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ORDINANCE NO. 7425

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF AMARILLO, TEXAS: ORDERING A SPECIAL ELECTION ON NOVEMBER 5, 2013 TO VOTE ON PROPOSED AMENDMENTS TO THE AMARILLO CITY CHARTER, AS MORE FULLY SET OUT HEREIN; PROVIDING FOR A JOINT ELECTION WITH POTTER COUNTY, RANDALL COUNTY, AND THE CITY OF AMARILLO OR OTHER ENTITY; APPROVING INTERLOCAL AGREEMENT FOR EACH COUNTY TO CONDUCT THE CITY ELECTION IN PRECINCTS OF EACH COUNTY THAT ARE WITHIN THE CITY LIMITS; ESTABLISHING POLLING PLACES AND PROVIDING GENERALLY FOR THE CONDUCT OF SAID ELECTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Amarillo City Charter (hereafter, "Charter" or "City Charter") was adopted by voters in 1913 when the population of Amarillo was 9,957 (1910 census); and,

WHEREAS, since that time, the Charter has been updated only a few times, yet there have been numerous changes in federal and state law requirements, public policy, and the needs of a city with a population now closer to a quarter-million; and,

WHEREAS, in this 100<sup>th</sup> year of the Charter, the City Commission finds it is desirable and in the best public interests for voters to now consider certain amendments to the Charter in accordance with the several propositions described herein;

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

SECTION 1. Pursuant to Texas Local Government Code, section 9.004 that an election is hereby called by and for the City of Amarillo to be held on the next uniform election date specified by the Texas Election Code, being November 5, 2013, to vote on the following propositions to amend the City of Amarillo Home Rule Charter, as it currently exists as amended, which shall be separate propositions on a single ballot with the ballot text for each proposition to appear and read as shown below, for the reasons and purposes stated for each proposition:

**Proposition No. 1-General Terminology, Titles, Numbers, and Nonsubstantive Conforming Provisions**

WHEREAS, the Charter is marked by inconsistent use of titles, references to now non-existent positions; formatting inconsistencies; and similar non-substantive matters that should be corrected and updated for modern usage. NOW, THEREFORE this proposition shall amend the Charter by making various nonsubstantive vocabulary changes throughout the Charter in order to use modern and consistent terminology, titles, and labels throughout the Charter, such as but not limited to the use of: "Human Resources Department" instead of "Personnel Department"; "Civil Service Commission" instead of "Personnel Board"; "City Secretary" instead of "City Clerk"; changing the

name of the governing body from “City Commission” to “City Council” and “Commissioner” to “Council member”; “Voters” instead of “Electors”; “Registered Voter of the City” instead of “taxpaying voter” or “qualified voter”; avoiding and replacing the exclusive use of masculine gender references; and similar non-substantive choices of labels, titles, and modern English vocabulary; improve formatting by inserting subsection numbers and letters; and removing antiquated reference to “either commissioner” Sections Affected: Article I through Article VI, and General Provisions, inclusive.

**Ballot Text:**

**PROPOSITION No. 1**

To amend the Amarillo City Charter by making nonsubstantive vocabulary changes throughout all Articles of the Charter in order to use modern and consistent terminology, titles, and labels, which shall include but not be limited to, changing the name of the governing body from “City Commission” to “City Council,” as well as applying such consistent and modern terminology, titles, and labels to other propositions on this ballot that are approved.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 2—General Provisions Implementing the Charter Upon Its Initial Adoption.**

WHEREAS, the current version of the Charter still contains certain administrative provisions that applied only to the original adoption of the Charter and the start-up of city government under the Charter, which have had no substantive meaning or use since the period of 1913 to 1915. NOW, THEREFORE this proposition shall remove those General Provisions that have not been operative, substantive, or materially relevant to the municipal governance since 1915. Section Affected: General Provisions, Sections 4, 5, and 6 only.

**Ballot Text:**

**PROPOSITION No. 2**

To repeal Sections 4, 5 and 6 of the General Provisions of the Amarillo City Charter, which are provisions that applied only in the years 1913 to 1915, during the transition to and implementation of the Charter upon its initial adoption.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 3—References to Specific State Laws**

WHEREAS, the Charter contains several references to state laws that either no longer exist or that have been re-codified in another location within the statutes. This makes it difficult for any reader to understand the meaning of the Charter. NOW, THEREFORE this proposition shall repeal most statutory citations in the Charter and in each instance replace such reference with the phrase, “applicable state law, as amended.” Sections Affected: Articles I through VI and General Provisions, inclusive. There is an exception for current legal reference that may be added by another proposition on this ballot.

**Ballot Text:**

**PROPOSITION No. 3**

To repeal references to a specific state law in the Amarillo City Charter and in each instance replace it with the phrase, "applicable state law, as amended," except for any specific statute that may be added by another proposition on this ballot.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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### **Proposition No. 4- Annexations**

WHEREAS, the Charter prescribes procedures, timelines, and notices for annexations, because in 1913 there was little state law on the subject. However, today Texas annexation statutes are highly developed with detailed procedures, timelines, restrictions, and notice requirements. It is difficult to reconcile and honor both sets of rules. NOW, THEREFORE this proposition shall shorten the Charter's annexation clause by acknowledging the City has such authority, and deleting the substantive rules and procedures, but in their place require that each annexation shall be conducted in accordance with applicable state law or ordinance. Section Affected: Art. I, Sec. 4.

#### **Ballot Text:**

#### **PROPOSITION No. 4**

To amend Article I, Section 4 of the Amarillo City Charter to remove the timelines and procedures for annexation and instead require that annexations be conducted in accordance with applicable state law as amended or by ordinance.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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### **Proposition No. 5—Open Meetings—Recognize State Law**

WHEREAS, the Charter already recognizes that the governing body must conduct business in open meetings, with closed or executive sessions allowed. NOW, THEREFORE this proposition shall add a reference to the Texas Open Meetings Act, as amended. Section Affected: Article V, Section 12.

#### **Ballot Text:**

#### **PROPOSITION No. 5**

To amend Article V, Section 12 of the Amarillo City Charter to explicitly acknowledge that meetings must be conducted in accordance with the Texas Open Meetings Act, as amended, or successor statute.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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### **Proposition No. 6—Municipal Court—Number of Judges**

WHEREAS, in 1913, one city judge was all that was needed. Today, several judges are needed to efficiently manage the dockets. While the "city judge" or presiding judge is authorized by the Charter, the other judges have been appointed via the ordinance powers of the city. NOW, THEREFORE this proposition shall update the Charter to meet current needs by allowing for appointment of more than one city judge. Section Affected: Article II, Section 22.

#### **Ballot Text:**

#### **PROPOSITION No. 6**

To amend Article II, Section 22 of the Amarillo City Charter to provide that the governing body may appoint any number of municipal court judges as the governing body deems

necessary for the efficient operation of the court, each of whom shall equally possess and exercise all judicial powers, duties, and privileges of that office.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 7—Municipal Court Maximum Fine**

WHEREAS, the 1913 Charter still contains an outdated general statement that the maximum municipal court fine is \$200, yet Texas law has long since allowed higher fines for several types of violations. NOW, THEREFORE this proposition shall conform the Charter to current law by specifying that maximum fines in municipal court shall be in accordance with applicable state law as amended or by ordinance. Section Affected: Article II, Section 22.

**Ballot Text:**

**PROPOSITION No. 7**

To amend Article II, Section 22 of the Amarillo City Charter to specify that the maximum fine in municipal court shall be in accordance with state law as amended or by city ordinance.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 8—Expenditures for or During Emergencies**

WHEREAS, under current state law and City purchasing policies, the City Manager may authorize the expenditure of up to \$50,000 on *routine* purchases. However, the 1913 Charter limits *emergency* (unbudgeted) expenditures to only \$250. In today's economy, \$250 may not be enough, for example, to repair a truck or industrial pump in the City's water system. The sum stated in this Charter clause has not kept pace with the economy or purchasing laws. NOW, THEREFORE this proposition shall remove the \$250 cap, thereby allowing emergency expenditures in the same manner and amounts as is allowed for routine budgeted expenditures. Section Affected: Art. V, Sec. 16.

**Ballot Text:**

**PROPOSITION No. 8**

To amend Article V, Section 16 of the Amarillo City Charter to remove the \$250 limit on emergency expenditures by the City Manager and require that such shall be in accordance with applicable law as amended.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 9—Bonds.**

WHEREAS, the Charter requires the city manager and certain other officials to post an official bond in the sum of \$5,000. This provision has not kept up with either the current economy or the titles of some officials. NOW, THEREFORE this proposition shall specify that the city manager and other officials are required to post a bond in an amount set by ordinance. Section Affected: Article V, Section 32.

**Ballot Text:**

**PROPOSITION No. 9**

To amend Article V, Section 32 of the Amarillo City Charter to delete the specific dollar amount and to state that the City Manager and any other employee required to post an official bond shall do so as required by ordinance.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 10—Quorum**

WHEREAS, the Charter defines a quorum as “a majority of all members elected on the Commission” [emphasis added]. However, the Charter authorizes a member to be appointed to fill a vacancy, yet he or she cannot be counted for a quorum. NOW, THEREFORE this proposition shall define quorum as the majority of all members of the governing body, regardless of whether elected or appointed to a vacancy. Section Affected: Article V, Section 14.

**Ballot Text:**

**PROPOSITION No. 10**

To amend Article V, Section 14 of the Amarillo City Charter to define a quorum as a majority of all members of the Commission.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 11—Dates for and Timing of Various Elections**

WHEREAS, the Charter specifies exact dates and time periods for various elections (regular, runoff, initiative, referendum, recall, bonds, etc.) However, state law trumps these Charter provisions. The Texas Election Code now mandates all election days and the time periods for activities related to conducting an election. These state-mandated times and dates are subject to change by the Legislature. NOW, THEREFORE this proposition shall remove all references to specific election dates and specified number of days for calling, conducting, or canvassing an election. In its place, a more general requirement will specify that all aspects of each election shall occur on the next available date that is allowed or required by state law for conducting such an election or, by ordinance in the absence of state law. This change would not apply to Article V, Section 8 which specifies, generally, that the regular municipal election shall be in the spring of odd numbered years. Sections affected: Art. II, Sec. 18 (franchise for use of streets), Sec. 23 (Initiative & Referendum), Sec. 24 (Recall); Art. V, Sec. 5 (Runoff elections), Sec. 9 (Controlling Law).

**Ballot Text:**

**PROPOSITION No. 11**

To repeal specific dates and time periods for the several kinds of elections described in the Amarillo City Charter, and amending Section 9 of Article V of the Charter to state: “Except as provided in Article V, Section 8, the timing and ordering of, notices, conducting, canvassing, and all other procedures for each election shall be in accordance with state law and occur upon the next available date allowed by state law for such election, and in the absence of a state law, then in accordance with ordinance.”

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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### **Proposition No. 12—Date for Regular City Election**

WHEREAS, the Charter currently specifies the regular municipal election shall be “on the first Saturday in April” in odd numbered years. However, the Texas Election Code no longer allows a city election in April. NOW, THEREFORE this proposition shall specify that the regular municipal election shall be on that date allowed by law that occurs on or nearest May 1 in odd numbered years.

Section Affected: Art. V, Sec. 8 (Election Day).

#### **Ballot Text:**

#### **PROPOSITION No. 12**

To amend Article V, Section 8 of the Amarillo City Charter to specify that the regular municipal election shall occur on the date allowed by state law that occurs on or nearest to May 1 in each odd numbered year and, if State law provides for two election dates which are equally near to May 1, then the governing body shall select one.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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### **Proposition No. 13—Conflicting Charter Amendments**

WHEREAS, Amarillo has not yet encountered the situation of competing Charter amendments offered on the same ballot, which are in irreconcilable conflict, but each is approved by voters. The experience of other cities suggests it is prudent to provide a Charter clause resolving that situation. NOW, THEREFORE this proposition shall specify that the measure receiving the highest number of favorable votes prevails. Section Affected: General Provisions, Sec. 3.

#### **Ballot Text:**

#### **PROPOSITION No. 13**

To amend Section 3 of the General Provisions of the Amarillo City Charter to add: “At any election for the adoption of Charter amendments, if the provisions of two or more proposed amendments on the ballot are irreconcilably inconsistent, and each receives a majority favorable vote, then the amendment that receives the highest number of favorable votes shall prevail in that election.”

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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### **Proposition No. 14—Conflicting Initiatives or Referendums**

WHEREAS, Amarillo has not yet encountered the situation of competing initiatives or referendums offered on the same ballot, which are in irreconcilable conflict, but each is approved by voters. The experience of other cities suggests it is prudent to provide a Charter clause to resolve that situation. NOW, THEREFORE this proposition shall specify that the initiative or referendum receiving the highest number of favorable votes prevails in that election. Section Affected: Art. II, Sec. 23

#### **Ballot Text:**

#### **PROPOSITION No. 14**

To amend Article II, Section 23 of the Amarillo City Charter to add: “At any election for an initiative or referendum, if the provisions of two or more initiative or referendum measures on the ballot are irreconcilably inconsistent, and each receives a majority favorable vote, then the measure that receives the highest number of favorable votes shall prevail in that election.”

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 15—Initiative and Referendum—Time Limit for Petition**

WHEREAS, traditionally, initiative and referendum are viewed as extraordinary remedies reserved for circumstances in which there is significant public concern over an issue, not merely a vocal minority who disagrees with a governmental decision. This proposition is intended to amend the Charter to better reflect the public policy that there must be a significant level of public dissatisfaction that is likely to generate immediate broad support for an initiative or referendum. An issue that generates sufficient concern across the community to warrant the cost of an election should be able to promptly generate sufficient signatures. NOW, THEREFORE this proposition shall amend the Charter to require that such petitions be promptly circulated for signature and be returned completed within 120 days or it will be deemed to be withdrawn and void. Section Affected: Article II, Sec. 23.

**Ballot Text:**

**PROPOSITION No. 15**

To amend Article II, Section 23 of the Amarillo City Charter by adding: "In the event the committee does not file the completed and signed petition with the City Secretary by close of business on the 120th day (or the next business day if the City Secretary's office is closed on such day), after the day that the committee initially filed the proposed petition with the City Secretary, then such petition and the committee registration shall be deemed to be withdrawn and void."

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 16—Initiative, Referendum, Recall - Time for Validation**

WHEREAS, the current Charter requires careful reading to discern that the City Secretary is allowed reasonable time to verify that enough valid signatures have been submitted on a petition, before having a duty to submit it to the governing body for consideration. Validation of signatures is an important step that preserves integrity of the process, so it deserves to be clearly stated in the Charter text. NOW, THEREFORE this proposition shall specify the time allowed for the City Secretary to conduct the signature verification process. Sections Affected: Article II, Sec. 23 and 24.

**Ballot Text:**

**PROPOSITION No. 16**

To amend Article II, Sections 23 and 24 of the Amarillo City Charter by adding to each section: "For each completed petition submitted by the committee, the City Secretary shall be allowed a period of twenty-one (21) calendar days in which to verify that the required number of valid signatures is contained on each petition."

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 17—Initiative and Referendum – Repetitious Efforts**

WHEREAS, the current Charter is silent as to how frequently a matter may be re-submitted to the voters, thereby creating a situation ripe for both voter fatigue and competing petitions. NOW, THEREFORE this proposition shall specify that once a matter has been placed on a ballot for a

public vote, then that matter may not again be the subject of an initiative or referendum petition until three (3) years after the last election on that matter. Section Affected: Article II, Sec. 23.

**Ballot Text:**

**PROPOSITION No. 17**

To amend Article II, Section 23 of the Amarillo City Charter by adding: "The City Secretary shall not accept the registration of citizens as either an initiating or referring committee or their petition if the subject matter of the proposed petition has been the subject of a public election within the preceding three (3) years."

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 18—Mayor & City Commission-Meetings**

WHEREAS, the Charter requires the city commission to meet weekly ("shall meet at least once each week"). This requirement poses a challenge during a holiday week or exigent circumstances such as a winter storm. NOW, THEREFORE this proposition shall allow cancellation of a weekly meeting for exigent circumstances, but still require at least two meetings per month. Section Affected: Article V, Section 12.

**Ballot Text:**

**PROPOSITION No. 18**

To amend Article V, Section 12 of the Amarillo City Charter to allow cancellation of a meeting of the city commission for exigent circumstances, provided that in no event shall a cancellation under this provision result in less than two meetings occurring during a month, in the absence of a disaster declaration.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 19—Mayor & City Commission-Election Eligibility**

WHEREAS, a person who meets state law requirements and the Charter residency requirement can file for election to the office of Mayor or City Commissioner. While there is some virtue in allowing almost anyone to file for local office, history has shown that it is subject to abuse by persons who admit no aspiration to actually campaign for or serve in public office, but apparently seek only brief notoriety. This situation forces taxpayers to bear the unjustified costs of: (i) elections that might have been cancelled when there is no bona fide opposing candidate; and (ii) extra staff time and effort to process candidates who have little motivation to cooperate with required procedures. NOW, THEREFORE this proposition shall require persons desiring to be a candidate to either pay a reasonable fee or in the alternative to submit a signed petition in lieu of the fee. Section Affected: Article V, Section 5.

**Ballot Text:**

**PROPOSITION No. 19**

To amend Article V, Section 5 of the Amarillo City Charter to provide that at the time of filing as a candidate for Mayor or City Commissioner, the person shall, in addition to meeting all other requirements and qualifications, either pay an application fee of \$100 to the City Secretary, or in lieu of such fee, submit a petition signed by 100 registered voters of the City, verified by the City Secretary, in support of the person's candidacy.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 20—Civil Service-Exempt Positions**

WHEREAS, the Charter already lists several City officials, employees, and classes of persons who are excluded from the civil service system. Currently, that list of exclusions does not include licensed professionals, and it covers only one assistant department head (even though many departments now require several assistant department heads for efficient operation). NOW, THEREFORE this proposition shall expand the exclusion list to recognize *all* assistant department heads and to add those employees who are employed as licensed professionals Section Affected: Article VI, Section 4.

**Ballot Text:**

**PROPOSITION No. 20**

To amend Article VI, Section 4 of the Amarillo City Charter to exempt from civil service all assistant department heads and those employees who are employed as an Attorney or other professional whose professional services are regulated by the state law on procurement of professional services by state agencies.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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**Proposition No. 21—Initiative and Referendum—Required Signatures**

WHEREAS, traditionally, initiative and referendum are viewed as extraordinary remedies reserved for circumstances in which there is significant public concern over an issue, not merely a vocal minority who disagrees with a governmental decision. This view is supported by the concepts of representative government and the public policy of avoiding the cost of unnecessary elections. NOW, THEREFORE this proposition shall require a demonstration of broad public concern by requiring a number of signatures equal to not less than five (5) percent of the registered voters residing within the City. Section Affected: Article II, Sec. 23.

**Ballot Text:**

**PROPOSITION No. 21**

To amend Article II, Section 23 of the Amarillo City Charter to require that petitions be signed by not less than five (5) percent of the registered voters residing within the City.

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

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SECTION 2. That the City Secretary is authorized to alter the ballot format as may be necessary to accommodate electronic or other form of balloting.

SECTION 3. That a joint election shall be conducted with Potter County, Randall County, the City of Amarillo, and any other entity that may order an election within those counties, pursuant to the terms and conditions of the attached intergovernmental cooperation agreement with Potter County (Exhibit 1) and intergovernmental cooperation agreement with Randall County (Exhibit 2), each of which is incorporated herein by this reference, and the City Manager is authorized to execute and perform said agreements and to agree to reasonable changes that may be requested or imposed by the counties as reflected in amended Exhibits.

SECTION 4. That the City Secretary is expressly authorized to: obtain election supplies; pay election officials; contract for some or all election duties and services from Potter and Randall counties (including conduct of a joint election), in accordance with the adopted budget, applicable law, and the attached agreements.

SECTION 5. The election shall be held in each of the election precincts of each participating entity as specified in the attached agreement.

SECTION 6. Electronic voting system is authorized and shall be used for voting and counting in the election, subject to the attached agreements and any contingency plan (of each county conducting a part of the City election) for problems with the electronic voting system.

SECTION 7. Early voting shall be conducted:

- A. In the Potter County portion of the City as specified in the attached Exhibit 1.
- B. In the Randall County portion of the City as specified in the attached Exhibit 2.
- C. Ballots shall be used for early voting by mail, and electronic or other ballot forms shall be used for casting early votes by personal appearance. The City Secretary is authorized to appoint an Early Voting Ballot Board to count and sort early votes, and other personnel for other duties, all as may be necessary or convenient in the conduct of the election or the City portion of a joint election with the other entities.

SECTION 8. That voting results of the City election from Potter and Randall County precincts shall, respectively, be completed at each County's counting station (to-wit: Potter County, at 900 S. Polk, Suite 320, Amarillo; and Randall County, at 501 16th Street, Ste 304, Canyon) and, the results promptly provided to the City Secretary or her designee.

SECTION 9. In the event of a conflict between the terms of this ordinance and the interlocal cooperation agreement, the terms of the interlocal agreement shall prevail.

SECTION 10. Effective Date. This ordinance is effective upon passage according to law.

INTRODUCED AND PASSED by the City Commission of the City of Amarillo, Texas, on First Reading this the 13<sup>th</sup> day of August, 2013; and PASSED on Second and Final Reading the 20<sup>th</sup> day of August, 2013

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Paul Harpole, Mayor

ATTEST:

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Frances Hibbs, City Secretary

ATTACHMENTS:

Exhibit 1, Interlocal Agreement with Potter County  
Exhibit 2, Interlocal Agreement with Randall County