										
1	ls									
	Unit Price	\$1,832.450		\$11,000.000		\$7,184.000		\$7,500.000		\$5,000.000
	Extended Price		1,832.45		11,000.00		7,184.00		7,500.00	5,000.00

Line 63 Post Construction Television Inspection, per specifications										
7,659	lf									
	Unit Price	\$1.520		\$1.000		\$3.000		\$2.000		\$2.000
	Extended Price		11,641.68		7,659.00		22,977.00		15,318.00	15,318.00

Line 64 Trench Safety, per specifications										
24,400	lf									
	Unit Price	\$1.640		\$2.000		\$1.000		\$1.000		\$5.000
	Extended Price		40,016.00		48,800.00		24,400.00		24,400.00	122,000.00

Line 65 Temporary Erosion Sedimentation, per specifications										
1	ls									
	Unit Price	\$11,147.040		\$20,000.000		\$31,744.000		\$60,000.000		\$10,000.000
	Extended Price		11,147.04		20,000.00		31,744.00		60,000.00	10,000.00

Line 66 Traffic Control Plans, per
specifications

1 ls									
Unit Price	\$30,735.400		\$15,000.000		\$98,690.000		\$10,000.000		\$50,000.000
Extended Price		30,735.40		15,000.00		98,690.00		10,000.00	50,000.00
Base Bid Total		15,257,816.81		19,080,791.00		20,451,000.00		21,503,834.00	23,790,868.00

ALTERNATE BID

Line 67 DEDUCT 24" Dia. HDPE Force Main, per specifications

360 lf									
Unit Price	(\$178.000)		(\$226.000)		(\$210.000)		(\$235.000)		(\$290.000)
Extended Price		(64,080.00)		(81,360.00)		(75,600.00)		(84,600.00)	(104,400.00)

Line 68 ADD 24" Dia. HDPE Carrier Pipe for Bore, per specifications

360 lf									
Unit Price	\$197.000		\$191.000		\$260.000		\$290.000		\$290.000
Extended Price		70,920.00		68,760.00		93,600.00		104,400.00	104,400.00

Line 69 ADD 36" Bore and Steel Casing, per specifications

360 lf									
Unit Price	\$1,683.000		\$830.000		\$818.000		\$1,400.000		\$850.000
Extended Price		605,880.00		298,800.00		294,480.00		504,000.00	306,000.00

Line 70 ADD 36" Dia FRP Carrier Pipe & Bore, per specifications

30 lf									
Unit Price	\$117.000		\$239.000		\$438.000		\$330.000		\$325.000
Extended Price		3,510.00		7,170.00		13,140.00		9,900.00	9,750.00

Line 71 ADD 48" Bore and Steel Casing, per specifications

30 lf									
Unit Price	\$1,724.630		\$2,000.000		\$1,174.000		\$1,900.000		\$1,500.000
Extended Price		51,738.90		60,000.00		35,220.00		57,000.00	45,000.00

Line 72 DEDUCT 36" Dia FRP Gravity Sewer 12'-14' Depth, per specifications

30 lf									
Unit Price	(\$200.000)		(\$229.000)		(\$236.000)		(\$280.000)		(\$325.000)
Extended Price		(6,000.00)		(6,870.00)		(7,080.00)		(8,400.00)	(9,750.00)

Line 73 DEDUCT 18" RCP Culvert										
Assembly, per specifications										
3 ea										
Unit Price	(\$4,000.000)		(\$6,900.000)		(\$4,600.000)		(\$1,000.000)		(\$1,500.000)	
Extended Price		(12,000.00)		(20,700.00)		(13,800.00)		(3,000.00)		(4,500.00)
Line 74 DEDUCT 18" CMP Culvert										
Assembly, per specifications										
1 ea										
Unit Price	(\$7,000.000)		(\$4,800.000)		(\$4,000.000)		(\$1,000.000)		(\$1,500.000)	
Extended Price		(7,000.00)		(4,800.00)		(4,000.00)		(1,000.00)		(1,500.00)
Line 75 DEDUCT 24" RCP Culvert										
Assembly, per specifications										
4 ea										
Unit Price	(\$4,500.000)		(\$8,000.000)		(\$5,800.000)		(\$1,200.000)		(\$3,000.000)	
Extended Price		(18,000.00)		(32,000.00)		(23,200.00)		(4,800.00)		(12,000.00)
Line 76 DEDUCT Asphalt Pavement										
Repair, per specifications										
103 sy										
Unit Price	(\$20.000)		(\$30.000)		(\$54.000)		(\$24.000)		(\$25.000)	
Extended Price		(2,060.00)		(3,090.00)		(5,562.00)		(2,472.00)		(2,575.00)
Line 77 DEDUCT Gravel Pavement Repair,										
per specifications										
154 sy										
Unit Price	(\$65.000)		(\$18.000)		(\$17.000)		(\$12.000)		(\$10.000)	
Extended Price		(10,010.00)		(2,772.00)		(2,618.00)		(1,848.00)		(1,540.00)
Line 78 DEDUCT Concrete Pavement										
Repair, per specifications										
208 sy										
Unit Price	(\$35.000)		(\$65.000)		(\$82.000)		(\$45.000)		(\$50.000)	
Extended Price		(7,280.00)		(13,520.00)		(17,056.00)		(9,360.00)		(10,400.00)
Line 79 DEDUCT Trench Safety, per										
specifications										
390 lf										
Unit Price	(\$1.500)		(\$2.000)		(\$0.500)		(\$1.000)		(\$5.000)	
Extended Price		(585.00)		(780.00)		(195.00)		(390.00)		(1,950.00)
Alternate Bid Total		605,033.90		268,838.00		287,329.00		559,430.00		316,535.00

Overall Bid Total	15,862,850.71	19,349,629.00	20,738,329.00	22,063,264.00	24,107,403.00
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Award by Vendor	\$ 15,862,850.71				
Change Order #1	\$ (567,466.40)				
Change Order #2	\$ -	Added Calendar Days to Contract Time/Completion Date			
Change Order #3	\$ 60,090.09				
Revised Total Amount	\$ 15,355,474.40				

Amarillo City Council Agenda Transmittal Memo



Item No. 2K

Meeting Date	August 2, 2022	Council Priority	Infrastructure
Department	Solid Waste Disposal		
Contact	Donny Hooper, Director of Public Works		

Agenda Caption

CONSIDER AWARD – RFQ # 13-21 PROFESSIONAL SERVICES AGREEMENT FOR TRANSFER STATION IMPROVEMENTS

This item is to consider award of a professional services agreement for the **Transfer Station Improvements** project.

C.H. Guernsey & Company - \$89,750.00

Agenda Item Summary

This project is for the design of improvements at the City of Amarillo Solid Waste Transfer Station including the repair and replacement of a portion of the concrete floor, improvements to the loading ramp stormwater drainage system, and repairs to the concrete loading ramp.

Requested Action

Consider approval and award to highest scored respondent, C.H. Guernsey & Company, in the amount of \$89,750.00

Funding Summary

Funding for this item is available in 430120.17400.1130 Transfer Station Improvements. No State or Federal funds will be used for the purchase of this product.

Community Engagement Summary

N/A

Staff Recommendation

City Staff is recommending approval of this agreement.

RFQ #13-21

PROFESSIONAL SERVICES FOR CITY OF AMARILLO TRANSFER STATION IMPROVEMENTS - CIVIL ENGINEER DISCIPLINE

VENDOR LIST ESTABLISHED THROUGH PRE-QUALIFIED BIDDERS LIST OF RFQ #01-20

Preliminary Points Compilation Evaluation Criteria Ranking	Understanding of the requirements:	Experience with similar types of design and the ability of the consultant's professional personnel to perform the services:	Familiarity with the project area:	Experience with similar municipal projects and project approach:	The ability and willingness to meet time and budget requirements:	Current capacity to complete work:	Approach to conflict:	Reference from other clients attesting to consultants: (a) Quality of work (5 Points) (b) Compliance with performance standards and schedules (5 Points)	Total Points Possible	Ranking	Comments
Vendor	60	90	15	30	30	30	15	30	300		
GUERNSEY	59.00	84.00	15.00	29.00	27.00	29.00	14.00	27	284.00	1	
HALFF ASSOCIATES	40.00	55.00	4.00	22.00	25.00	28.00	13.00	27.75	214.75	13	
J SHEEHAN ENGINEERING	37.00	53.00	7.00	19.00	24.00	29.00	13.00	24.75	206.75	16	
HDR	55.00	82.00	13.00	26.00	27.00	29.00	14.00	26.25	272.25	3	
OJD ENGINEERING	38.00	50.00	8.00	19.00	22.00	27.00	12.00	24	200.00	17	
PERKINS ENGINEERING	37.00	59.00	5.00	24.00	25.00	28.00	14.00	28.5	220.50	11	
LAVIN ARCHITECTS	10.00	10.00	4.00	12.00	24.00	27.00	13.00	15	115.00	19	



Amarillo City Council

Agenda Transmittal Memo

Meeting Date	August 2, 2022	Council Priority	Fiscal Responsibility, Best Practices, Customer Service
Department	Public Works - Fleet Services Division		
Contact	Donny Hooper, Public Works Director		

Agenda Caption

CONSIDER APPROVAL – GPS MONITORING/TRACKING SYSTEM

(Contact: Donny Hooper, Director of Public Works)

Total amount of agreement - \$402,840.00

Purchase will be through Sourcewell Contract #020221-CAW

Fleet Services is requesting the award of a three-year contract with Cal Amp/Synovia Solution to provide GPS Fleet Tracking services for the total of 483 selected vehicles and equipment.

Agenda Item Summary

The award of a three-year contract with Cal Amp/Synovia Solutions will provide GPS Fleet Tracking services for a total of 483 selected vehicles and equipment. The amount per year is \$134,280.00.

Requested Action

Approve award of contract for GPS Fleet Tracking system contract to Cal Amp/Synovia Solutions in the amount of \$402,840.00.

The GPS Fleet Tracking system will be installed on 483 vehicles for the following divisions: Building Safety, Capital Projects & Development Engineering, Drainage Utility, Public Health, Fleet Services, Solid Waste, Streets, Traffic, Utility Billing and Utilities. This system will allow us to utilize available technology to monitor our fleet activity, routing efficiency, idle time, maintenance, speed, location, and general accountability of our field activity and drivers.

Funding Summary

Funding for this contract will be from 61110.69220 Rental other Equipment.

Community Engagement Summary

N/A

Staff Recommendation

Approval of the contract.

7291 Fleet GPS Monitor/Tracking System
Opened 4:00 p.m. June 27, 2022

To be awarded as one lot

SYNOVIA SOLUTIONS

Line 1 GPS Monitoring/Tracking System
Contract to Provide Multiple City
Departments the Ability to Monitor and
Track Each Department Vehicles' Speed,
Location, Idle Time, and Help Improve
Vehicle Routing and General Activity, per
specifications

3 yr		
Unit Price	\$134,280.000	
Extended Price		402,840.00
<hr/>		
Bid Total		402,840.00
<hr/>		

Award by Vendor
City

\$ 402,840.00
Indianapolis, IN



Amarillo City Council Agenda Transmittal Memo



Item No. 3A

Meeting Date	August 2, 2022	Council Priority	Fiscal Responsibility
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Department	City Manager's Office Laura Storrs, Assistant City Manager
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Agenda Caption

DISCUSS AND CONSIDER PROPOSED TAX RATE:

This item is to discuss and consider the proposed tax rate for maintenance and operation and debt service for the proposed 2022/2023 City of Amarillo fiscal year budget.

Agenda Item Summary

Meeting of the governing body to discuss the tax rate; if the proposed rate will exceed the no-new-revenue rate or the voter-approval tax rate (whichever is lower), take a record vote and schedule the public hearing.

Requested Action

That City Council will discuss the tax rate, take a record vote on the proposed tax rate, and set the public hearing for August 19, 2022.

Funding Summary

N/A

Community Engagement Summary

The City Council met on July 13, 14, and 15 to review the proposed 2022/2023 budget. At the July 13th Council meeting, City Staff presented an overview of the proposed 2022 tax rate.

Staff Recommendation

Council to take a record vote on the proposed tax rate and set the public hearing on the tax rate for August 19, 2022.

Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 2, 2022	Council Priority	Economic Development & Redevelopment; Civic Pride
Department	Community Development		
Contact	Jason Riddlespurger, Director		

Agenda Caption

PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 08-02-22-1

CONDUCT A PUBLIC HEARING AND CONSIDER A RESOLUTION TO APPROVE THE 2022/2023 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ALLOCATIONS FOR FY22 ANNUAL ACTION PLAN.

The Annual Action Plan to be submitted to HUD allocates \$1,584,592 in CDBG funding and \$828,236 in HOME funding.

Agenda Item Summary

Community Development published a Notice of Funding Availability and facilitated a process to receive requests for proposals for CDBG and HOME program funding. Community Development held two public meetings on June 13th and June 15th, 2022, to present the submitted proposals to the Community Development Advisory Committee (CDAC) for review and consideration. The CDAC listened to presentations and evaluated the applications, formulating allocation recommendations for consideration by the City Council. With City Council approval, the 2022/2023 Annual Action Plan will be submitted to HUD with the allocations recommended.

A summary of recommended projects is attached for review.

Requested Action

*Conduct a public hearing on the 2022/2023 CDAC allocations for CDBG and HOME entitlement funding to be included in the FY22 Annual Action Plan

*Approval of the resolution to adopt the 2022/2023 funding allocations recommended by CDAC

Funding Summary

CDBG Funding - \$1,584,592

- Building Safety - \$340,986
- Public Services Projects - \$237,688 (capped at 15% of the allocation)
- Neighborhood Improvements - \$203,000
- Owner Occupied Housing Improvements - \$486,000
- Planning and Management - \$316,918 (capped at 20% of the allocation)

HOME Investment Partnership Funding - \$828,236

- HOME Administration - \$82,823.60 (capped at 10% of the allocation)
- Tenant Based Rental Assistance (TBRA) - \$589,177
- Community Housing Development Organizations (CHDO) - \$124,235.40 (15% minimum allocation)
- CHDO Operating - \$32,000

Community Engagement Summary

Community Development published the Notice of Funding Availability on May 6th, 2022, and advertised the availability of funding to the community through news outlets, social media, and United Way Listserv.

Community Development offered a training session on May 12th for interested parties to join and review the application process.

CDAC conducted two public meetings on June 13th and 15th, 2022, to receive presentations on proposed projects and input from the community.

On June 13th, thirteen presentations were made by applicants for CDBG funding, and two presentations were made on behalf of those applying for HOME funds. On June 15th, CDAC

Amarillo City Council

Agenda Transmittal Memo



reconvened to discuss the applications and complete funding recommendations. Meeting minutes are available for review.

The 30-Day Public Comment period began on June 20 and concluded on July 20. No public comments were received.

Staff Recommendation

Staff recommends approval of the resolution adopting the 2022/2023 CDBG and HOME allocation recommendations to include in the Annual Action Plan, authorizing staff to submit the plan to HUD and award funding.

RESOLUTION NO. 08-02-22-2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: CONDUCTING A PUBLIC HEARING AND AUTHORIZING THE ADOPTION OF THE 2022/2023 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND HOME INVESTMENT PARTNERSHIPS PROGRAM ANNUAL ACTION PLAN AS REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; DESIGNATING THE ASSISTANT CITY MANAGER TO ACT AS THE CITY'S AUTHORIZED OFFICIAL IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN SAID PLAN; PROVIDING A REPEALER CLAUSE; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, a Community Development Block Grant (“**CDBG**”) Program and HOME Investment Partnership (“**HOME**”) Program Annual Action Plan must be adopted by the City of Amarillo in fulfillment of the requirements of the United States Department of Housing and Urban Development (“**HUD**”); and

WHEREAS, the Community Development Advisory Committee (“**CDAC**”) publicized neighborhood and community meetings on June 13, 2022 and June 15, 2022 to receive citizen input with respect to the CDBG and HOME Programs for the 2022/2023 Annual Action Plan; and

WHEREAS, the 2022/2023 Annual Action Plan was available in the Community Development office for public review and comment for at least 30 days; and

WHEREAS, the City Council has reviewed the 2022/2023 Annual Action Plan as recommended by the CDAC and finds it to be consistent with the five-year comprehensive planning document for housing and community development; and

WHEREAS, the City Council conducted a public hearing on this date to consider the views and opinions of the citizens, especially those most affected by the 2022/2023 Annual Action Plan.

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

SECTION 1. The 2022-2023 CDBG and HOME Annual Action Plan is hereby adopted for the CDBG Program in the amount of \$1,584,592 and the HOME Program in the amount of \$828,236.

SECTION 2. The CDAC evaluated the applications, and the City Council hereby adopts the CDAC's recommendation for the 2022/2023 Annual Action Plan to be submitted to HUD.

SECTION 3. The City Council designates the Assistant City Manager as the City's authorized official as to the City's participation in the 2022/2023 CDBG and HOME Annual Action Plan on behalf of the City.

SECTION 4. Repealer. All resolutions or parts thereof that conflict with this Resolution are hereby repealed, to the extent of such conflict.

SECTION 5. Savings. In the event this Resolution or any part hereof is found to be invalid, such invalidity shall not affect the remaining portions of the Resolution, and such remaining portions shall continue to be in full force and effect.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on this 2nd day of August 2022.

Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins, City Secretary

APPROVED AS TO FORM

Bryan McWilliams, City Attorney

SUMMARY WORKSHEET FOR 2022-2023 ANNUAL ACTION PLAN

Description of Project Requested	2019-2020	2020-2021	2021-2022	2022-2023	Recommendations		Council
	Funded TOTAL	Funded TOTAL	Funded TOTAL	Requested TOTAL	Staff	CDAC	Approved
CDBG							
PARK IMPROVEMENTS	\$0	\$0	\$0	\$0	\$0	\$0	\$0
N/A	\$0	\$0	\$0	\$0	\$0	\$0	\$0
BUILDING SAFETY	\$225,482	\$242,114	\$334,228	\$422,572	\$322,572	\$340,986	\$0
Community Improvement Inspector	\$75,482	\$92,114	\$184,228	\$195,432	\$195,432	\$195,432	\$0
Demolition & Clearance	\$150,000	\$150,000	\$150,000	\$150,000	\$50,000	\$68,414	\$0
Community Admin	\$0	\$0	\$0	\$77,140	\$77,140	\$77,140	\$0
PUBLIC SERVICES	\$242,887	\$254,297	\$247,072	\$631,000	\$237,688	\$237,688	\$0
Catholic Charities of the Texas Panhandle - Interfaith Food	\$35,000	\$0	\$15,000	\$30,000	\$30,000	\$25,000	\$0
Guyon Saunders Resource Center	\$23,000	\$0	\$15,000	\$35,000	\$26,344	\$26,344	\$0
Maverick Boys & Girls Club -- After School Services/Summer	\$15,000	\$25,000	\$0	\$35,000	\$26,344	\$26,344	\$0
PRPC -- Child Care Title 4-A Local Initiative	\$60,000	\$85,000	\$82,000	\$100,000	\$75,000	\$75,000	\$0
PRPC Area Agency on Aging -- Food NET	\$25,000	\$25,000	\$25,000	\$25,000	\$15,000	\$15,000	\$0
Salvation Army - Hand-Up Project	\$0	\$25,000	\$15,000	\$111,000	\$0	\$0	\$0
We Find in Love	\$0	\$0	\$0	\$80,000	\$0	\$0	\$0
Don Harrington Discovery Center	\$0	\$0	\$0	\$15,000	\$0	\$5,000	\$0
Coming Home - Housing First	\$84,887	\$94,297	\$95,072	\$200,000	\$65,000	\$65,000	\$0
2022-2023 Public Service 15% Cap	\$237,689.80	\$324,920	\$485,000	-393311	-1	\$0	\$0
NEIGHBORHOOD IMPROVEMENTS	\$67,250	\$0	\$250,000	\$1,775,190	\$221,414	\$203,000	\$0
Another Chance House	\$67,250	\$0	\$0	\$0	\$0	\$0	\$0
Family Support Services - Building Remodel	\$0	\$0	\$0	\$100,000	\$92,115	\$100,000	\$0
Mustard Seed Recovery Center	\$0	\$0	\$0	\$391,190	\$0	\$0	\$0
Martial Arts and Athletic Center	\$0	\$0	\$0	\$500,000	\$0	\$79,000	\$0
Amarillo Senior Citizen Center	\$0	\$0	\$0	\$50,000	W/D	\$0	\$0
CCTXP - Floor Replacement	\$0	\$0	\$0	\$24,000	\$24,000	\$24,000	\$0
Alexander's BBQ - Roof	\$0	\$0	\$0	\$10,000	\$0	\$0	\$0
Maverick Boys & Girls Club Roof	\$0	\$0	\$250,000	\$0	\$0	\$0	\$0
Crossroads Housing Dev Corp- The Commons at St. Anthony's, Demo	\$0	\$0	\$0	\$700,000	\$105,299	\$0	\$0
OWNER OCCUPIED HOUSING IMPROVEMENTS	\$759,777	\$859,840	\$486,417	\$486,000	\$486,000	\$486,000	\$0
Emergency Repair Grants	\$412,297	\$504,515	\$211,417	\$211,000	\$211,000	\$211,000	\$0
Housing Rehabilitation Assistance -- Minor	\$262,298	\$171,000	\$25,000	\$25,000	\$25,000	\$25,000	\$0
Rehabilitation Support Administration	\$85,182	\$184,325	\$250,000	\$250,000	\$250,000	\$250,000	\$0
PLANNING AND MANAGEMENT	\$323,849	\$339,063	\$329,429	\$316,918	\$316,918	\$316,918	\$0
Program Management	\$323,849	\$339,063	\$329,429	\$316,918	\$316,918	\$316,918	\$0
2022-2023 Admin-Planning Cap 20%	\$316,918.40						
TOTAL 2022-2023 CDBG REQUESTS	\$1,376,358	\$1,765,937	\$2,427,187	\$3,631,680	\$1,584,592	\$1,584,592	\$0
CDBG ENTITLEMENT ALLOCATION	\$1,376,358	\$1,695,572	\$1,647,145	\$1,584,592	\$1,584,592	\$1,584,592	\$1,584,592
CDBG REALLOCATION FUNDS		\$70,365	\$780,042	-2047088	\$0		

HOME INVESTMENT PARTNERSHIP PROGRAM	\$644,797	\$720,963	\$706,565	\$828,236	\$82,824	\$82,824	\$0
HOME Administration	\$64,480	\$72,096	\$70,656	\$82,824	\$82,824	\$82,824	\$0
2022-2023 Administrative Cap 10%	\$82,823.60						
HOME Projects	\$451,357	\$546,867	\$497,924	\$589,177	\$589,177	\$589,177	\$0
TBRA - Tenant Based Rental Assistance	\$0	\$546,867	\$252,926	\$589,177	\$589,177	\$589,177	\$0
Housing Rehabilitation Assistance	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rental Rehabilitation	\$40,822	\$0	\$29,998	\$0	\$0	\$0	\$0
New Construction	\$410,535	\$0	\$0	\$0	\$0	\$0	\$0
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION							
CHDO Projects	\$96,720	\$108,144	\$137,985	\$124,235	\$124,235	\$124,235	\$0
Amarillo Habitat -- New Construction	\$96,720	\$70,000	\$50,000	\$124,235	\$124,235	\$124,235	\$0
2022-2023 CHDO Allocation 15% (Minimum)	\$124,235.40						
CHDO Operating Assistance	\$32,240	\$36,048	\$32,000	\$32,000	\$32,000	\$32,000	\$0
Amarillo Habitat --	\$32,240	\$32,000	\$32,000	\$32,000	\$32,000	\$32,000	\$0
2022-2023 CHDO Operating Cap 5%	\$41,411.80						
TOTAL 2022-2023 HOME REQUESTS	\$644,797	\$720,963	\$650,580	\$828,236	\$828,236	\$828,236	\$0
HOME Entitlement Allocation	\$644,797	\$720,963	\$706,565	\$828,236	\$828,236	\$828,236	\$828,236

Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 2, 2022	Council Pillar	Economic Development
Department	Amarillo Economic Development Corporation (AEDC)		
Contact	Kevin Carter, President and CEO		

Agenda Caption
 CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND A-5 REALTY, LLC (TEXAS COMPANY) AND A-7 AUSTIN, LLC (TEXAS COMPANY) DOING BUSINESS AS AUSTIN HOSE

Agenda Item Summary
 Austin Hose is looking to build a 100,000 sq. ft. Hydraulic Hose Manufacturing Facility on 20.7 acres located at S. Georgia Street and E. Farmers Avenue.

Highlights of the project include:

- **\$10 million estimated improvements**
- **20 new employees projected in 1st Phase (Up to 30 in future phases)**
- **Incentive of \$10,000.00 for each job paid over 5 years as they are created**
- **Incentive of 20.7 acres conveyed**

AEDC is asking the City Council to approve the location incentive agreement. The AEDC Board approved the agreement on July 25, 2022, on a 4-0 vote.

Requested Action
 Approval of the Location Incentive Agreement as presented.

Funding Summary
 \$300,000 for job creation and 20.7 acres of land valued at \$724,500.

Community Engagement
 N/A

Staff Recommendation
 AEDC staff is recommending approval of the Location Incentive Agreement. AEDC Board Approved with 4-0 vote on July 25, 2022.

LOCATION INCENTIVES AGREEMENT
by and between
AMARILLO ECONOMIC DEVELOPMENT CORPORATION,
A-7 AUSTIN, LLC,
and
A-5 REALTY, LLC

This Agreement, entered into effective as of the 1st day of March, 2022 (*Effective Date*), is by and between the **AMARILLO ECONOMIC DEVELOPMENT CORPORATION** (*Amarillo EDC*), a Texas nonprofit corporation organized and chartered under Chapters 501 and 504 of the Texas Local Government Code, having its principal place of business in Amarillo, Potter County, Texas, **A-7 AUSTIN, LLC d/b/a Austin Hose** (*Austin Hose*), a Texas limited liability company with its principal place of business in Amarillo, Randall County, Texas, and **A-5 REALTY, LLC**, a Texas limited liability company (*Austin Realty*). **Austin Hose** and **Austin Realty** may be referred to herein jointly as *Recipients* and singularly as a *Recipient*.

Amarillo EDC is a tax-supported non-profit corporation whose primary income is a one-half of one percent sales tax collected within the City of Amarillo dedicated exclusively to economic development. **Amarillo EDC** exists for the primary purpose of stabilizing, diversifying and expanding the Amarillo economy through retention, expansion and recruitment of employment opportunities in order to benefit citizens of Amarillo and the surrounding area.

Amarillo EDC seeks to induce **Austin Hose** to expand Amarillo Operations (defined below). The creation and retention of new jobs in **Austin Hose's** Amarillo Operations is expected to have a substantial stimulative effect on the Amarillo economy and create many new jobs for Amarillo citizens both directly in **Austin Hose's** operations and because of **Austin Hose's** expenditures for employee wages and goods and services in the Amarillo economy.

Austin Hose is a hose, fittings, and accessories supplier that intends to offer its products at and from the Facility (defined below) to customers and clients throughout the United States and beyond. **Austin Hose** desires to expand Amarillo Operations in order to further take advantage of the desirable business operating environment in Amarillo, an environment that provides lower operating costs than many other metropolitan areas and a highly motivated, well-educated, productive workforce of a size **Austin Hose** believes is capable of supporting establishment and expansion of Amarillo Operations.

Amarillo EDC, by its execution of this Agreement, extends to **Austin Hose** an offer of financial incentives as inducement for **Austin Hose** to expand Amarillo Operations and to **Austin Realty** an offer of the Property (defined below). **Austin Hose** and **Austin Realty**, by their execution of this Agreement, accept **Amarillo EDC's** offer of financial incentives. **Austin Realty** pledges to use its best efforts to cause the construction of the Facility on the Property and lease the Property to **Austin Hose** and **Austin Hose** pledges to use its best efforts to expand Amarillo Operations to the full extent provided in this Agreement.

The following defined terms will be used in this Agreement:

Defined Term	Definition
Affiliate	Any entity owning, owned by, or under common ownership with Austin Hose and that executes and delivers to Amarillo EDC , in form and substance reasonably satisfactory to Amarillo EDC , an agreement to be bound by the reporting requirements of this Agreement
Amarillo Operations	Austin Hose's and its Affiliates' distribution activities and operations provided primarily at or from the Property with jobs categorized primarily in NAICS Sector Number 32
Date One ¹	December 31, 2024
Date Two	December 31, 2025

¹ Provided, however, **Austin Hose** may, in its discretion, elect to cause Date One to instead be December 31, 2023, by providing written notice to **Amarillo EDC** of such election on or before January 31, 2024, in which event each Date defined herein shall conclusively be deemed to have been backed up by one year. For example, if such election is made, Date Nine will instead be December 31, 2031.

Defined Term	Definition
Date Three	December 31, 2026
Date Four	December 31, 2027
Date Five	December 31, 2028
Date Six	December 31, 2029
Date Seven	December 31, 2030
Date Eight	December 31, 2031
Date Nine	December 31, 2032
Employee	Employees of Austin Hose and its Affiliates engaged on behalf of Austin Hose or its Affiliates in Amarillo Operations at or from the Property who maintain a permanent residence in the Amarillo Metropolitan Statistical Area (being Potter, Randall, Oldham, Armstrong, and Carson Counties, Texas)
Excess FTEs	FTEs maintained in Amarillo Operations over and above the FTE Floor
Expansion Grant	As more particularly described in Section 3
Expansion Increment	Each full increment of five (5) FTEs and \$225,000 in Payroll maintained in Amarillo Operations over and above the FTE Floor and Payroll Floor, respectively; provided, however, the term will not include increments beyond 65 FTEs or \$2,925,000 in Payroll, in the aggregate
Facility	A distribution facility and related improvements (whether one or multiple structures or phases) to be located on the Property at a total cost, excluding furniture, fixtures, and equipment to be located thereon and used in Amarillo Operations, of no less than \$20,000,000 (not including the value of the Property)
FTE	An employee, to be counted as one FTE, will be any employee who has worked 1,820 hours or more during that period. Employees working more than 1,820 hours in a year will be counted as one FTE. Part-time Employees for a year will be treated as partial FTEs for the year and will be calculated by dividing the number of hours actually worked for each Employee working less than 1,820 hours by 1,820 and rounded to the nearest one-hundredth place. Full-time but less than full year Employees will be treated as partial FTEs and calculated as above. In no event may any one person count as more than one FTE for any year. The total of full-time FTEs and partial FTEs will constitute the total FTEs for the year.
FTE Floor	49 FTEs in Amarillo Operations
Payroll	Total Gross Wages (as defined by and reportable to the Texas Workforce Commission) paid to Employees; provided, however, that the following components of compensation will be includable in Payroll: salary, hourly wages, and bonuses
Payroll Floor	\$3,640,474.32 in Payroll in Amarillo Operations
Performance Year	Each 12-month period ending on Date One through Date Nine
Property	Tract 1 and Tract 2, each being located in Randall County, Texas
Tract 1	A 12.7 acre portion of the Property, being part of the Property as depicted on Exhibit A, attached and incorporated
Tract 2	A 8.0 acre portion of the Property, being part of the Property as depicted on Exhibit A
Value of Tract 1	\$444,500
Value of Tract 2	\$280,000
Value of the Property	\$724,500

NOW THEREFORE, in consideration of these presents, which are made a contractual part hereof, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. **Purpose, Amount, and Terms of Incentives Package.**

a. **Recipients** hereby request and **Amarillo EDC** hereby agrees to provide to **Recipients**, cash and property under the terms and conditions of this Agreement, subject to **Recipients'** qualification therefor. **Recipients** acknowledge that there are one or more potential repayment obligations to **Amarillo EDC** under the terms of this Agreement and that in order to secure **Recipient's** performance, **Austin Realty** will grant to **Amarillo EDC** a security interest in the Property by written Deed of Trust in the form attached hereto as Exhibit B (DOT) upon the conveyance to **Austin Realty** of, and with respect to, the Property. **Amarillo EDC** agrees to reasonably subordinate its lien under such Deed of Trust (*AEDC Lien*) to such liens securing construction and permanent financing of **Austin Realty's** improvements to the Property (excluding future advances not made to finance the original construction of the Facility or the original permanent financing after construction) which subordination will be evidenced and reflected by a Subordination Agreement in form and content reasonably acceptable to **Amarillo EDC**. Security for the performance by **Recipients** of all obligations arising under or related to this Agreement is the Property, together with its improvements, fixtures, and appurtenances, whether now located on or to be located on the Property. At the Closing (defined below), **Austin Realty** will execute and deliver the Deed of Trust and **Recipients** will execute and deliver all other instruments or documents reasonably necessary or appropriate to implement the terms of this Agreement.

b. The consideration to be paid, advanced or expended by **Amarillo EDC** includes, (a) the conveyance by **Amarillo EDC** to **Austin Realty** of the Property; and (b) up to \$650,000 in cash as job creation and retention grants to be provided, subject to **Austin Hose's** qualification therefor, in installments as more specifically set out in this Agreement. The Property is being conveyed and made available to **Austin Realty** to allow it to construct or cause the construction of the Facility and allow **Austin Hose** to establish Amarillo Operations thereon. The funds described in Section 3 are being made available to **Austin Hose** for expanding Amarillo Operations and will be disbursed to or on behalf of **Austin Hose** in accordance with the terms of this Agreement, against delivery of all documents or instruments required under this Agreement.

c. James Cramer agrees to execute and deliver that certain guaranty for the benefit of **Amarillo EDC** in the form of Exhibit C (Guaranty). The full execution and delivery of the Guaranty is a precondition to **Amarillo EDC's** obligations under this Agreement.

2. Conveyance of the Property; Construction of the Facility.

a. Within three (3) months of the Effective Date, the parties will close the conveyance of the Property to **Austin Realty** by Special Warranty Deed in the form of Exhibit D, attached hereto and made a part hereof for all purposes (*Deed*), at a closing at the Title Company (defined below) (*Closing*). The Deed will contain a reversionary clause as more specifically described therein, triggered in the event construction of the Facility has not begun within six (6) months of Closing² or is not thereafter diligently pursued to completion within 24 months of Closing. The Deed will contain "as is, where is, with all faults" disclaimers reasonably acceptable to **Amarillo EDC**.

b. The Closing will occur at American Land Title, LLC, 620 S. Taylor, Suite 104, Amarillo, Texas 79101 (*Title Company*); provided that the parties will reasonably cooperate to accommodate a remote closing. At the Closing, **Austin Realty** will, at its expense, cause the Title Company to issue to **Amarillo EDC** a lender's policy of title insurance with coverage in the amount of no less than the Value of the Property. All costs and fees associated with the Closing (save and except **Amarillo EDC's** attorneys' fees related to such Closing) will be borne solely by **Austin Realty**. **Austin Realty** shall, at its sole expense prior to the Closing, obtain a survey of the Property that is reasonably satisfactory to **Amarillo EDC** (including, without limitation, as to the location, dimensions, and descriptions of Tract 1 and Tract 2). Upon **Amarillo EDC's** acceptance of such survey (which may not be unreasonably withheld), the surveyed legal description shall replace or populate Exhibit A hereto and be used for all purposes in connection with the Deed and DOT. Taxes for the year of Closing will be prorated to the date of Closing; provided, however, **Amarillo EDC** will be the sole beneficiary of any tax exemptions applicable prior to the Closing.

² Construction of the Facility will be deemed to have begun once Recipients (or either of them) obtain permits and actually break ground prior to such date (not including any ceremonial ground breakings).

c. On or before the expiration of six (6) months after Closing, **Austin Realty** agrees to commence construction of the Facility on the Property and to thereafter diligently pursue construction in a commercially reasonable manner. On or before the expiration of 24 months after Closing: (i) **Recipients** agree to cause the Facility to be ready to be occupied by **Austin Hose**; and (ii) **Austin Hose** agrees to commence Amarillo Operations at the Facility. Amarillo Operations will be deemed to have commenced when, and only when: (a) construction of the Facility has been substantially completed (excepting only normal punch-out items); (b) **Recipients** (or either of them) have unconditionally received all approvals and certifications of occupancy and operation from any governmental or other entity with jurisdiction over the Property for the operations contemplated thereby (including a Certificate of Occupancy); (c) at least 20 Employees are employed by **Austin Hose** and actually working at the Facility; and (d) **Recipients** have delivered written notice certifying such facts to **Amarillo EDC** and provided such back-up documentation as **Amarillo EDC** may reasonably request.

d. The Facility must satisfy all applicable zoning ordinances and covenants. **Recipients** will insure that, with respect to the construction of the Facility, all contractors, subcontractors, and materialmen are timely paid in accordance with their respective contracts. If any liens are filed against the Property, **Recipients** will take such measures to protect the Property including, if necessary, bonding around such liens in accordance with applicable law.

e. If: (i) on or before Date Three, at least \$10,000,000 has been expended by **Recipients** for the construction of the Facility and other buildings and permanent improvements on the Property (excluding furniture, fixtures, and equipment located thereon) (together, **CapEx**); (ii) at least 20 Excess FTEs are maintained in the Performance Year ending on Date Three; and (iii) the Facility consists of at least 100,000 usable square feet³ on Date Three, **Recipients** may provide written notice of such fact to **Amarillo EDC** and cause **Amarillo EDC** to release the AEDC Lien on Tract 1. If any of the criteria in the previous sentence are not met, **Recipients** will pay to **Amarillo EDC** the following:

1. The full Value of Tract 1 if less than 10 Excess FTEs are maintained in the Performance Year ending on Date Three, less than \$5,000,000 in CapEx has been expended by Date Three, or the Facility consists of less than 50,000 usable square feet on Date Three; or

2. Part of the Value of Tract 1 if 10 or more Excess FTEs are maintained in the Performance Year ending on Date Three, at least \$5,000,000 in CapEx has been expended by Date Three, and the Facility consists of at least 50,000 usable square feet on Date Three, calculated as the Value of Tract 1 *multiplied by* the *average* of:

i. One minus the quotient of the number of Excess FTEs maintained in the Performance Year ending on Date Three (provided in no event will this numerator be more than 20) *divided by* 20;

ii. One minus the quotient of the CapEx expended by Date Three (provided in no event will this numerator be more than \$10,000,000) *divided by* \$10,000,000; and

iii. One minus the quotient of the number of usable square feet of the Facility on Date Three (provided in no event will this numerator be more than 100,000) *divided by* 100,000.

f. If: (i) on or before Date Five, at least \$15,000,000 in CapEx has been expended by **Recipients**; (ii) at least 30 Excess FTEs are maintained in the Performance Year ending on Date Five (in each case in the aggregate, combined with performance prior to Date Three); and (iii) the Facility consists of at least 150,000 usable square feet on Date Five, **Recipients** may provide written notice of such fact to **Amarillo EDC** and cause **Amarillo EDC** to release the

³ References to "usable square feet" in this Agreement means the actual interior square footage of Facility space for which a final and unconditional Certificate of Occupancy has been issued by the appropriate governmental authority.

AEDC Lien on Tract 2. If any of the criteria in the previous sentence are not met, **Recipients** will pay to **Amarillo EDC** the following:

1. The full Value of Tract 2 if less than 15 Excess FTEs are maintained in the Performance Year ending on Date Five, less than \$7,500,000 in CapEx has been expended by Date Five, or the Facility consists of less than 75,000 usable square feet on Date Five; or

2. Part of the Value of Tract 2 if 15 or more Excess FTEs are maintained in the Performance Year ending on Date Five, at least \$7,500,000 in CapEx has been expended by Date Five, and the Facility consists of at least 75,000 usable square feet on Date Five, calculated as the Value of Tract 2 *multiplied by the average of:*

i. One minus the quotient of the number of Excess FTEs maintained in the Performance Year ending on Date Five (provided in no event will this numerator be more than 30) *divided by* 30;

ii. One minus the quotient of the CapEx expended by Date Five (provided in no event will this numerator be more than \$15,000,000) *divided by* \$15,000,000; and

iii. One minus the quotient of the number of usable square feet of the Facility on Date Five (provided in no event will this numerator be more than 150,000) *divided by* 150,000.

g. Any written notice from **Austin Hose** under Section 2(e) or Section 2(f) must include such backup documents and information as **Amarillo EDC** may reasonably request to establish **Recipients'** satisfaction of the applicable criteria and be provided promptly after Date Three and Date Five, respectively. Zero Excess FTEs and zero CapEx will be deemed to have been achieved by **Recipients** if **Recipients** fail to provide such notice and backup documentation within 30 days of **Amarillo EDC's** request therefor, made after Date Three and Date Five, respectively. Amounts that become due to **Amarillo EDC** under Sections 2(e) or 2(f) are payable within 30 days of demand therefor to **Recipients**.

h. In the event the AEDC Lien on Tract 1 or Tract 2 is not released under the terms of Section 2(e) or 2(f), respectively, the AEDC Lien on the applicable tract(s) shall continue until the full payment and performance of any and all obligations of **Recipients** under this Agreement. Release of the AEDC Lien under the terms of Section 2(e) or 2(f) will in no event be interpreted to eliminate or reduce any other obligation of **Recipients** under this Agreement, each such obligation surviving such lien release until satisfied in full. Notwithstanding anything else herein to the contrary, **Amarillo EDC** will in no event be required to release the AEDC Lien on either tract during the existence of any uncured event of default of **Recipients** under this Agreement, regardless of whether performance is extended under the terms of Section 8.

3. **Incentive Opportunities for Austin Hose's Establishment and Expansion of Amarillo Operations.**

a. From and after the Effective Date, **Austin Hose** agrees to use its best efforts to expand Amarillo Operations, creating and maintaining Excess FTEs and increasing Payroll over the Payroll Floor. Provided **Austin Hose** qualifies under the terms of this Section 3, **Amarillo EDC** will pay to **Austin Hose** one or more expansion grant installments under the terms of this section (each an *Expansion Grant* and together the *Expansion Grants*). The Expansion Grants are benefits in addition to those provided in Section 2 and are payable whether or not Austin Hose meets any of the requirements of Section 2 to qualify for the benefits therein.

b. Each Expansion Grant will be up to \$50,000, payable in five annual installments of up to \$10,000 each, subject to reduction as described in Section 3(c). **Austin Hose** will be eligible for one Expansion Grant for each full Expansion Increment newly created on or before Date Five. **Austin Hose** agrees to maintain each Expansion Increment in Amarillo Operations for a four-year period beginning at the end of the Performance Year in which each such Expansion Increment was originally created. So, if the first full Expansion Increment is newly

created in the year ending on Date Three, the four-year Expansion Grant retention requirement begins on January 1, 2027. **No Expansion Increment will be deemed to have been created unless and until both the full 5 FTEs and \$225,000 in Payroll for such Expansion Increment have been newly created.**

c. The first of five annual Expansion Grant installments called for under Section 3(b) will be due after the Performance Year in which a full Expansion Increment is first newly created. For each of the four years thereafter, if **Austin Hose** maintains both the additional 5 FTEs and \$225,000 in Payroll related to such Expansion Increment, there will be no deduction from the Expansion Grant installment amount due under Section 3(b) for such year and Expansion Increment. If **Austin Hose** fails to maintain one or both of the FTE or Payroll amounts related to an Expansion Increment in any of the Performance Years following the Date on which an Expansion Increment is newly created, the Expansion Grant installment related to such year and Expansion Increment will be reduced or eliminated altogether, as follows:

1. Should **Austin Hose** meet only one of either the FTE or Payroll amounts required (5 for FTEs and \$225,000 for Payroll) related to an Expansion Increment in a Performance Year, and miss the other target by no more than ten percent (10%), the Expansion Grant installment called for under Section 3(b) for such year and Expansion Increment will be calculated as follows: $\$10,000 \times (\text{Actual amount of FTE or Payroll maintained [using the figure that fell short of the required amount]} \div [5 \text{ if FTEs fell short or } \$225,000 \text{ if Payroll fell short}])$.
2. There will be no Expansion Grant installment due under Section 3(b) for an Expansion Increment in a Performance Year if either: (i) **Austin Hose** meets only one of either the FTE or Payroll amounts required related to an Expansion Increment (again, being 5 FTEs and \$225,000 in Payroll for each Expansion Increment), and misses the other target by more than ten percent (10%); or (ii) **Austin Hose** fails to achieve (by any margin) both the FTE or Payroll amounts required related to such Expansion Increment.

No level of future performance by **Austin Hose** will give rise to a payment obligation of **Amarillo EDC** related to prior deductions from Expansion Grant payments. The denominator of the fraction in Section 3(c)(1) will only ever be 5 or \$225,000, depending on whether the additional FTE or Payroll requirement was missed for an Expansion Increment.

d. The Payroll and FTE Reports required to be provided by **Austin Hose** under Section 5 will be used to measure whether an Expansion Increment has been newly created, and whether it has been maintained. Each payment from **Amarillo EDC** required under this Agreement, including without limitation installments of an Expansion Grant, will be payable within thirty (30) days of **Amarillo EDC's** receipt and approval (which may not be unreasonably withheld) of each Payroll and FTE Report (defined below) or other report or back-up documentation reasonably acceptable to **Amarillo EDC** that establishes **Austin Hose's** right to such payment.

e. Notwithstanding anything else herein to the contrary, the maximum aggregate amount **Amarillo EDC** will in any event be obligated to pay under this Section 3 is \$650,000. After each four-year Expansion Grant payment period, no Expansion Increment can be newly created for the same increment of FTEs and Payroll.

f. **Austin Hose** will use the funds provided by **Amarillo EDC** under this Agreement only to establish, maintain, or expand **Amarillo Operations**.

4. **Potential Repayment Obligation of Austin Hose.**

a. Notwithstanding anything else herein to the contrary and in addition to any other repayment obligation triggers in this Agreement, should **Amarillo Operations** cease while **Amarillo EDC** has any potential payment obligation under this Agreement, **Austin Hose** will not receive any Expansion Grant installments for the year in which **Amarillo Operations** ceased, nor any future years, and **Recipients** will repay to **Amarillo EDC** the Value of the Property (less any

amounts previously paid under Section 2(e) or 2(f) within forty-five (45) days **Amarillo EDC's** request therefor.

b. For purposes of this Section 4, a cessation of Amarillo Operations will be conclusively deemed to have occurred if (i) **Amarillo EDC** reasonably determines that Amarillo Operations have been discontinued; (ii) **Austin Hose** or any applicable Affiliate fails to timely provide the reports required under this Agreement for more than one Performance Year; or (iii) for any Performance Year ending on or after Date Three, **Austin Hose** maintains less than 49 FTEs in Amarillo Operations. A temporary halt, temporary delay, business disruption, or similar occurrence lasting less than ninety (90) consecutive days, whether or not caused by a force majeure event, does not, on its own, constitute a cessation of Amarillo Operations.

5. Measurement of and Provisions for Reporting FTEs and Payroll.

a. On or before February 28 immediately following each Performance Year, **Austin Hose** will and will cause each Affiliate with Employees engaged in Amarillo Operations to, without demand or other request therefore, complete and provide to **Amarillo EDC** a written certificate signed by an authorized corporate officer of **Austin Hose** or the applicable Affiliate on the form attached hereto as Exhibit E, for the immediately preceding Performance Year, together with all four employer's quarterly reports submitted to the Texas Workforce Commission (*TWC*) along with a list of Employees, the number of hours worked in Amarillo Operations by each Employee in such Performance Year, FTEs that each Employee represents for such year (in no event may any one person count as more than one (1) FTE for any year), Payroll received by each Employee during such year, and a total aggregate number of FTEs maintained and Payroll paid in Amarillo Operations during such year (each a *Payroll and FTE Report*). The Payroll and FTE Report, all TWC reports, and any backup documents or information provided therewith shall be clearly marked to indicate any Employees who were not primarily engaged in Amarillo Operations during the applicable Performance Year. All reporting under this Agreement must be sent by email to reporting@amarilloedc.com and to such other addresses as **Amarillo EDC** may from time-to-time designate in writing to the persons designated to receive notice under this Agreement.

b. **Austin Hose** and all Affiliates also will allow **Amarillo EDC** and its agents to reasonably examine **Austin Hose's** and such Affiliate's records necessary to verify FTEs and Payroll in Amarillo Operations should **Amarillo EDC** so request. **Amarillo EDC** understands that such information will be for **Amarillo EDC's** use solely to confirm the accuracy of reports required hereunder and to enforce **Amarillo EDC's** rights under this Agreement. Subject to the Public Information Laws (defined below), **Amarillo EDC** agrees that such review and examination will be subject to reasonable confidentiality safeguards (including, without limitation, the execution and delivery by **Amarillo EDC** and/or its agents, as appropriate, of a reasonable and mutually agreeable confidentiality agreement) and that an **Austin Hose** representative will have the right to accompany **Amarillo EDC** or its agents during such review. **Amarillo EDC** or its agents, as appropriate, will be allowed to make and retain copies or transcriptions of any **Austin Hose** records. Any inspection will be done with at least five days' advance notice to **Austin Hose**, will occur during normal working hours, and will continue from day-to-day until complete.

c. **Austin Hose** will provide reports on a timely basis to **Amarillo EDC**, as provided above, and failure to do so may, in the discretion of **Amarillo EDC**, constitute a condition of default under this Agreement. In the event **Austin Hose** discovers any Payroll and FTE Report is inaccurate in any way, **Austin Hose** will immediately notify **Amarillo EDC** of such inaccuracy and immediately provide a substitute Payroll and FTE Report, highlighting each item of information which was inaccurate. If such replacement report establishes that **Austin Hose** received a payment under this Agreement that it was not entitled to receive, in addition to any other rights or remedies of **Amarillo EDC** hereunder, **Austin Hose** will immediately repay such amount to **Amarillo EDC** with interest at eight percent (8%) per year since the date of such improper payment.

d. To qualify as an Affiliate of **Austin Hose** under this Agreement, each such Affiliate must execute and deliver to **Amarillo EDC** a written agreement including such terms as **Amarillo EDC** reasonably deems appropriate, including without limitation an agreement by such Affiliate to be bound by the terms of this Section 5 and to have an authorized corporate officer

certify all reports required hereunder as true and correct to **Amarillo EDC**. The qualification of any third-party as an Affiliate under this Agreement will in no way alter the incentive payment procedures under this Agreement (that is, conveyance of the Property and payments of Expansion Grant installments will only ever be payable to **Austin Hose**).

e. The “floor” for FTEs and Payroll on which each Expansion Increment is measured will rise with the establishment of each Expansion Increment. Similarly, such floor will not be lowered by the expiration of the four-year performance period for the annual Expansion Grant payments under Section 3(c), related to any Expansion Increment.

f. The Payroll and FTE Reports, as confirmed or modified by an audit by **Amarillo EDC** allowed under this Agreement, will be used to determine **Austin Hose’s** qualification for any Expansion Grant installments under Section 3(c).

6. **Recipients’ Representations and Warranties.** **Recipients** represent and warrant to **Amarillo EDC** as of the Effective Date and again upon the provision of any reports required to be provided to **Amarillo EDC** hereunder all of the following:

a. A-7 Austin, LLC is a for-profit limited liability company, duly organized and existing in good standing under the laws of the State of Texas. A-5 Realty, LLC is a limited liability company, duly organized and existing in good standing under the laws of the State of Texas.

b. The establishment and expansion of Amarillo Operations has been duly authorized by each **Recipient’s** board of managers or equivalent governing authority and this Agreement and the performance by **Recipients** of their obligations under this Agreement are not in contravention of any law, rule or regulation or of the provisions of either **Recipient’s** certificate of formation, or company agreement, (or similar formation or governing documents), or of any agreement or instrument to which either **Recipient** is a party or by which it may be bound.

c. No litigation or governmental proceeding is pending, or, to the knowledge of any of **Recipients’** managers, threatened against or affecting either **Recipient**, which may result in a material adverse change in either **Recipient’s** business, properties, or operations sufficient to jeopardize either **Recipient** as a going concern.

d. No Principal (defined below) of either **Recipient** or any Affiliate has been convicted of an offense described in Section 9(f), below.

e. No certificate or statement herewith, heretofore delivered, or to be delivered by either **Recipient** to **Amarillo EDC** in connection herewith (including, without limitation, any report required to be provided hereunder), or in connection with any transaction contemplated hereby, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements or information contained therein from being misleading.

f. The Texas Public Information Act, the Texas Open Meetings Act, and certain document retention statutes and regulations (together, the **Public Information Laws**) apply to **Amarillo EDC** and, as such, this Agreement and some or all of the information, communications, or documents created, obtained, or maintained by **Amarillo EDC** under this Agreement may be subject to required retention and public disclosure.

g. Austin Hose maintained no greater than the Payroll Floor and the FTE Floor in Amarillo Operations in the calendar year immediately prior to the Effective Date.

7. **Amarillo EDC’s Representations and Warranties.** **Amarillo EDC** represents and warrants to **Austin Hose** as of the Effective Date the following:

a. **Amarillo EDC**, to the best of the knowledge of its President and subject to Section 12, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation organized under Chapters 501 and 504 of the Texas Local Government Code.

b. No litigation or governmental proceeding is pending, or, to the knowledge of any of **Amarillo EDC's** officers, threatened against or affecting **Amarillo EDC**, which if adversely determined is reasonably expected to result in **Amarillo EDC's** inability to meet its obligations under this Agreement.

c. The Public Information Laws require this Agreement to be subject to public disclosure. All or parts of the FTE and Payroll reports required to be provided hereunder, in addition to other documents in **Amarillo EDC's** file or otherwise subject to its control relating to **Recipients**, may also be subject to public disclosure. **Amarillo EDC** will, for so long as it has documents or information that may be confidential or proprietary to **Recipients**, use commercially reasonable means available to it under the Public Information Laws to allow **Recipients** to, at **Recipients'** expense, seek to protect its confidential or proprietary information from public disclosure. For reference, the Texas Public Information Act allows **Amarillo EDC** to do so under Texas Government Code Section 552.305, and as required by that section, **Amarillo EDC** will make a good faith effort to notify the applicable **Recipient** of any request involving its information.

8. **Force Majeure.** If, by reason of force majeure, such as war, riot, sabotage, blockage, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority, labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of either party); civil disturbance; pandemic; epidemic; government lockdown or quarantine; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty, any party is reasonably unable to fulfill its obligations under this Agreement, such party will use reasonable and diligent effort to rectify the situation within a reasonable time, which period will, in no event, be longer than three (3) months, and which period will be added to any scheduled period or deadline hereunder. A force majeure event merely pauses a party's performance obligation for the duration of the event, subject to the limit in this Section 8, but does not excuse it.

9. **Events of Default and Remedies.** In addition to any other right of **Amarillo EDC** elsewhere in this Agreement, the following will be events of default under this Agreement:

a. The insolvency of either **Recipient**. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

b. The appointment of a receiver of either **Recipient**, or of all or any substantial part of a **Recipient's** property, and the failure of such receiver to be discharged within sixty (60) days thereafter.

c. The filing by either **Recipient** of a petition to be adjudged bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

d. The failure of either **Recipient** to pay or perform any of its obligations under this Agreement within the time periods required by this Agreement, and such failure to pay has continued for a period of ten days after written notice has been given by **Amarillo EDC**.

e. Any material misrepresentation or materially inaccurate report, whether or not knowingly or intentionally provided, of either **Recipient** to **Amarillo EDC**; provided that inaccuracies in any Payroll and FTE Report will be "material" only if such reports over-stated FTE or Payroll levels by more than two and one-half percent (2.5%).

f. The conviction of (which shall include the pleading of guilty or no contest or otherwise judicially admitting to the crime) any Principal in any jurisdiction of a state jail felony crime or any comparable or more severe offense.

In addition to any other remedy available by law, should any of these conditions not be cured within a period of thirty (30) days following written notice from **Amarillo EDC** (if curable), **Amarillo EDC** may, at its option, terminate any and all obligations of **Amarillo EDC** under this

Agreement and require repayment of all funds expended by **Amarillo EDC** pursuant to the terms of this Agreement (including the Value of the Property), less any amounts previously repaid by **Recipients**.

As used herein, the term **Principal** means any executive officer, partner, or owner (whether directly or through one or more other entities) of either **Recipient** or one of its Affiliates.

10. **Governing Law, Venue, and Attorneys' Fees.** All obligations of the parties are performable in Amarillo, Potter County, Texas, and this Agreement is governed by the laws of the State of Texas. Venue for any action arising from or related to this Agreement will be exclusively in the State District Courts in and for Potter County, Texas. The parties waive any claim that such forum is inappropriate or inconvenient. The prevailing party to any lawsuit arising from or related to this Agreement will be entitled to recover its reasonable and necessary attorneys' fees and costs. Interest on amounts past-due hereunder will accrue at the rate of eight percent (8%) per year.

11. **Notice.** All notifications required under and/or having to do with this Agreement will be made to the following:

For Amarillo EDC

Attn: Mr. Kevin Carter, President/CEO
Amarillo Economic Development Corporation
600 S. Tyler, Suite 1600
Amarillo, Texas 79101
Reporting@AmarilloEDC.com
Kevin@AmarilloEDC.com

With a copy (which will not constitute notice) to

John B. Atkins
Underwood Law Firm, P.C.
P.O. Box 9158
Amarillo, Texas 79105
Facsimile: (806) 242-0521
John.Atkins@uwlaw.com

For Austin Hose

Attn: Jim Cramer
4018 W. 50th Ave.
Amarillo, Texas 79109
Email: jim.cramer@austinhose.com

Jeffrey E. Ritter
Mullin Hoard & Brown, LLP
P. O. Box 31656
Amarillo, Texas 79120
Facsimile: (806) 372-5086
jritter@mhba.com

The correspondence address for either party may be revised from time-to-time upon advance written notice to the other party.

12. **Amarillo EDC Board and City Council Approval.** This Agreement is part of a Project (as defined in Chapters 501 and 504 of the Texas Local Government Code). If the Project is not approved by the Board of Directors of the **Amarillo EDC** and the City Council of the City of Amarillo, Texas within forty-five (45) days of the Effective Date, this Agreement will terminate without further obligations upon **Amarillo EDC** or **Austin Hose**.

13. **Tax Abatement.** **Amarillo EDC** will reasonably cooperate in **Recipients'** application for tax abatement on the Property under Chapter 312 of the Texas Tax Code to any taxing authority with jurisdiction over the Property at **Recipients'** expense (including without limitation any abatement application or other fees). While the taxing districts have historically been receptive to requests for tax abatement when significant investment in real property and job creation are shown, **Amarillo EDC** has no authority over such taxing districts and does not warrant or represent that **Recipients** will be granted tax abatement by any or all of the tax districts.

14. **Cooperation on Publicity.** **Recipients** agree to cause one or more of its senior representatives to attend all public events (e.g. Board or City Council meetings, ground-breakings, press conferences) related in any way to this Agreement, the Facility, and the like. Further, **Recipients** agree to reasonably cooperate with **Amarillo EDC** on press releases and other publicity related to the subject matter of this Agreement, the Facility, and on-going efforts related to the recruitment and retention efforts of **Amarillo EDC** directed toward **Recipients**.

15. **Broker Commissions.** **Recipients** represent and warrant to **Amarillo EDC** that **Recipients** are solely responsible for any commissions or similar fees (each a **Commission**) of brokers, finders, realtors, or similar agents claiming a right to a **Commission** by, through, or under either **Recipient** and will indemnify, defend, and hold **Amarillo EDC** harmless from any claims or liabilities for such a **Commission**.

16. **Certification Regarding Undocumented Workers.**

a. **Recipients** certify that each does not and will not knowingly employ an Undocumented Worker, defined below, between the Effective Date and the date upon which both parties no longer owe any duties under this Agreement. **Undocumented Worker** means an individual who, at any time during employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized under law to be employed in that manner in the United States. **Recipients** will immediately notify **Amarillo EDC** if: (i) either **Recipient** becomes aware it employs or has employed an Undocumented Worker; (ii) either **Recipient** becomes aware or receives notice that it is alleged to have employed an Undocumented Worker; or (iii) either **Recipient** is convicted of a violation under the following subparagraph.

b. If between the Effective Date and the date on which both parties no longer owe any duties under this Agreement, either **Recipient** knowingly employs an Undocumented Worker or is convicted of a violation under 8 U.S.C. Section 1324a(f), **Recipients** will repay to **Amarillo EDC** the entire benefit received by **Recipients** pursuant to the terms of this Agreement (including the Value of the Property and all Expansion Grant installments, but less amounts previously paid to **Amarillo EDC** under this Agreement). Such amount will be due and payable in full on the 120th day after the date **Amarillo EDC** notifies **Recipients** of the violation and interest will accrue on such amount at the contract rate thereafter.

17. **Signatures.** This Agreement may be executed in counterparts and, if so executed, will be valid, binding, and have the same effect as if all the parties hereto actually joined in and executed one and the same document. Facsimile, scanned, and electronic signatures shall be treated as originals for all purposes.

18. **Severability.** In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

THIS AGREEMENT IS BINDING UPON THE PARTIES HERETO AND THEIR SUCCESSORS AND ASSIGNS; HOWEVER, IT MAY NOT BE ASSIGNED BY EITHER PARTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER, WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD.

THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

{Signature Page Follows}

EXECUTED by the parties hereto effective as of the Effective Date.

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By: _____
Kevin Carter, President and CEO

A-7 AUSTIN, LLC

By: _____
James Cramer, Manager

A-5 REALTY, LLC

By: _____
James Cramer, Manager

DRAFT

EXHIBIT A

PROPERTY DESCRIPTION

The following depicts the approximate location of the Property, without division into Tract 1 and Tract 2. While rail may be identified in such depiction, **Recipients** acknowledge that **Amarillo EDC** has no obligation to install or cause the installation of any rail or related equipment.



EXHIBIT B

DEED OF TRUST

Date: _____, 2022

Grantor: A-5 REALTY, LLC, a Texas limited liability company

Grantor's Mailing Address (including county):

4018 W. 50th Ave.
Amarillo, Texas 79109

Trustee: JOHN B. ATKINS

Trustee's Mailing Address (including county):

500 South Taylor, Suite 1200, LB 233
Amarillo (Potter County), Texas 79101

Beneficiary: AMARILLO ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation

Beneficiary's Mailing Address (including county):

600 S. Tyler, Suite 1600
Amarillo (Potter County), Texas 79101

LIA: Location Incentives Agreement between Grantor and Beneficiary dated March 1, 2022

Terms of Payment: As provided under the LIA.

Property: As described on Exhibit A, attached.

Prior Liens: _____

Other Exceptions to Conveyance and Warranty:

This Property is subject to all easements, rights-of-way, and prescriptive rights, whether of record or visible and apparent; all presently recorded restrictions, reservations, covenant conditions, municipal zoning restrictions, oil and gas leases, mineral severances, and other instruments, other than liens and conveyances, that affect the Property; rights of adjoining owners of any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines, and any encroachments or overlapping of improvements.

For value received and to secure payment of any and all obligations of Grantor under the LIA (collectively, the *Obligations*), Grantor conveys the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property. If Grantor performs all the covenants and satisfies all the Obligations, this Deed of Trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

Grantor's Obligations

Subject to the terms and conditions of the LIA, Grantor agrees to:

1. keep the Property in good repair and condition, reasonable wear and tear excepted;
2. pay all taxes and assessments on the property when due;
3. preserve the lien's priority as it is established in this Deed of Trust;
4. maintain an insurance policy evidenced by a certificate of insurance that:

- a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
- b. provides fire and extended coverage, including windstorm coverage;
- c. protects Beneficiary with a standard mortgage clause;
- d. provides flood insurance at any time the property is in a flood hazard area; and
- e. contains such other coverage as Beneficiary may reasonably require;
5. deliver evidence of insurance in the form of a certificate of insurance to Beneficiary and deliver renewals to Beneficiary within thirty days of renewal of the policy;
6. keep any buildings occupied as required by the insurance policy; and
7. if this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds from the LIA are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. If there shall occur any insured damage to or destruction of the Property or any part thereof, and if (i) in the judgment of Grantor's engineers the Property can be restored, within a reasonable time to an economic unit valuable adequately securing the obligation, and (ii) Beneficiary receives assurances reasonably satisfactory to Beneficiary that revenue from the Property will continue in full force and effect after restoration and Amarillo Operations can be maintained as defined and required under the LIA, then, if and so long as there is no Default hereunder, Beneficiary will make available to Grantor for such restoration, proceeds of insurance, if any, collected by Beneficiary because of the act or occurrence and not restricted by any adverse claim thereto.
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may, pursuant to terms and conditions of the LIA perform those obligations and be reimbursed by Grantor on demand for any sums so paid, including reasonable attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the LIA. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor fails to perform any of Grantor's obligations under the LIA or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by the LIA, then Beneficiary may:
 - a. declare the amount owed by Grantor under the LIA immediately due;
 - b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Obligations.

Trustee's Duties

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;
2. sell and convey all or part of the Property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty; and
3. from the proceeds of the sale, pay, in this order:
 - a. expenses of foreclosure;
 - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
 - c. any amounts required by law to be paid before payment to Grantor; and

d. to Grantor, any balance.

General Provisions

1. If any of the Property is sold under this Deed of Trust, Grantor shall immediately surrender possession to the purchaser thereof. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the Property will be presumed to be true. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
3. This lien shall remain superior to liens later created even if the time of payment of all or part of Grantor's obligations under the LIA are extended or part of the Property is released.
4. If any portion of Grantor's obligations under the LIA cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge of that portion.
5. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses reasonably incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the amounts owed under the LIA. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
6. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in Default under the LIA or this Deed of Trust. Grantor will apply all rent and other income and receipts to payment of its obligations under the LIA and performance of this Deed of Trust, but if the rent and other income and receipts exceed the amount due under the LIA and Deed of Trust, Grantor may retain the excess. If Grantor defaults in payment of the Obligations or performance of this Deed of Trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the Property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the LIA and this Deed of Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.
7. Interest on the Obligations is secured by this Deed of Trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.
8. When the context requires, singular nouns and pronouns include the plural.
9. The term "Obligations" includes all sums secured by this Deed of Trust.
10. This Deed of Trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
11. If Grantor and Maker are not the same person, the term "Grantor" shall include Maker.

12. This Deed of Trust is executed and delivered by Grantor to Trustee for the benefit of Beneficiary, in conjunction with the LIA, containing additional provisions concerning the Obligations, which is incorporated herein by reference and made a part hereof for all purposes.
13. This Deed of Trust shall secure all renewals and extensions of the indebtedness described above, and, in addition, all funds hereafter advanced by Beneficiary to or for the benefit of Grantor as contemplated by any covenant or provision herein contained or for any other purpose, and all other indebtedness of whatever kind or character owing or which may hereafter become owing by Grantor to Beneficiary, whether such indebtedness is evidenced by note, open account, overdraft, endorsement, surety agreement, guaranty, or otherwise, it being contemplated that Grantor may hereafter become indebted to Beneficiary in further sum or sums.
14. Notwithstanding the provisions hereof, Grantor shall not be in default for failure to pay or discharge any tax, assessment, or mechanic's or materialman's lien asserted against the Property if, and so long as, (a) Grantor shall have notified Beneficiary of same within ten days of obtaining knowledge thereof; (b) Grantor shall diligently and in good faith contest the same by appropriate legal proceedings which shall operate to prevent the enforcement or collection of the same and the sale of the Property or any part thereof, to satisfy the same; and (c) Grantor shall promptly upon final determination thereof pay the amount of any such tax, assessment or claim so determined, together with all costs, interest and penalties which may be payable in connection therewith.
15. To the extent there exists a conflict between the terms and conditions of this Deed of Trust and the LIA, the terms and conditions of the LIA shall control.

{Signature Page Follows}

A-5 Realty, LLC

By: _____
_____, _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 2022,
by _____, as _____ of A-5 Realty, LLC, a Texas limited liability
company, on behalf of such company.

Notary Public, STATE OF TEXAS

DRAFT

**EXHIBIT A
TO DEED OF TRUST**

[INSERT LEGAL DESCRIPTION BASED UPON SURVEY]

After recording return to:

John B. Atkins
Underwood Law Firm, P.C.
P.O. Box 9158
Amarillo, Texas 79105

DRAFT

EXHIBIT C
GUARANTY FOR THE BENEFIT OF
AMARILLO ECONOMIC DEVELOPMENT CORPORATION

Specification of Obligations Guaranteed. By written agreement entitled Location Incentives Agreement (*Agreement*) by and between **AMARILLO ECONOMIC DEVELOPMENT CORPORATION** (*Amarillo EDC*), **A-7 AUSTIN, LLC**, a Texas limited liability company (*Austin Hose*), and **A-5 REALTY, LLC**, a Texas limited liability company (*Austin Realty*, and together with **Austin Hose**, *Recipients*) dated March 1, 2022, such parties entered into an agreement to induce Austin Realty to expend CapEx⁴ to improve the Property and to induce **Austin Hose** to expand Amarillo Operations. As inducement for **Amarillo EDC** to enter into such Agreement, the Agreement provides that the undersigned (together if more than one, jointly and severally, *Guarantor*) will guarantee performance of the obligations of **Recipients** under the Agreement, which is incorporated herein by reference and made a part hereof for all purposes.

Consideration. In consideration of the mutual promises and agreements contained in the Agreement, and to induce **Amarillo EDC** to enter into the Agreement, **Guarantor** hereby undertakes this unconditional Guaranty.

Guaranty by Guarantor. For the consideration recited above, and in compliance with the requirements of the Agreement, **Guarantor** does hereby guarantee to **Amarillo EDC**, its successors and assigns, as provided herein the due and punctual payment and performance of **Recipients'** obligations contained in the Agreement. This Guaranty shall only expire when all obligations of **Recipients** shall have been performed in accordance with the Agreement. As from the expiration of this Guaranty, the **Guarantor** shall have no further obligations or liability under this Guaranty, whether or not this Guaranty is returned to the **Guarantor**. Nothing herein shall, however, be construed as imposing greater obligations and liabilities on **Guarantor** than are imposed on **Recipients** under the Agreement.

Guaranty of Payment. This is an unconditional and continuing guaranty of payment and performance to **Amarillo EDC**, its successors and assigns, and not just a guaranty of collection. **Amarillo EDC** may enforce **Guarantor's** obligations hereunder without first suing or enforcing its rights or remedies for an uncured default against **Recipients** or against any other guarantor and if an action for enforcement is brought directly against **Guarantor**, **Guarantor** shall be entitled to all defenses available to **Recipients**. Alternatively, **Amarillo EDC** may enforce the Agreement obligations against either or both **Recipients**, any final judgment for which shall be covered by this Guaranty. If **Amarillo EDC** recovers a final, unappealable judgment against either or both **Recipients**, **Guarantor** will not be entitled to assert any defense to the payment of such judgment or recovery, whether or not such defense could be separately asserted by **Guarantor** as a guarantor, so long as **Guarantor** shall not have been prevented by **Amarillo EDC** from intervening in any action brought by **Amarillo EDC**. Performance by **Guarantor** under the terms of this Guaranty shall in no event excuse or alleviate performance by **Recipients** of any other obligation under the terms of the Agreement not so performed by **Guarantor**, provided, however, **Amarillo EDC** shall not be entitled to double recovery.

Continuation of Guaranty in Regard to Specific Events. **Guarantor** hereby consents and agrees to and acknowledges that its obligations hereunder shall not be released or discharged by the following: (a) the modification or alteration of the Agreement; (b) any forbearance or compromises granted to **Recipients** by **Amarillo EDC**; and (c) the insolvency, bankruptcy, liquidation, dissolution, or reorganization of either **Recipient**. Failure by **Amarillo EDC** to exercise its rights herein shall not operate as a waiver of the default or any other default thereafter. **Guarantor's** guaranty obligations will not be released, diminished, or discharged by any permitted assignment or subletting by **Recipients**, or by the acquisition or merger or consolidation of either **Recipient**, or the acquisition of some or all of either **Recipient's** assets by any person or entity.

Guarantor's Representations and Warranties. Each **Guarantor** represents and warrants the following on behalf of himself, herself, or itself:

⁴ Capitalized terms used but not defined herein have the meaning as set forth in the Agreement.

- a. Guarantor is an individual resident of the State of Texas;
- b. Guarantor has all requisite power and authority to enter into this Guaranty and to carry out the terms and provisions of this Guaranty and **Guarantor's** responsibilities specified in the Agreement;
- c. The execution of this Guaranty is not in contravention of any law, rule or regulations or of any agreement or instrument to which it is a party or by which it may be bound;
- d. No action, proceeding, or investigation is pending or threatened which in any way prevents or interferes with or adversely affects its ability to enter into and perform under this Guaranty, or its ability to meet its obligations under this Guaranty; and
- e. It is an equity owner or affiliate of one or both of the **Recipients** and has received or will receive direct or indirect consideration from the Agreement and the making of this Guaranty; it is familiar with the financial condition of **Recipients**; and **Amarillo EDC** has made no representations to it in order to induce it to execute this Guaranty other than as set forth in the Agreement.

Attorneys' Fees and Costs of Litigation. **Guarantor** agrees to reimburse **Amarillo EDC** for all expenses reasonably incurred in the enforcement of this Guaranty, including, but not limited to, reasonable attorneys' fees and court costs.

Notification. All notifications required under and/or having to do with this Guaranty shall be made to the following:

For **Amarillo EDC**:

Amarillo Economic Development Corporation
 Attn: Kevin Carter, President and CEO
 600 S. Tyler, Suite 1600
 Amarillo, TX 79101

For **Guarantor**:

James Cramer
 4018 W. 50th Ave.
 Amarillo, Texas 79109

Place of Performance of Guaranty. This Guaranty, performable by **Guarantor** in Amarillo, Potter County, Texas, embodies the entire agreement between the parties hereto, and supersedes all prior agreements, conditions and understandings, if any, related to the subject matter hereof. This Guaranty may be amended only by a written instrument executed by **Guarantor** and **Amarillo EDC**. The substantive laws of the State of Texas shall govern the validity, construction, enforcement and interpretation of this Guaranty.

EXECUTED this ____ day of _____, 2022.

Guarantor:

 James Cramer

ACCEPTED:

Amarillo Economic Development Corporation

By: _____
 Kevin Carter, President and CEO

EXHIBIT D

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

Date: _____, 2022

Grantor: Amarillo Economic Development Corporation, a Texas non-profit corporation

Grantor's Mailing Address:

600 S. Tyler, Suite 1600
Amarillo, Texas 79101

Grantee: A-5 Realty, LLC, a Texas limited liability company

Grantee's Mailing Address:

4018 W. 50th Ave.
Amarillo, Texas 79109

Consideration: Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor, together with obligations owed or that may become owed by Grantee under that certain Location Incentives Agreement dated as of March 1, 2022, executed by Grantee and Grantor (the *LIA*). Performance by Grantee under the LIA is secured by a deed of trust lien against the Property as set forth in a deed of trust of even date from Grantee to JOHN B. ATKINS, TRUSTEE.

Property (including any improvements):

That certain property in Randall County, Texas, described on Exhibit A, attached and incorporated herein for all purposes.

Reservations from Conveyance and Exceptions to Conveyance and Warranty:

Those items listed on Exhibit B, attached hereto and incorporated herein by reference.

GRANTEE IS PURCHASING THE PROPERTY "**AS IS**" WITH ALL FAULTS AND DEFECTS, AND GRANTEE ACKNOWLEDGES AND AGREES THAT, GRANTOR HAS NOT MADE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, OR THE PRESENCE OR ABSENCE OF ANY POLLUTANT, HAZARDOUS WASTE, GAS OR SUBSTANCE OR SOLID WASTE ON OR ABOUT THE PROPERTY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY INTEND TO CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL AUTHORITY OR BODY HAVING JURISDICTION INCLUDING, WITHOUT LIMITATION, ALL APPLICABLE ZONING LAWS, (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF

THE PROPERTY, OR (F) ANY OTHER MATTER RELATED TO OR CONCERNING THE PROPERTY, AND GRANTEE SHALL NOT SEEK RECOURSE AGAINST GRANTOR ON ACCOUNT OF ANY LOSS, COST OR EXPENSE SUFFERED OR INCURRED BY GRANTEE WITH REGARD TO ANY OF THE MATTERS DESCRIBED IN CLAUSES (A) THROUGH (F) ABOVE. GRANTEE ACKNOWLEDGES THAT GRANTEE, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED BY GRANTOR. GRANTEE ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS DEED ARE AN INTEGRAL PORTION OF THIS DEED AND THAT GRANTOR WOULD NOT SELL THE PROPERTY TO GRANTEE WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH HEREIN.

It is expressly understood and agreed, however, that this conveyance is made upon the condition that Grantee, subject to Excusable Delays (defined below): (i) commences construction of the Facility within six (6) months of the date hereof (which will be deemed satisfied if Grantee obtains permits and actually breaks ground prior to such date), and (ii) thereafter pursues construction of the Facility in a commercially reasonable manner to Substantial Completion within 24 months after the date hereof. Should Grantee fail to meet either of the conditions above, title to the Property shall revert to Grantor, its successors or assigns. As used herein, the term "Facility" shall mean those certain buildings and related improvements as defined in the LIA and to be located on the Property conveyed hereby; and the term "Excusable Delay" shall mean any delay in obtaining the necessary permits and approvals or in the actual construction of the Facility caused by strikes, lockouts, labor disputes, casualties, terrorism, acts of God or the public enemy, governmental embargo restrictions, shortages of fuel, labor or building materials, action or non-action of public utilities, or adverse weather conditions. Furthermore, the Facility shall be deemed "Substantially Complete" only upon the satisfaction of all of the following: (a) construction of the Facility has been substantially completed excepting only normal punch-out items; (b) Grantee has unconditionally received all approvals and certifications of occupancy and operation from any governmental or other entity with jurisdiction over the Property for the operations contemplated by Grantee; and (c) Grantee has delivered written notice certifying such facts to Grantor and providing such back-up documentation as Grantor may reasonably request. In the event of an Excusable Delay, the time required to commence or Substantially Complete construction of the Facility shall be extended for only such period of time as may be reasonable necessary to compensate for the resulting delay.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor, but not otherwise, except as to the reservations from and exceptions to conveyance and warranty.

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

AMARILLO ECONOMIC DEVELOPMENT
CORPORATION

By: _____
Kevin Carter, President and CEO

STATE OF TEXAS §

COUNTY OF POTTER §

This instrument was acknowledged before me on the ____ day of _____, 2022, by Kevin Carter, President and CEO of AMARILLO ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

DRAFT

ACCEPTED:

A-5 Realty, LLC

By: _____

Printed Name: _____

Title: _____

DRAFT

**EXHIBIT A
TO SPECIAL WARRANTY DEED
PROPERTY DESCRIPTION**

[INSERT LEGAL DESCRIPTION BASED ON SURVEY]

DRAFT

EXHIBIT B
TO SPECIAL WARRANTY DEED
RESERVATIONS & EXCEPTIONS TO CONVEYANCE AND WARRANTY

1. Taxes for the year of closing and all subsequent years.
2. Roll-back, change-in-use, and similar taxes whether related to or assessed before or after closing.
3. Reservations and use restrictions in that certain Special Warranty Deed from Happy Horizons Properties L.P. and Happy Again L.P. to Amarillo Economic Development Corporation dated June 11, 2019, and recorded as Instrument No. 2019009902 in the Official Public Records of Randall County, Texas
4. [Other items revealed by the final Commitment for Title Insurance]

AFTER RECORDING RETURN TO:
4018 W. 50th Ave.
Amarillo, Texas 79109

PREPARED IN THE LAW OFFICE OF:
Underwood Law Firm, P.C.
P.O. Box 9158
Amarillo, Texas 79105

DRAFT

EXHIBIT E
FORM OF PAYROLL AND FTE REPORT

[AUSTIN HOSE LETTERHEAD]

I, _____[PRINTED NAME]_____, as _____[TITLE]_____ of A-7 Austin, LLC, a Texas limited liability company (*Austin Hose*), provide this report in connection with that certain Location Incentives Agreement (*Agreement*) between Austin Hose, Austin Realty, LP, and the Amarillo Economic Development Corporation (*Amarillo EDC*) dated effective as of March 1, 2022. Capitalized terms used but not defined herein shall have the meaning as set forth in the Agreement.

I hereby certify and confirm to the Amarillo EDC on behalf of Austin Hose that the following are true and correct for the Performance Year (as defined in the Agreement) indicated below:

1. All funds received by Austin Hose from Amarillo EDC under the Agreement have been used solely for the land, buildings, equipment, facilities, expenditures, targeted infrastructure, or improvements to construct, equip, and improve the Facility and Austin Hose's operations thereon.
2. The aggregate number of FTEs maintained for the indicated Performance Year totaled:
_____.
3. Payroll in Amarillo Operations for the indicated Performance Year totaled:
\$ _____.
4. Attached hereto are true and correct copies of the back-up documents and information confirming the FTE and Payroll figures reported above, assembled in satisfaction of the reporting requirements of the Agreement.

PERFORMANCE YEAR: **January 1, 20**____ **through December 31, 20**_____

Printed Name: _____

Title: _____

Amarillo City Council Agenda Transmittal Memo

AMARILLO
E C O N O M I C
D E V E L O P M E N T



Meeting Date	August 2, 2022	Council Pillar	Economic Development
Department	Amarillo Economic Development Corporation (AEDC)		
Contact	Kevin Carter, President and CEO		

Agenda Caption
CONSIDER APPROVAL – TAX ABATEMENT AGREEMENT – BETWEEN CITY OF AMARILLO AND AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND A-5 REALTY, LLC (TEXAS COMPANY) AND A-7 AUSTIN, LLC (TEXAS COMPANY) DOING BUSINESS AS AUSTIN HOSE

Agenda Item Summary
 Austin Hose is looking to build a 100,000 sq. ft. Hydraulic Hose Manufacturing Facility on 20.7 acres located at S. Georgia Street and E. Farmers Avenue.

Highlights of the project include:

- **\$10 million estimated improvements**
- **20 new employees projected in 1st Phase (Up to 30 in future phases)**
- **Incentive of \$10,000.00 for each job paid over 5 years as they are created**
- **Incentive of 20.7 acres conveyed**

AEDC is asking the City Council to approve the tax abatement agreement. AEDC is recommending 60% abatement for 6 years on the above capital expenditure, job creation and the Comprehensive Guidelines and Criteria for Economic Development Incentives adopted by the City Council.

Requested Action
 Approval of the Tax Abatement Agreement as presented.

Funding Summary
 n/a

Community Engagement
 N/A

Staff Recommendation
 AEDC staff is recommending approval of the Tax Abatement Agreement.

**TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF AMARILLO,
AMARILLO ECONOMIC DEVELOPMENT CORPORATION,
A-5 REALTY, LLC, AND A-7 AUSTIN, LLC**

STATE OF TEXAS §
 §
COUNTY OF POTTER §

This Tax Abatement Agreement (“*Agreement*”), is entered into as of this 2nd day of August, 2022 (“*Effective Date*”), by and between the City of Amarillo, Texas (“*City*”), a home rule city and municipal corporation located in Potter and Randall Counties, Texas, duly acting herein by and through its City Manager or other designated representative, Amarillo Economic Development Corporation, a Texas nonprofit corporation (“*Amarillo EDC*”), A-5 Realty, LLC, a Texas limited liability company (“*A-5 Realty*”), and A-7 Austin, LLC, a Texas limited liability company doing business as Austin Hose (“*Austin Hose*”). A-5 Realty, Austin Hose, and any entity owning, owned by, or under common ownership with Austin Hose (“*Austin Hose Affiliate*”) may be referred to herein collectively as “*Recipient*”.¹

WITNESSETH:

WHEREAS, the City Council of the City of Amarillo, Texas (“*City Council*”) indicated its election to be eligible to participate in Tax Abatements in the Resolution Adopting Guidelines and Criteria for Tax Abatement in the City of Amarillo (“*Policy Statement*”), by the passage of Resolution No. 7-26-88-1 on the 21st day of July, 1988; and

WHEREAS, on the 24th day of August, 2021, the City Council readopted the Policy Statement by the passage of Resolution No. 08-24-21-1; and

WHEREAS, the City’s current Policy Statement entitled: “Resolution Adopting Guidelines And Criteria For Tax Abatement Within Reinvestment Zones For The City Of Amarillo” is attached as Exhibit A hereto; and

WHEREAS, the Policy Statement constitutes appropriate “guidelines and criteria” governing tax abatement agreements which may be entered into by the City as contemplated by the Texas Tax Code (“*Tax Code*”), and provides for the availability of tax abatement for both new facilities and structures and for the contemplated expansion or modernization of existing facilities or structures; and

WHEREAS, entering into this Agreement will produce public benefits:

- 1) enhancing and diversifying the economic and industrial bases of the Amarillo area;
- 2) contributing to the retention and expansion of primary employment; and
- 3) attracting major investment that will be of benefit to the Premises (as hereafter defined) and that will contribute to the economic development of the City; and

WHEREAS, on the 2nd day of August, 2022, the City Council adopted Ordinance No. 7997 establishing City of Amarillo Reinvestment Zone No. 19 (“*Zone*”) for commercial/industrial tax abatement, as authorized by Tax Code Chapter 312; and

WHEREAS, Amarillo EDC currently holds title to the Premises, but A-5 Realty expects to obtain title to the Premises from Amarillo EDC under the terms of a Location Incentives Agreement between Amarillo EDC and Recipient (“*LIA*”) and lease it to Austin Hose; and

WHEREAS, the contemplated uses of the Premises (a distribution center), the contemplated improvements to the Premises as set forth in this Agreement, the contemplated equipment, and other business personal property, and the other terms of this Agreement will

¹ The parties intend that the term “*Recipient*” shall mean and refer to A-5 Realty, Austin Hose, or an Austin Hose Affiliate, as their interests appear during the term of this Agreement, based upon ownership of or obligation to pay taxes on the Premises and Qualified Personal Property.

encourage development of the Zone, are in accordance with the purposes for its creation, and are in compliance with the Policy Statement, the Ordinance, and all applicable laws; and

WHEREAS, Recipient's use of the Premises is expected to favorably influence the economic and employment base of the City, to-wit: within six years to provide 40 new full-time distribution and management positions; and

WHEREAS, the City Council finds that the improvements sought are feasible and practical and will be of benefit to the Premises, the Zone, and to the City after expiration of this Agreement; and

WHEREAS, the City Council finds that the terms of this Agreement and the proposed Qualified Facilities and Qualified Personal Property (as hereafter defined) subject to this Agreement meet the applicable guidelines and criteria previously adopted by the City Council; and

WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by the law, to the presiding officers of the governing bodies of each of the taxing units in which the Premises subject to the Agreement is located;

NOW, THEREFORE, the City for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, which consideration includes the attraction of major investment to the Zone and business activity which contributes to the overall economic development of the City and enhancement of the tax base in the City; Amarillo EDC and Recipient for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged by each, which consideration includes the tax abatement set forth below, as authorized by Tax Code Chapter 312, Subchapter B, do hereby contract and agree as follows:

1. Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

- 1) "Tax Code" means the relevant provisions of the Texas Tax Code.
- 2) "Eligible Property Value" shall mean the value of Recipient's Qualified Facilities and Qualified Personal Property that:
 - a) is eligible for tax abatement under Tax Code Chapter 312 (which shall not include the real property's current value – only increase in value of the real property may be exempted); and
 - b) has taxable situs in the Zone on January 1 of the first tax year as set forth in Section 3 or on January 1 of any subsequent tax year as set forth in Section 3.

However, pursuant to Tax Code Section 312.204, tangible personal property that was located on the Premises before the beginning date of the abatement period shall not be eligible for tax abatement. Supplies and inventory located in the Zone at any time shall not be eligible for tax abatement.

- 3) "Qualified Facilities" shall mean the buildings and other improvements constructed by or for the benefit of Recipient for design, assembly, manufacturing, distribution, storage, training, repair, or other purposes in the Zone, consisting of a distribution facility expected to cost no less than \$20,000,000.
- 4) "Qualified Personal Property" shall mean Recipient's machinery, equipment, furniture, fixtures, and other tangible personal property that are eligible for tax abatement under Tax Code Chapter 312, consisting of furniture, fixtures, and equipment sufficient to carry on distribution activities that:
 - a) is owned by Recipient or a third party as described in Section 2(11)(b);
 - b) is located in the Zone; and

- c) but for this Agreement would be subject to appraisal by the Potter-Randall Appraisal District or its successor for the applicable tax year.
- 5) "Premises" shall mean the parcel of land owned by Amarillo EDC and to be owned by Recipient under the LIA in Amarillo, Randall County, Texas, as described on Exhibit B, which is attached hereto and incorporated by reference, and is located within the Zone.
- 6) "Abatement" shall mean the tax abatement rate in those percentages set forth in Section 5 for each applicable year.

2. General Provisions

- 1) Recipient agrees that its use of the Premises will be in accordance with applicable state and local laws and regulations.
- 2) The parties agree that the periods of abatement under this Agreement are directly proportional to the capital expenditures for improvements and the number of permanent full-time jobs to be created by Recipient.
- 3) The procedures followed by the City in the enforcement and administration of this Agreement will conform to the requirements of the Tax Code and other applicable law. To the extent possible, these procedures will be undertaken in coordination with Recipient's corporate, public, employee, and business relations requirements.
- 4) The Premises are presently owned by Amarillo EDC and are to be owned by Recipient under the LIA. Amarillo EDC joins herein solely as an accommodation party currently owning the Premises; provided, however, that all parties hereto agree that the LIA is the sole agreement between Amarillo EDC and Recipient with respect to the transfer of the Property, and this Agreement does not create, and shall not be construed to create, an independent obligation of Amarillo EDC to convey the Property to Recipient. The Premises are located solely within the corporate limits of the City and within the Zone.
- 5) The Premises and Qualified Facilities are not an improvement project financed by tax increment bonds.
- 6) This Agreement is entered into subject to the rights of the holders of outstanding bonds of the City.
- 7) The Premises and Qualified Personal Property are not owned or leased by any member of the Amarillo City Council or any member of the Planning and Zoning Commission of the City or a member of the governing body of any taxing units joining in or adopting this Agreement.
- 8) The City has adopted guidelines and criteria governing tax abatement agreements and it has the authority to enter into this Agreement.
- 9) This Agreement is intended to comply with the requirements of law and is authorized by the Texas Property Redevelopment and Tax Abatement Act, Tax Code Chapter 312, Policy Statement, and by approval of the City Council of the City of Amarillo authorizing execution of this Agreement.
- 10) During the period of the Abatement, Recipient shall be subject to taxation on all real and personal property not abated or otherwise exempted.
- 11) This Agreement shall apply to Qualified Facilities and Qualified Personal Property which is owned by:
 - a) Recipient; or
 - b) A third party when

- i) Recipient is contractually obligated to pay taxes on said property; and
 - ii) Recipient renders said property for taxation.
- 12) The construction and development of the Qualified Facilities and Qualified Personal Property contemplated by this Agreement will be diligently pursued by Recipient and may occur in Phases. Each Phase will be created as set forth in Section 4 of this Agreement.

3. Term and Abatement Period

A six (6) year tax abatement is hereby granted to Recipient subject to meeting the conditions herein. For each Phase (as hereafter defined), the six (6) year abatement period commences beginning on January 1 of the first tax year for which Recipient files an approved abatement application with the Potter-Randall Appraisal District. For each subsequent Phase, the six (6) year abatement period commences on January 1 of the first tax year for which Recipient timely files an approved abatement application for that Phase with the Potter-Randall Appraisal District.

4. Construction May Occur in Phases

At its option, Recipient may elect to stage development of the Qualified Facilities and Qualified Personal Property to occur at different times within the Zone. If Recipient chooses to make this election, each individual Phase shall be eligible for Abatement under the terms of this Agreement for a period of six (6) years.

Recipient will designate each Phase by metes and bounds or by description of the improvement or property sought to be abated, to be submitted with the first Tax Abatement application filed on each Qualified Facility or Qualified Personal Property in that Phase. Each Phase so designated will be sequentially numbered as Phase 1, Phase 2, and so forth. Thereafter, the Qualified Facilities and Qualified Personal Property in each Phase shall be the subject of a separate Tax Abatement application as may be required by law. For purposes of identifying property within a Phase, it shall be sufficient to generally identify the improvement or property by its use or purpose and relative geographic location to other existing improvements.

The deadline for designating a Phase under Section 4 of this Agreement coincides with the expiration of the Zone, being the fifth (5th) anniversary of the establishment of the Zone, unless renewed or extended to a later date by the City, in which case additional Phases may be designated so long as all Phases are completed before expiration of this Agreement. Neither a renewal of the Zone nor the timing of a Phase by the Recipient shall constitute or justify an extension of this agreement beyond the maximum lawful period of ten years.

5. Rate of Abatement

The rate and scope of tax abatement shall be as follows:

- 1) Scope of Abatement. The annual rate of abatement will be applied as set forth below to the Eligible Property Value.
- 2) Annual Rate of Abatement. The following shall be the annual rate of tax abatement. The rate of abatement shall be applied separately to the Eligible Property Value in each Phase created under this Agreement for each applicable tax year.

<u>Year of Abatement</u>	<u>Rate of Abatement on Incremental Increase</u>
1	60%
2	60%
3	60%
4	60%
5	60%
6	60%

6. Records and Audits

- 1) At all times throughout the term of this Agreement, the City and the Potter-Randall Appraisal District shall have reasonable access to the Premises by their employees or agents, accompanied by Recipient personnel, for the purpose of inspecting the Premises to ensure the Qualified Facilities and Qualified Personal Property are maintained in accordance with the conditions of this Agreement and shall have access to the applicable books and records of Recipient for purposes of determining compliance with state law and this Agreement.
- 2) Before December 31 of each year, Recipient must certify in writing to the governing body of each participating taxing unit that it is in compliance with each term of this Agreement; provided, however, that Recipient shall not be considered in default hereunder until the applicable party has received notice of non-compliance, and has had a period of time (not to exceed 30 days) to provide the required certification.

7. Performance Requirement

Recipient shall not be entitled to any Eligible Property Value tax abatement under this Agreement for any tax year during which Recipient is in default of this Agreement.

8. Breach and Default

In the event that Recipient:

- 1) fails to make the improvements or repairs in accordance with this Agreement;
- 2) allows *ad valorem* taxes on the Premises, Qualified Facilities, or Qualified Personal Property subject to abatement to become delinquent and fails to timely and properly follow the legal procedures for the protest and/or appeal of such *ad valorem* taxes,
- 3) fails or refuses to timely file required documents with the State Comptroller or local tax appraisal district in connection with the tax abatement set forth in this Agreement; or
- 4) breaches any of the terms or conditions of this Agreement;

then Recipient shall be in default of this Agreement.

If Recipient defaults in its performance of 1, 2, 3, or 4 above, the City shall give Recipient written notice of default. If Recipient has not cured such default within ninety (90) days of receipt of written notice, or, if such default cannot be cured by the payment of money or posting of a bond or other collateral, Recipient shall be in default for that tax year. However, if such default is not reasonably susceptible of cure within such ninety (90) day period, whether or not due to causes within the control of Recipient, and Recipient has begun efforts to cure the default, then after first advising the City of its efforts, Recipient may utilize an additional one hundred eighty (180) days to cure the default. Time in addition to the foregoing two hundred seventy (270) day cure period may be authorized by the City, in its sole and absolute discretion.

Failure to timely cure any default will result in the cancellation of this Agreement and the retroactive loss of the Abatement. Additionally after the expiration of the applicable notice and cure periods, all taxes which would have otherwise been paid to the City during the tax year in which the default occurs without the benefit of abatement plus ten percent (10%) interest beginning on the date of expiration of the cure period will be owed by Recipient to the City as liquidated damages. This amount shall be due and owing to the City within sixty (60) days of the expiration of the above referenced cure period, subject to all lawful offsets, settlements, deductions, or credits to which Recipient may be entitled. The parties acknowledge that actual damages in the event of default would be speculative and difficult to determine.

If the default is cured after the expiration of the two hundred seventy (270) day cure period provided but no later than three hundred sixty-five (365) days after default, then the terms and conditions of this Agreement may be reinstated for the remaining number of years available under Section 3 in which an abatement has not yet been enjoyed.

9. Sale, Assignment, or Lease of Property; Termination

- 1) This Agreement may be assigned by Recipient to an entity controlling, controlled by, or under common control with Recipient without further consent of the City.
- 2) This Agreement may be assigned by Recipient to any other entity only with the consent of the City, which consent shall not be unreasonably withheld.
- 3) This Agreement shall terminate in the event that Amarillo EDC notifies City that Recipient has not acquired the Property pursuant to the terms and conditions of the LIA.

10. Indemnity

It is understood and agreed among the parties that Recipient, in performing its obligations hereunder, is acting independently of City and Amarillo EDC. City and Amarillo EDC assume no responsibilities or liabilities in connection therewith to Recipient or third parties, and City agrees that Amarillo EDC has no responsibility or liability under this Agreement with respect to the obligations of Recipient. Recipient agrees to indemnify and hold City and Amarillo EDC and their agents, employees, and officers harmless from penalties, fines, damages of every kind, attorney fees, costs, and interest that arise out of or related to Recipient's acts or omissions relating to the Premises, Qualified Facilities, Qualified Personal Property, or the performance or benefits of this Agreement.

11. Notice

Any notice called for or required by this Agreement shall be considered delivered when actually received by a party at the following address, or at such other address as may be designated in writing.

For Recipient:

A-5 Realty, LLC or A-7 Austin, LLC
Attn: Jim Cramer
4018 W. 50th Ave.
Amarillo, TX 79109
Email: jim.cramer@austinhose.com

For City of Amarillo, Texas:

City Manager
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79186-1971
Fax (806) 378-8394

For Amarillo EDC:

Amarillo Economic Development Corporation
Attn: Kevin Carter, President and CEO
600 S. Tyler, Suite 1600
Amarillo, Texas 79101
Telephone: 806-379-6411
Email: kevin@amarilloedc.com

with a copy to (which shall not constitute notice):
Underwood Law Firm, PC
Attn: John B. Atkins
500 S. Taylor St., Suite 1200
Amarillo, Texas 79101
Email: john.atkins@uwlaw.com

12. City Authorization

This Agreement was authorized and approved by a majority of the City Council at a regularly scheduled meeting in accordance with applicable provisions of the Tax Code. The City Council authorized the City Manager, or designee, to execute this Agreement on behalf of the City.

13. Recipient and Amarillo EDC Authorization

This Agreement was entered into by Recipient and Amarillo EDC pursuant to proper authority whereby an authorized executive officer of Recipient and Amarillo EDC, each signing below, were authorized to execute this Agreement on behalf of each entity as shown.

14. Severability

If any section, subsection, paragraph, sentence, phrase, or word of this Agreement is held invalid, illegal, or unconstitutional, the balance of this Agreement shall be enforceable and read as if the parties intended at all times to delete the invalid section, subsection, paragraph, sentence, phrase, or word.

15. Estoppel Certificate

Any party hereto may request an estoppel certificate from another party if the certificate is requested in connection with a bona fide business purpose. The estoppel certificate will be addressed as requested by the party, and shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default (or if default exists, the nature of default and curative action, which should be undertaken to cure same), the remaining term of this Agreement, the levels of primary Abatement in effect, and such other matters reasonably requested by the party.

16. Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State District Court of Potter County, Texas. Recipient waives any claim that such forum is inconvenient. This Agreement is performable in Potter County, Texas.

17. Recordation of Agreement

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Randall County, Texas.

18. Entire Agreement

This Agreement contains the entire agreement of the parties on the subject matter herein. This Agreement supersedes any prior written or oral tax abatement agreements or representations between the parties. It may only be modified by written instrument signed by the parties.

Notwithstanding the foregoing provisions, this Agreement does not modify, alter, or amend any other agreement or instrument between the City and/or Recipient relating to matters other than the abatement of ad valorem taxes on the Eligible Property Value. This Agreement is being executed in multiple originals which are being distributed for execution to Recipient, Amarillo EDC, and the City. Each party agrees that its sole execution of an original shall constitute its consent to, and acceptance of the Agreement, without the necessity of a single copy being executed by all parties.

Executed to be effective as of the Effective Date.

CITY OF AMARILLO, TEXAS

By: _____
Jared Miller, City Manager

Attest:

Stephanie Coggins, City Secretary

Approved as to form:

Bryan S. McWilliams, City Attorney

City's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF POTTER §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Jared Miller, City Manager of the City of Amarillo, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the City of Amarillo, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate approval of the City Council of the City of Amarillo, and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

DRAFT

A-5 REALTY, LLC

By: A-7 Austin, LLC, its sole Manager

By: _____
Printed Name:
Title:

A-5 Realty Acknowledgment

A-5 REALTY, LLC

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared _____, as _____ of A-7 Austin, LLC, a Texas limited liability company, as sole manager of A-5 Realty, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said A-5 Realty, LLC, that he/she was duly authorized to perform the same by appropriate resolution of such corporation, and that he/she executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

A-7 AUSTIN, LLC

By: _____
Printed Name:
Title:

Austin Hose Acknowledgment

A-7 AUSTIN, LLC

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared _____, as _____ of A-7 Austin, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said A-7 Austin, LLC, that he/she was duly authorized to perform the same by appropriate resolution of such corporation, and that he/she executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By: _____
Kevin Carter, President and CEO

Amarillo EDC Acknowledgment

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

STATE OF TEXAS §
 §
COUNTY OF POTTER §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Kevin Carter, as President and CEO of Amarillo EDC, a Texas nonprofit corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Amarillo Economic Development Corporation, that he was duly authorized to perform the same by appropriate resolution of such corporation, and that he executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

EXHIBIT A
POLICY STATEMENT

06/17/2021 _____

RESOLUTION NO. 08-24-21-1

A RESOLUTION OF THE CITY OF AMARILLO, TEXAS
CITY COUNCIL: ADOPTING GUIDELINES AND
CRITERIA FOR TAX ABATEMENT WITHIN
REINVESTMENT ZONES FOR THE CITY OF
AMARILLO; PROVIDE A SEVERANCE CLAUSE;
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Amarillo desires to participate in tax abatements from time to time as the City Council may find appropriate, in accordance with the criteria and guidelines herein adopted;

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

SECTION 1. That for tax abatements in reinvestment zones adopted by the City of Amarillo, the fundamental purpose is to stimulate growth and create jobs, and the following guidelines and general criteria will apply:

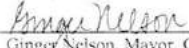
- A. Tax abatements may be provided for both new facilities and structures and for the expansion or modernization of existing facilities and structures. Each project proposed for tax abatement shall be considered individually on its own merits, benefit to the public, and in context of any other economic incentives for the project or existing in the reinvestment zone.
- B. The developer, property owner, project owner, or other recipient of a tax abatement must annually certify in writing to the governing body of each participating taxing unit that the developer, owner or recipient is in compliance with each applicable term of the agreement.
- C. Only the taxable value of improvements to real property or tangible personal property that is brought to the real property after the execution of a tax abatement agreement will qualify for tax abatement.
- D. A tax abatement agreement must ensure that the periods of abatement are directly proportional to the capital expenditures for improvements and the number of permanent full-time jobs created.
- E. Expansion or modernization of existing facilities qualifies for tax abatement if the expansion meets the qualifications for capital expenditures and retention of or creation of new jobs nets new jobs. The number of jobs created must be new jobs and not replacement of jobs which were in the payroll within the year immediately prior to application for tax abatement. A tax abatement shall not be granted if the facility has been the subject of or included in a prior tax abatement agreement.
- F. If a new facility is constructed to replace an existing facility, and the existing facility is abandoned by the developer, property owner, project owner, or other recipient of a tax abatement, only the difference in taxable value of the new facility over the existing facility will qualify for tax abatement.
- G. An agreement will be executed by the developer, property owner, project owner, or other recipient of a tax abatement which incorporates the terms of this resolution and includes any other site and development specific terms which might be found applicable at the time.
- H. The tax abatement agreement will require, among other things, that the City of Amarillo will have the right of access to the site and books and records of the applicant for tax abatement to determine compliance with statutory requirements and the agreement. Failure to fulfill any of the requirements of the agreement will result in cancellation of the agreement and retroactive loss of tax abatement.

SECTION 2. 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 resolution 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 resolution, 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 3. This Resolution is immediately effective upon passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on this the 24 day of August, 2021.

THE CITY OF AMARILLO


Ginger Nelson, Mayor, City of Amarillo

ATTEST:


Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

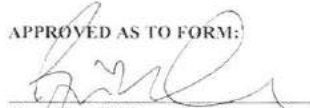

Bryan S. McWilliams, City Attorney

EXHIBIT B

Property Description

LEGAL DESCRIPTION for a 20.70 acre tract of land out of Section 182, Block 2, A. B. & M. Survey, Randall County, Texas, and more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found with a yellow cap on the south right-of-way line of Farmers Ave. which bears S. 89° 50' 39" E. a distance of 361.61 feet and S. 00° 09' 21" W. a distance of 59.10 feet from a 1/2" iron rod found at the northwest corner of said Section 182 for the northwest corner of this tract.

THENCE S. 89° 50' 39" E., along said south right-of-way line, a distance of 1433.16 feet to the northeast corner of this tract.

THENCE S. 17° 00' 16" W. a distance of 710.03 feet to the southeast corner of this tract.

THENCE N. 89° 41' 02" W. a distance of 1226.20 feet to a 1/2" iron rod found for the southwest corner of this tract.

THENCE N. 0° 03' 26" E., at a distance of 434.76 feet pass a 1/2" iron rod found with a yellow cap, a total distance of 676.12 feet to the place of BEGINNING and containing 20.70 acres (901,479 square feet) of land.

Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 2, 2022	Council Pillar	Economic Development
Department	Amarillo Economic Development Corporation		
Contact	Kevin Carter, President and CEO		

Agenda Caption
 CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND UNMANNED SYSTEMS, INC (NEVADA) DOING BUSINESS AS ALBERS AEROSPACE

Agenda Item Summary
 Albers Aerospace will build a 300,000 sq. ft. Aerospace Manufacturing and Paint Facility on 30.0 acres located at Airport Boulevard and S.E. Third Avenue.

Highlights of the project include:

- \$50 million estimated improvements
- AEDC will build and lease back facility with rent forgiveness available
- 400 new employees projected (\$97,000 Annual Salary Average)
- Incentive of \$20,000.00 for each job paid \$4 million within 30 days and \$4 million after 1 year
- Incentive of 30.0 acres conveyed

AEDC is asking the City Council to approve the location incentive agreement. The AEDC Board approved the agreement on July 25, 2022, on a 4-0 vote.

Requested Action
 Approval of the Location Incentive Agreement as presented.

Funding Summary
 \$8,000,000 for job creation and 30 acres of land valued at \$1,800,000.00.

Community Engagement
 N/A

Staff Recommendation
 AEDC staff is recommending approval of the Location Incentive Agreement. AEDC Board Approved with 4-0 vote on July 25, 2022.

LOCATION INCENTIVES AGREEMENT
by and between
AMARILLO ECONOMIC DEVELOPMENT CORPORATION
and
UNMANNED SYSTEMS, INC DBA ALBERS AEROSPACE

This Agreement, entered into effective as of the ____ day of _____, 2022 (*Effective Date*), is by and between the **AMARILLO ECONOMIC DEVELOPMENT CORPORATION** (*Amarillo EDC*), a Texas nonprofit corporation organized and chartered under Chapters 501 and 504 of the Texas Local Government Code, having its principal place of business in Amarillo, Potter County, Texas and **UNMANNED SYSTEMS, INC. d/b/a Albers Aerospace** (*Albers*), a Nevada corporation with its principal place of business in Collin County, Texas.

Amarillo EDC is a tax-supported non-profit corporation whose primary income is a one-half of one percent sales tax collected within the City of Amarillo dedicated exclusively to economic development. **Amarillo EDC** exists for the primary purpose of stabilizing, diversifying and expanding the Amarillo economy through retention, expansion and recruitment of employment opportunities in order to benefit citizens of Amarillo and the surrounding area.

Amarillo EDC seeks to induce **Albers** to establish and expand Amarillo Operations (defined below). The creation and retention of new jobs in **Albers'** Amarillo Operations is expected to have a substantial stimulative effect on the Amarillo economy and create many new jobs for Amarillo citizens both directly in **Albers'** operations and because of **Albers'** expenditures for employee wages and goods and services in the Amarillo economy.

Albers is an aerospace engineering and manufacturing provider that intends to manufacture and offer its products at and from the Facility (defined below) to customers and clients throughout the United States and beyond. **Albers** desires to establish and expand Amarillo Operations in order to further take advantage of the desirable business operating environment in Amarillo, an environment that provides lower operating costs than many other metropolitan areas and a highly motivated, well-educated, productive workforce of a size **Albers** believes is capable of supporting establishment and expansion of Amarillo Operations.

Amarillo EDC, by its execution of this Agreement, extends to **Albers** an offer of financial incentives as inducement for **Albers** to establish and expand Amarillo Operations. **Albers**, by its execution of this Agreement, accepts **Amarillo EDC's** offer of financial incentives. **Albers** pledges to use its best efforts to establish and expand Amarillo Operations to the full extent provided in this Agreement.

The following defined terms will be used in this Agreement:

Defined Term	Definition
Affiliate	Any entity owning, owned by, or under common ownership with Albers and that executes and delivers to Amarillo EDC , in form and substance reasonably satisfactory to Amarillo EDC , an agreement to be bound by the reporting requirements of this Agreement
Amarillo Operations	Albers' and its Affiliates' manufacturing and distribution activities and operations provided primarily at or from the Property with jobs categorized primarily in NAICS Sector Number 33
Date One	December 31, 2024
Date Two	December 31, 2025
Date Three	December 31, 2026
Date Four	December 31, 2027
Date Five	December 31, 2028
Date Six	December 31, 2029
Date Seven	December 31, 2030
Date Eight	December 31, 2031
Date Nine	December 31, 2032
Date Ten	December 31, 2033
Date Eleven	December 31, 2034
Date Twelve	December 31, 2035

Defined Term	Definition
Employee	Employees of Albers and its Affiliates engaged on behalf of Albers or its Affiliates in Amarillo Operations at or from the Property who maintain a permanent residence in the Amarillo Metropolitan Statistical Area (being Potter, Randall, Oldham, Armstrong, and Carson Counties, Texas)
Expansion Credit	As more particularly described in Section 4
Expansion Increment	Each full increment of ten (10) FTEs and \$900,000 in Payroll maintained in Amarillo Operations; provided, however, the term will not include increments beyond 400 FTEs or \$36,000,000 in Payroll, in the aggregate
Facility	Two aircraft hangars to be constructed by Amarillo EDC on the Property under the terms of this Agreement, totaling in the aggregate approximately 200,000 square feet of space
FTE	An employee, to be counted as one FTE, will be any employee who has worked 1,820 hours or more during that period. Employees working more than 1,820 hours in a year will be counted as one FTE. Part-time Employees for a year will be treated as partial FTEs for the year and will be calculated by dividing the number of hours actually worked for each Employee working less than 1,820 hours by 1,820 and rounded to the nearest one-hundredth place. Full-time but less than full year Employees will be treated as partial FTEs and calculated as above. In no event may any one person count as more than one FTE for any year. The total of full-time FTEs and partial FTEs will constitute the total FTEs for the year.
Lease	That certain Lease Agreement of the Facility in the form of <u>Exhibit B</u> , attached and incorporated fully
Payroll	Total Gross Wages (as defined by and reportable to the Texas Workforce Commission) paid to Employees; provided, however, that the following components of compensation will be includable in Payroll: salary, hourly wages, and bonuses
Performance Year	Each 12-month period ending on Date One through Date Twelve
Property	That certain approximately 30-acre tract of land depicted and/or described on <u>Exhibit A</u> , attached and incorporated fully

NOW THEREFORE, in consideration of these presents, which are made a contractual part hereof, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. **Purpose, Amount, and Terms of Incentives Package.**

a. **Albers** hereby requests and **Amarillo EDC** hereby agrees to construct the Facility, lease the Facility to **Albers** under the Lease, and provide to **Albers** cash under the terms and conditions of this Agreement, subject to **Albers'** qualification therefor. **Albers** acknowledges that there are performance criteria and one or more potential repayment obligations to **Amarillo EDC** under the terms of this Agreement.

b. The consideration to be paid, advanced or expended by **Amarillo EDC** includes: (a) the construction of the Facility and related features (e.g. parking) on the Property by **Amarillo EDC** at a cost of no more than \$50,000,000 (including all permitting, engineering, design, platting, site preparation, utilities, and other construction-related expenditures, the **Maximum Construction Cost**); (b) the lease of the Facility to **Albers** with potential credits applied to amounts owed to **Amarillo EDC** under the Lease, subject to **Albers'** qualification therefor (**Direct Local Spending Credits**); and (c) the payment of cash in the amount of up to \$8,000,000, subject to **Albers'** qualification therefor, all as described in this Agreement.

c. The Facility will be leased to **Albers** through the Lease to allow it to establish, maintain, and expand Amarillo Operations thereon. In no event may Direct Local Spending Credits be applied to any amounts owed by **Albers** under this Agreement other than Monthly Rent (as defined in the Lease) due under the Lease.

d. **Albers** agrees to cause John Albers and The Albers Group, LLC, a Texas limited liability company, to execute and deliver that certain guaranty for the benefit of **Amarillo EDC** in the form of Exhibit C (Guaranty). The full execution and delivery of the Guaranty is a precondition to **Amarillo EDC's** obligations under this Agreement.

e. **Albers** will use the funds provided by **Amarillo EDC** under this Agreement only to establish, maintain, or expand Amarillo Operations.

2. **Construction of the Facility; Lease to Albers.**

a. Within 24 months of the Effective Date, **Amarillo EDC** will construct or cause the construction of the Facility on the Property (and make the completed Facility available to **Albers** for occupancy and use). **Amarillo EDC** will involve **Albers** in all aspects of the design of the Facility and allow **Albers** to provide input on the design and construction process. **Amarillo EDC** understands and agrees that it is of the utmost importance to **Albers** that the Facility meets **Albers'** expectations in order to properly run Amarillo Operations and maintain the **Albers** brand and that **Albers** would not enter into this Agreement without such input on the design and construction of the Facility. Notwithstanding anything else herein to the contrary, **Amarillo EDC** maintains the sole discretion and control with respect to the design and construction of the Facility, after seeking input from **Albers** thereon. The actual out-of-pocket expenditures by **Amarillo EDC** to construct the Facility, including without limitation all permitting, engineering, design, platting, site preparation, utilities, and other construction-related expenditures, may be referred to herein as the *cost of the Facility*. The Facility will consist of one or more hangar structures with a total aggregate square footage of approximately 200,000, designed and with features reasonably acceptable to **Amarillo EDC** after input from **Albers**. In the event the cost to construct the Facility exceeds the Maximum Construction Cost for any reason, **Albers** agrees to promptly pay such excess to the appropriate contractor or reimburse **Amarillo EDC** for such excess, upon request by **Amarillo EDC**.

b. Contemporaneously with the execution and delivery of this Agreement, the parties will execute and deliver the Lease to the other party. On or before Date One or within one (1) month of **Albers'** receipt of a final and unconditional Certificate of Occupancy, whichever is earlier, **Albers** agrees to commence Amarillo Operations at the Facility. Amarillo Operations will be deemed to have commenced when, and only when: (a) at least 40 Employees are employed by **Albers** and actually working primarily at or from the Facility; and (b) **Albers** has delivered written notice certifying such fact to **Amarillo EDC** and provided such back-up documentation as **Amarillo EDC** may reasonably request.

c. If Exhibit A does not contain a full legal description of the Property, **Amarillo EDC** will, at its expense, obtain a survey of the Property and provide it to **Albers**, upon which such surveyed legal description shall restate and replace Exhibit A hereto.

3. **Direct Local Spending Incentive; Lease Credits.**

a. In addition to other amounts which may be paid or credited to **Albers** under this Agreement, **Amarillo EDC** will credit to **Albers** the amounts set forth in this Section 3 to the extent **Albers** has qualified therefor. From and after the commencement of the Lease, **Albers** (alone and/or through its Affiliates) agrees to use its best efforts to establish Amarillo Operations and have Direct Local Spending (defined below) of at least the *Local Spend Target* identified in the table below for the applicable year of the Lease (each a *Lease Year*) beginning with the Lease Year commencing on the Commencement Date (as defined in the Lease).

Lease Year	Local Spend Target
One	\$10,000,000
Two	\$15,000,000
Three	\$25,000,000
Four	\$35,000,000
Five through the expiration of the Lease	\$45,000,000

b. As used herein, the term **Direct Local Spending** means the aggregate amount of purchases during a Lease Year from local vendors (operating from a 790XX or 791XX zip code) for goods, supplies, services, and materials by **Albers** and its Affiliates related to the establishment and expansion of Amarillo Operations, including payroll, wages, and other amounts paid by **Albers** to its or any Affiliate's Employees solely engaged in Amarillo Operations. **Albers** will submit an annual Direct Local Spending report, in form reasonably acceptable to **Amarillo EDC**, within forty-five (45) days following the end of each Lease Year indicating the aggregate Direct Local Spending that occurred during such Lease Year and including all backup documentation and information as may be reasonably appropriate or requested by **Amarillo EDC** to verify the reported amounts (each a **Local Spending Report**). The Direct Local Spending for any Lease Year for which a Local Spending Report was not timely provided under this Section 3 will be conclusively deemed to be zero.

c. If the Local Spending Report for the first Lease Year reveals Direct Local Spending of at least the applicable Local Spend Target, **Albers** will receive a Direct Local Spending Credit of 100% of the full aggregate Monthly Rent (as defined in the Lease) amounts as were due or would have been due for such Lease Year in the absence of the potential credits in this Section 3. If the Local Spending Report for any Lease Year other than the first Lease Year reveals Direct Local Spending of at least the applicable Local Spend Target, **Albers** will receive a Direct Local Spending Credit of 50% of the full aggregate Monthly Rent (as defined in the Lease) amounts as were due or would have been due for such Lease Year in the absence of the potential credits in this Section 3.

d. If a Local Spending Report for the fifth Lease Year and any Lease Year thereafter reveals Direct Local Spending less than the Local Spend Target but at least seventy-five percent (75%) of the Local Spend Target, **Albers** will receive a credit calculated as the full aggregate Monthly Rent (as defined in the Lease) amounts as were due or would have been due for such Lease Year in the absence of the potential credits in this Section 3, *multiplied by* one-half, further *multiplied by* a fraction, the numerator of which is the actual Direct Local Spending for such Lease Year and the denominator of which is the Local Spend Target. If a Local Spending Report for any Lease Year reveals Direct Local Spending of less than seventy-five percent (75%) of the Local Spend Target, **Albers** will not receive any credit towards its Monthly Rent obligations under the Lease for such Lease Year. To avoid confusion, the parties agree that the partial Direct Local Spending credit provisions in this Section 3(d) do not apply to the first through the fourth Lease Years.

e. Notwithstanding anything else herein to the contrary, if Direct Local Spending for the fifth Lease Year or any Lease Year thereafter is at least \$70,000,000, the Direct Local Spending Credit under Section 3(c) for such Lease Year will instead be 75%. Further, if Direct Local Spending for the fifth Lease Year or any Lease Year thereafter is at least \$90,000,000, the Direct Local Spending Credit under Section 3(c) for such Lease Year will instead be 100%. To avoid confusion, the parties agree that the potential credits under this Section 3(e) do not apply to the first through the fourth Lease Years.

f. With respect to any credits towards Monthly Rent qualified for under this Section 3, **Albers** may, in its discretion, apply all or part of such credit to the next Monthly Rent amounts due thereafter; provided, however, in the absence of written notice from **Albers** otherwise, such credits will be applied fully against ensuing Monthly Rent amounts due under the Lease until the credit is depleted. In no event will any Direct Local Spending Credit under this Section 3 give rise to an affirmative payment or other obligation of **Amarillo EDC** and no Direct Local Spending credits may be qualified for during a Lease Year in which **Amarillo EDC** pursues one of its remedies as set forth in Section XIX of the Lease due to the uncured breach of the Lease by **Albers** under Section XVIII of the Lease, nor any Lease Year thereafter.

4. Incentive to Establish Amarillo Operations; Expansion Credits.

a. Provided **Albers** is then in full compliance with the terms of this Agreement, within thirty (30) days of **Albers**' written request therefor which may not be given before the Effective Date, **Amarillo EDC** will advance to **Albers** the amount of \$4,000,000. Further, provided **Albers** is then in full compliance with the terms of this Agreement and against delivery to **Amarillo EDC** of backup documents and information as **Amarillo EDC** may

reasonably request establishing an expense (whether paid or unpaid) of **Albers** first arising and relating to the period after the twelve (12) month anniversary of the Effective Date and incurred solely in connection with the establishment of Amarillo Operations (including compensation to executives residing in Potter, Randall, Oldham, Armstrong, and Carson Counties, but not otherwise, and distributions to owners of **Albers**), **Amarillo EDC** will advance to **Albers** the additional amount of up to \$4,000,000 in one or more tranches as requested and qualified for by **Albers** under this Section 4(a), each due and payable by **Amarillo EDC** within thirty (30) days of **Amarillo EDC's** receipt and approval, which may not be unreasonably withheld, of such request (the total amount actually advanced under this Section 4(a) may be referred to herein as the *Advance*). Notwithstanding anything else herein to the contrary, an additional prerequisite to **Albers'** right to Advances for the period after the twelve (12) month anniversary of the Effective Date is **Albers** providing to **Amarillo EDC** such backup documents and information as it may reasonably request to establish the first \$4,000,000 Advance was spent solely on Amarillo Operations. **Albers** represents and warrants to **Amarillo EDC** that the budget attached hereto as Exhibit D accurately describes expected expenditures of **Albers** relating to Amarillo Operations for which the amounts disbursed under this Section 4(a) will be used.

b. From and after the Effective Date, **Albers** agrees to use its best efforts to establish and expand Amarillo Operations, creating new FTEs and increasing Payroll. **Albers** agrees to pay the amount of the Advance back to **Amarillo EDC** upon the termination or expiration of this Agreement (even if the Lease term extends beyond such termination or expiration); provided, however, **Albers** may qualify for credits towards such repayment obligation under the terms of this Section 4 (each an *Expansion Credit* and together the *Expansion Credits*).

c. Each Expansion Credit will be up to \$200,000 and credited to **Albers'** obligation to repay the Advance in ten annual credits of up to \$20,000 each, subject to reduction as described in Section 4(d). **Albers** will be eligible for one Expansion Credit for each full Expansion Increment newly created on or before Date Three. **Albers** agrees to maintain each Expansion Increment in Amarillo Operations for a nine-year period beginning at the end of the Performance Year in which each such Expansion Increment was originally created. So, if the first full Expansion Increment is newly created in the year ending on Date Three, the nine-year Expansion Credit retention requirement begins on January 1, 2027. **No Expansion Increment will be deemed to have been created unless and until both the full 10 FTEs and \$900,000 in Payroll for such Expansion Increment have been newly created.**

d. The first of ten annual Expansion Credits called for under Section 4(c) will be applied after the Performance Year in which a full Expansion Increment is first newly created. For each of the nine years thereafter, if **Albers** maintains both the additional 10 FTEs and \$900,000 in Payroll related to such Expansion Increment, there will be no deduction from the Expansion Credit due under Section 4(c) for such year and Expansion Increment. If **Albers** fails to maintain one or both of the FTE or Payroll amounts related to an Expansion Increment in any of the Performance Years following the Date on which an Expansion Increment is newly created, the Expansion Credit related to such year and Expansion Increment will be reduced or eliminated altogether, as follows:

1. Should **Albers** meet only one of either the FTE or Payroll amounts required (10 for FTEs and \$900,000 for Payroll) related to an Expansion Increment in a Performance Year, and miss the other target by no more than ten percent (10%), the Expansion Credit called for under Section 4(c) for such year and Expansion Increment will be calculated as follows: $\$20,000 \times (\text{Actual amount of FTE or Payroll maintained} / [\text{using the figure that fell short of the required amount}] \text{ related to such Expansion Increment} / [10 \text{ if FTEs fell short or } \$900,000 \text{ if Payroll fell short}])$.
2. There will be no Expansion Credit applied under Section 4(c) for an Expansion Increment in a Performance Year if either: (i) **Albers** meets only one of either the FTE or Payroll amounts required related to an Expansion Increment (again, being 10 FTEs and \$900,000 in Payroll for each Expansion Increment), and misses the other target by more than ten percent (10%); or (ii) **Albers** fails to achieve (by any margin) both the FTE or Payroll amounts required related to such Expansion Increment.

No level of future performance by **Albers** will give rise to a payment or credit obligation of **Amarillo EDC** related to prior deductions from Expansion Credits. The denominator of the fraction in Section 4(d)(1) will only ever be 10 or \$900,000, depending on whether the additional FTE or Payroll requirement was missed for an Expansion Increment.

e. The Payroll and FTE Reports required to be provided by **Albers** under Section 6 will be used to measure whether an Expansion Increment has been newly created, and whether it has been maintained.

f. Notwithstanding anything else herein to the contrary, the maximum aggregate amount **Amarillo EDC** will in any event be obligated to credit under this Section 4 is the amount of the Advance and no Expansion Credits will ever give rise to an affirmative payment obligation of **Amarillo EDC**. After each nine-year Expansion Credit period, no Expansion Increment can be newly created for the same increment of FTEs and Payroll. Upon the satisfaction of **Albers'** repayment obligation to **Amarillo EDC** under this Section 4 (whether through Expansion Credits, payments of cash, or a combination thereof), the potential payment obligation under this Section 4 will be deemed to have been fully satisfied and such amount will not be included in any repayment obligations of **Albers** arising under Sections 5, 9, and 17 of this Agreement.

5. Potential Repayment Obligation of Albers; Cessation of Amarillo Operations.

a. Notwithstanding anything else herein to the contrary and in addition to any other repayment obligation triggers in this Agreement, should Amarillo Operations cease (as further clarified below) while **Albers** has any potential payment obligation under this Agreement or **Amarillo EDC** has any potential payment or credit obligation under this Agreement, **Albers** will not receive any Expansion Credits or Direct Local Spending credits for the year in which Amarillo Operations ceased, nor any future years, **Amarillo EDC** will be conclusively relieved of any obligation to pay or credit to **Albers** any amounts otherwise called for under this Agreement, and **Albers** will pay or repay (as applicable) to **Amarillo EDC** the full amount of the Advance minus all Expansion Credits qualified for prior to the cessation of Amarillo Operations, if any, within forty-five (45) days of **Amarillo EDC's** request therefor. To avoid any confusion, the parties agree that the termination of the Lease is governed by the terms of the Lease itself and the cessation of Amarillo Operations under this Section 5 will not, on its own, effect a termination of the Lease.

b. For purposes of this Section 5, a cessation of Amarillo Operations will be conclusively deemed to have occurred if (i) **Amarillo EDC** reasonably determines that Amarillo Operations have been discontinued; (ii) Amarillo Operations fail to timely commence under the terms of Section 2(b); (iii) **Albers** fails to timely provide the reports required under this Agreement (including the Payroll and FTE Reports and Local Spending Reports) for more than one Performance Year; or (iv) for any Performance Year ending on or after Date Three, **Albers** maintains less than 80 FTEs in Amarillo Operations. A temporary halt, temporary delay, business disruption, or similar occurrence lasting less than forty-five (45) consecutive days, whether or not caused by a force majeure event, does not, on its own, constitute a cessation of Amarillo Operations; provided, however, the ninety (90) day force majeure period may be combined with this forty-five (45) day period with respect to force majeure events.

6. Measurement of and Provisions for Reporting FTEs and Payroll.

a. On or before February 28 immediately following each Performance Year, **Albers** will and will cause each Affiliate with Employees engaged in Amarillo Operations to, without demand or other request therefor, complete and provide to **Amarillo EDC** a written certificate signed by an authorized corporate officer of **Albers** or the applicable Affiliate on the form attached hereto as Exhibit E, for the immediately preceding Performance Year, together with all four employer's quarterly reports submitted to the Texas Workforce Commission (**TWC**) along with a list of Employees, the number of hours worked in Amarillo Operations by each Employee in such Performance Year, FTEs that each Employee represents for such year (in no event may any one person count as more than one (1) FTE for any year), Payroll received by each Employee during such year, and a total aggregate number of FTEs maintained and Payroll paid in Amarillo

Operations during such year (each a **Payroll and FTE Report**). The Payroll and FTE Report, all TWC reports, and any backup documents or information provided therewith must be clearly marked to indicate any Employees who were not primarily engaged in Amarillo Operations during the applicable Performance Year. All reporting under this Agreement must be sent by email to reporting@amarilloedc.com and to such other addresses as **Amarillo EDC** may from time-to-time designate in writing to the persons designated to receive notice under this Agreement.

b. **Albers** and all Affiliates also will allow **Amarillo EDC** and its agents to reasonably examine **Albers'** and such Affiliate's records necessary to verify employment in Amarillo Operations should **Amarillo EDC** so request. **Amarillo EDC** understands that such information will be for **Amarillo EDC's** use solely to confirm the accuracy of reports required hereunder and to enforce **Amarillo EDC's** rights under this Agreement. Subject to the Public Information Laws (defined below), **Amarillo EDC** agrees that such review and examination will be subject to reasonable confidentiality safeguards (including, without limitation, the execution and delivery by **Amarillo EDC** and/or its agents, as appropriate, of a reasonable and mutually agreeable confidentiality agreement) and that an **Albers** representative will have the right to accompany **Amarillo EDC** or its agents during such review. **Amarillo EDC** or its agents, as appropriate, will be allowed to make and retain copies or transcriptions of any **Albers** records. Any inspection will be done with at least five days' advance notice to **Albers**, will occur during normal working hours, and will continue from day-to-day until complete.

c. **Albers** will provide reports on a timely basis to **Amarillo EDC**, as provided above, and failure to do so may, in the discretion of **Amarillo EDC**, constitute a condition of default under this Agreement. In the event **Albers** discovers any Payroll and FTE Report is inaccurate in any way, **Albers** will immediately notify **Amarillo EDC** of such inaccuracy and immediately provide a substitute Payroll and FTE Report, highlighting each item of information which was inaccurate. If such replacement report establishes that **Albers** received a payment or credit under this Agreement that it was not entitled to receive, in addition to any other rights or remedies of **Amarillo EDC** hereunder, **Albers** will immediately pay such amount to **Amarillo EDC** with interest at eight percent (8%) per year since the date of such improper payment or credit.

d. To qualify as an Affiliate of **Albers** under this Agreement, each such Affiliate must execute and deliver to **Amarillo EDC** a written agreement including such terms as **Amarillo EDC** reasonably deems appropriate, including without limitation an agreement by such Affiliate to be bound by the terms of this Section 6 and to have an authorized corporate officer certify all reports required hereunder as true and correct to **Amarillo EDC**. The qualification of any third-party as an Affiliate under this Agreement will in no way alter the incentive payment and credit procedures under this Agreement (that is, payments and credits will only ever be payable or creditable to **Albers**).

e. The "floor" for FTEs and Payroll on which each Expansion Increment is measured will rise with the establishment of each Expansion Increment. Similarly, such floor will not be lowered by the expiration of the nine-year performance period for the annual Expansion Credits under Section 4(d), related to any Expansion Increment.

f. The Payroll and FTE Reports, as confirmed or modified by an audit by **Amarillo EDC** allowed under this Agreement, will be used to determine **Albers'** qualification for any Expansion Credits under Section 4(d).

7. **Albers' Representations and Warranties.** **Albers** represents and warrants to **Amarillo EDC** as of the Effective Date and again upon the provision of any reports required to be provided to **Amarillo EDC** hereunder all of the following:

a. Unmanned Systems, Inc. is a corporation, duly organized and existing in good standing under the laws of the State of Nevada.

b. The establishment and expansion of Amarillo Operations has been duly authorized by **Albers'** board of managers or equivalent governing authority and this Agreement and the performance by **Albers** of its obligations under this Agreement are not in contravention of any law, rule or regulation or of the provisions of **Albers'** certificate of formation or Company

Agreement (or similar formation and governing documents), or of any agreement or instrument to which **Albers** is a party or by which it may be bound.

c. No litigation or governmental proceeding is pending, or, to the knowledge of any of **Albers'** officers, threatened against or affecting **Albers**, which may result in a material adverse change in **Albers'** business, properties, or operations sufficient to jeopardize **Albers** as a going concern.

d. No Principal (defined below) of **Albers** or any Affiliate has been convicted of an offense described in Section 10(f), below.

e. No certificate or statement herewith, heretofore delivered, or to be delivered by **Albers** to **Amarillo EDC** in connection herewith (including, without limitation, all Payroll and FTE Reports), or in connection with any transaction contemplated hereby, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements or information contained therein from being misleading.

f. The Texas Public Information Act, the Texas Open Meetings Act, and certain document retention statutes and regulations (together, the **Public Information Laws**) apply to **Amarillo EDC** and, as such, this Agreement and some or all of the information, communications, or documents created, obtained, or maintained by **Amarillo EDC** under this Agreement may be subject to required retention and public disclosure.

8. **Amarillo EDC's Representations and Warranties.** **Amarillo EDC** represents and warrants to **Albers** as of the Effective Date the following:

a. **Amarillo EDC**, to the best of the knowledge of its President and subject to Section 13, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation organized under Chapters 501 and 504 of the Texas Local Government Code.

b. No litigation or governmental proceeding is pending, or, to the knowledge of any of **Amarillo EDC's** officers, threatened against or affecting **Amarillo EDC**, which if adversely determined is reasonably expected to result in **Amarillo EDC's** inability to meet its obligations under this Agreement.

c. To the best of its knowledge and belief, the Public Information Laws require this Agreement to be subject to public disclosure. All or parts of the FTE and Payroll reports required to be provided hereunder, in addition to other documents in **Amarillo EDC's** file or otherwise subject to its control relating to **Albers**, may also be subject to public disclosure. **Amarillo EDC** will, for so long as it has documents or information that may be confidential or proprietary to **Albers**, use commercially reasonable means available to it under the Public Information Laws to allow **Albers** to, at **Albers'** expense, seek to protect its confidential or proprietary information from public disclosure. For reference, the Texas Public Information Act allows **Amarillo EDC** to do so under Texas Government Code Section 552.305, and as required by that section, **Amarillo EDC** will make a good faith effort to notify **Albers** of any request involving its information.

9. **Force Majeure.** If, by reason of force majeure, such as war, riot, sabotage, blockage, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority, labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of either party); civil disturbance; pandemic; epidemic; government lockdown or quarantine; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty, any party is reasonably unable to fulfill its obligations under this Agreement, such party will use reasonable and diligent effort to rectify the situation within a reasonable time, which period will, in no event, be longer than three (3) months, and which period will be added to any scheduled period or deadline hereunder. A force majeure event merely pauses a party's performance obligation for the duration of the event, subject to the limit in this Section 9, but does not excuse it.

10. **Events of Default and Remedies.** In addition to any other right of **Amarillo EDC** elsewhere in this Agreement, the following will be events of default under this Agreement:

a. The insolvency of **Albers**. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

b. The appointment of a receiver of **Albers**, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.

c. The filing by **Albers** of a petition to be adjudged bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

d. The failure of **Albers** to pay or perform any of its obligations under this Agreement within the time periods required by this Agreement.

e. Any material misrepresentation or materially inaccurate report, whether or not knowingly or intentionally provided, of **Albers** to **Amarillo EDC**; provided that inaccuracies in any Payroll and FTE Report will be "material" only if such reports over-stated FTE or Payroll levels by more than two and one-half percent (2.5%).

f. The conviction of (which includes the pleading of guilty or no contest or otherwise judicially admitting to the crime) any Principal in any jurisdiction of a state jail felony crime or any comparable or more severe offense.

In addition to any other remedy available by law, should any of these conditions not be cured within a period of ten (10) days following written notice from **Amarillo EDC** (if curable), **Amarillo EDC** may, at its option, terminate any and all obligations of **Amarillo EDC** under this Agreement and require payment or repayment of all amounts described in Section 5(a), above.

As used herein, the term **Principal** means any executive officer, member, or manager (whether directly or through one or more other entities) of **Albers** or one of its Affiliates.

11. **Governing Law, Venue, and Attorneys' Fees.** All obligations of the parties are performable in Amarillo, Potter County, Texas, and this Agreement is governed by the laws of the State of Texas. Venue for any action arising from or related to this Agreement will be exclusively in the State District Courts in and for Potter County, Texas. The parties waive any claim that such forum is inappropriate or inconvenient. The prevailing party to any lawsuit arising from or related to this Agreement will be entitled to recover its reasonable and necessary attorneys' fees and costs. Interest on amounts past-due hereunder will accrue at the rate of eight percent (8%) per year.

12. **Notice.** All notifications required under and/or having to do with this Agreement will be made to the following:

For Amarillo EDC

Attn: Mr. Kevin Carter, President/CEO
Amarillo Economic Development Corporation
600 S. Tyler, Suite 1600
Amarillo, Texas 79101
Reporting@AmarilloEDC.com
Kevin@AmarilloEDC.com

With a copy (which will not constitute notice) to

John B. Atkins
Underwood Law Firm, P.C.
P.O. Box 9158
Amarillo, Texas 79105
Facsimile: (806) 242-0521
John.Atkins@uwlaw.com

For Albers

Attn: John Albers, CEO
Albers Aerospace
1476 Industrial Blvd
McKinney, TX 75069

With a copy (which will not constitute notice) to

Koby Wilbanks
Oseran Hahn P.S.
11225 SE 6th St, Suite 100
Bellevue, WA 98004

The correspondence address for either party may be revised from time-to-time upon advance written notice to the other party.

13. **Amarillo EDC Board and City Council Approval.** This Agreement is part of a Project (as defined in Chapters 501 and 504 of the Texas Local Government Code). If the Project is not approved by the Board of Directors of the **Amarillo EDC** and the City Council of the City of Amarillo, Texas within forty-five (45) days of the Effective Date, this Agreement will terminate without further obligations upon **Amarillo EDC** or **Albers**.

14. **Tax Abatement; City Property; Neighboring Property.**

a. **Amarillo EDC** will reasonably cooperate in **Albers'** application for tax abatement on the Property under Chapter 312 of the Texas Tax Code to any taxing authority with jurisdiction over the Property, at **Albers'** expense. While the taxing districts have historically been receptive to requests for tax abatement when significant investment in real property and job creation are shown, **Amarillo EDC** has no authority over such taxing districts and does not warrant or represent that **Albers** will be granted tax abatement by any or all of the tax districts.

b. Further, during the period that either party owes duties to the other under this Agreement, **Amarillo EDC** will reasonably cooperate with **Albers** in its efforts, if any, to acquire all or part of approximately 80 acres of property owned by the City of Amarillo, Texas near the Property; provided, however, **Amarillo EDC** has no authority over the City and does not warrant or represent that the City will convey any property to **Albers** (or its affiliate).

c. The Property is currently part of Potter-Randall Appraisal District Tax Property ID 219626 consisting of an additional approximately 18 acres (**Neighboring Property**) that abuts the Property. **Albers** acknowledges that **Amarillo EDC** expects to hold title to the Neighboring Property for a potential expansion project with Bell Textron Inc. (including its parent, subsidiary or affiliate entities, **Bell**), which **Amarillo EDC** is privileged, but not required to do. In the event Bell elects not to pursue the Neighboring Property, **Amarillo EDC** agrees that **Albers** shall have a right of first refusal on the Neighboring Property and in the event **Amarillo EDC** gets an offer for the Neighboring Property that it wishes to accept (whether through a standard purchase agreement or an incentives agreement like this Agreement), **Amarillo EDC** will provide notice of the terms of such offer to **Albers** in writing. **Albers** shall have forty-five (45) days from its receipt of such notice to elect in writing whether to consummate the transaction on identical terms as made in the offer. If **Albers** does not provide written notice of its election to acquire the Neighboring Property, **Albers** has no right to acquire the Neighboring Property and **Amarillo EDC** may consummate whatever transaction involved the offer.

15. **Cooperation on Publicity.** **Albers** agrees to cause one or more of its senior representatives to attend all public events (e.g. Board or City Council meetings, ground-breakings, press conferences) related in any way to this Agreement, the Facility, Amarillo Operations, and the like. Further, **Albers** agrees to reasonably cooperate with **Amarillo EDC** on press releases and other publicity related to the subject matter of this Agreement, the Facility, Amarillo Operations, and on-going efforts related to the recruitment and retention efforts of **Amarillo EDC** directed toward **Albers**, if any.

16. **Broker Commissions.** **Albers** represents and warrants to **Amarillo EDC** that **Albers** is solely responsible for any commissions or similar fees (each a **Commission**) of brokers, finders, site selectors, realtors, or similar agents claiming a right to a Commission by, through, or under **Albers** and will indemnify, defend, and hold **Amarillo EDC** harmless from any claims or liabilities for such a Commission.

17. **Certification Regarding Undocumented Workers.**

a. **Albers** certifies that it does not and will not knowingly employ an Undocumented Worker, defined below, between the Effective Date and the date upon which both parties no longer owe any duties under this Agreement. **Undocumented Worker** will mean an individual

who, at any time during employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized under law to be employed in that manner in the United States. **Albers** will immediately notify **Amarillo EDC** if: (i) **Albers** becomes aware it employs or has employed an Undocumented Worker; (ii) **Albers** becomes aware or receives notice that it is alleged to have employed an Undocumented Worker; or (iii) **Albers** is convicted of a violation under the following subparagraph.

b. If between the Effective Date and the date on which both parties no longer owe any actual or potential duties under this Agreement, **Albers** knowingly employs an Undocumented Worker or is convicted of a violation under 8 U.S.C. Section 1324a(f), **Albers** will repay to **Amarillo EDC** the amounts described in Section 5(a), above. Such amount will be due and payable in full on the 120th day after the date **Amarillo EDC** notifies **Albers** of the violation and interest will accrue on such amount at the contract rate thereafter.

18. **Signatures.** This Agreement may be executed in counterparts and, if so executed, is valid, binding, and will have the same effect as if all the Parties hereto actually joined in and executed one and the same document. Facsimile, scanned, and electronic signatures have the full force and effect of originals for all purposes.

19. **Severability.** In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

THIS AGREEMENT IS BINDING UPON THE PARTIES HERETO AND THEIR SUCCESSORS AND ASSIGNS; HOWEVER, IT MAY NOT BE ASSIGNED BY EITHER PARTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER, WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD, EXCEPT THAT ALBERS MAY ASSIGN THIS AGREEMENT BY CONVERSION INTO ANOTHER TYPE OF BUSINESS ORGANIZATION OR TO ANY SUCCESSOR TO ALL OR SUBSTANTIALLY ALL OF ITS BUSINESS AND/OR ASSETS, PROVIDED SUCH TRANSACTION IS NON-DISTRESSED (THAT IS, NOT AS A RESULT OF INSOLVENCY OR OTHER FINANCIAL DIFICULTIES OF ALBERS). THIS AGREEMENT SHALL INURE TO THE BENEFIT OF AND BE ENFORCEABLE BY SUCCESSORS. NO ASSIGNMENT WILL RELIEVE THE ASSIGNING PARTY OF ANY OBLIGATIONS HEREUNDER UNLESS THE PARTIES ENTER INTO A WRITTEN AGREEMENT OTHERWISE.

THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

{Signature Page Follows}

EXECUTED by the parties hereto effective as of the Effective Date.

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By: _____
Kevin Carter, President and CEO

**UNMANNED SYSTEMS INC
d/b/a ALBERS AEROSPACE**

By: _____
John Albers, President and CEO

DRAFT

EXHIBIT A

PROPERTY DESCRIPTION

[INSERT DESCRIPTION/DEPICTION OF APPROX. 30-ACRE TRACT]

DRAFT

EXHIBIT B

LEASE AGREEMENT

THIS LEASE AGREEMENT (*Lease*) is entered into as of _____, 2022, by and between the AMARILLO ECONOMIC DEVELOPMENT CORPORATION, a Texas nonprofit corporation (*Amarillo EDC* or *Landlord*), and UNMANNED SYSTEMS INC d/b/a ALBERS AEROSPACE, a Nevada corporation (*Albers* or *Tenant*).

WHEREAS, Amarillo EDC and Albers entered into that certain Location Incentives Agreement dated _____, 2022 (*LIA*);

WHEREAS, as contemplated by the LIA, this Lease is entered into with respect to the Facility as described in the LIA.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged, Amarillo EDC and Albers agree as follows:

All capitalized terms used in this Lease have the same meaning as set out in the LIA unless a different definition is specifically provided or unless the context requires otherwise.

**ARTICLE I
LEASED PREMISES**

Section I.1. Landlord, for and in consideration of the obligation of Tenant to Landlord as herein provided and of the other terms, provisions and covenants on the part of Tenant to be paid, kept and performed, hereby DEMISES AND LEASES to Tenant and Tenant hereby takes and hires from Landlord the Facility and grants to Tenant a nonexclusive right of ingress and egress across the Property for access to the Facility; provided, however Tenant acknowledges that Landlord may lease, sell, or put other areas of the Property to use and consents to same so long as same does not unreasonably interfere with Tenant's use of and access to the Facility.

**ARTICLE II
TERM**

Section II.1. Subject to earlier termination as provided in this Lease, the term of this Lease (*Term*) is for a period of thirty (30) years, commencing on the first day of the first calendar month following substantial completion of the Facility as reasonably determined by Landlord and Tenant (*Commencement Date*); provided, however, Albers' occupancy of and conduction of business activities at the Facility will be conclusively deemed to constitute substantial completion for purposes of the Commencement Date. Notwithstanding the foregoing, substantial completion will conclusively be deemed to have occurred upon the issuance of a final and unconditional Certificate of Occupancy for the Facility and the parties agree to diligently pursue the issuance of same.

**ARTICLE III
CONDITION OF FACILITY**

Section III.1. Landlord will cause the Facility to be constructed and developed pursuant to the LIA, and Tenant will accept the Facility, "AS IS, WHERE IS," and with all faults. Tenant further acknowledges that Landlord has not made any representations or warranties (express or implied) as to the physical condition or any other matter or thing affecting or relating to the Facility.

**ARTICLE IV
RENTAL**

Section IV.1. During the Term of this Lease, Tenant covenants and agrees to pay to Landlord in lawful money of the United States of America, without notice or demand, at Landlord's principal office in Amarillo, Potter County, Texas, an amount equal to the levelized debt service for all bonds and other financing obtained by Landlord to finance the construction of the Facility and preparation of the Premises for Tenant's use pursuant to the terms of the LIA, plus two percent (2%) (*Monthly Rent*).

Section IV.2. Monthly Rent is due and payable in full on the Commencement Date (for the first whole or partial month of the Term) and is due and payable in advance on the first day of each month of the Term thereafter, subject to application of Direct Local Spending credits qualified for under the LIA, if any.

Section IV.3. In addition to the Monthly Rent provided for in this ARTICLE IV, Tenant will also pay when due without notice or demand and without abatement, reduction, credit, or off-set whatsoever, as additional rent hereunder (**Additional Rent** and together with the Monthly Rent, the **Rent**), directly to the respective creditors, all Taxes (as hereinafter defined in Section VI.1.), impositions, insurance premiums, costs, expenses and all other sums of money required to be paid by Tenant under the terms of this Lease, whether or not the same is designated as Additional Rent. In the event of any non-payment of all or any part thereof, when due, Landlord will have all of the rights and remedies provided for hereunder, or by law, for the non-payment of Rent.

Section IV.4. In addition to all other sums payable hereunder, Tenant will pay to Landlord on demand all out-of-pocket expenses, reasonably and necessarily incurred by Landlord in connection with this Lease (other than with respect to the cost to construct the Facility or the preparation or negotiation of this Lease or the LIA). Landlord will keep accurate and complete records of all such out-of-pocket expenses and provide to Tenant copies of same with each request for payment under this section.

Section IV.5. If the Term begins on a day other than the first day of a calendar month or expires on a day other than the last day of a calendar month, Tenant will pay Rent for the fractional lease month an amount equal to the Rent for such lease month, prorated on a per day basis.

Section IV.6. Interest will accrue on past due Rent and all other monetary obligations of Tenant under this Lease at the rate of ten percent (10%) per annum.

ARTICLE V USE

Section V.1. The Facility will be used in connection with Albers' operations on the Property under the terms of this Lease and the LIA.

Section V.2. Tenant will not perform any acts which would render any required insurance on the Facility void. Tenant will not install or use any equipment in the Facility (a) whose weight exceeds the load bearing capacities of the floor or (b) whose electrical requirements exceed the safe capacity of the electrical system. Tenant will not use, occupy or permit the Facility to be used or occupied for any unlawful or illegal business, use or purpose.

ARTICLE VI TAXES AND ASSESSMENTS

Section VI.1. Subject to the other provisions hereof, Tenant agrees to pay before they become delinquent all taxes (both general and special, real and personal), assessments, levies, impositions, business and occupation taxes, sales taxes, excise taxes, privilege taxes, occupational license taxes, water charges, sewer charges and all other governmental charges of every kind or nature, whether or not now customary, which are attributable to all or any portion of the Term of this Lease and are lawfully levied or assessed against or attributable to the Facility, and any rollback or change in use taxes assessed due to a change in the use of the Property (whether assessed for the period before or during the Term) (collectively, the **Taxes**); provided that Tenant may, at its sole cost and expense dispute and contest the same, and in such event, the disputed item will be paid, if so required by Chapter 42 of the Texas Tax Code or if allowed by laws or regulations need not be paid until finally adjudged to be valid if the proceedings operate to prevent the enforcement of the collection of the Tax. At the conclusion of the contest, Tenant will pay the items contested to the extent that they are held valid, together with all items, court costs, interest and penalties relating thereto. Tenant agrees to indemnify and hold Landlord harmless from any and all liabilities, whenever or however arising, by virtue of Tenant's dispute and contest of the Taxes; if Landlord is sued in a court of law, to defend Landlord at Tenant's expense; and if final

judgment be taken against Landlord, to pay such judgment and obtain written release of Landlord in form acceptable to Landlord.

Section VI.2. Tenant agrees to promptly reimburse Landlord for all Taxes previously levied against the Facility and paid by Landlord to the extent that the same or a portion thereof are properly attributable to the Term of this Lease.

Section VI.3. Copies of all notices of Taxes required to be paid by Tenant hereunder that are sent to Landlord will be promptly sent to Tenant by Landlord.

Section VI.4. Nothing herein contained will impose upon Tenant any obligation to pay to Landlord any franchise, corporate income, excess profits, inheritance, succession, capital levy, estate or transfer taxes of Landlord.

Section VI.5. Tenant may employ an independent tax consultant at Tenant's sole cost and expense to dispute, contest or negotiate with the appropriate taxing authorities concerning any Taxes.

Section VI.6. In the event that Tenant fails to pay any such Tax required to be paid by Tenant pursuant to this ARTICLE VI, Landlord will have the right, at its option, to pay the same with all interest and penalties thereon, and the amounts so paid will be deemed to be Additional Rent hereunder and will be due and payable by Tenant on the day that the payment by Landlord was made.

ARTICLE VII COMPLIANCE WITH LAWS

Section VII.1. Tenant agrees to and will:

- (a) Maintain and conduct its business in a lawful manner.
- (b) Comply promptly with all Federal, State and Municipal statutes and ordinances and with all regulations, orders and directives of appropriate governmental agencies, as such statutes, ordinances, regulations, orders and directives now exist or may hereafter be enacted concerning the use and safety of the Facility, including, without limitation, applicable environmental and hazardous waste laws and the Americans With Disabilities Act, and, at its sole expense, make any repairs, changes or modifications in, or to the Facility required by any of the foregoing, or its use of the Facility for the purposes herein stated, or as a result of alterations made by it to the Facility, or as a result of its negligence or wrongful conduct of its agents, employees or invitees; and
- (c) Apply for and be responsible for obtaining, maintaining and paying for all licenses, certifications, permits and accreditations required to operate the Facility.

ARTICLE VIII CARE OF PREMISES

Section VIII.1. Tenant will, at its sole cost and expense, take good care of and keep in good order and repair, all buildings, structures, additions and alterations, the roofs, walls and foundations thereof, all fixtures therein and thereto, all equipment thereof, all sidewalks, landscaping, grounds and parking areas, all interior walls, floors and ceilings of the Facility, all personal property installed therein and the wiring, plumbing and other equipment for the general supply of water, heat, air conditioning, gas and electricity located within the Facility, and make all repairs (ordinary and extraordinary, structural or otherwise) thereto as and when needed to preserve all improvements, structures, parking areas and grounds in good working order and condition and will replace all such equipment, fixtures, plantings and personal property when the same are damaged or worn beyond repair. In particular, Tenant will bear all expenses of occupancy of the Facility, including those provided in the LIA.

Section VIII.2. Subject to Sections XIV and XV of this Lease, all risk of loss or damage to the Facility, including, but not limited to, casualty loss, is that of Tenant, which will repair or replace such loss or damage at its expense. Tenant will promptly pay or cause the payment of the expense of such repairs; suffer no waste or damage; keep the sidewalks, curbs and parking areas

in good repair and reasonably free from snow, ice, dirt and rubbish; give prompt notice to Landlord of any fire or other casualty; permit Landlord at Tenant's expense to make repairs and improvements to such buildings and structures, to restore the same after damage or destruction by fire or other casualty and risk, to complete alterations commenced but not completed by Tenant, and to comply with all orders and requirements of any governmental authority applicable to such buildings and structures and to any occupation thereof, but only if Tenant be in default as set forth in Article XVIII below in respect to any of such matters; and repair at or before the end of the Term of this Lease, all damage done by the installation or removal of furniture, trade fixtures and other property. When used in this Lease, the terms "repairs" includes replacements, restoration and/or renewals when necessary, as well as painting, decorating, floor coverings, wall coverings and other decorative finishes, ordinary wear and tear from proper use excepted.

Section VIII.3. All repairs, restorations and replacements must be in quality and class equal to the original work or installations and will be done in a good and workmanlike manner. If Tenant fails, after notice from Landlord and a reasonable opportunity to cure, to make such repairs, restorations or replacements, same may be made by Landlord at the sole cost and expense of Tenant and all sums so spent and expenses incurred by Landlord will be collectible as Additional Rent and will be paid by Tenant upon demand therefor.

Section VIII.4. At the termination or expiration of this Lease, the Facility must be returned by Tenant to Landlord in its original condition, reasonable wear and tear from proper use excepted. Tenant will have the right to remove all its equipment and other personal property from the Facility. Notwithstanding the foregoing, at the natural expiration of the Term and provided Tenant is then in full compliance with this Lease and has provided written notice of its election under this Section VIII.4 at least forty-five (45) days prior to the natural expiration of the Term, Tenant may elect to take title to the Property and Facility as defined in the LIA for the payment of One Dollar (\$1.00) plus the cost of surveys, title insurance, recording fees, transfer fees, escrow fees, courier fees, and closing costs to Landlord. For the purposes of clarity, Property in this context of conveyance and required actions includes the 30 acres and the buildings on the Property.

ARTICLE IX ALTERATIONS

Section IX.1. After the construction of the Facility, Tenant at its expense will have the right at any time and from time to time to make changes and alterations in the Facility subject, however, in all cases to the following:

(a) No change or alteration involving an estimated cost of more than Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) may be made without the prior written consent of Landlord.

(b) No change or alteration which would affect the structure or foundation or substantially affect the existing mechanical or electrical system of a building will be made without the prior written consent of Landlord.

(c) Any change or alteration involving an estimated cost of more than Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) will be under the supervision of an architect or engineer selected by Tenant and approved in writing by Landlord, and no such change or alteration will be made except in accordance with detailed plans and specifications, prepared and approved in writing by such architect or engineer. All such plans and specifications and other work will be at Tenant's sole cost and expense.

(d) The cost of any change or alteration in excess of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) will be paid by Tenant in cash or be bonded by a corporate surety satisfactory to Landlord so that the Facility will be at all times free of mechanic's and materialmen's liens.

(e) Unless a change or alteration is of the same original building standard quality, no change or alteration concerning the exterior design of a building, including, but not limited to, painting, wall coverings or wall fabrics and carpeting, may be made without the prior written consent of Landlord.

Section IX.2. Consent of Landlord called for in Section IX.1. will not in any case be unreasonably withheld or delayed.

ARTICLE X SIGNS

Section X.1. Tenant may place or paint any exterior signs or other objects at, on, around or above the Facility. All such signs must comply with all applicable governmental laws, ordinances and regulations and be consistent with other graphics and signs in or on the Facility. Any such installations and any removals must be accomplished in a good workmanlike manner so as to avoid injury, defacement, or overloading of a building or other damage to the improvements.

ARTICLE XI INSPECTION

Section XI.1. Landlord and Landlord's agents and representatives will have the right to enter and inspect the Facility at all reasonable times upon making arrangements with Tenant and subject to any and all Tenant's security requirements and privacy rights. The provisions hereof permitting Landlord to enter and inspect the Facility are made for the purpose of enabling Landlord to determine whether Tenant is complying with the agreements, terms, conditions and covenants hereof, but Landlord is under no obligation so to perform those matters that Tenant is obligated to perform hereunder, and in no event will such inspection rights impose any duties, liabilities or obligations on Landlord.

ARTICLE XII UTILITIES

Section XII.1. Tenant at its own expense agrees to pay or cause to be paid all charges for gas, water, sewer, electricity, light, heat, power, steam, air-conditioning, telephone or other communication service, snow and ice removal, or other utility or service used, rendered or supplied to, upon or in connection with the Facility, throughout the Term of this Lease.

ARTICLE XIII INSURANCE

Section XIII.1. The Tenant will, at its sole cost and expense, as Additional Rent maintain the following insurance coverage:

(a) **Liability Insurance.** During the Term of this Lease, Tenant will maintain a policy of commercial general liability insurance with hangar keeper's endorsement at Tenant's expense, insuring against liability arising out of the use, occupancy or maintenance of the Facility. The initial amount of such insurance must be at least Two Million and no/100 Dollars (\$2,000,000.00) per occurrence. However, the amount of such insurance will not limit Tenant's liability nor relieve Tenant of any obligation hereunder.

(b) **Property Insurance.** Upon completion of construction and during the Term of this Lease, Tenant will maintain policies of insurance at Tenant's expense, covering loss of or damage to the Facility in the Full Insurable Value (defined below). Such policies must provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risk), sprinkler leakage, and inflation guard endorsement and any other perils (except flood and earthquake) which Landlord reasonably deems necessary. Tenant may, at Tenant's expense, maintain such primary or additional insurance on its fixtures and equipment as Tenant deems necessary to protect its interest. Tenant may not do or permit to be done anything which invalidates any such insurance policies.

Section XIII.2. The term **Full Insurable Value** means the actual replacement cost excluding foundation and excavation. The full insurable value will be determined whenever reasonably requested by the Landlord, by a qualified appraiser selected and paid by the Tenant and acceptable to the Landlord.

Section XIII.3. All insurance must be maintained with companies holding a "General Policyholder's Rating" of A or better, as set forth in the most current issue of "Best's Insurance

Guide.” Tenant will provide Landlord with a certificate of insurance within thirty (30) days of the Commencement Date, as written evidence of the insurance in force as required above and the agreement of the insurers to notify the Landlord at least thirty (30) days prior to any termination or amendment of policy.

Section XIII.4. All policies of insurance must name Landlord as additional insured or loss payee. To the extent reasonably obtainable, all policies must contain an agreement by the insurers that, with respect to property insurance, any loss will be payable to Landlord notwithstanding any act or negligence of Tenant which might otherwise result in forfeiture of such insurance. Neither Landlord nor Tenant will have any right of action against the other on account of any loss or damage from fire and extended coverage, provided such loss is covered by insurance and provided that waiver of subrogation does not invalidate any insurance policy. Insurers must waive subrogation.

Section XIII.5. If, at any time, Tenant fails to maintain the insurance required herein or Tenant does not furnish Landlord with satisfactory evidence of such insurance required herein, Landlord may obtain such insurance, any amounts so paid by Landlord plus ten percent (10%) will be deemed to be Additional Rent hereunder and will be due and payable by Tenant on the day that the Landlord submits to Tenant written evidence of payment.

ARTICLE XIV DAMAGE OR DESTRUCTION

Section XIV.1. Subject to the provisions of this Article, all risk of loss or damage of the Facility, including but not limited to casualty loss, is that of Tenant, which will repair or replace such loss or damage at its expense regardless of the adequacy of insurance proceeds, absent termination of this Lease as allowed by Section XIV.4.

Section XIV.2. All insurance proceeds insuring the Facility and contents thereof will be used, to the extent necessary, for the restoration or reconstruction of the Facility, and Landlord and Tenant do hereby pledge and dedicate such insurance proceeds to the extent of its interest therein for such purpose. All insurance proceeds not needed for such restoration or reconstruction will be paid to Tenant.

Section XIV.3. If the Facility is damaged by fire or other casualty, but is not thereby rendered untenantable in whole or in part, Tenant must cause such damage (other than damage to fixtures, personal property and other improvements installed by Tenant) to be promptly repaired, and the Monthly Rent will not be abated.

Section XIV.4. Likewise, if by reason of any such damage by fire or other casualty, the Facility is rendered untenantable in whole or in part, Tenant will have the option of either (a) repairing the damage with Monthly Rent during the period of untenantability being abated proportionately to the extent the Facility is untenantable and the Term will be extended for a like period at a Monthly Rent equal to the amount abated, or (b) repairing the damage with Monthly Rent not being abated or, (c) if wholly untenantable, terminating this Lease, paying to Amarillo EDC the balance of unpaid rentals for the remaining term of this Lease after application of all insurance proceeds, and purchasing the Facility for One Dollar (\$1.00). If the insurance proceeds constitute more than the balance of unpaid rentals for the remaining term of the Lease, Landlord must pay such excess to Tenant. The Facility will be considered wholly untenantable if fifty percent (50%) or more of the usable space of the Facility, calculated on a square footage basis, is unfit for occupancy as jointly agreed by Landlord and Tenant.

Section XIV.5. Tenant will give immediate written notice to Landlord in case of fire, accident or other casualty in, on or around the Facility involving damage exceeding \$25,000.00 to the Improvements.

ARTICLE XV CONDEMNATION

Section XV.1. If the whole of the Facility or such portion thereof as will make the Facility unsuitable for the purposes herein leased, in Landlord’s sole determination, is acquired or condemned by eminent domain for any public or quasi-public use or purpose or sold to a condemning authority under threat of condemnation, then in either of such events the Term of this

Lease will cease and terminate as of the date of title vesting in such proceeding (or sale) and all rentals will be prorated as of that date and Tenant will have no claim against Landlord for the value of any unexpired Term. Such termination will be without prejudice to the rights of Landlord to recover compensation from the condemning authority for any loss or damage caused by such condemnation. The condemnation award will be paid to Landlord and Tenant will not be entitled to receive any portion thereof. Notwithstanding the foregoing, Tenant will be liable for rent in an amount sufficient to make up any excess of (a) the balance of unpaid rentals for the remaining term of this Lease, over (b) such condemnation proceeds. If the condemnation proceeds aggregate more than the balance of unpaid rentals for the remaining term of this Lease, Landlord will pay such excess to Tenant.

Section XV.2. If less than all of the Facility is acquired and the remainder is suitable for the purposes herein leased, in Landlord's sole determination, then Landlord will be entitled to receive directly from the condemning authority in its entirety the condemnation award. At Tenant's discretion, Landlord will promptly restore and rebuild (on other real property owned or leased by Tenant), to the extent of the condemnation award, the Facility and this lease will continue in full force and effect. At Tenant's option, Monthly Rent during the period of any untenability will abate proportionately to the extent the Facility is untenable and the Term will be extended for a like period at an Monthly Rent equal to the amount abated. Landlord will receive any remaining condemnation proceeds, and Tenant will not be entitled to receive any portion of such condemnation proceeds. The Monthly Rent will be adjusted by crediting the condemnation proceeds as prepaid rental on the Lease.

Section XV.3. In the event of any threatened or actual condemnation proceeding, Tenant, at its sole expense, will have the right to contest such condemnation or any award.

Section XV.4. In the event of a condemnation under Section XV.1. above, Landlord will replace, at Tenant's option, the Facility or any portion thereof so condemned under the same conditions as the Facility were built under the terms of the LIA and to the extent of the condemnation proceeds received by Landlord plus any additional amount paid by Tenant to pay off the balance of remaining unpaid rentals under this Lease under Section XV.1 above.

ARTICLE XVI INDEMNITY OF LANDLORD

Section XVI.1. Tenant will be in control and possession of the Facility. Landlord will not in any event whatsoever be liable to Tenant or Tenant's employees, agents, patrons, or invitees, or to any person whomsoever, for any injury to person or damage to property on or about the Facility, including, without limitation, damage or injury caused by the negligence or misconduct of Tenant, its agents, servants or employees, or of any other person entering upon the Facility under express or implied invitation of Tenant, or caused by the Facility becoming out of repair, or caused by leakage of gas, oil, water or steam, or by electricity emanating from the Facility or due to any other cause whatsoever, excluding only Landlord's gross negligence or willful misconduct, and Tenant agrees to indemnify Landlord and hold it and its officers, directors, shareholders, agents, employees, successors and assigns harmless from any loss, expense or claim arising out of any such damage or injury other than Landlord's gross negligence or willful misconduct; to defend Landlord at Tenant's expense; and in the event of a final judgment against Landlord, obtain release in a form acceptable to Landlord. Landlord will indemnify Tenant for injury or damage to persons or property on the premises only that is proximately caused by or results proximately from the gross negligence or deliberate act of the Landlord, its employees or agents.

ARTICLE XVII QUIET ENJOYMENT

Section XVII.1. Landlord agrees that Tenant, upon observing and keeping the covenants, agreements, terms and conditions of this Lease on its part to be performed, including paying all Rent and other charges provided for herein, subject to reduction by the Expansion Credits qualified for under the LIA, will lawfully and quietly hold, occupy and enjoy the Facility during the Term of this Lease and subject to its terms without hindrance or molestation by Landlord or any person claiming by, through or under Tenant.

ARTICLE XVIII

EVENTS OF DEFAULT

Section XVIII.1. The following events will be deemed to be events of default by Tenant under this Lease:

- (a) If Tenant fails to pay any amount of Rent within 10 days after being notified by Landlord of nonpayment of same.
- (b) Tenant fails to comply with any term, provision or covenant of this Lease other than the payment of Rent and does not cure such failure within sixty (60) days after written notice thereof to Tenant, or, in the case of any such default which cannot with due diligence be cured within 60 days, Tenant fails to proceed promptly after the giving of such notice and with due diligence to prosecute the curing of such default within such period as may be necessary to permit the same to be cured with due diligence.
- (c) Tenant becomes insolvent or makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors.
- (d) Tenant files a petition under any section or chapter of the Federal Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State; or Tenant is adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder.
- (e) A receiver or Trustee is appointed for all or substantially all of the assets of Tenant which is not removed within ninety (90) days.
- (f) Tenant fails to perform any obligation under the LIA.

ARTICLE XIX REMEDIES

Section XIX.1. Upon the occurrence and continuance of any of the events of default specified in the foregoing Article XVIII, Landlord, without any notice or demand whatsoever, will have all its remedies at law or in equity, including but not limited to the following:

- (a) maintain the Lease and sue for rent as it becomes due. Upon abandonment of the Facility by Tenant, Landlord may re-enter the Facility without accepting surrender by Tenant, which action will not constitute forfeiture of the Lease or eviction of Tenant;
- (b) declare such breach as an anticipatory repudiation, repossess the Facility, and sue for damages in the amount of the present value of future rentals for the remainder of the Term reduced by the reasonable cash market value of the Facility;
- (c) declare breach of the Lease as an anticipatory repudiation, repossess the Facility, re-lease the facility, and sue for damages in the amount of the difference between the contractual rent and the amount received from the new tenant;
- (d) declare the Lease forfeited; or
- (e) seek specific performance of Tenant's obligations under this Lease.

Section XIX.2. Pursuit of any of the foregoing remedies does not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor will pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants herein contained will be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default will not be deemed or construed to constitute a waiver of such default. In the event of any default in connection with which Landlord retakes possession of the Facility, notwithstanding any other provision herein, Landlord will be obligated to mitigate damages by making all commercially reasonable efforts to re-lease the Facility to a third party.

**ARTICLE XX
ATTORNEYS' FEES**

Section XX.1. In the event either party brings an action against the other to enforce any condition or covenant of this Lease, the prevailing party in such action is entitled to recover its court costs and reasonable attorneys' and expert fees.

**ARTICLE XXI
MECHANICS' AND MATERIALMEN'S LIENS**

Section XXI.1. Tenant will have no authority, express or implied, to create or place any lien or encumbrance, of any kind or nature whatsoever, upon, or in any manner to bind, the interest of Landlord in the Facility or to charge the rentals payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs, and each such claim will affect and each such lien will attach to, if at all, only the leasehold interest granted to Tenant by this instrument. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labors performed or materials furnished in connection with any work performed on the Facility on which any lien is or can be validly or legally asserted against its leasehold interest in the Facility and that it will save and hold Landlord harmless from any and all loss, cost or expense based on or arising out of asserted claims or liens against the leasehold estate or against the rights, titles and interest of the Landlord in the Facility or under the terms of this Lease to the extent such asserted claims or liens arise out of failure by Tenant to satisfy its obligations under this Lease. Notwithstanding the foregoing, this Section will not apply to any mechanics' and materialmen's liens arising out of the construction of the Facility.

**ARTICLE XXII
ASSIGNMENT AND SUBLETTING**

Section XXII.1. Tenant may not assign this Lease in whole or in part, nor sublet all or any part of the Facility, without the prior written consent of Landlord, not to be unreasonably withheld; however, Tenant may assign to a buyer of all or substantially all of the business or assets of Tenant without Landlord's consent, such buyer's use of the Facility to continue to be restricted to the uses set forth in Article V of this Lease. The consent by Landlord to any assignment or subletting does not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. Notwithstanding any permitted assignment or sublease, Tenant and any guarantor of Tenant's obligations hereunder will remain fully liable on this Lease and will not be released from performing any of the terms, covenants and conditions of this Lease.

**ARTICLE XXIII
SHORT-FORM LEASE**

Section XXIII.1. This Lease may not be recorded by either party without the written consent of the other, but at the request of either party, Landlord and Tenant agree to execute a short-form memorandum of this Lease in form reasonably acceptable to the parties, which may be recorded.

**ARTICLE XXIV
NOTICES**

Section XXIV.1. Each provision of this Lease or of any applicable governmental laws, ordinances, regulations and other requirements with reference to the sending, mailing or delivery of any notices will be deemed to be complied with when and if the following steps are taken. All notices, demands, consents, approvals and requests given by either party to the other hereunder must be in writing and must be sent by personal delivery, overnight courier service, email, or other telecommunication method, or registered or certified mail (postage prepaid, return receipt requested), to the parties at the following addresses:

If to Albers:

Albers Aerospace
Attn: John Albers
1476 Industrial Blvd

McKinney, TX 75069
Email: jalbers@albers.aero

With a copy, which shall not constitute notice, to:

Oseran Hahn P.S.
Attn: Koby Wilbanks
11225 SE 6th St Suite 100
Bellevue, WA 98004
Email: kwilbanks@ohswlaw.com

If to Amarillo EDC:

Amarillo Economic Development Corporation
Attn: Kevin Carter, President and CEO
600 S. Tyler, Suite 1600
Amarillo, TX 79101
Email: Kevin@AmarilloEDC.com

Any party may at any time change its address by sending written notice to the other party of the change in the manner hereinabove prescribed. Notices will be deemed to be given upon receipt (refusal to accept delivery will be deemed receipt).

ARTICLE XXV MISCELLANEOUS

Section XXV.1. Words of any gender used in this Lease will be held and construed to include any other gender and words in the singular number will be held to include the plural, and vice versa, unless the context otherwise requires.

Section XXV.2. The headings used in connection with the paragraphs in this Lease are for convenience only and will not be used to construe or limit the meaning of the language set forth in this Lease.

Section XXV.3. The terms, provisions, covenants and conditions contained in this Lease will apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective heirs, legal representatives, successors in interest and permitted assigns.

Section XXV.4. All exhibits and documents referred to herein will be considered a part of this Lease as fully as if and with the same force and effect as if such exhibit or document had been included herein in full.

ARTICLE XXVI NO PARTNERSHIP OR JOINT VENTURE

Section XXVI.1. In no event will this Lease be construed or interpreted as creating a partnership or joint venture between the parties hereto and the parties hereto expressly disclaim any intention to create a partnership or joint venture by reason of the provisions herein.

EXECUTED to be effective as of the date first above written.

LANDLORD:

AMARILLO ECONOMIC DEVELOPMENT
CORPORATION

By: _____
Kevin Carter, President and CEO

TENANT:

UNMANNED SYSTEMS INC
d/b/a ALBERS AEROSPACE

By: _____
John Albers, CEO

DRAFT

EXHIBIT C

**GUARANTY FOR THE BENEFIT OF
AMARILLO ECONOMIC DEVELOPMENT CORPORATION**

Specification of Obligations Guaranteed. By written agreement entitled Location Incentives Agreement (including the Lease attached thereto and its other exhibits, the *Agreement*) by and between **AMARILLO ECONOMIC DEVELOPMENT CORPORATION (Amarillo EDC)** and **UNMANNED SYSTEMS INC d/b/a ALBERS AEROSPACE**, a Nevada corporation (*Albers*) dated _____, 2022, **Amarillo EDC** and **Albers** entered into an agreement to induce **Albers** to establish and expand Amarillo Operations as therein defined. As inducement for **Amarillo EDC** to enter into such Agreement, the Agreement provides that **John Albers** and **The Albers Group, LLC**, a Texas limited liability company (together if more than one, jointly and severally, *Guarantor*) must guarantee performance of the obligations of **Albers** under the Agreement, which is incorporated herein by reference and made a part hereof for all purposes.

Consideration. In consideration of the mutual promises and agreements contained in the Agreement, and to induce **Amarillo EDC** to enter into the Agreement, **Guarantor** hereby undertakes this unconditional Guaranty.

Guaranty by Guarantor. For the consideration recited above, and in compliance with the requirements of the Agreement, **Guarantor** does hereby guarantee to **Amarillo EDC**, its successors and assigns, as provided herein the due and punctual payment and performance by **Albers** of **Albers'** obligations contained in the Agreement. This Guaranty will only expire when all obligations of **Albers** have been performed in accordance with the Agreement. As from the expiration of this Guaranty, the **Guarantor** will have no further obligations or liability under this Guaranty, whether or not this Guaranty is returned to the **Guarantor**. Nothing herein will, however, be construed as imposing greater obligations and liabilities on **Guarantor** than are imposed on **Albers** under the Agreement.

Guaranty of Payment. This is an unconditional and continuing guaranty of payment and performance to **Amarillo EDC**, its successors and assigns, and not just a guaranty of collection. **Amarillo EDC** may enforce **Guarantor's** obligations hereunder without first suing or enforcing its rights or remedies for an uncured default against **Albers** or against any other guarantor and if an action for enforcement is brought directly against **Guarantor**, **Guarantor** will be entitled to all defenses available to **Albers**. Alternatively, **Amarillo EDC** may enforce the Agreement obligations against **Albers**, any final judgment for which will be covered by this Guaranty. If **Amarillo EDC** recovers a final, unappealable judgment against **Albers**, **Guarantor** will not be entitled to assert any defense to the payment of such judgment or recovery, whether or not such defense could be separately asserted by **Guarantor** as a guarantor, so long as **Guarantor** has not been prevented by **Amarillo EDC** from intervening in any action brought by **Amarillo EDC**. Performance by **Guarantor** under the terms of this Guaranty will in no event excuse or alleviate performance by **Albers** of any other obligation under the terms of the Agreement not so performed by **Guarantor**, provided, however, **Amarillo EDC** will not be entitled to double recovery.

Continuation of Guaranty in Regard to Specific Events. **Guarantor** hereby consents and agrees to and acknowledges that his obligations hereunder will not be released or discharged by, the following: (a) the modification, alteration, or assignment (or purported assignment) of the Agreement; (b) any forbearance or compromises granted to **Albers** by **Amarillo EDC**; and (c) the insolvency, bankruptcy, liquidation, dissolution, or reorganization of **Albers**. Failure by **Amarillo EDC** to exercise its rights herein will not operate as a waiver of the default or any other default thereafter. **Guarantor's** guaranty obligations will not be released, diminished, or discharged by any permitted assignment or subletting by **Albers**, or by the acquisition or merger or consolidation of **Albers**, or the acquisition of some or all of **Albers'** assets by any person or entity.

Guarantor's Representations and Warranties. **Guarantor** represents and warrants the following:

- a. He or it has all requisite power and authority to enter into this Guaranty and to carry out the terms and provisions of this Guaranty and **Guarantor's** responsibilities specified in the Agreement;

b. The execution of this Guaranty is not in contravention of any law, rule or regulations or of any agreement or instrument to which he is a party or by which he may be bound;

c. No action, proceeding, or investigation is pending or threatened which in any way prevents or interferes with or adversely affects his or its ability to enter into and perform under this Guaranty, or his or its ability to meet his or its obligations under this Guaranty; and

d. He or it is an equity owner or affiliate of **Albers** and has received or will receive direct or indirect consideration from the Agreement and the making of this Guaranty; he and it are familiar with the financial condition of **Albers**; and **Amarillo EDC** has made no representations to him in order to induce him or it to execute this Guaranty other than as set forth in the Agreement.

Attorneys' Fees and Costs of Litigation. **Guarantor** agrees to reimburse **Amarillo EDC** for all expenses reasonably incurred in the enforcement of this Guaranty, including, but not limited to, reasonable attorneys' fees and court costs.

Notification. All notifications required under and/or having to do with this Guaranty must be made to the following:

For Amarillo EDC:

Amarillo Economic Development Corporation
Attn: Kevin Carter, President and CEO
600 S. Tyler, Suite 1600
Amarillo, TX 79101

For either Guarantor:

John Albers
Albers Aerospace
1476 Industrial Blvd
McKinney, TX 75069

With a copy, which shall not constitute notice, to:

Oseran Hahn P.S.
Attn: Koby Wilbanks
11225 SE 6th St Suite 100
Bellevue, WA 98004
Email: kwilbanks@ohswlaw.com

Place of Performance of Guaranty. This Guaranty, performable by **Guarantor** in Amarillo, Potter County, Texas, embodies the entire agreement between the parties hereto, and supersedes all prior agreements, conditions and understandings, if any, related to the subject matter hereof. This Guaranty may be amended only by a written instrument executed by **Guarantor** and **Amarillo EDC**. The substantive laws of the State of Texas govern the validity, construction, enforcement and interpretation of this Guaranty.

EXECUTED this ____ day of _____, 2022.

Guarantor:

John Albers, Individually

The Albers Group, LLC

By: _____

John Albers, CEO

ACCEPTED:

Amarillo Economic Development Corporation

By: _____
Kevin Carter, President and CEO

DRAFT

EXHIBIT D

Budget for Advances under Section 4:

[Albers to populate]

DRAFT

EXHIBIT E

FORM OF PAYROLL AND FTE REPORT

[ALBERS' LETTERHEAD]

I, _____[PRINTED NAME]_____, as _____[TITLE]_____ of Unmanned Systems Inc. d/b/a Albers Aerospace, a Nevada corporation, (*Albers*), provide this report in connection with that certain Location Incentives Agreement (*Agreement*) between Albers and the Amarillo Economic Development Corporation (*Amarillo EDC*) dated effective as of _____, 2022. Capitalized terms used but not defined herein have the meaning as set forth in the Agreement.

I hereby certify and confirm to the Amarillo EDC on behalf of Albers that the following are true and correct for the Performance Year (as defined in the Agreement) indicated below:

1. All funds and credits received by Albers from Amarillo EDC under the Agreement have been used solely for the land, buildings, equipment, facilities, expenditures, targeted infrastructure, or improvements to equip and improve the Facility and Albers' operations thereon.
2. The aggregate number of FTEs maintained for the indicated Performance Year totaled:
_____.
3. Payroll in Amarillo Operations for the indicated Performance Year totaled:
\$ _____.
4. Attached hereto are true and correct copies of the back-up documents and information confirming the FTE and Payroll figures reported above, assembled in satisfaction of the reporting requirements of the Agreement.

PERFORMANCE YEAR: **January 1, 20**____ **through December 31, 20**_____

Printed Name: _____
Title: _____

Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 2, 2022	Council Pillar	Economic Development
Department	Amarillo Economic Development Corporation		
Contact	Kevin Carter, President and CEO		

Agenda Caption
CONSIDER APPROVAL – TAX ABATEMENT AGREEMENT – BETWEEN CITY OF AMARILLO AND AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND UNMANNED SYSTEMS, INC (NEVADA) DOING BUSINESS AS ALBERS AEROSPACE

Agenda Item Summary
 Albers Aerospace will build a 300,000 sq. ft. Aerospace Manufacturing and Paint Facility on 30.0 acres located at Airport Boulevard and S.E. Third Avenue.

Highlights of the project include:

- \$50 million estimated improvements
- 400 new employees projected (\$97,000 Annual Salary Average)
- Incentive of \$20,000.00 for each job paid \$4 million within 30 days and \$4 million after 1 year
- Incentive of 30.0 acres conveyed

AEDC is asking the City Council to approve an abatement of future taxes on the construction and equipment costs. AEDC is recommending 100% abatement for 10 years based on the above capital expenditure, job creation and the Comprehensive Guidelines and Criteria for Economic Development Incentives adopted by the City Council.

Requested Action
 Approval of the Tax Abatement Agreement as presented.

Funding Summary
 n/a

Community Engagement
 N/A

Staff Recommendation
 AEDC staff is recommending approval of the Tax Abatement Agreement.

**TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF AMARILLO,
AMARILLO ECONOMIC DEVELOPMENT CORPORATION,
AND UNMANNED SYSTEMS, INC. D/B/A ALBERS AEROSPACE**

STATE OF TEXAS §
 §
COUNTY OF POTTER §

This Tax Abatement Agreement (“*Agreement*”), is entered into as of this 2nd day of August, 2022 (“*Effective Date*”), by and between the City of Amarillo, Texas (“*City*”), a home rule city and municipal corporation located in Potter and Randall Counties, Texas, duly acting herein by and through its City Manager or other designated representative, Amarillo Economic Development Corporation, a Texas nonprofit corporation (“*Amarillo EDC*”), and Unmanned Systems, Inc. d/b/a Albers Aerospace, a Nevada corporation (“*Recipient*”).

WITNESSETH:

WHEREAS, the City Council of the City of Amarillo, Texas (“*City Council*”) indicated its election to be eligible to participate in Tax Abatements in the Resolution Adopting Guidelines and Criteria for Tax Abatement in the City of Amarillo (“*Policy Statement*”), by the passage of Resolution No. 7-26-88-1 on the 21st day of July, 1988; and

WHEREAS, on the 24th day of August, 2021, the City Council readopted the Policy Statement by the passage of Resolution No. 08-24-21-1; and

WHEREAS, the City’s current Policy Statement entitled:

RESOLUTION ADOPTING GUIDELINES
AND CRITERIA FOR TAX ABATEMENT WITHIN REINVESTMENT ZONES
FOR THE
CITY OF AMARILLO

Is attached as Exhibit A hereto; and

WHEREAS, the Policy Statement constitutes appropriate “guidelines and criteria” governing tax abatement agreements which may be entered into by the City as contemplated by the Texas Tax Code (“*Tax Code*”), and provides for the availability of tax abatement for both new facilities and structures and for the contemplated expansion or modernization of existing facilities or structures; and

WHEREAS, entering into this Agreement will produce public benefits:

- 1) enhancing and diversifying the economic and industrial bases of the Amarillo area;
- 2) contributing to the retention and expansion of primary employment; and
- 3) attracting major investment that will be of benefit to the Premises (as hereafter defined) and that will contribute to the economic development of the City; and

WHEREAS, on the 2nd day of August, 2022, the City Council adopted Ordinance No. 7998 establishing City of Amarillo Reinvestment Zone No. 20 (“*Zone*”) for commercial/industrial tax abatement, as authorized by Tax Code Chapter 312; and

WHEREAS, Amarillo EDC currently holds title to the Premises, but Recipient desires to lease the Premises under a written agreement with Amarillo EDC (the “*Lease*”); and

WHEREAS, the contemplated uses of the Premises (a manufacturing facility, whether in one or more structures), the contemplated improvements to the Premises as set forth in this Agreement, the contemplated equipment, and other business personal property, and the other terms of this Agreement will encourage development of the Zone, are in accordance with the purposes for its creation, and are in compliance with the Policy Statement, the Ordinance, and all applicable laws; and

WHEREAS, Recipient's use of the Premises is expected to favorably influence the economic and employment base of the City, to wit: within 72 months of the completion of the facility to be located on the Premises to provide up to 400 new full time jobs; and

WHEREAS, the City Council finds that the improvements sought are feasible and practical and will be of benefit to the Premises, the Zone, and to the City after expiration of this Agreement; and

WHEREAS, the City Council finds that the terms of this Agreement and the proposed Qualified Facilities and Qualified Personal Property (as hereafter defined) subject to this Agreement meet the applicable guidelines and criteria previously adopted by the City Council; and

WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by the law, to the presiding officers of the governing bodies of each of the taxing units in which the Premises subject to the Agreement is located.

NOW, THEREFORE, the City for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, which consideration includes the attraction of major investment to the Zone and business activity which contributes to the overall economic development of the City and enhancement of the tax base in the City; the City, Amarillo EDC, and Recipient for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged by each, which consideration includes the tax abatement set forth below, as authorized by Tax Code Chapter 312, Subchapter B, do hereby contract and agree as follows:

1. Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

- 1) "Tax Code" means the relevant provisions of the Texas Tax Code.
- 2) "Eligible Property Value" shall mean the value of Recipient's Qualified Facilities and Qualified Personal Property that:
 - a) is eligible for tax abatement under Tax Code Chapter 312 (which shall not include the real property's current value – only increase in value of the real property may be exempted); and
 - b) has taxable situs in the Zone on January 1 of the first tax year as set forth in Section 3 or on January 1 of any subsequent tax year as set forth in Section 3.

However, pursuant to Tax Code Section 312.204, tangible personal property that was located on the Premises before the beginning date of the abatement period shall not be eligible for tax abatement. Supplies and inventory located in the Zone at any time shall not be eligible for tax abatement.

- 3) "Qualified Facilities" shall mean the buildings and other improvements constructed by or for the benefit of Recipient for design, assembly, manufacturing, storage, training, repair, distribution or other purposes in the Zone, consisting of no less than 200,000 ft² and expected to cost approximately \$50,000,000.
- 4) "Qualified Personal Property" shall mean the machinery, equipment, furniture, fixtures, and other tangible personal property that are eligible for tax abatement under Tax Code Chapter 312, consisting of furniture, fixtures, and equipment sufficient to carry on Recipient's manufacturing and distribution activities, and that:
 - a) is owned by Recipient or a third party as described in Section 2(11)(b);
 - b) is located in the Zone; and
 - c) but for this Agreement would be subject to appraisal by the Potter County Appraisal District or its successor for the applicable tax year.

- 5) “Premises” shall mean the parcel of land owned by Amarillo EDC and to be leased by Recipient under the Lease in Amarillo, Potter County, Texas, as described on Exhibit B, which is attached hereto and incorporated by reference, and is located within the Zone (or that entirely constitutes the Zone).
- 6) “Abatement” shall mean the tax abatement rate in those percentages set forth in Section 5 for each applicable year.

2. General Provisions

- 1) Recipient agrees that its use of the Premises will be in accordance with applicable state and local laws and regulations.
- 2) The parties agree that the periods of abatement under this Agreement are directly proportional to the capital expenditures for improvements and the number of permanent full-time jobs to be created by Recipient.
- 3) The procedures followed by the City in the enforcement and administration of this Agreement will conform to the requirements of the Tax Code and other applicable law. To the extent possible, these procedures will be undertaken in coordination with Recipient’s corporate, public, employee, and business relations requirements.
- 4) The Premises are presently owned by Amarillo EDC and are to be leased to Recipient under the Lease; provided, however, all parties hereto agree that this Agreement does not create, and shall not be construed to create, an independent obligation of Amarillo EDC to lease any portion of the Premises to Recipient. The Premises are located solely within City limits and within the Zone.
- 5) The Premises and Qualified Facilities are not an improvement project financed by tax increment bonds.
- 6) This Agreement is entered into subject to the rights of the holders of outstanding bonds of the City.
- 7) The Premises and Qualified Personal Property are not owned or leased by any member of the Amarillo City Council or any member of the Planning and Zoning Commission of the City or a member of the governing body of any taxing units joining in or adopting this Agreement.
- 8) The City has adopted guidelines and criteria governing tax abatement agreements and it has the authority to enter into this Agreement.
- 9) This Agreement is intended to comply with the requirements of law and is authorized by the Texas Property Redevelopment and Tax Abatement Act, Tax Code Chapter 312, the Policy Statement, and by approval of the City Council of the City of Amarillo authorizing execution of this Agreement.
- 10) During the period of tax abatement herein authorized, Recipients shall be subject to taxation on all real and personal property not abated or otherwise exempted.
- 11) This Agreement shall apply to Qualified Facilities and Qualified Personal Property which is owned by:
 - a) Recipient; or
 - b) A third party when
 - i) Recipient is contractually obligated to pay taxes on said property; or
 - ii) Recipient renders said property for taxation.
- 12) The construction and development of the Qualified Facilities and Qualified Personal Property contemplated by this Agreement will be diligently pursued by

Recipient and may occur in Phases. Each Phase will be created as set forth in Section 4 of this Agreement.

3. Term and Abatement Period

A ten (10) year tax abatement is hereby granted to Recipient subject to meeting the conditions herein. For each Phase (as hereafter defined), the ten (10) year abatement period commences beginning on January 1 of the first tax year for which Recipient files an approved abatement application with the Potter County Appraisal District. For each subsequent Phase, the ten (10) year abatement period commences on January 1 of the first tax year for which Recipient timely files an approved abatement application for that Phase with the Potter County Appraisal District.

4. Construction May Occur in Phases

At its option, Recipient may elect to stage development of the Qualified Facilities and Qualified Personal Property to occur at different times within the Zone. If Recipient chooses to make this election, each individual Phase shall be eligible for Abatement under the terms of this Agreement for a period of ten (10) years.

Recipient will designate each Phase by metes and bounds or by description of the improvement or property sought to be abated, to be submitted with the first Tax Abatement application filed on each Qualified Facility or Qualified Personal Property in that Phase. Each Phase so designated will be sequentially numbered as Phase 1, Phase 2, and so forth. Thereafter, the Qualified Facilities and Qualified Personal Property in each Phase shall be the subject of a separate Tax Abatement application as may be required by law. For purposes of identifying property within a Phase, it shall be sufficient to generally identify the improvement or property by its use or purpose and relative geographic location to other existing improvements.

The deadline for designating a Phase under Section 4 of this Agreement coincides with the expiration of the Zone, being the fifth (5th) anniversary of the establishment of the Zone, unless renewed or extended to a later date by the City.

5. Rate of Abatement

The rate and scope of tax abatement shall be as follows:

- 1) **Scope of Abatement.** The annual rate of abatement will be applied as set forth below to the Eligible Property Value.
- 2) **Annual Rate of Abatement.** The following shall be the annual rate of tax abatement. The rate of abatement shall be applied separately to the Eligible Property Value in each Phase created under this Agreement for each applicable tax year.

<u>Year of Abatement</u>	<u>Rate of Abatement on Incremental Increase</u>
1	100%
2	100%
3	100%
4	100%
5	100%
6	100%
7	100%
8	100%
9	100%
10	100%

6. Records and Audits

- 1) At all times throughout the term of this Agreement and upon at least 24 hours prior notice to Recipient, the City and the Potter County Appraisal District shall have reasonable access to the Premises by their employees or agents, accompanied by Recipient personnel, for the purpose of inspecting the Premises to ensure the Qualified Facilities and Qualified Personal Property are maintained in accordance with the conditions of this Agreement and shall have access to the books and

records of Recipient for purposes of determining compliance with state law and this Agreement.

- 2) Before December 31 of each year, Recipient must certify in writing to the governing body of each participating taxing unit that it is in compliance with each term of this Agreement; provided, however, that Recipient shall not be considered in default hereunder until the applicable party has received notice of non-compliance, and has had a period of time (not to exceed 30 days) to provide the required certification.

7. Performance Requirement

Recipient shall not be entitled to any Eligible Property Value tax abatement under this Agreement for any tax year during which Recipient is in default of this Agreement following the expiration of the applicable cure period set forth in, or authorized pursuant to, Section 8 of this Agreement.

8. Breach and Default

In the event that Recipient:

- 1) fails to make the improvements or repairs;
- 2) allows *ad valorem* taxes on the Premises, Qualified Facilities, or Qualified Personal Property subject to abatement to become delinquent and fails to timely and properly follow the legal procedures for the protest and/or appeal of such *ad valorem* taxes,
- 3) fails or refuses to timely file the documents required to be filed with the State Comptroller or local tax appraisal district in connection with the tax abatement set forth in this Agreement; or,
- 4) breaches any of the terms or conditions of this Agreement;

then Recipient shall be in default of this Agreement.

If Recipient defaults in its performance of 1, 2, 3, or 4 above, the City shall give Recipient written notice of default. If Recipient has not cured such default within ninety (90) days of receipt of written notice, or, if such default cannot be cured by the payment of money or posting of a bond or other collateral, Recipient shall be in default for that tax year. However, if such default is not reasonably susceptible of cure within such ninety (90) day period, whether or not due to causes within the control of Recipient, and Recipient has begun efforts to cure the default, then after first advising the City of its efforts, Recipient may utilize an additional one hundred eighty (180) days to cure the default. Time in addition to the foregoing two hundred seventy (270) day cure period may be authorized by the City, in its sole and absolute discretion.

Failure to timely cure any default will result in the cancellation of this Agreement and the retroactive loss of the tax abatement. Additionally after the expiration of the applicable notice and cure periods, all taxes which would have otherwise been paid to the City during the tax year in which the default occurs without the benefit of abatement plus ten percent (10%) interest beginning on the date of expiration of the cure period will be owed by Recipient to the City as liquidated damages. This amount shall be due and owing to the City within sixty (60) days of the expiration of the above referenced cure period, subject to all lawful offsets, settlements, deductions, or credits to which Recipient may be entitled. The parties acknowledge that actual damages in the event of default would be speculative and difficult to determine.

If the default is cured after the expiration of the two hundred seventy (270) day cure period provided but no later than three hundred sixty-five (365) days after default, then the terms and conditions of this Agreement may be reinstated for the remaining number of years available under Section 3 in which an abatement has not yet been enjoyed.

9. Sale, Assignment, or Lease of Premises; Termination

- 1) This Agreement may be assigned by Recipient to an entity controlling, controlled by, or under common control with Recipient without further consent of the City.
- 2) This Agreement may be assigned by Recipient to any other entity only with the consent of the City, which consent shall not be unreasonably withheld.
- 3) This Agreement shall terminate in the event that Recipient has not leased the Premises from Amarillo EDC pursuant to the terms and conditions of the Lease.

10. Indemnity

It is understood and agreed among the parties that Recipient, in performing its obligations hereunder, are acting independently of City and Amarillo EDC. City and Amarillo EDC assume no responsibilities or liabilities in connection therewith to Recipient or third parties, and City agrees that Amarillo EDC has no responsibility or liability under this Agreement with respect to the obligations of Recipient. Recipient agrees to indemnify and hold City and Amarillo EDC and their agents, employees, and officers harmless from penalties, fines, damages of every kind, attorney fees, costs, and interest that arise out of or relate to Recipient's acts or omissions relating to the Premises, Qualified Facilities, Qualified Personal Property, or the performance or benefits of this Agreement provided, however, such indemnity shall not extend to matters outside the scope of this Agreement.

11. Notice

Any notice called for or required by this Agreement shall be considered delivered when actually received by a party at the following address, or at such other address as may be designated in writing.

For Recipient:

Unmanned Systems, Inc. d/b/a Albers Aerospace
1476 Industrial Blvd.
McKinney, Texas 75069
Attention: John Albers, CEO
Email: jalbers@albers.aero

For City of Amarillo, Texas:

City Manager
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79186-1971
Fax (806) 378-8394

12. City Authorization

This Agreement was authorized and approved by a majority of the City Council at a regularly scheduled meeting in accordance with applicable provisions of the Tax Code. The City Council authorized the City Manager, or designee, to execute this Agreement on behalf of the City.

13. Recipient and Amarillo EDC Authorization

This Agreement was entered into by Recipient and Amarillo EDC pursuant to proper authority whereby an authorized executive officer of Recipient and Amarillo EDC, each signing below, were authorized to execute this Agreement on behalf of each entity as shown.

14. Severability

If any section, subsection, paragraph, sentence, phrase, or word of this Agreement is held invalid, illegal, or unconstitutional, the balance of this Agreement shall be enforceable and read as if the parties intended at all times to delete the invalid section, subsection, paragraph, sentence, phrase, or word.

15. Estoppel Certificate

Any party hereto may request an estoppel certificate from another party if the certificate is requested in connection with a bona fide business purpose. The estoppel certificate will be addressed as requested by the party, and shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default (or if default exists, the nature of default and curative action, which should be undertaken to cure same), the remaining term of this Agreement, the levels of primary Abatement in effect, and such other matters reasonably requested by the party.

16. Recipient Standing

Recipient shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same and Recipient shall be entitled to intervene in said litigation.

17. Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State District Court of Potter County, Texas. This Agreement is performable in Potter County, Texas.

18. Recordation of Agreement

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Potter County, Texas.

19. Entire Agreement

This Agreement contains the entire agreement of the parties on the subject matter herein. This Agreement supersedes any prior written or oral tax abatement agreements or representations between the parties. It may only be modified by written instrument signed by the parties.

Notwithstanding the foregoing provisions, this Agreement does not modify, alter, or amend any other agreement or instrument between the City and Recipient relating to matters other than the abatement of ad valorem taxes on the Eligible Property Value. This Agreement is being executed in multiple originals which are being distributed for execution to Recipient, Amarillo EDC, and the City. Each party agrees that its sole execution of an original shall constitute its consent to, and acceptance of the Agreement, without the necessity of a single copy being executed by all parties.

{Signature Pages Follow}

Executed to be effective as of the Effective Date.

CITY OF AMARILLO, TEXAS

By: _____
Jared Miller, City Manager

Attest:

Stephanie Coggins, City Secretary

Approved as to form:

Bryan S. McWilliams, City Attorney

City's Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF POTTER §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Jared Miller, City Manager of the City of Amarillo, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the City of Amarillo, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate approval of the City Council of the City of Amarillo, and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

**UNMANNED SYSTEMS, INC. D/B/A ALBERS
AEROSPACE**

By: _____
John Albers, its President and CEO

Recipient Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared John Albers, as President and CEO of Unmanned Systems, Inc. d/b/a Albers Aerospace, a Nevada corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Unmanned Systems, Inc. d/b/a Albers Aerospace, that he/she was duly authorized to perform the same by appropriate resolution of such corporation, and that he/she executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By: _____
Kevin Carter, President and CEO

Amarillo EDC Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF POTTER §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Kevin Carter, as President and CEO of Amarillo Economic Development Corporation, a Texas nonprofit corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Amarillo Economic Development Corporation, that he was duly authorized to perform the same by appropriate resolution of such corporation, and that he executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2022.

Notary Public, State of Texas

EXHIBIT A
POLICY STATEMENT

08/17/2021 _____

RESOLUTION NO. 08-24-21-1

A RESOLUTION OF THE CITY OF AMARILLO, TEXAS
CITY COUNCIL; ADOPTING GUIDELINES AND
CRITERIA FOR TAX ABATEMENT WITHIN
REINVESTMENT ZONES FOR THE CITY OF
AMARILLO; PROVIDE A SEVERANCE CLAUSE;
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Amarillo desires to participate in tax abatements from time to time as the City Council may find appropriate, in accordance with the criteria and guidelines herein adopted;

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

SECTION 1. That for tax abatements in reinvestment zones adopted by the City of Amarillo, the fundamental purpose is to stimulate growth and create jobs, and the following guidelines and general criteria will apply:

- A. Tax abatements may be provided for both new facilities and structures and for the expansion or modernization of existing facilities and structures. Each project proposed for tax abatement shall be considered individually on its own merits, benefit to the public, and in context of any other economic incentives for the project or existing in the reinvestment zone.
- B. The developer, property owner, project owner, or other recipient of a tax abatement must annually certify in writing to the governing body of each participating taxing unit that the developer, owner or recipient is in compliance with each applicable term of the agreement.
- C. Only the taxable value of improvements to real property or tangible personal property that is brought to the real property after the execution of a tax abatement agreement will qualify for tax abatement.
- D. A tax abatement agreement must ensure that the periods of abatement are directly proportional to the capital expenditures for improvements and the number of permanent full-time jobs created.
- E. Expansion or modernization of existing facilities qualifies for tax abatement if the expansion meets the qualifications for capital expenditures and retention of or creation of new jobs nets new jobs. The number of jobs created must be new jobs and not replacement of jobs which were in the payroll within the year immediately prior to application for tax abatement. A tax abatement shall not be granted if the facility has been the subject of or included in a prior tax abatement agreement.
- F. If a new facility is constructed to replace an existing facility, and the existing facility is abandoned by the developer, property owner, project owner, or other recipient of a tax abatement, only the difference in taxable value of the new facility over the existing facility will qualify for tax abatement.
- G. An agreement will be executed by the developer, property owner, project owner, or other recipient of a tax abatement which incorporates the terms of this resolution and includes any other site and development specific terms which might be found applicable at the time.
- H. The tax abatement agreement will require, among other things, that the City of Amarillo will have the right of access to the site and books and records of the applicant for tax abatement to determine compliance with statutory requirements and the agreement. Failure to fulfill any of the requirements of the agreement will result in cancellation of the agreement and retroactive loss of tax abatement.

SECTION 2. 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 resolution 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 resolution, 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 3. This Resolution is immediately effective upon passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on this the 24 day of August, 2021.

THE CITY OF AMARILLO


Ginger Nelson, Mayor, City of Amarillo

ATTEST:


Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

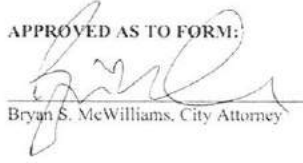

Bryan S. McWilliams, City Attorney

EXHIBIT B

Property Description

FIELD NOTES for a 30.00 acre tract of land out of Section 74, Block 2, A. B & M. Survey, City of Amarillo, Potter County, Texas, and more particularly described as follows:

BEGINNING at a 1/2" iron rod set with a yellow cap on the west right-of-way line of Airport Boulevard which bears S. 00° 08' 16" E. a distance of 2262.39 feet and S. 89° 51' 44" W. a distance of 55.16 feet from the northeast corner of said Section 74 for the northeast corner of this tract.

THENCE S. 09° 16' 27" W., along said west right-of-way line, a distance of 31.74 feet to a brass cap monument found on said west right-of-way line at the beginning of a curve to the right for a corner of this tract.

THENCE continuing along said west right-of-way line and along said curve with a radius equal to 1392.40 feet, with a long chord bearing of S. 13° 00' 45" W. and a long chord distance of 201.18 feet, a curve length of 201.35 feet to a brass cap monument found on said west right-of-way line at the end of said curve for a corner of this tract.

THENCE S. 16° 59' 18" W., continuing along said west right-of-way line, a distance of 170.90 feet to a brass cap monument found on said west right-of-way line at the beginning of a curve to the left for a corner of this tract.

THENCE continuing along said west right-of-way line and along said curve with a radius equal to 1472.40 feet, with a long chord of S. 13° 35' 52" W. and a long chord distance of 205.89 feet, a curve length of 206.05 feet to a brass cap monument found on said west right-of-way line at the end of said curve for a corner of this tract.

THENCE S. 10° 01' 22" W., continuing along said west right-of-way line, a distance of 90.28 feet to a 1/2" iron rod found on said west right-of-way line for the southeast corner of this tract.

THENCE N. 80° 34' 16" W. a distance of 241.14 feet to a 1-1/4" iron pipe found for the most southerly southwest corner of this tract.

THENCE N. 09° 33' 47" E. a distance of 301.34 feet to a 4" metal fence post found for a corner of this tract.

THENCE N. 80° 35' 29" W. a distance of 1543.94 feet to a 5/8" iron rod found for the most westerly southwest corner of this tract.

THENCE N. 46° 05' 09" E. a distance of 1414.14 feet to a 1/2" iron rod set with a yellow cap for the northwest corner of this tract.

THENCE S. 43° 54' 25" E. a distance of 1235.40 feet to the place of BEGINNING and containing 30.00 acres (1,306,604 square feet) of land.