

**SUPPLEMENTAL NOTICE OF REGULAR MEETING OF THE
AMARILLO CITY COUNCIL**

AMARILLO CITY COUNCIL REGULAR MEETING VIA VIDEO CONFERENCE NOTICE IS HEREBY GIVEN IN ACCORDANCE WITH ORDER OF THE OFFICE OF THE GOVERNOR ISSUED MARCH 16, 2020.

A REGULAR MEETING OF THE AMARILLO CITY COUNCIL TO BE HELD ON TUESDAY, MARCH 31, 2020 AT 1:00 P.M., CITY HALL, 601 SOUTH BUCHANAN STREET, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS BY VIDEO CONFERENCE (IN ORDER TO ADVANCE THE PUBLIC HEALTH GOAL OF LIMITING FACE-TO-FACE MEETINGS ALSO CALLED "SOCIAL DISTANCING" TO SLOW THE SPREAD OF THE CORONAVIRUS (COVID-19). THERE WILL BE NO PUBLIC ACCESS TO THE LOCATION DESCRIBED ABOVE.

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

**SUPPLEMENTAL NOTICE OF REGULAR MEETING OF THE
AMARILLO CITY COUNCIL PER SECTION 551.045 OF THE TEX.
GOV'T CODE ON A MATTER DIRECTLY RELATED TO RESPONDING
TO AN EMERGENCY OR URGENT PUBLIC NECESSITY IDENTIFIED
AND FURTHER DESCRIBED IN SECTION 3 (c) RELATED TO THE
COVID-19 DISASTER DECLARATION**

This Agenda, and the Agenda Packet, are posted online at:
<https://www.amarillo.gov/city-hall/city-government/city-council>

The video meeting is hosted through Zoom. It will be broadcast on Facebook live as well as on www.amarillo.gov. The conference bridge number for zoom is: Telephone # 4086380968 when prompted for meeting ID enter: 203896770#. All callers not registered to comment will be muted for the duration of the meeting.

The public will be permitted to offer public comments as provided by the agenda and as permitted by the presiding officer during the meeting. Members of the Public wishing to make a comment on an agenda item should go to <https://www.amarillo.gov/departments/city-manager/city-secretary/public-address-registration-form> and Fill out the Public Address Registration Form and follow the instructions.

This meeting will be recorded and the recording will be available to the public in accordance with the Open Meetings Act upon written request.

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

PROCLAMATION: "Census Day"

PUBLIC ADDRESS

(For items on the agenda for City Council consideration)

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. Amarillo Economic Development Corporation Update;

- C. Traffic Advisory Board Update on Installation of a Pedestrian Light at Rails to Trails on Georgia Street;
- D. Coronavirus Update; and
- E. 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:**

Approval of the City Council minutes for the regular meeting held on March 24, 2020.

B. **CONSIDERATION OF ORDINANCE NO. 7842:**

(Contact: Martin Birkenfeld, Assistant Police Chief)

This is the second and final reading of an ordinance creating a civil violation for a responsible person to allow, suffer, permit, or host a gathering involving underage drinking at a premise under such person's ownership or control.

C. **CONSIDERATION OF ORDINANCE NO. 7843:**

(Contact: Marcus Norris, Deputy City Attorney)

This is the second and final reading of an ordinance expanding and further clarifying the duties of the Office of Civil Administrative Hearings in relation to civil penalties for violations of City ordinance.

D. **CONSIDERATION OF ORDINANCE NO. 7844:**

(Contact: Cris Valverde, Assistant Director of Planning and Development Services)

This item is the second and final reading to consider an ordinance rezoning a 1.00 acre tract of unplatted land in Section 43, Block 9, B.S.&F. Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Office District 2. (Vicinity: Coulter Street and Evans Drive.)

E. **CONSIDERATION OF ORDINANCE NO. 7845:**

(Contact: Cris Valverde, Assistant Director of Planning and Development Services)

This item is the second and final reading to consider an ordinance rezoning a 6.47 acre tract of unplatted land in Section 64, Block 9, B.S.&F. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 to Moderate Density District. (Vicinity: Nancy Ellen Street and Ellen Hope Street.)

F. **CONSIDERATION OF ORDINANCE NO. 7846:**

(Contact: Cris Valverde, Assistant Director of Planning and Development Services)

This item is the second and final reading to consider an ordinance rezoning a 4.45 acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Residential District 3. (Vicinity: Farmers Avenue and Gemini Trail.)

G. **CONSIDER AWARD – SOFTWARE MAINTENANCE:**

(Contact: Rich Gagnon, IT Director)

Open Text – \$95,376.62

This purchase renews annual vendor-provided support and maintenance for Open Text eDOCS software which is utilized by all City departments for document management and retention.

H. **CONSIDER AWARD – MULTI-FACTOR AUTHENTICATION FOR REMOTE ACCESS AND CRITICAL APPLICATIONS:**

(Contact: Rich Gagnon, IT Director)

Lakeshore IT Solutions -- \$86,505.95

IT is rapidly expanding remote access to critical applications in response to Covid-19. Additionally, cyber attack on remote access has increased an estimated 800% and is heavily targeting governmental organizations. Multi-factor authentication (MFA) is essential to securing remote access and preventing breach through stolen credentials. This purchase was on the IT roadmap for fall of 2020 but had to be expedited and implemented before remote access is enabled. Enabling remote access at scale without MFA would introduce extreme risk of cyber breach.

3. **NON-CONSENT ITEMS:**

A. **CONSIDER RESOLUTION -- DISCUSSION AND CONSIDERATION OF A RESOLUTION OF THE CITY OF AMARILLO, TEXAS POSTPONING THE BOND ELECTION CALLED FOR MAY 2, 2020, UNTIL NOVEMBER 3, 2020:**

(Contact: Bryan McWilliams, City Attorney)

This resolution allows for the postponement the City bond election set for May 2, 2020 pursuant to Governor Greg Abbott issued a proclamation on March 18, 2020 and Election Advisory No. 2020-12 authorizing political subdivisions that would otherwise hold elections on May 2, 2020 to move their general or special elections to November 3, 2020 due to public health and safety concerns related to the novel coronavirus (COVID-19) outbreak.

B. **CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT – BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND GOLDEN SPREAD ELECTRIC COOPERATIVE, INC.:**

(Contact: Kevin Carter, Director of Amarillo Economic Development Corporation)

This item considers approving a Location Incentive Agreement (LIA) between Amarillo Economic Development Corporation and Golden Spread Electric Cooperative (GSEC). GSEC is changing the model of totally outsourcing their transmission function to an in-house function and adding the ability to offer distribution services to their members. The first five (5) jobs will be created in the first year with a ramp up of up to 10 more jobs over the next four years. The new jobs will have a salary range of \$80k-\$120k. Each job would be incentivized at the maximum of \$20,000 paid out over a 5-year period. GSEC currently has a LIA that runs through 2022.

C. **CONSIDER RESOLUTION – CONFIRMING AND CONTINUING THE MAYOR'S FIRST AMENDED DECLARATION OF DISASTER:**

(Contact: Bryan McWilliams, City Attorney)

This resolution confirms and continues the Mayor's Declaration of Disaster which was declared on March 30, 2020.

4. **EXECUTIVE SESSION:**

City Council may convene in Executive Session to receive reports on or discuss any of the following pending projects or matters:

1) Section 551.071 – Consult with Attorney about pending or contemplated litigation or settlement of same or on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter.

(a) Fisher v. City of Amarillo.

2) Section 551.072 - Discuss the purchase, exchange, lease, sale, or value of real property and public discussion of such would not be in the best interests of the City's bargaining position:

(a) Discuss property located within the Tax Increment Reinvestment Zone #1 Boundary.

individuals with disabilities are available in the south parking lot. City Hall is equipped with restroom facilities, communications equipment and elevators that are accessible. Individuals with disabilities who require special accommodations or a sign language interpreter must contact the City Secretary's Office 48 hours prior to meeting time by telephoning 378-3013 or the City TDD number at 378-4229.

Posted this 30th day of March 2020 IN ACCORDANCE WITH SECTION 551.045 OF THE TEX. GOV'T CODE.

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D. **CONSIDERATION OF ORDINANCE NO. 7844:**

(Contact: Cris Valverde, Assistant Director of Planning and Development Services)

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E. **CONSIDERATION OF ORDINANCE NO. 7845:**

(Contact: Cris Valverde, Assistant Director of Planning and Development Services)

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F. **CONSIDERATION OF ORDINANCE NO. 7846:**

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(Contact: Bryan McWilliams, City Attorney)

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March 18, 2020 and Election Advisory No. 2020-12 authorizing political subdivisions that would otherwise hold elections on May 2, 2020 to move their general or special elections to November 3, 2020 due to public health and safety concerns related to the novel coronavirus (COVID-19) outbreak.

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(Contact: Kevin Carter, Director of Amarillo Economic Development Corporation)

This item considers approving a Location Incentive Agreement (LIA) between Amarillo Economic Development Corporation and Golden Spread Electric Cooperative (GSEC). GSEC is changing the model of totally outsourcing their transmission function to an in-house function and adding the ability to offer distribution services to their members. The first five (5) jobs will be created in the first year with a ramp up of up to 10 more jobs over the next four years. The new jobs will have a salary range of \$80k-\$120k. Each job would be incentivized at the maximum of \$20,000 paid out over a 5-year period. GSEC currently has a LIA that runs through 2022.

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(a) Fisher v. City of Amarillo.

2) Section 551.072 - Discuss the purchase, exchange, lease, sale, or value of real property and public discussion of such would not be in the best interests of the City's bargaining position:

(a) Discuss property located within the Tax Increment Reinvestment Zone #1 Boundary.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (601 South 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 378-3013 or the City TDD number at 378-4229.

Posted this 28th day of March 2020.

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<http://amarillo.gov/city-hall/city-government/view-city-council-meetings>

Archived meetings are also available.



STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 24th day of March 2020, the Amarillo City Council met at 1:00 p.m. for a regular meeting held in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

- | | |
|---------------|-----------------------------------|
| GINGER NELSON | MAYOR |
| ELAINE HAYS | COUNCILMEMBER NO. 1 |
| FREDA POWELL | MAYOR PRO TEM/COUNCILMEMBER NO. 2 |
| EDDY SAUER | COUNCILMEMBER NO. 3 |
| HOWARD SMITH | COUNCILMEMBER NO. 4 |

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

- | | |
|-------------------|-------------------------------|
| MICHELLE BONNER | DEPUTY CITY MANAGER |
| BRYAN MCWILLIAMS | CITY ATTORNEY |
| STEPHANIE COGGINS | ASSISTANT TO THE CITY MANAGER |
| FRANCES HIBBS | CITY SECRETARY |

The invocation was given by Pastor Thomas Sands, Greater New Hope Baptist Church. Mayor Nelson led the Pledge of Allegiance.

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

ITEM 1:

- A. Review agenda items for regular meeting and attachments;
- B. Reports and updates from City Councilmembers serving on outside Boards: Beautification and Public Arts Advisory Board;
- C. Coronavirus Update;
- D. Amarillo Economic Development Corporation and Chamber business resources and assistance update;
- E. Discuss State guidance regarding the postponement or cancellation of May 2, 2020 uniform election; and
- F. Request future agenda items and reports from City Manager.

CONSENT ACTION ITEMS:

ITEM 2: Mayor Nelson presented the consent agenda and asked if any item should be removed for discussion or separate consideration. Motion was made by Councilmember Powell to approve the consent agenda as presented, seconded by Councilmember Hays:

- A. **MINUTES:**
Approval of the City Council minutes for the regular meeting held on March 10, 2020.
- B. **CONSIDERATION OF ORDINANCE NO. 7841:**
(Contact: Cris Valverde - Assistant Director of Planning and Development Services)
This item is the second and final reading of an ordinance rezoning a 0.30 acre tract of unplatted land in Section 31, Block 9, B.S.&F. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to General Retail District. (Vicinity: Loop 335 and I-27.)

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

NON-CONSENT ITEMS:

ITEM 3A: Mayor Nelson presented the first reading of an ordinance creating a civil violation for a responsible person to allow, suffer, permit, or host a gathering involving underage drinking at a premise under such person's ownership or control. This item was

presented by Martin Birkenfeld, Assistant Police Chief. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Smith:

ORDINANCE NO. 7842

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 10-3, ARTICLE VI, TO CREATE THEREUNDER A DIVISION 1, FOR EXISTING SECTIONS 10-3-71 TO 10-3-75 (CURFEW REGULATIONS), WITHOUT SUBSTANTIVE AMENDMENT; AND TO PROVIDE A NEW DIVISION 2, WITH NEW SECTIONS 10-3-80 TO 10-3-86 PROVIDING FOR SOCIAL HOST LIABILITY FOR UNDERAGE DRINKING, A CIVIL PENALTY, ASSESSMENT OF EMERGENCY RESPONDER COSTS; PROVIDING DEFENSES, RIGHT TO A CIVIL ADMINISTRATIVE HEARING, AND RELATED PROVISIONS AND PROCEDURES; PROVIDING CLAUSES FOR SEVERABILITY, REPEALER, CONTINUATION OF PRIOR LAW, PENALTY, PUBLICATION AND EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3B: Mayor Nelson presented the first reading of an ordinance expanding and further clarifying the duties of the Office of Civil Administrative Hearings in relation to civil penalties for violations of City ordinance. This item was presented by Marcus Norris, Deputy City Attorney. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Sauer:

ORDINANCE NO. 7843

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 2-8 (MUNICIPAL COURT TO RE-TITLE SUCH CHAPTER; CHAPTER 2-8, ARTICLE VI (CIVIL ADMINISTRATIVE HEARINGS) TO MAKE VARIOUS AMENDMENTS TO CONFORM TO CHANGES MADE ELSEWHERE IN THE CODE; AND, TO CLARIFY COLLECTIONS; PROVIDING FOR SEVERABILITY, REPEALER, CONTINUATION OF PRIOR LAW; AND PROVIDING FOR EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3C: Mayor Nelson presented the first reading of an ordinance rezoning a 1.00 acre tract of unplatted land in Section 43, Block 9, B.S.&F. Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Office District 2. (Vicinity: Coulter Street and Evans Drive.) Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. This item was presented by Cris Valverde, Assistant Director of Planning and Development Services. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Hays:

ORDINANCE NO. 7844

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 EVANS DRIVE AND COULTER STREET, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3D: Mayor Nelson presented the first reading of an ordinance rezoning a 6.47 acre tract of unplatted land in Section 64, Block 9, B.S. & F. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 to Moderate Density District. (Vicinity: Nancy Ellen Street and Ellen Hope Street.) Mayor

Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. This item was presented by Cris Valverde, Assistant Director of Planning and Development Services. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Hays:

ORDINANCE NO. 7845

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 PROPEETY IN THE VICINITY OF NANCY ELLEN STREET AND ELLEN HOPE STREET, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3E: Mayor Nelson presented the first reading of an ordinance rezoning a 4.45 acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Residential District 3. (Vicinity: Farmers Avenue and Gemini Trail.) Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. This item was presented by Cris Valverde, Assistant Director of Planning and Development Services. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Hays:

ORDINANCE NO. 7846

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 PROPEETY IN THE VICINITY OF FARMERS AVENUE AND GEMINI TRAIL, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3F: Mayor Nelson presented a resolution approving all matters incident and related to declaring expectation to reimburse expenditures for acquiring land at 503-509 South Johnson Street, Amarillo, Texas with proceeds of future debt, including the adoption of a resolution pertaining thereto. This item was presented by Laura Storrs, Finance Director. Motion was made that the following captioned resolution be passed by Councilmember Powell, seconded by Councilmember Smith:

RESOLUTION 03-24-20-1

A RESOLUTION OF THE AMARILLO CITY COUNCIL, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3G: Mayor Nelson presented a resolution approving all matters incident and related to approving and authorizing publication of notice of intention to issue certificates of obligation, including the adoption of a resolution pertaining thereto. This item was presented by Laura Storrs, Finance Director and Michael Kashuba, Parks and Recreation Director. Motion was made that the following captioned resolution be passed by Councilmember Powell, seconded by Councilmember Sauer:

RESOLUTION NO. 03-24-20-2

A RESOLUTION OF THE AMARILLO CITY COUNCIL, APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3H: Mayor Nelson presented a resolution approving all matters incident and related to approving and authorizing publication of notice of intention to issue certificates of obligation, including the adoption of a resolution pertaining thereto. This item was presented by Marita Wellage-Reiley, Assistant Transit Director. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. Motion was made that the following captioned resolution be passed by Councilmember Powell, seconded by Councilmember Sauer:

RESOLUTION NO. 03-24-20-3

A RESOLUTION OF THE CITY COUNCIL OF AMARILLO, TEXAS: CONDUCTING A PUBLIC HEARING ON THE AMARILLO CITY TRANSIT REQUEST FOR FUNDING TO CONSTRUCT A MULTIMODAL TERMINAL; AUTHORIZING THE FILING OF A GRANT APPLICATION AUTHORIZING WITH THE FEDERAL TRANSIT ADMINISTRATION FOR A COMPETITIVE GRANT FOR FISCAL YEAR 2020 BUS AND BUS FACILITIES 5339 PROGRAM GRANT; DESIGNATING AN AUTHORIZED AGENT; PROVIDING SEVERABILITY CLAUSE; REPEALER CLAUSE; AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3I: Mayor Nelson presented a resolution authorizing the Canadian River Municipal Water Authority to issue refunding bonds to refund all or a part of the outstanding Canadian River Municipal Water Authority Subordinate Lien Contract Revenue Bonds, Series 2011 (Conjunctive Use Groundwater Supply Project) (the "Series 2011 Bonds"). This item was presented by Michelle Bonner, Deputy City Manager. Motion was made that the following captioned resolution be passed by Councilmember Powell, seconded by Councilmember Hays:

RESOLUTION NO. 03-24-20-4

A RESOLUTION BY THE CITY OF AMARILLO, TEXAS, AUTHORIZING REFUNDING OF CANADIAN RIVER MUNICIPAL WATER AUTHORITY SUBORDINATE LIEN CONTRACT REVENUE BONDS, SERIES 2011 (CONJUNCTIVE USE GROUNDWATER SUPPLY PROJECT).

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3J: Mayor Nelson presented a resolution confirming and continuing the Mayor's Declaration of Disaster which was declared on March 13, 2020 regarding the outbreak of COVID-19. Motion was made that the following captioned resolution be passed by Councilmember Powell, seconded by Councilmember Sauer:

RESOLUTION NO. 03-24-20-5

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO CONFIRMING AND CONTINUING THE MAYOR'S DECLARATION OF DISASTER; PROVIDING A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3K: Mayor Nelson presented an item approving the award of the construction contract for the maintenance of streets within Amarillo that have been identified as needing rehabilitation. This project includes the southeast quadrant residential seal coat, as well as arterial microsurfacing and cape sealing operations. This work is to be coordinated with similar work completed by the Street Department maintenance staff. Motion was made that this item be approved by Councilmember Powell, seconded by Councilmember Smith.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3L: Mayor Nelson presented an item approving the construction contract to rehabilitate the tank by applying a high-performance coating and modifying the tank to meet current code. The backwash water tank is integral to the water treatment process at the Osage Water Treatment Plant. This item was presented by Kyle Schniederjan, Director CP&DE. Motion was made that this item be approved by Councilmember Powell, seconded by Councilmember Sauer.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3M: Mayor Nelson presented an item approving the professional services agreement for resident project representation for the Lift Station 32 project during the construction phase. This item was presented by Kyle Schniederjan, Director CP&DE. Motion was made that this item be approved by Councilmember Powell, seconded by Councilmember Sauer.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3N: Mayor Nelson presented an item approving funds for an infrastructure improvement project in North Central Amarillo. The project would include drainage, site improvements and any related improvements up to \$1,200,000. This item was presented by Kevin Carter, Director Amarillo Economic Development Corporation (AEDC). Mr. Carter stated this item was approved by the AEDC Board yesterday. Motion was made that this item be approved by Councilmember Powell, seconded by Councilmember Smith.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

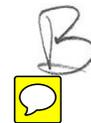
ITEM 3O: Mr. McWilliams advised at 5:16 p.m. that the City Council would convene in Executive Session per Texas Government Code: 1) Section 551.072 – Discuss the purchase, exchange, lease, sale, or value of real property and public discussion of such would not be in the best interests of the City's bargaining position: (a) Discuss property located within the Tax Increment Reinvestment Zone #1 Boundary.

Mr. McWilliams announced that the Executive Session was adjourned at 5:35 p.m. and recessed the Regular Meeting.

ATTEST:

Frances Hibbs, City Secretary

Ginger Nelson, Mayor



Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 31, 2020	Council Priority	Public Safety
Department	Amarillo Police Department		
Contact	Asst. Chief Martin Birkenfeld		

Agenda Caption

ORDINANCE 10-3-80, HOST LIABILITY FOR UNDERAGE DRINKING

Contact: Asst. Chief Martin Birkenfeld

This is the second and final reading of an ordinance creating a civil violation for a responsible person to allow, suffer, permit, or host a gathering involving underage drinking at a premises under such person's ownership or control.

Agenda Item Summary

This ordinance will create a civil violation for a responsible person to allow, suffer, permit, or host a gathering involving underage drinking at a premises under such person's ownership or control. This ordinance supplements existing legislation that prohibits a person from providing alcohol to a minor. A responsible person older than 16 can be held accountable for allowing a gathering at which minors are drinking alcohol.

Requested Action

Consider approval of ORDINANCE 10-3-80, Host Liability for Underage Drinking.

Funding Summary

No Additional funding is required for enforcement of this ordinance.

Community Engagement Summary

The police department has engaged in public seminars related to preventing underage drinking at gatherings and in public places.

Pending approval of the ordinance the Police Department will:

- Engage in a public information campaign (60 days) to highlight the problem of underage drinking and inform the residents of Amarillo the consequences under the ordinance and other applicable legislation.
- Engage in additional; public school education through existing school liaison relationships in order to inform school age youth the da

Staff Recommendation

Staff recommends that City Council approve the ordinance as presented.

ORDINANCE NO. 7842

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 10-3, ARTICLE VI, TO CREATE THEREUNDER A DIVISION 1, FOR EXISTING SECTIONS 10-3-71 TO 10-3-75 (CURFEW REGULATIONS), WITHOUT SUBSTANTIVE AMENDMENT; AND TO PROVIDE A NEW DIVISION 2, WITH NEW SECTIONS 10-3-80 TO 10-3-86 PROVIDING FOR SOCIAL HOST LIABILITY FOR UNDERAGE DRINKING, A CIVIL PENALTY, ASSESSMENT OF EMERGENCY RESPONDER COSTS; PROVIDING DEFENSES, RIGHT TO A CIVIL ADMINISTRATIVE HEARING, AND RELATED PROVISIONS AND PROCEDURES; PROVIDING CLAUSES FOR SEVERABILITY, REPEALER, CONTINUATION OF PRIOR LAW, PENALTY, PUBLICATION AND EFFECTIVE DATE.

WHEREAS, underage drinking (Minor in Consumption or Minor in Possession) is a class C misdemeanor crime, but beyond that, it poses a serious threat to the health and well-being of the minor, and it poses a substantial threat to public health, safety, and welfare by minors driving under the influence, and alcohol-fueled teen violence; moreover, gatherings involving underage drinking generate other negative secondary effects such as noise, trash, and other nuisances; and

WHEREAS, local taxpayers bear significant financial costs and endure the loss of ready-availability of first responders (police, fire, and EMS) for gatherings involving underage drinking of alcohol, and such costs cannot presently be assessed against the property owner, person in charge of the premises, or other responsible persons; and

WHEREAS, the City Council now determines that it is in the best interests of public health, safety, and welfare to hold accountable those persons who allow a gathering involving underage drinking to occur on property which those persons, own, occupy, or control by a civil penalty and response cost recovery assessment, as further stated in this ordinance;

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

SECTION 1. The Amarillo Municipal Code, Chapter 10-3, Article VI, be and hereby is amended to rename the Article and to create a new Division 1 for certain existing sections without amendment, and a change to the reserved sections, as follows:

ARTICLE VI. ~~CURFEW HOURS FOR~~ VIOLATIONS PERTAINING TO MINORS

Division 1. Curfew

Sec. 10-3-71. to 10-3-75. [NO TEXT CHANGE TO THESE SECTIONS.]

Secs. 10-3-76—10-3-99 79. Reserved.

SECTION 2. The Amarillo Municipal Code, Chapter 10-3, Article VI, be and hereby is amended to add a new Division 2, and new Sections 10-3-80 to 10-3-86, to read as follows:

Division 2. Host Liability for Underage Drinking

Sec. 10-3-80. Definitions.

The following words, terms and phrases, when used in this article, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic Beverage, has the meaning provided in the Texas Alcoholic Beverage Code.

Gathering involving underage drinking (or, “*gathering*,” “*occurrence*”), means a gathering of two (2) or more persons at which two or more underage persons possess or consumes an alcoholic beverage.

Premises means the place, property, location, or structure upon which or in which a gathering involving underage drinking occurs. The term includes but is not limited to a residence; a business; property used for any commercial, industrial, or agricultural purpose; abandoned, vacant, or occupied property; it may be a place licensed or permitted or not for the service, sell or distribution of an alcoholic beverage. For purposes of this Division, it is immaterial that the Premises was or was not used by invitation or for a fee, rent, license, or other consideration or token. The term “Premises” does not include property owned by a governmental entity.

Public safety services and/or response costs (or *cost recovery*), means the reasonable costs arising out of the response by law enforcement, fire and other emergency response providers to a gathering involving underage drinking. This amount includes but is not limited to: (a) The portion of the cost of salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, transporting a person(s) away, or otherwise incurred in dealing with the gathering involving underage drinking, and the administrative costs, meaning call-taker and dispatch personnel which is attributable to such response. This may be an average or blended rate for administrative convenience so long as it fairly approximates the cost of response; and, (b) The cost of medical treatment to or for any law enforcement, fire or other emergency response personnel injured while responding to, at, or transporting a person(s) away from the scene of a gathering involving underage drinking; and (c) a reasonable cost for each vehicle used for the response plus the cost of repairing any damage to same, incurred while responding to, remaining at, or transporting away of a person(s) from the scene of a gathering involving underage drinking.

Parent, means a person who is a natural parent, adoptive parent, or step-parent of an underage person. This term includes a Guardian (whether by that title or any other title), which is: (a) a person who, by court order, is designated as the guardian of the person of a minor; or (b) a public or private agency with whom a minor has been placed by a court.

Responsible Person means (whether one or more) a person that is at least 18 years old and is the owner, tenant, occupant, or a person in charge of a Premises, or any combination of such parties, regardless of whether or not such party was present at the occurrence involving underage drinking. All parties described in this definition are jointly and severally liable for each occurrence of a gathering involving underage drinking at the Premises.

Underage person, means a person under twenty one (21) years of age.

Sec. 10-3-81. Prohibition and Civil Offense; Defenses.

a. Prohibition and Offense: Except as provided by subsection b, it is prohibited within the city limits and an offense (civil violation) for a Responsible Person to allow, suffer, permit, or host a gathering involving underage drinking at a Premises under such person's ownership or control.

b. Defenses: It shall be a defense to the offense stated in sub section a., above, that:

(1) an event, activity or occurrence is lawfully licensed or permitted by a state or local government for the purpose of underage drinking to occur;

(2) an event, activity, or occurrence is one for which a court of competent jurisdiction or the Legislature have declared to involve protected by the First or Fourteenth Amendments to the United States Constitution, thereby specifically mandating the allowance of underage drinking; or

(3) every underage person present during the gathering involving underage drinking is either (i) accompanied by his or her parent, guardian, or spouse, or (ii) has had the disability of minority removed in accordance with Texas law, thereby rendering it lawful for the minor to possess or consume an alcoholic beverage.

Sec. 10-3-82. Civil citation or notice of violation; warning not required.

a. There is no requirement of a warning by a peace officer prior to the issuance of the civil citation or a complaint and summons. If a Responsible Person for the Premises is present at the time of a violation described in Section 10-3-81, then a peace officer may issue a civil citation to such person for the violation described in that section. If a Responsible Person is not present or cannot be identified at the time of the gathering, then the law enforcement officer may later issue a civil citation to any and all Responsible Persons who may be identified by law enforcement within thirty (30) days after the date of the occurrence. Each notice of violation may be delivered in person or by certified mail.

b. Every notice of civil violation shall include:

1) The name(s) of each person alleged to be an owner, tenant, occupant, or person in charge of the Premises at the time of the occurrence involving underage drinking. The citation need not specify any particular capacity of a Responsible Person as to the Premises.

2) The location of the Premises and the date and time of the alleged civil violation;

3) A description of the violation by name of the civil offense and reference to this Code of ordinances;

4) The range of possible civil penalties for which the person may be liable plus the potential addition of public safety cost recovery, with a City invoice to follow by regular mail;

5) Notice of the right to contest the violation and have a hearing before the City's Office of Civil Administrative Hearings; and

6) Notice that failure to either timely contest or pay the civil penalty is deemed to be an admission of liability and a waiver of the right to challenge or appeal the imposition of the civil penalty.

Sec. 10-3-83. Civil penalty; Assessment for Recovery of Public Safety Response

Costs.

a. Civil penalty. The Responsible person identified by the police shall be assessed and invoiced for a civil penalty of \$300.00 for a first violation of Sec. 10-3-81. For each subsequent violation of that section, the defendant shall be assessed a civil penalty of \$500.00 per violation. The civil penalty prescribed by this section is separate from any civil cost recovery fee which may also be assessed.

b. Civil Cost Recovery. The Responsible Person identified by the police may also be assessed and invoiced for the costs for the public safety response to the gathering involving underage drinking as provided in this subsection.

1) The amount of public service response cost recovery shall be the response costs as defined in Sec. 10-3-80, as calculated and shown in a charge-out rate chart to be calculated annually by the Finance Director or designee in coordination with the police chief, fire chief, and EMS chief or their respective designees. This chart of costs shall be used for determining the public safety response costs which may be assessed as cost recovery for an occurrence.

2) Provided however, there shall not be assessed any public safety response cost recovery when any of the following conditions exist. It is the responsibility of the

police department to promptly inform the Finance Director when these exclusionary conditions exist:

(a) a peace officer uses discretion to issue a warning at a gathering involving underage drinking and upon issuance of any such warning the gathering immediately disbands and disperses without further law enforcement action, fire response, or medical response; or

(b) for the costs of fire or medical response, when a person at the gathering calls for such emergency services for an actual or perceived emergency at the Premises, prior to the time of police first arriving at the scene of the gathering involving underage drinking.

3) If there is more than one Responsible Person for the Premises at which the gathering involving underage drinking occurs, then each such person or defendant is jointly and severally liable for the total assessed amount of the civil penalty and any assessed public safety response costs.

Sec. 10-8-84. Invoicing.

a. The amount of a civil penalty and any assessed civil cost recovery for public safety response shall be a debt owed to the City by the Responsible Person(s). Multiple Responsible Persons cited or noticed for a violation are jointly and severally liable for the total amount of the civil penalty and any assessed cost recovery.

b. The Finance Director or designee shall mail notice via certified mail within twenty (20) days after the date of the occurrence or the date the police provide Responsible Person information, whichever is later. The notice shall contain the following information:

- 1) The name(s) of the Responsible Person(s) alleged to be liable for the payment of such costs under the provisions of this Division;
- 2) The date, time, and address of the location where the gathering occurred;
- 3) The number of personnel and vehicles of each law enforcement, fire and/or emergency service agency which responded to the occurrence with an itemized list of the response costs for which the person(s) is liable (to facilitate proper allocation of cost recovery revenues to those respective entities);
- 4) The date and time of a previous warning, if any, concerning this or a similar gathering;

5) The date by which the recipient must either pay the penalty and any assessed cost recovery, or make written request for an administrative hearing to challenge the liability for the occurrence or imposition of response costs or civil penalty; and

6) A statement that failure or refusal to timely pay or contest the civil penalty or recovery costs is deemed to be an admission of liability, and a waiver of the right to challenge or appeal the imposition of the civil penalty and any assessed cost recovery.

c. The responsible person shall either remit payment of the noticed amount of civil penalty and any assessed cost recovery or make written request for an administrative hearing, no later than thirty-five (35) days after the date of the invoice. Payment shall be stayed upon a timely request for an administrative hearing.

Sec.10-3-85. Timely payment or request for a Hearing.

A Responsible Person receiving a civil citation or notice of violation pursuant to this Division, shall either timely pay the penalty and any assessed cost recovery or contest the violation by requesting a hearing before the City's Office of Civil Administrative Hearings per Article VI of Chapter 2-8 of this Code of Ordinances. For purposes of this Division, an action is "timely" if the payment or request for hearing is received by the City within 30 days after the date of the invoice for penalty and any cost recovery. The obligation to pay shall be stayed upon a timely request for an administrative hearing. Upon notice and conducting a hearing, the hearing officer may affirm or reverse the finding of civil liability for the alleged occurrence, and thereupon either affirm, reverse, or modify the invoiced amounts as supported by the evidence, findings, and interests of justice.

Sec. 10-3-86. Remedies cumulative; relationship to other laws.

(a) Delinquent payments past due under this Division may be collected by the City through any lawful means, including but not limited to, collection agent or suit by the City Attorney or designee for amounts owed plus costs, interest, and attorney fees, followed by post-judgment remedies in accordance with law. The remedies provided under this article are cumulative and shall not restrict the City to any other remedy to which it is entitled under law or equity, whether civil, criminal, or administrative in nature.

(b) Nothing in this Division shall be deemed to preclude the imposition of any criminal penalty under state law or other ordinance for a separate criminal offense arising out of the gathering involving underage drinking.

(c) Nothing in this Division shall be construed so as to conflict with any provision of state law or to prohibit or penalize conduct authorized or privileged by the state or federal constitutions.

Secs. 10-3-87- 10-3-99. Reserved.

SECTION 2. 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 3. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 4. Continuation. That nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 5. Penalty. A violation of this ordinance is a civil offense violation punishable by the civil penalty described herein, plus any assessed public service response cost recovery that may be assessed.

SECTION 6. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the 24th day of March, 2020; and PASSED on Second and Final Reading the 31st day of March, 2020.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan S. McWilliams City Attorney



Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 31, 2020	Council Priority	Public Safety
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Department	Legal	Contact Person	Marcus Norris, Deputy City Attorney
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Agenda Caption

CONSIDERATION OF ORDINANCE NO. 7843

This is the second and final reading of an ordinance expanding and further clarifying the duties of the Office of Civil Administrative Hearings in relation to civil penalties for violations of City ordinance.

Agenda Item Summary

This ordinance allows the Amarillo City Council to delegate city ordinance violations to the Office of Administrative Hearings for adjudication.

This change addresses the present and future need for increased usage of civil penalties for violations of city ordinances and to accommodate all types of civil matters which may be assigned to the Office. A civil process of administering certain city ordinance violations is a much more expeditious way to achieve a final resolution to matters that would be considered a nuisance under state law.

Requested Action

Approval of Ordinance on First Reading

Funding Summary

N/A

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval as presented

ORDINANCE NO. 7843

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 2-8 (MUNICIPAL COURT TO RE-TITLE SUCH CHAPTER; CHAPTER 2-8, ARTICLE VI (CIVIL ADMINISTRATIVE HEARINGS) TO MAKE VARIOUS AMENDMENTS TO CONFORM TO CHANGES MADE ELSEWHERE IN THE CODE; AND, TO CLARIFY COLLECTIONS; PROVIDING FOR SEVERABILITY, REPEALER, CONTINUATION OF PRIOR LAW; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Office of Civil Administrative Hearings (hereafter “Office”) was first created to administer civil penalties for photographic traffic signal enforcement (also known as red light cameras), and last year, the jurisdiction of the Office was expanded to administer civil parking, stopping, standing penalties; and,

WHEREAS, the trend for increased usage of civil penalties is expected to continue, it is prudent to revise the jurisdiction and procedures of the Office in broader terms to accommodate all types of civil matters which may be assigned to the Office, and thereby avoid piecemeal amendments; and

WHEREAS, there is a need to clarify the billing and collection process for the civil penalties and other sums that may be assessed by the Office or the Municipal Court after a civil appeal.

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

SECTION 1. The title for chapter 2-8 of the Amarillo Municipal Code be and hereby is amended to read as follows:

CHAPTER 2-8. MUNICIPAL COURT AND OFFICE OF CIVIL ADMINISTRATIVE HEARINGS

SECTION 2. The Amarillo Municipal Code, Chapter 2-8, Article VI, be and hereby is amended to read as follows:

ARTICLE VI. - CIVIL ADMINISTRATIVE HEARINGS

Sec. 2-8-200. - Administrative adjudication; evidence; penalty; appeal; etc. ~~other~~ procedures.

(a) Creation of Office. The City of Amarillo hereby creates the Office of Civil Administrative Hearings (hereafter, “Office”). The purpose of the Office is to provide civil administrative hearings and adjudications of such civil matters as may be assigned to the Office for disposition. For administrative, budgetary, and managerial purposes the City Manager may attach the Office of Civil Hearings to any City department, but oversight and supervision of the appointed hearing officers shall remain in the City Manager or designee.

~~(a)~~ (b) *Establishment of administrative civil adjudication.* For ~~accused violators persons~~ persons desiring to contest a notice of civil violation, civil citation or other civil process of any other name issued by the City, this Article provides for a system of civil administrative hearings for ~~the following~~

(1) such motor vehicle violations, which are deemed to be civil nuisances and not criminal offenses; which includes but is not limited to: (1) All stopping, standing, and parking violations, except any identified as criminal offenses in Section 1-1-5(e)(1) of this Code of Ordinances; and (2) All traffic signal photographic enforcement cases, as provided for in Article XII of Chapter 16-3 of this Code of Ordinances; and,

(2) Each and every other type or class of civil action, cause, penalty, assessment, or adjudication, whether as an original hearing or as an appeal from the decision of another official, which the Amarillo City Council may delegate to the Office by a separate ordinance so delegating a type or class of civil matter to this Office for hearing and determination.

~~(b)~~ (c) *Hearing officers.* A sufficient number of hearing officers shall be appointed by the city manager. Such officers shall have authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents, such orders to be enforced by the municipal court. ~~For budgeting purposes or administrative convenience, the city manager may assign the Office of Civil Hearings to a City department, but oversight of these appointees shall remain in the city manager or designee.~~ A Hearing officer is disqualified and shall not preside over any case in which the officer has a business relationship; a familial relationship within the third degree by blood or second degree by marriage; or, is otherwise unable to render a fair and unbiased opinion. In such a case, the hearing officers may exchange cases to avoid the conflict or bias if possible, or a special hearing officer to hear such case, as designated by the City Manager.

~~(e)~~ (d) *Notice of right to hearing; notice of time and place of scheduled hearings.*

(1) Notice of a civil parking violation pursuant to Section 1-1-5(e) may be affixed to the vehicle in a manner reasonably assured that it will be seen by the operator, or handed to the operator, if present.

(2) A notice of violation for a traffic signal photographic enforcement system shall be mailed to the registered owner as provided in Chapter 16-3, Article XII.

(3) All other civil citations or notices of violation shall be served by handing to the defendant if present at the time and place of the alleged violation or by certified mail if not present at the time of the alleged civil offense, or in any other reasonable manner

calculated to provide actual notice, as prescribed in an ordinance that creates a civil violation.

Upon receipt of a notice of violation, the named owner person (being the defendant) receiving a notice of violation must either timely pay the civil penalty or, alternatively, timely appear at the place, time, and day indicated in the notice of violation for an administrative hearing or as stated in any subsequent notice to appear mailed to the defendant's last known address, address on the State's vehicle title registration records or operator's driver's license address, if allowed for the type of violation being noticed.

Sec. 2-8-201. - Hearing procedures.

(a) Right to hearing. A person who receives a notice of civil violation advising the violator of a right to a civil administrative hearing may contest the imposition of the civil penalty ~~for the violation~~ by timely appearing or making a written request for administrative hearing as specified in the notice of violation. If neither the ordinance creating the civil offense, the notice of violation, nor citation specify an appearance date, then the defendant shall either pay the civil penalty or request a hearing within 30 days after receiving the notice or citation.

(b) Evidence. In a civil administrative hearing, the issues must be proved by a preponderance of the evidence. In addition to any other competent evidence offered at the hearing, the hearing officer is authorized to accept the following presumptive and prima facie evidence:

(1) Presumption. It is presumed that the registered title owner of ~~the~~ a vehicle that is the subject of ~~the~~ a hearing is the person who parked or stopped the vehicle, or other civil violation, at the time and place of the offense charged, if the actual operator is not known.

(2) Prima facie evidence. (i) A computer generated record of the State of Texas vehicle title data base indicating the registered vehicle owner is prima facie evidence of the facts stated therein; (ii) The original or copy of the summons or citation is prima facie evidence of the facts stated therein; and (iii) The failure or refusal of a person charged with a violation to appear at the hearing shall be deemed an admission of liability for the charged civil nuisance violation whereupon the officer may proceed to assess the penalty and any other sum authorized by ordinance.

(c) Affirmative defenses. The defendant shall have the burden to prove an affirmative defense by the preponderance of the evidence. It shall be an affirmative defense to the imposition of civil liability under this Article, ~~to be proven by a preponderance of the evidence,~~ that:

(1) ~~The~~ A motor vehicle was a stolen vehicle being operated by a person without the effective consent of the Owner;

(2) ~~The~~ A vehicle in violation was, at the time of violation, either stolen or was displaying a stolen license plate. To establish that the vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was a stolen plate at the time of the violation, the Owner must submit proof acceptable to the hearing officer that the theft of the vehicle or license plate had been promptly and previous to the violation reported to an appropriate law enforcement agency.

(3) The presence of ice, snow, unusual amounts of rain or other extenuating condition prevented strict compliance with a parking or stopping ordinance or law; or

(4) The person who received ~~the~~ a notice of violation was not the Owner of ~~the~~ a motor-vehicle at the time of the violation, as evidenced by a bill of sale or prior transfer or assignment of the State certificate of title for that motor vehicle.

(5) Any other affirmative defense that may be specifically provided for by a separate ordinance that creates a civil violation, cause, claim, or penalty.

(d) Record of hearing. ~~;~~ ~~other procedures.~~ The record of witness testimony shall be preserved by ~~the use of an audio tape recording, or a video tape recording court reporter or stenographer, or such other recording technology available to the City for appellant review.~~ Other procedures for conducting a hearing under this Article shall be as stated in [Chapter 16-3](#), Article XII. To the extent of any conflict or inconsistency between that Article XII and this Article, this Article shall prevail for hearings conducted pursuant to [Section 1-1-5\(e\)\(3\)](#).

(e) Other procedures. The provisions of this Article shall apply to all matters heard by the Office, except to the extent that an ordinance creating a civil violation may explicitly states a further or different procedural requirement, deadline, amount of penalty, or other provision to be observed by the Office in managing hearings for such violation, such as but not limited to, provisions of Chapter 16-3, Section 16-3-82 for photographic traffic signal hearings or Chapter 1-1, Section 1-1-5(e)(3) for stopping, standing, parking civil violations specified therein.

(e) (f) Entry of Order. At the conclusion of the hearing, the hearing officer shall issue a signed and dated order stating whether the person charged with the civil violation is liable for the violation and if so, shall ~~re~~-state the civil penalty amount and any other sum assessed pursuant to ordinance or law. The order shall also describe the right to appeal to municipal court in accordance with other provisions of this Article.

~~(f)~~ (g) Retention of records. The orders issued under this section together with any affidavits and other documents associated with each hearing or appeal shall be filed with and maintained by the Office of Civil Hearings, in a separate index and file for each hearing, either in hardcopy or electronic form. Such information shall be retained for the period specified by State law.

Sec. 2-8-202. - Appeal.

(a) A person who is found liable after an administrative hearing may appeal that determination of civil liability to the municipal court, by filing ~~both~~ the following items: (1) a written notice of appeal with the clerk of the municipal court not later than the 30th 31st day after the date on which the administrative hearing officer entered the written finding of civil liability, stating each separate alleged error made during the administrative hearing; and (2) either a bond, or a promissory note (that is immediately due and payable upon entry of a judgment of liability by the municipal court and providing for recovery of the City's reasonable attorney fees and court costs for collection of the note, and providing for waiver of notice, presentment, and demand) or a notarized statement of personal financial obligation, (that is, either post a bond or sign a promissory note that is immediately due and payable upon entry of a judgment of liability by the municipal court and providing for recovery of the City's reasonable attorney fees and court costs for collection of the note, and providing for waiver of notice, presentment, and demand) any of which must be in the amount of the civil penalty plus any other assessed amount; and, (3) paying the applicable civil court appeal fee of twenty-seven dollars (\$27.00).

(b) Collection or enforcement of the civil penalty and any other assessed amount is stayed during the period allowed for perfecting an appeal and during the pendency of the appeal.

(c) The clerk of the municipal court shall set the ~~matter~~ appeal for a trial-by judge as expeditiously as possible on the court's docket and issue notice of the date, time and place of the trial to the appellant and the City attorney's office. ~~The appeal shall be conducted as a civil trial de novo and all issues determined by the judge upon a preponderance of the evidence. The municipal judge shall allow into evidence all affidavits, prima facie evidence, or presumptions which were filed or allowed in the administrative hearing, subject to such evidence being further challenged or rebutted in the municipal court trial.~~

(d) The appeal shall be conducted as a civil bench trial de novo with all issues determined by the judge upon a preponderance of the evidence. The municipal judge shall consider allowing all affidavits, relevant and material evidence, defenses, and presumptions as

were filed or allowed by ordinance for the particular civil violation, subject to such evidence being further challenged or rebutted during the municipal court trial.

~~(d)~~ (e) At the conclusion of the trial, the trial judge shall enter a written judgment declaring whether the person is liable for the nuisance, civil offense, and civil penalty stated in this Article or is not liable for same. A person found liable in the municipal court trial shall immediately pay the civil penalty, any other assessed amount allowed by an ordinance or law, and any outstanding costs prescribed by this ~~Article~~ Code of Ordinances or law. The court is authorized to immediately collect the civil penalty by cash, credit card, a payment plan arrangement for an indigent person, or by immediately proceeding against any bond, ~~or note, or other security~~ posted by the person. If the person is exonerated, then the statement of personal financial obligation, bond, note or other security required to perfect the appeal shall be immediately released.

Sec. 2-8-203. - Nature of liability; collection.

(a) *Nature of liability.* The imposition of a civil penalty as well as any other authorized assessment against the Defendant under this Article is not a criminal conviction for any purpose and the matter shall not be reported to any insurance company or state agency ~~that issues driver licenses or maintains driving records.~~ However, a failure to pay the civil penalty or a late fee may be enforced or collected as follows:

(b) *Vehicle impoundment.* If a vehicle has been the subject of six (6) or more civil nuisance violations ~~(that is, a civil stopping, standing, or parking offense pursuant to [section 1-1-5\(e\)](#); a red light camera violation; or, a combination of those violations)~~ within the prior twelve (12) months, or a sum of three hundred dollar (\$300.00) or more is then past due for unpaid civil penalties or costs, and that vehicle is again found parked on a public street, alley, right-of-way, easement, or government owned property, then the police may impound the vehicle in accordance with the procedures then in place for non-consent towing (see, Chapter 10-3, Article VII). The vehicle owner is then liable for payment of outstanding parking penalties, any costs that have been assessed by a hearing officer, and the fees owed to the towing company, all of which must be paid before the vehicle will be released. In accordance with Texas Occupation Code, Chapter 2308, Subchapter J, a person who believes his/her vehicle was towed without probable cause is entitled to a hearing in justice of the peace court, upon timely request for a hearing on that issue.

~~(c)(b) Hold-on-vehicle registration.~~ *Registration Hold.* ~~Hold-on-vehicle registration.~~ As provided by Texas Transportation Code § 702.003 reporting to the Texas Department of

Transportation an outstanding and unpaid penalty and costs assessed against ~~that~~ a vehicle, by a hearing officer or municipal judge. A county may thereafter refuse to re-register the vehicle until the amount is paid to the City.

~~(d)~~ (e) *Other civil action* . Unless prohibited by other law, the city attorney or designee is authorized to file suit and to take other reasonable steps to collect the civil penalty and any fees imposed.

(e) Collection. The City's finance director or designee shall invoice amounts due as civil penalty, plus any other authorized assessment or cost, to the last known address of each responsible person or defendant as their interests may appear. If the sum due is neither timely paid nor a timely payment plan arranged by the defendant, then the matter may be placed for collection by any commercially reasonable means or contractor used by the City for that purpose.

~~(e)~~ (f) *Other civil action.* Unless prohibited by other law, the city attorney or designee is authorized to file suit to seek recovery of principal amount due, all forms of interest, court costs, and reasonable attorney fees in accordance with law, and to take other reasonable steps to collect the civil penalty and any fees imposed.

Sec. 2-8-204. - No double violations charges.

A civil citation, notice of violation, or penalty may not be imposed ~~under this Article on the Owner of a vehicle~~ if the operator of the vehicle defendant was arrested or was issued a criminal citation or summons to appear in municipal court for the same violation of law for which a civil penalty is to be imposed. However, a civil penalty may be imposed on the ~~vehicle Owner for the violation~~ defendant if the criminal arrest, citation, or summons ~~of the vehicle operator~~ is for a different violation of law than that for which the notice of civil violation ~~of a civil nuisance as defined in this Code of Ordinances~~ was issued, even if arising out of the same conduct, occurrence, event, facts, or transaction.

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, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 5. Continuation. That nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court or administrative tribunal, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance; nor shall any vested legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 6. Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the 24th day of March, 2020; and PASSED on Second and Final Reading the 31st day of March, 2020.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan S. McWilliams, City Attorney

Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 31, 2020	Council Priority	Regular Agenda Item – Public Hearing
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Department	Planning and Development Services Cris Valverde - Assistant Director of Planning and Development Services
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Agenda Caption

This is the second and final reading of an ordinance rezoning a 1.00 acre tract of unplatted land in Section 43, Block 9, B.S.&F. Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Office District 2. (Vicinity: Coulter St. and Evans Dr.)

Agenda Item Summary

Adjacent land use and zoning

Adjacent zoning consists of Office District 2 to the east and Agricultural District in all other directions.

Adjacent land uses consist of the Texas Oncology-Amarillo Cancer Center to the east and undeveloped land in all other directions.

Analysis

The applicant is requesting a change in zoning in order to expand off-street parking for the Texas Oncology-Amarillo Cancer Center immediately east of this tract. Because the tract on which the proposed parking lot is planned for is zoned inappropriately for office related land uses, rezoning must occur.

Analysis of a zoning change begins with referring to the Comprehensive Plan's Future Land Use and Character Map and conformance to the Comprehensive Plan's recommended Neighborhood Unit Concept (NUC) of development. Additionally, analyzing what impact a proposed change in zoning will have on area zoning and development patterns is considered.

Considering this is merely an expansion of existing office zoning for an existing office land use that has previously been deemed to be in conformance with both the Future Land Use and Character Map and the NUC and that the proposal also conforms to the just mentioned map and concept, the Planning and Zoning Commission is of the opinion that the proposed rezoning will not have any negative impacts on area zoning and/or development patterns.

Requested Action/Recommendation

Notices have been sent to all property owners within 200 feet regarding this proposed rezoning. As of this writing, no calls have been received regarding this rezoning request.

Considering the above, the Planning and Zoning Commission recommends APPROVAL as presented.

ORDINANCE NO. 17844

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 EVANS DRIVE AND COULTER STREET, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the "Amarillo Comprehensive Plan" on October 12, 2010, which established guidelines in the future development of the community for the purpose of promoting the health, safety, and welfare of its citizens; and

WHEREAS, the Amarillo Municipal Code established zoning districts and regulations in accordance with such land use plan, and proposed changes must be submitted to the Planning and Zoning Commission; and

WHEREAS, after a public hearing before the Planning and Zoning Commission for proposed zoning changes on the property hereinafter described, the Commission filed its final recommendation and report on such proposed zoning changes with the City Council; and

WHEREAS, the City Council has considered the final recommendation and report of the Planning and Zoning Commission and has held public hearings on such proposed zoning changes, all as required by law; and

WHEREAS, the City Council further determined that the request to rezone the location indicated herein is consistent with the goals, policies, and future land use map of the Comprehensive Plan for the City of Amarillo, Texas.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of a 1.00 acre tract of unplatted land in Section 43, Block 9, B.S.&F. Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Office District 2 and being further described below:

A 1.00 acre tract of land situated in the Northeast quarter (NE/4) of Section 43, Block 9, B.S. & F. Survey, Potter County, Texas, and being a portion of a tract of land as described in that certain instrument of conveyance recorded in Volume 1323, Page 17 (Tract 2) of the Deed Records of Potter County, Texas. Said 1.00 acre tract of land having been surveyed on the ground by Furman Land Surveyors, Inc. on October 30, 2019 and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8 inch iron rod with cap stamped "HBD" found at the Southwest corner of Block 6, Ridgeview Medical Center Unit No. 24, an addition to the City of Amarillo being a replat of Lot 1, Block 6, Ridgeview Medical Center Unit No. 13, in Section 43, Block 9, B.S. & F. Survey, Potter County, Texas, according to the map or plat thereof recorded under Clerk's File No. 1302504 of the Official Public Records of Potter County, Texas, same point being the Southeast corner of the herein described tract of land, from whence a 1/2 inch iron rod found at the Southeast corner of said

Ridgeview Medical Center Unit No. 24 bears South 89° 46' 54" East (base line), 500.00 feet;

THENCE North 89° 46' 54" West along the North right-of-way line of Evans Drive (as dedicated by plat recorded in Volume 2635, Page 655, Official Public Records, Potter County, Texas), a distance of 90.75 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set at the Southwest corner of this tract of land, from whence a 3/8 inch iron rod with cap stamped "RPLS 4664" found at the Northwest corner of said Evans Drive bears North 89° 46' 54" West, 439.68 feet;

THENCE North 00° 24' 31" West, at 90.75 feet from and parallel with the West line of said Ridgeview Medical Center Unit No. 24, a distance of 480.00 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set at the Northwest corner of this tract of land;

THENCE South 89° 46' 54" East, 90.75 feet to a 3/8 inch iron rod with cap stamped "RPLS 4664" found at the Northwest corner of said Ridgeview Medical Center Unit No. 24, same point being the Northeast corner of this tract of land, from whence a 3/8 inch iron rod with cap stamped "RPLS 4664" found at the Northeast corner of said Ridgeview Medical Center Unit No. 24 bears South 89° 46' 54" East, 500.00 feet;

THENCE South 00° 24' 31" East along the West line of said Ridgeview Medical Center Unit No. 24, a distance of 480.00 feet to the PLACE OF BEGINNING and containing a computed area of 1.00 acre of land, more or less.

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 24th day of March, 2020 and **PASSED** on Second and Final Reading on this the 14th day of April, 2020.

Ginger Nelson, Mayor

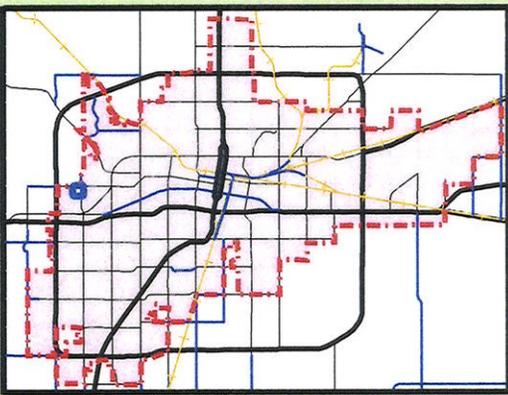
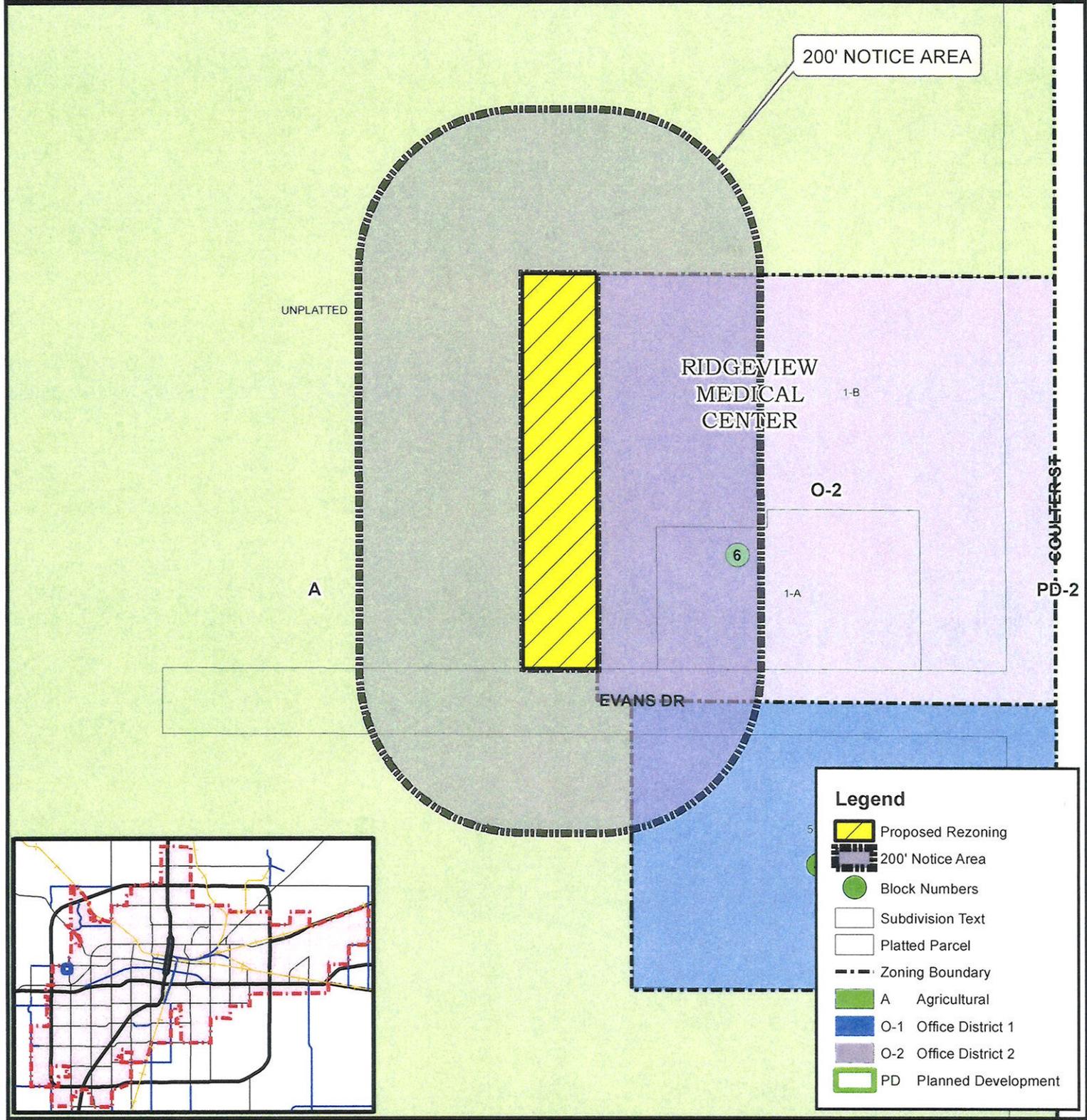
ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
City Attorney

REZONING FROM A TO O-2



Legend

- Proposed Rezoning
- 200' Notice Area
- Block Numbers
- Subdivision Text
- Platted Parcel
- Zoning Boundary
- A Agricultural
- O-1 Office District 1
- O-2 Office District 2
- PD Planned Development

CITY OF AMARILLO PLANNING DEPARTMENT

Scale: 1 inch = 167 feet
 Date: 2/17/2020
 Case No: Z-20-03



Rezoning of a 1.00 acre tract of unplatted land in Section 43, Block 9, B.S.&F. Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District (A) to Office District 2 (O-2).

Applicant: Mike Hughes for FMC Services, LLC

Vicinity Evans Drive & South Coulter Street

AP: I-12

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	March 31, 2020	Council Priority	Regular Hearing	Agenda Item – Public
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Department	Planning and Development Services Cris Valverde - Assistant Director of Planning and Development Services
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Agenda Caption

This is the second and final reading of an ordinance rezoning a 6.47 acre tract of unplatted land in Section 64, Block 9, B.S.& F. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 to Moderate Density District.

(Vicinity: Nancy Ellen St. & Ellen Hope St.)

Agenda Item Summary

Adjacent land use and zoning

Adjacent zoning consists of Residential District 3 to the north, west, and south and Residential District 1 and 2 to the east.

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

Analysis

Analysis of a zoning change begins with referring to the Comprehensive Plan's Future Land Use and Character Map and conformance to the Comprehensive Plan's recommended Neighborhood Unit Concept (NUC) of development. Additionally, analyzing what impact a proposed change in zoning will have on area zoning and development patterns is considered.

Although this particular area and the entire section for that matter, is designated as Suburban Residential by the Future Land Use and Character Map, much of the Hillside Terrace Residential Subdivision has developed with General Residential development types. So in terms of strict compliance with the above, it does not match the recommended type of development. That said, the proposed zoning designation is in line with General Residential development types that have long been established for this subdivision in that it allows for more dense residential product.

Regarding the Neighborhood Unit Concept of Development, this concept calls for more intensive uses such as retail, office, multi-family development, or high density residential to be located at or near Section Line Arterial Intersections, adjacent to major thoroughfares, or periphery of the section.

Because a higher density residential zoning is being proposed at the periphery of the subdivision and adjacent to the new Loop 335, Planning Commissioners are of the opinion that the request is consistent with the Neighborhood Unit Concept of Development in that a more dense residential development will act as a buffer to the less dense residential areas inward of the section.

Considering the above, Planning Commissioners believe that if approved, the applicant's request will not create any negative impacts on the surrounding zoning and/or development patterns in the area.

Requested Action/Recommendation

Notices have been sent to all property owners within 200 feet regarding this proposed rezoning. As of this writing, two calls have been received regarding this request. Both callers sought clarification as to development intended for the area. Staff provided the information given by the developer, in that one-family detached/ attached residential units are to be built. Upon being informed of the developer's plans, the callers expressed no opposition to the request.

ORDINANCE NO. 7845

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 NANCY ELLEN STREET AND ELLEN HOPE STREET, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the "Amarillo Comprehensive Plan" on October 12, 2010, which established guidelines in the future development of the community for the purpose of promoting the health, safety, and welfare of its citizens; and

WHEREAS, the Amarillo Municipal Code established zoning districts and regulations in accordance with such land use plan, and proposed changes must be submitted to the Planning and Zoning Commission; and

WHEREAS, after a public hearing before the Planning and Zoning Commission for proposed zoning changes on the property hereinafter described, the Commission filed its final recommendation and report on such proposed zoning changes with the City Council; and

WHEREAS, the City Council has considered the final recommendation and report of the Planning and Zoning Commission and has held public hearings on such proposed zoning changes, all as required by law; and

WHEREAS, the City Council further determined that the request to rezone the location indicated herein is consistent with the goals, policies, and future land use map of the Comprehensive Plan for the City of Amarillo, Texas.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of a 6.47 acre tract of unplatted land in Section 64, Block 9, B.S.&F. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 to Moderate Density District and being further described below:

A 6.47+/- acre tract of land situated in Section 64, Block 9, B.S. & F. Survey, Randall County, Texas and being a portion of a 545.99+/- acre tract as described in that certain instrument recorded under Clerk's File No. 2006009301 of the Official Public Records of Randall County, Texas, said 6.47+/- acre tract of land having been surveyed on the ground by Furman Land Surveyors, Inc. and being further described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with cap (FURMAN) found in the East line of that certain 39.676+/- acre tract of land described in that certain instrument recorded under Clerk's File No.

2018002438 of the Official Public Records of Randall County for the most West Northwest corner of a 13.72+/- acre tract of land to be filed with the Randall County Clerk as Hillside Terrace Estates Unit No. 28, from whence the most West Southwest corner of said future Hillside Terrace Estates Unit No. 28 bears S. 00° 13' 27" E. (Base line) 1087.50;

THENCE N. 00° 13' 27" W. 177.24 feet along the East line of said 39.676+/- acre tract to a 5/8 inch iron rod with aluminum cap (TxDOT) found;

THENCE N. 05° 39' 38" E. 462.81 feet along the East line of said 39.676+/- acre tract to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the Northwest corner of this tract of land;

THENCE N. 89° 38' 18" E. 426.76 feet to a 1/2 inch iron rod with cap (FURMAN) found for the most North Northwest corner of said future Hillside Terrace Estates Unit No. 28, same being the Northeast corner of this tract of land;

THENCE S. 00° 21' 42" E. 60.00 feet to a 1/2 inch iron rod with cap (FURMAN) found;

THENCE S. 45° 21' 42" E. 7.07 feet to a 1/2 inch iron rod with cap (FURMAN) found;

THENCE S. 00° 21' 42" E. 240.00 feet to a 1/2 inch iron rod with cap (FURMAN) found;

THENCE S. 44° 38' 18" W. 7.07 feet to a 1/2 inch iron rod with cap (FURMAN) found;

THENCE S. 00° 21' 42" E. 55.00 feet to a 1/2 inch iron rod with cap (FURMAN) found;

THENCE S. 45° 21' 42" E. 7.07 feet to a 1/2 inch iron rod with cap (FURMAN) found;

THENCE S. 00° 21' 42" E. 240.00 feet to a 1/2 inch iron rod with cap (FURMAN) found for the most East Southeast corner of this tract of land;

THENCE S. 44° 38' 18" W. 7.07 feet to a 1/2 inch iron rod with cap (FURMAN) found for the most South Southeast corner of this tract of land;

THENCE S. 89° 38' 18" W. 321.55 feet to a 1/2 inch iron rod with cap (FURMAN) found for the beginning of a curve to the right whose center bears N. 00° 21' 42" W. 37.00 feet;

THENCE Northwesterly 31.20 feet along said curve to the right with a long chord of N. 66° 12' 03" W. 30.29 feet to a 1/2 inch iron rod with cap (FURMAN) found for the end of said curve, same being the beginning of a curve to the left whose center bears S. 47° 57' 36" W. 60.00 feet;

THENCE Southwesterly 139.84 feet along said curve to the left with a long chord of S. 71° 11' 22" W. 110.27 feet to a 1/2 inch iron rod with cap (FURMAN) found for the end of said curve;

THENCE S. 89° 38' 18" W. 21.95 feet to the POINT OF BEGINNING and containing 6.47 acres of land, more or less.

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 24th day of March, 2020 and **PASSED** on Second and Final Reading on this the 14th day of April, 2020.

Ginger Nelson, Mayor

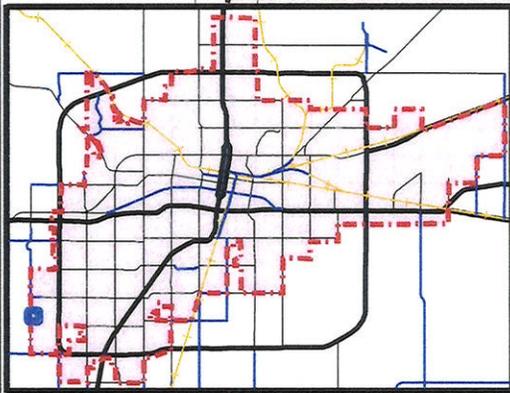
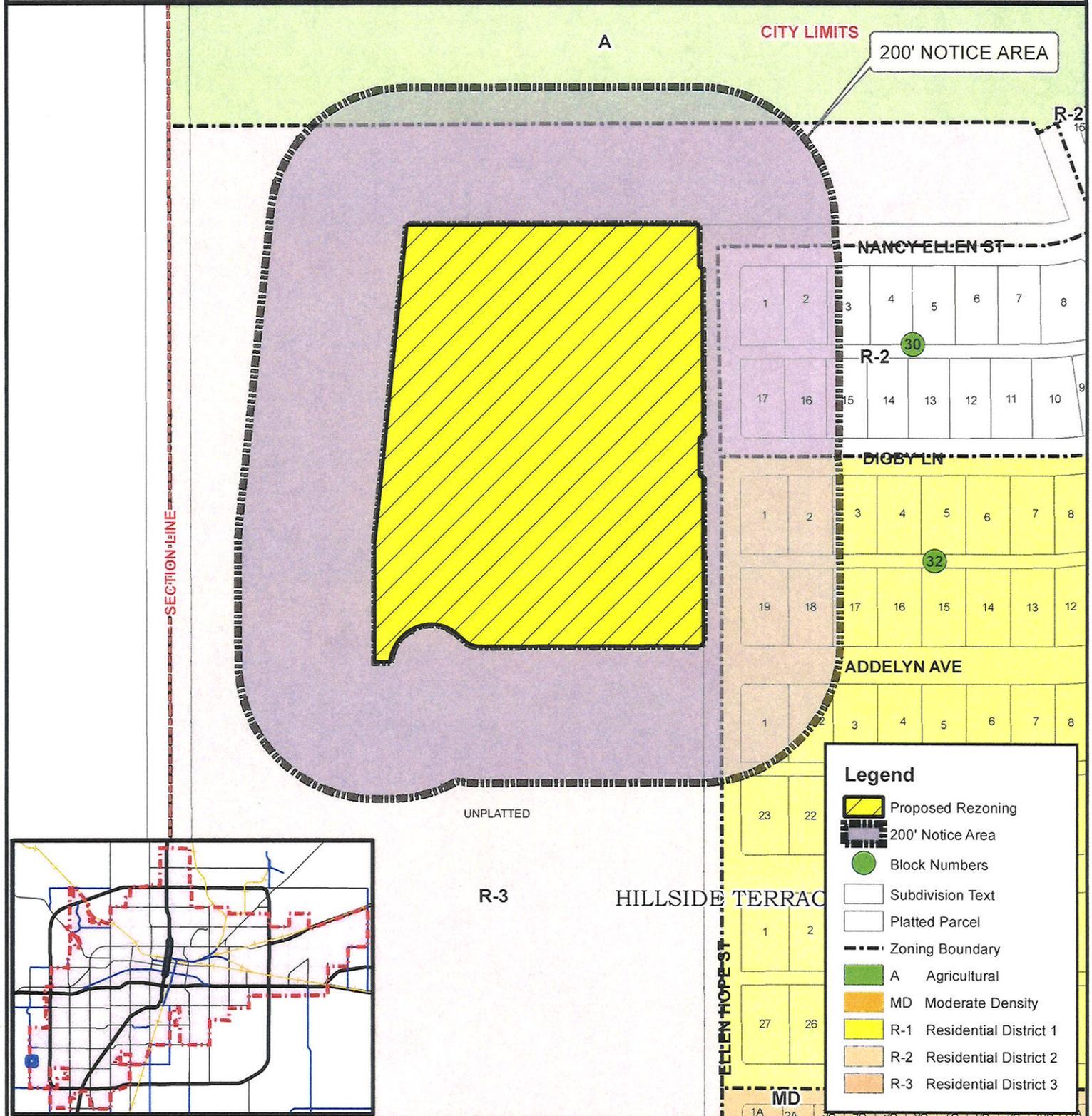
ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
City Attorney

REZONING FROM R-3 TO MD



Legend

- Proposed Rezoning
- 200' Notice Area
- Block Numbers
- Subdivision Text
- Platted Parcel
- Zoning Boundary
- A Agricultural
- MD Moderate Density
- R-1 Residential District 1
- R-2 Residential District 2
- R-3 Residential District 3

CITY OF AMARILLO PLANNING DEPARTMENT

Scale: 1 inch = 200 feet
 Date: 2/17/2020
 Case No: Z-20-04



Rezoning of a 6.47 acre tract of unplatted land in Section 64, Block 9, B.S.&F. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Residential District 3 (R-3) to Moderate Density District (MD).

Applicant: Seth Williams for PDUB Investments, LTD

Vicinity: Nancy Ellen Street and Ellen Hope Street

AP: H-16

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



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Meeting Date	March 31, 2020	Council Priority	Regular Agenda Item – Public Hearing
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Department	Planning and Development Services Cris Valverde - Assistant Director of Planning and Development Services
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Agenda Caption

This is the second and final reading of an ordinance rezoning a 4.45 acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Residential District 3. (Vicinity: Farmers Ave. and Gemini Trl.)

Agenda Item Summary

Adjacent land use and zoning

Adjacent zoning consists of Residential District 3 to the west, land outside the City Limits to the south, and Agricultural District to the north and east.

Adjacent land uses consist of single family detached homes to the west, a manufacturing facility outside of the City Limits to the south (Eaton Crouse-Hinds), and undeveloped land in all other directions.

Analysis

The applicant is requesting a change in zoning in order to continue development of single-family detached homes with the next phase of the South Georgia Place Subdivision.

Analysis of a zoning change begins with referring to the Comprehensive Plan's Future Land Use and Character Map and conformance to the Comprehensive Plan's recommended Neighborhood Unit Concept (NUC) of development. Additionally, analyzing what impact a proposed change in zoning will have on area zoning and development patterns is considered.

Although this particular area and the entire section for that matter, is designated as Suburban Residential by the Future Land Use and Character Map, all of the South Georgia Place Subdivision has developed with General Residential development types. So in terms of strict compliance with the above, it does not match the recommended type of development. That said, it is the Planning and Zoning Commission's opinion that the request is in line with General Residential development types that have long been established for this subdivision and section.

Regarding the Neighborhood Unit Concept of Development, this concept calls for more intensive uses such as retail, office, and multi-family development to be located at or near Section Line Arterial Intersections while residential be located mid-section.

With the proposed single-family detached zoning being located mid-section as recommended by the NUC, the Planning and Zoning Commission is of the opinion that the request is consistent with the just mentioned concept of development.

Considering the above, the Planning and Zoning Commission believes that if approved, the applicant's request will not create any negative impacts on the surrounding zoning and/or development patterns in the area and is a logical continuation of the adjacent residential product and Residential District 3 zoning.

Requested Action/Recommendation

Notices have been sent to all property owners within 200 feet regarding this proposed rezoning. As of this writing, no calls have been received regarding this rezoning request. Considering the above, the Planning and Zoning Commission recommends APPROVAL as presented.

ORDINANCE NO. 7846

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 FARMERS AVENUE AND GEMINI TRAIL, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the "Amarillo Comprehensive Plan" on October 12, 2010, which established guidelines in the future development of the community for the purpose of promoting the health, safety, and welfare of its citizens; and

WHEREAS, the Amarillo Municipal Code established zoning districts and regulations in accordance with such land use plan, and proposed changes must be submitted to the Planning and Zoning Commission; and

WHEREAS, after a public hearing before the Planning and Zoning Commission for proposed zoning changes on the property hereinafter described, the Commission filed its final recommendation and report on such proposed zoning changes with the City Council; and

WHEREAS, the City Council has considered the final recommendation and report of the Planning and Zoning Commission and has held public hearings on such proposed zoning changes, all as required by law; and

WHEREAS, the City Council further determined that the request to rezone the location indicated herein is consistent with the goals, policies, and future land use map of the Comprehensive Plan for the City of Amarillo, Texas.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of a 4.45 acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District (A) to Residential District 3 (R-3) and being further described below:

4.45 acre tract of land situated in Section 183, Block 2, A.B. & M. Survey, Randall County, Texas and being the remaining portion of a 52.516 acre tract of land as described in that certain instrument of conveyance recorded under Clerk's File No. 2006021200 of the Official Public Records of Randall County, Texas. Said 4.45 acre tract of land having been surveyed on the ground by Furman Land Surveyors, Inc. on January 30, 2020 and being more particularly described by metes and bounds as follows:

COMMENCING at a railroad spike found as called for in the South line of said Section 183 at the Southeast corner of a 2.18 acre tract of land as described in that certain instrument of conveyance recorded under Clerk's File No. 2016014173 of the Official Public Records of Randall County, Texas, from whence a railroad spike found as called for at the Southwest corner of said Section 183 bears North 89° 59' 53" West (base line), 2662.03 feet;

THENCE North 00° 03' 23" West, 63.75 feet to a 1/2 inch iron rod found at the Northeast corner of said 2.18 acre tract of land, same point being the Southeast corner of said 52.516 acre tract of land and also being the Southeast and BEGINNING CORNER of the herein described tract of land;

THENCE South 89° 56' 30" West along the South line of said 52.516 acre tract of land, same being the North line of said 2.18 acre tract of land, a distance of 157.32 feet to a 5/8 inch iron rod with cap stamped "RPLS 5437" found as called for at the Southeast corner of South Georgia Place Unit No. 32, an addition to the City of Amarillo, Randall County, Texas, according to the map or plat thereof recorded under Clerk's File No. 2017019332 of the Official Public Records of Randall County, Texas, same point being the Southwest corner of this tract of land, from whence a 1/2 inch iron rod found as called for at the Southwest corner of said 52.516 acre tract of land bears South 89° 56' 30" West, 752.50 feet;

THENCE North 00° 03' 23" West, 30.00 feet to an "X" cut in concrete found at a corner of this tract of land, same point being a corner of said South Georgia Place Unit No. 32 and also being the beginning of a curve to the left whose center point bears North 00° 03' 12" West, 50.00 feet;

THENCE Northeasterly along said curve to the left an arc distance of 124.91 feet with a long chord bearing North 18° 22' 43" East, 94.87 feet to a 5/8 inch iron rod with cap stamped "RPLS 5437" found as called for at the end of said curve;

THENCE North 00° 03' 23" West, 1250.00 feet to a 5/8 inch iron rod with cap stamped "RPLS 5437" found as called for at a corner of said South Georgia Place Unit No. 32, same point being a corner of this tract of land and also being the beginning of a curve to the left whose center point bears North 36° 55' 13" West, 50.00 feet;

THENCE Northwesterly along said curve to the left an arc distance of 119.91 feet with a long chord bearing North 15° 37' 18" West, 93.17 feet to an "X" cut in concrete found at the end of said curve;

THENCE North 00° 03' 23" West, 60.25 feet to a 5/8 inch iron rod with cap stamped "RPLS 5437" found as called for at the Northeast corner of said South Georgia Place Unit No. 32, same point being the Northwest corner of this tract of land, from whence a 1/2 inch iron rod found as called for at the Northwest corner of said 52.516 acre tract of land bears South 89° 56' 30" West, 1352.68 feet;

THENCE North 89° 56' 30" East, 152.32 feet to a 1/2 inch iron rod found as called for at the Northeast corner of said 52.516 acre tract of land, same point being the Northeast corner of this tract of land;

THENCE South 00° 03' 23" East along the East line of said 52.516 acre tract of land a distance of 1520.00 feet to the PLACE OF BEGINNING and containing a computed area of 4.45 acres of land, more or less.

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 24th day of March, 2020 and **PASSED** on Second and Final Reading on this the 14th day of April, 2020.

Ginger Nelson, Mayor

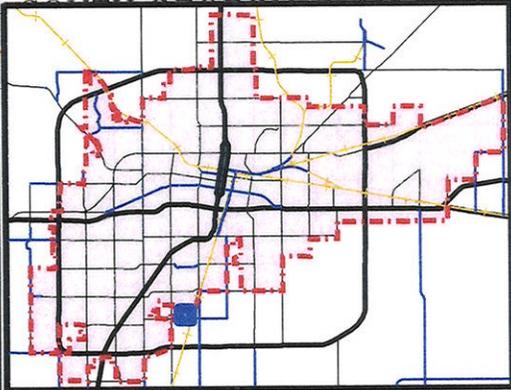
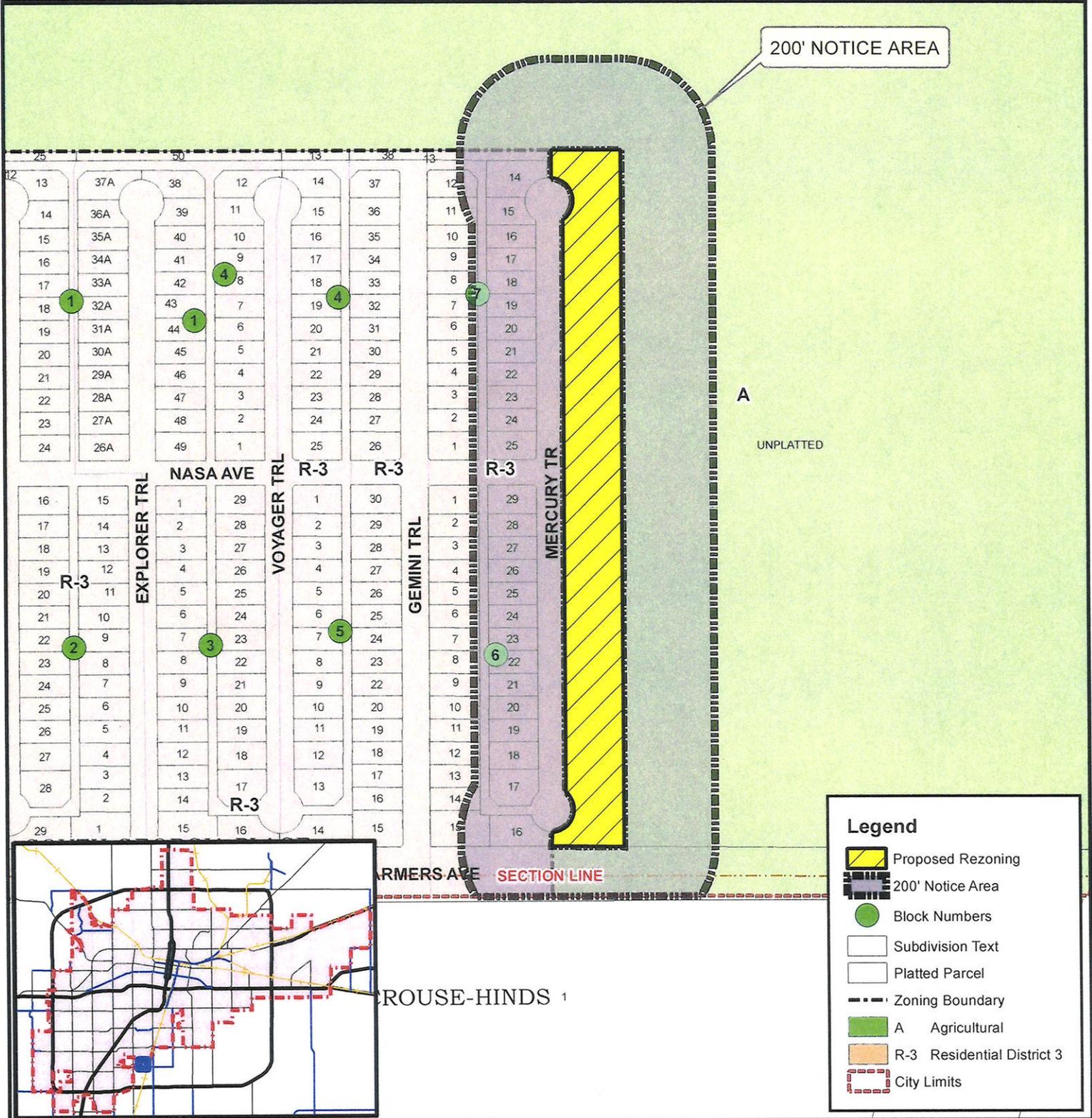
ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
City Attorney

REZONING FROM A TO R-3



Legend

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

CITY OF AMARILLO PLANNING DEPARTMENT

Scale: 1 inch = 300 feet
 Date: 2/24/2020
 Case No: Z-20-05



Rezoning of a 4.45 acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District (A) to Residential District 3 (R-3).

Applicant: Royce Barnett for Amarillo Willow Grove Development, LTD

Vicinity: Vicinity: Farmers Avenue and Gemini Trail

AP: M-16

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	March 31, 2020	Council Priority	N/A
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Department	Information Technology
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Agenda Caption

Award – Software Maintenance:
Open Text Inc. -- \$95,376.62

This purchase renews annual vendor-provided support and maintenance for Open Text eDOCS software which is utilized by all City departments for document management and retention.

Agenda Item Summary

This is a recurring annual agreement to receive support and upgrade entitlements from Open Text for licenses already owned and operated by the City.

Requested Action

Approval of award to Open Text Inc. in the amount of \$95,376.62.

Funding Summary

Funding is available in Information Technology account 62021.69300.

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval of award.

Bid No. 6774 OPEN TEXT/EDOCS RENEWAL

Opened 4:00 p.m., March 10, 2020

To be awarded as one lot

OPENTEXT

Line 1 eDocs DM Standard named user
client maintenance 500 Lic Product
#1000022719, per specifications

1 ea

Unit Price \$63,962.180

Extended Price 63,962.18

Line 2 eDocs RM Standard named user
client maintenance 500 Lic Product
#1000022743, per specifications

1 ea

Unit Price \$30,348.950

Extended Price 30,348.95

Line 3 eDocs DM Imaging Client 25 Lic
Product #1000022729, per
specifications

1 ea

Unit Price \$775.390

Extended Price 775.39

To be awarded as one lot

OPENTEXT

Line 4 eDocs RM Admin Tool 2 Lic
Product #1000022737, per
specifications

1 ea				
Unit Price	\$290.100			
Extended Price		290.10	-	-
<hr/>				
Bid Total		95,376.62	-	-
<hr/>				
Award by Vendor		95,376.62		
City		SAN MATEO		

H



Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 31, 2020	Council Priority	
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Department	IT
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Agenda Caption

Multi-Factor Authentication for Remote Access and Critical Applications

Agenda Item Summary

IT is rapidly expanding remote access to critical applications in response to Covid-19. Additionally, cyber attack on remote access has increased an estimated 800% and is heavily targeting governmental organizations. Multi-factor authentication (MFA) is essential to securing remote access and preventing breach through stolen credentials. This purchase was on the IT roadmap for fall of 2020 but had to be expedited and implemented before remote access is enabled. Enabling remote access at scale without MFA would introduce extreme risk of cyber breach.

Requested Action

Approve purchase and implementation of multi-factor authentication

Funding Summary

IT Infrastructure account: 62032.69300

Community Engagement Summary

NA

Staff Recommendation

Bid No. 6790 MULTI FACTOR AUTHENTICATION
Opened 4:00 p.m., March 24, 2020

To be awarded as one lot LAKESHORE IT SOLUTIONS

Line 1 Cisco duo security standard
access license subscription, per
specifications

1,636 ea

Unit Price \$43.630

Extended Price 71,378.68

Line 2 Cisco Duo Premium Tech Support,
per specifications

1 ea

Unit Price \$15,127.270

Extended Price 15,127.27

Bid Total 86,505.95

Award by Vendor 86,505.95

City FOX LAKE

A



Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 26, 2020	Council Priority	
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Department	Legal	Contact Person	Bryan McWilliams
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Agenda Caption

CONSIDERATION OF RESOLUTION NO. _____

DISCUSSION AND CONSIDERATION OF A RESOLUTION OF THE CITY OF AMARILLO, TEXAS POSTPONING THE BOND ELECTION CALLED FOR MAY 2, 2020, UNTIL NOVEMBER 3, 2020.

Agenda Item Summary

This Resolution allows for the postponement the City bond election set for May 2, 2020 pursuant to Governor Greg Abbott issued a proclamation on March 18, 2020 and Election Advisory No. 2020-12 authorizing political subdivisions that would otherwise hold elections on May 2, 2020 to move their general or special elections to November 3, 2020 due to public health and safety concerns related to the novel coronavirus (COVID-19) outbreak.

Requested Action

Approval of Resolution

Funding Summary

N/A

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval as presented

RESOLUTION NO. 03-31-20-_____

A RESOLUTION OF THE CITY OF AMARILLO, TEXAS POSTPONING THE BOND ELECTION CALLED FOR MAY 2, 2020, UNTIL NOVEMBER 3, 2020; ESTABLISHING PROCEDURES FOR THE POSTPONED ELECTION; AND PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 11, 2020 by Resolution No. 02-11-20-1, the Amarillo City Council called a bond election to be held on May 2, 2020; and

WHEREAS, on March 13, 2020, Texas Governor Greg Abbot declared a state of emergency related to the novel coronavirus outbreak of COVID-19; and

WHEREAS, on March 18, 2020 Governor Greg Abbott issued a proclamation authorizing political subdivisions that would otherwise hold elections on May 2, 2020 to move their general or special elections to November 3, 2020 due to public health and safety concerns and business disruption related to COVID-19; and

WHEREAS, the Texas Secretary of State has issued, pursuant to the Proclamation of March 18, 2020, Election Advisory No. 2020-12, to provide guidance to local political subdivisions regarding issues raised by the Proclamation, and

WHEREAS, federal, state, and local officials have determined that the spread of COVID-19 can be slowed by avoiding bringing people together, and the City Council hereby finds that the holding of the bond election might cause physical danger of infection to voters, election officials, and election volunteers.

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

SECTION 1. BOND ELECTION POSTPONED: The bond election in the City of Amarillo, Texas, called for Saturday, May 2, 2020 to determine whether the Council shall be authorized to issue general obligation bonds of the City in the amount of \$275,000,00.00 for permanent public improvements and public purposes, to wit; acquiring, constructing, improving, expanding, and equipping the City's convention center facilities; (as further described in Resolution No.02-11-20-1) is hereby postponed until the general election date of November 3, 2020.

SECTION 2. FILING DEADLINES: By postponing the election date, the City is preserving all filings and ballot order actions that have already taken place. That all matters including dates and timelines relevant to the November 3, 2020 elections, such as voter registration deadlines, applications for ballots by mail and dates for early voting shall be as provided by Texas law and Election Advisory 2020-12. The City Manager and City Secretary and other officials are authorized to make this so in accordance with this Resolution and the State authorities recited

above, without further City Council action.

SECTION 3. APPLICATIONS BALLOTS BY MAIL FOR THE MAY 2, 2020 ELECTIONS:
All single use applications for ballots by mail that were submitted for the May 2, 2020 election for reasons of age or disability remain valid for the November 3, 2020 election. Single use applications for ballots by mail submitted for the May 2, 2020 election that indicated the reason for voting by mail was due to absence from the county will not remain valid for the November 3, 2020 election.

SECTION 4. The City Council will, by subsequent action, amend Resolution No. 02-11-20-1 to comply with state law regarding early voting location, dates and hours, and any other changes caused by postponing this election to November 3, 2020.

SECTION 5. To the extent that this resolution or any part of it conflicts with a prior resolution, then such prior resolution is repealed to the extent of such conflict.

SECTION 6. If any part of this resolution is determined to be invalid, such invalidity shall not affect any other part(s) of this resolution.

SECTION 7. This resolution is effective on and from the date of adoption.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on this 31st day of March 2020.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, City Attorney

B



Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 31, 2020	Council Pillar	Economic Development
Department	AEDC		
Contact	Kevin Carter, President and CEO		

Agenda Caption

CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT – BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND GOLDEN SPREAD ELECTRIC COOPERATIVE, INC

Agenda Item Summary

GSEC is changing the model of totally outsourcing their transmission function to an in-house function and adding the ability to offer distribution services to their members. The first 5 jobs will be created in the first year with a ramp up of up to 10 more jobs over the next four years. The new jobs will have a salary range of \$80k-\$120k. Each job would be incentivized at the maximum of \$20,000 paid out over a 5 year period.

GSEC currently has a LIA that runs through 2022.

Requested Action

Approval of the Purchase Agreement as presented

Funding Summary

\$300,000

Staff Recommendation

AEDC staff is recommending approval of the Location Incentive Agreement. AEDC

LOCATION INCENTIVES AGREEMENT
by and between
AMARILLO ECONOMIC DEVELOPMENT CORPORATION
and
GOLDEN SPREAD ELECTRIC COOPERATIVE, INC.

This Location Incentives Agreement (“*Agreement*”), entered into effective as of the 1st day of June, 2019 (“*Effective Date*”), is by and between the AMARILLO ECONOMIC DEVELOPMENT CORPORATION (“*Amarillo EDC*”), a Texas 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 GOLDEN SPREAD ELECTRIC COOPERATIVE, INC., a Texas cooperative corporation, with its principal office in Amarillo, Potter County, Texas (“*GSEC*”).

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 **GSEC** to expand Amarillo Operations (defined below). Expenditures to improve, obtain, or retain **GSEC**'s staff and related facilities in the Amarillo area are expected to result in the retention and creation of new jobs and to have a substantial stimulative effect on the Amarillo economy both directly through new jobs within **GSEC**'s operations and as a result of **GSEC**'s expenditures for employee wages and goods and services in the Amarillo economy.

GSEC is a tax-exempt, consumer-owned public utility. **GSEC** offers its services primarily from its headquarters in Amarillo, Texas, serving its rural distribution cooperative members throughout the Texas Panhandle, South Plains and the Edward Plateau regions of Texas and the Panhandle of Oklahoma, Southwest Kansas and a small area of Colorado. **GSEC** 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 work force of a size **GSEC** believes is capable of supporting expansion of Amarillo Operations.

Amarillo EDC, by its execution of this Agreement, extends to **GSEC** an offer of financial incentives as inducement to expand Amarillo Operations. **GSEC**, by its execution of this Agreement, accepts **Amarillo EDC**'s offer of financial incentives and pledges to use commercially reasonable efforts to expand Amarillo Operations as provided in this Agreement.

The following defined terms will be used in this Agreement:

Defined Term	Definition
Affiliate	Any entity in which GSEC owns at least a 50% equity interest 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 Section 3 of this Agreement.
Amarillo Operations	GSEC's and its Affiliates' public utility activities provided primarily at or from GSEC's or its Affiliates' headquarters in Amarillo, Texas, including employees working in the Amarillo headquarters and residing in the counties of Potter, Randall, Oldham, Carson and Armstrong Counties, Texas, with jobs categorized primarily in NAICS Sector Number 221
Date One	May 31, 2020
Date Two	May 31, 2021
Date Three ¹	May 31, 2022
Employee	Employees of GSEC and its Affiliates engaged on behalf of GSEC or its Affiliates in Amarillo Operations and first employed by GSEC or its Affiliates on or after the Effective Date
Expansion Grant	As more particularly described in Section 1
Expansion Increment	Each full increment of one (1) FTE and \$75,000 in Payroll maintained in Amarillo Operations over and above the FTE Floor and the Payroll Floor, respectively; provided, however, in no event shall amounts beyond fifteen (15) FTEs or \$1,125,000 in Payroll over the respective floors be eligible for the Expansion Grant (defined below) payments hereunder.

¹ Date Four through Date Nine will correspond with May 31 of the applicable year. So, Date Nine will refer to May 31, 2028.

Defined Term	Definition
FTE	An employee, to be counted as one (1) FTE, shall be any employee who has worked one thousand nine hundred and fifty (1,950) hours or more during that period. Personal time off (“ <i>PTO</i> ”) taken by an employee consistent with the policies of GSEC shall be considered and treated as hours worked. In the event that an employee in a position is replaced by a new employee in the same position, the hours of both employees shall be considered one FTE. Employees working more than 1,950 hours in a year will be counted as one (1) FTE. Part-time Employees for a year shall be treated as partial FTEs for the year and shall be calculated by dividing the number of hours actually worked for each Employee working less than 1,950 hours by 1,950 and rounded to the nearest one-hundredth place. Full-time but less than full year Employees shall be treated as partial FTEs and calculated as above. In no event may any one person count as more than one (1) FTE for any year. The total of full-time FTEs and partial FTEs shall constitute the total FTEs for the year. Only hours worked in Amarillo Operations may be counted in the FTE determination.
FTE Floor	74 FTEs in Amarillo Operations
Payroll	Salary, hourly wages, and bonuses, but excluding fringe benefits
Payroll Floor	\$11,000,000 in Payroll in Amarillo Operations
Performance Year	Each 12-month period ending on Date One through Date Nine
Term	The earlier of ten (10) years from the Effective date or the completion of all requirements of both parties hereunder

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. INCENTIVE OPPORTUNITIES FOR GSEC’S EXPANSION OF AMARILLO OPERATIONS

1.1 From and after the Effective Date, **GSEC** agrees to use commercially reasonable efforts to expand Amarillo Operations by creating new FTEs and adding to Payroll. Expansion of Amarillo Operations shall be measured against both the FTE Floor and the Payroll Floor in each Performance Year. Provided **GSEC** qualifies under the terms of this Section 1, **Amarillo EDC** shall pay to **GSEC** one or more expansion grant payments under the terms of this Section 1 (each an “*Expansion Grant*” and together the “*Expansion Grants*”).

1.2 Each Expansion Grant shall be up to TWENTY THOUSAND DOLLARS (\$20,000.00),

payable in five (5) annual installments of up to FOUR THOUSAND DOLLARS (\$4,000.00) each, subject to reduction as described in Section 1.3. Payment shall be made to the following:

Golden Spread Electric Cooperative, Inc.
Attn: Accounts Payable
P.O. Box 9898
Amarillo, Texas 79105
Email: gsec-invoice@gsec.coop

GSEC shall be eligible for one Expansion Grant for each full Expansion Increment newly created during a year between the Effective Date and Date Five. To be eligible for an Expansion Grant, the Expansion Increment must have been fully created prior to Date Five. GSEC agrees to use commercially reasonable efforts to maintain each Expansion Increment in Amarillo Operations for a four (4) year period beginning with the day after the end of the year in which the Expansion Increment was originally created. For example, if the first full Expansion Increment is newly created in the year ending the day before Date Three, the 4-year Expansion Grant retention requirement begins on Date Three. **No Expansion Increment will be deemed to have been created unless and until both the full 1 FTE and \$75,000 in Payroll for such Expansion Increment have been newly created.**

- 1.3 The first of five (5) annual Expansion Grant installments called for under Section 1.2 shall be due after the Performance Year in which a full Expansion Increment is first newly created. For each of the four (4) years thereafter, if GSEC maintains both the additional 1 FTE and \$75,000 in Payroll related to such Expansion Increment, there shall be no deduction from the Expansion Grant installment amount due under Section 1.2 for such year, related to such Expansion Increment. If during the four (4) Performance Years after the first Expansion Grant installment is paid with respect to an Expansion Increment GSEC fails to maintain one or both of the FTE or Payroll amounts required for an Expansion Increment, the Expansion Grant installment related to such year and such Expansion Increment shall be reduced or eliminated altogether, as follows:
- a. Should GSEC meet only one of either the FTE or Payroll amounts required (1 for FTEs and \$75,000 for Payroll) related to an Expansion Increment, and miss the other target by no more than five percent (5%), the Expansion Grant installment called for under Section 1.2 for such year shall be calculated as follows: $\$4,000 \times \frac{\text{Actual amount of FTE or Payroll maintained [using the figure that fell short of the required amount]}}{\text{required amount}}$ related to such Expansion Increment / [1 if FTEs fell short or \$75,000 if Payroll fell short]).
 - b. There shall be no Expansion Grant installment due for such year under Section 1.2

if either: (i) GSEC meets only one of either the FTE or Payroll amounts required related to an Expansion Increment (again, being 1 additional FTE and \$75,000 in additional Payroll for each Expansion Increment), and misses the other requirement by more than five percent (5%); or (ii) GSEC fails to achieve (by any margin) both the FTE or Payroll amounts required related to such Expansion Increment.

No level of future performance by GSEC shall give rise to a payment obligation of Amarillo EDC related to prior deductions from Expansion Grant payments. **Each Expansion Increment shall be measured on its own, so each Expansion Increment stands on its own for purposes of the reduction or elimination of the four (4) annual Expansion Grant installment payments as described in Section 1.3. So, the denominator of the fraction in Section 1.3, above, shall only ever be 1 or \$75,000, depending on whether the additional FTE or Payroll requirement was missed for such year.**

- 1.4 The FTE and Payroll reports required to be provided by GSEC under Section 3 shall be used to measure whether an Expansion Increment has been newly created, and whether it has been maintained. Each installment of an Expansion Grant shall be payable within ten (10) business days of Amarillo EDC's receipt and approval of such reports which establish the creation and/or retention of an Expansion Increment. Failure to maintain an Expansion Increment in any one or more of the 4-year periods described in this section shall not, on its own, give rise to any repayment obligation of GSEC (a repayment obligation under other provisions of this Agreement may, however, be triggered, depending on the circumstances).
- 1.5 After each 4-year Expansion Grant payment and retention period, no Expansion Increment can be newly created for the same increment of FTEs and Payroll. The maximum number of Expansion Increments that qualify for Expansion Grant payments hereunder is fifteen (15).
- 1.6 GSEC will use the funds provided by Amarillo EDC under this Agreement only for the purpose of improving its national corporate headquarters to retain, maintain, or expand Amarillo Operations.

2. POTENTIAL REPAYMENT OBLIGATION OF GSEC

- 2.1 Notwithstanding anything else herein to the contrary and in addition to any other repayment obligation triggered in this Agreement:
 - a. Should Amarillo Operations cease while Amarillo EDC has any potential payment obligation under this Agreement, GSEC shall not receive any Expansion Grant payments for the year in which Amarillo Operations ceased, nor any future years.
 - b. Additionally, should Amarillo Operations cease prior to Date Five, GSEC shall

repay to **Amarillo EDC** one hundred percent (100%) of all amounts received by **GSEC** under this Agreement.

- 2.2 In addition to any other indication that **GSEC's** Amarillo Operations have ceased, Amarillo Operations shall be conclusively deemed to have ceased if: (i) **GSEC** fails to timely provide the reports required under this Agreement for more than one (1) Performance Year; or (ii) for any year in which **GSEC** is eligible for a payment under this Agreement, **GSEC** achieves less than \$8.8 million in Payroll or 59.2 FTEs.
- 2.3 Except as otherwise specifically provided herein, any repayment obligation of **GSEC** shall be fully due and payable to **Amarillo EDC** within fifteen (15) days of **Amarillo EDC's** written notice and demand therefore. Any repayment demand shall be sent to the notice party listed below and shall be sent by certified mail or hand delivery by courier, receipt confirmed.
- 2.4 Under no circumstance will **GSEC's** aggregate obligation for repayment under this Agreement to **Amarillo EDC** exceed the amount of funds advanced to **GSEC** by **Amarillo EDC** under this Agreement; provided, however, attorneys' fees and costs of suit may also be recovered by the prevailing party in any dispute arising from or relating to this Agreement.

3. MEASUREMENT OF AND PROVISIONS FOR REPORTING FTEs AND PAYROLL TO AMARILLO EDC

- 3.1 On or before January 31 of each year for the Term, **GSEC** shall, without demand or other request therefore, complete and provide to **Amarillo EDC** a written certificate (each a "**Certificate**" and together the "**Certificates**") certified in writing as true and correct by the President, Chief Executive Officer, or equivalent corporate official of **GSEC** on the form attached hereto as Exhibit A, for the immediately preceding Performance Year.

Provided **GSEC** has made commercially reasonable efforts to aggregate information or documents viewed by **Amarillo EDC** under this Section 3 to avoid violations of such statutes, and notwithstanding anything else herein to the contrary, **Amarillo EDC** agrees that **GSEC** shall not be required to provide any information if the provision thereof, or public release thereof, would result in any violation of U.S. federal, state or local laws or regulations, including without limitation privacy laws or regulations promulgated by the North American Electric Reliability Corporation ("**NERC**"), or information to which **GSEC** has a duty of confidentiality imposed by law, statute, regulation or contract. Information shall be aggregated as necessary to avoid such disclosure.

- 3.2 **GSEC** also shall allow **Amarillo EDC** and its agents to examine **GSEC's** records reasonably necessary to verify data provided by **GSEC** pursuant to Section 3.1 should

Amarillo EDC so request. **Amarillo EDC** understands that such information shall be for **Amarillo EDC's** use only in connection with confirming the accuracy of reports required hereunder and enforcing its rights relative thereto. **Amarillo EDC** agrees that such review and examination will be subject to the Confidentiality and Non-Disclosure Agreement executed by **Amarillo EDC** and **GSEC** on September 30, 2019 (“**NDA**”), and that a **GSEC** representative shall have the right to accompany **Amarillo EDC** or its agent during such review. Upon request by **GSEC**, **Amarillo EDC** shall execute an amendment to the **NDA** to provide that it will remain in effect for a term that is concurrent with the Term of this Agreement. Any inspection shall be done with at least five (5) days’ advance notice to **GSEC**, shall occur during normal working hours, and shall continue from day-to-day until complete. Notwithstanding anything else herein to the contrary, **Amarillo EDC** agrees that **GSEC** shall not be required to provide copies to **Amarillo EDC** of any information if (i) the provision thereof, or public release thereof, would result in any violation of U.S. federal, state or local laws or regulations, including without limitation privacy laws and NERC regulations, (ii) **GSEC** has a duty of confidentiality imposed by law, statute, regulation or contract with respect to such information or (iii) such information is commercially sensitive information.

- 3.3 **GSEC** will provide reports on a timely basis to **Amarillo EDC**, as provided above. Failure to do so will constitute a condition of default under this Agreement. In the event an FTE or Payroll amount reported to **Amarillo EDC** is discovered by **GSEC** to be inaccurate in any way, **GSEC** shall immediately notify **Amarillo EDC** of such inaccuracy and immediately provide a substitute report, highlighting each item of information which was inaccurate. If such replacement report establishes that **GSEC** 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, **GSEC** shall immediately repay such amount to the **Amarillo EDC** with interest at eight percent (8%) per year since the date of such improper payment.
- 3.4 To qualify as an Affiliate of **GSEC** under this Agreement, each such Affiliate shall execute and deliver to **Amarillo EDC** a written agreement by such Affiliate to be bound by the terms of this Section 3, to jointly and severally guaranty all repayment obligations to **Amarillo EDC** under this Agreement, and to have the Chief Executive Officer, or equivalent corporate official, certify all reports required hereunder as true and correct to **Amarillo EDC**. The qualification of any third-party as an Affiliate under this Agreement shall in no way alter the incentive payment procedures set forth in Section 1.1 (that is, Expansion Grant installments will only ever be payable to **GSEC**).
- 3.5 The Texas Public Information Act, the Texas Open Meetings Act, and certain document retention statutes and regulations (together, “**Public Information Laws**”) apply to **Amarillo EDC**. **Amarillo EDC** will promptly notify **GSEC** of any request for information provided by **GSEC** or pertaining to **GSEC** and will allow **GSEC** to seek to

protect such information from public disclosure. The **Amarillo EDC** will, for so long as it has documents or information that may be confidential or proprietary to **GSEC**, use commercially reasonable means available to it under the Public Information Laws to allow **GSEC** to 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 **GSEC** of any request involving its confidential or proprietary information.

4. **GSEC'S REPRESENTATIONS AND WARRANTIES**

GSEC 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 the following:

- 4.1 Golden Spread Electric Cooperative, Inc., is a cooperative corporation, duly organized and existing in good standing under the laws of the State of Texas.
- 4.2 The expansion of Amarillo Operations as provided herein and the execution of this Agreement are not in contravention of any law, rule or regulation or of the provisions of **GSEC's** articles of incorporation or bylaws (or similar formation and governing documents), or of any agreement or instrument to which **GSEC** is a party or by which it may be bound.
- 4.3 No litigation or governmental proceeding is pending, or, to the knowledge of any of **GSEC's** officers, threatened against or affecting **GSEC**, which may result in a material adverse change in **GSEC's** business, properties, or operations sufficient to jeopardize **GSEC** as a going concern.
- 4.4 No certificate or statement herewith, heretofore delivered, or to be delivered by **GSEC** 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.

5. **AMARILLO EDC'S REPRESENTATIONS AND WARRANTIES**

- 5.1 **Amarillo EDC** represents and warrants to **GSEC** as of the Effective Date the following:
 - a. **Amarillo EDC** 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 may result in **Amarillo EDC's** inability to meet its obligations under this Agreement.

6. FORCE MAJEURE

If, by reason of force majeure, such as fire, flood, windstorm, or other act of God, either party is reasonably unable to fulfill its obligations under this Agreement, such party shall use reasonable and diligent effort to rectify the situation within a reasonable time, which period shall, in no event, be longer than three (3) months, and which period shall be added to any scheduled period or deadline hereunder.

7. EVENTS OF DEFAULT AND REMEDIES

The following shall be events of default under this Agreement:

- 7.1 The insolvency of **GSEC**. "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.
- 7.2 The appointment of a receiver of **GSEC**, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- 7.3 The filing by **GSEC** of a petition to be adjudged a 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.
- 7.4 The failure of **GSEC** to promptly and timely pay or perform any of its material obligations under this Agreement.
- 7.5 Any material misrepresentation or materially inaccurate report, whether or not knowingly or intentionally provided, of **GSEC** to **Amarillo EDC**; provided, however, inaccuracies in the FTE or Payroll amounts reported by **GSEC** under this Agreement shall be "material" only if such reports over-stated FTE or Payroll levels by more than two and a half percent (2.5%).
- 7.6 There exists an uncured default by **GSEC** or **Amarillo EDC** under the Existing LIA (defined below).
- 7.7 The dissolution or cessation of **Amarillo EDC**.
- 7.8 The failure of **Amarillo EDC** to promptly and timely pay or perform any of its material

obligations under this Agreement.

7.9 Any material misrepresentation, whether or not knowingly or intentionally provided, of **Amarillo EDC** to **GSEC**.

In addition to any other remedy available by law or under this Agreement, should any of these conditions not be cured (if subject to cure) by the defaulting party within a period of ten (10) days following written notice from the non-defaulting party, the non-defaulting party may, at its option, terminate any and all obligations of the parties under this Agreement and, in the case of default by **GSEC**, **Amarillo EDC** may require repayment of all funds paid to **GSEC** under this Agreement, less any amounts previously repaid by **GSEC**.

8. 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 shall be exclusively in the State District Courts in and for Potter County, Texas. The prevailing party to any lawsuit arising from or related to this Agreement shall be entitled to recover its reasonable and necessary attorneys' fees and costs. Interest on amounts past-due hereunder shall accrue at the rate of eight percent (8%) per year.

9. NOTIFICATION

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

For Amarillo EDC

Attn: President/CEO
Amarillo Economic Development Corporation
801 South Fillmore, Suite 205
Amarillo, Texas 79101

With a copy (which will not constitute notice) to

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

For GSEC

Attn: President and Chief Executive Officer
Golden Spread Electric Cooperative, Inc.
905 S. Fillmore, Suite 300
Amarillo, Texas 79101

With a copy (which will not constitute notice) to

Attn: Chief Legal Officer
Golden Spread Electric
Cooperative, Inc.
905 S. Fillmore, Suite 300
Amarillo, Texas 79101

10. BOARD AND AMARILLO CITY COUNCIL APPROVAL

This Agreement is part of a Project (as defined in Chapters 501 and 504 of the Texas Local Government Code) and will only be enforceable against **Amarillo EDC** if approved by its Board of Directors and the City Council of the City of Amarillo, Texas. 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 by March 31, 2020, this Agreement shall terminate without further obligations upon **Amarillo EDC** or **GSEC**.

This Agreement will only be enforceable against **GSEC** if approved by its Board of Directors. If the Agreement is not approved by the Board of Directors of **GSEC** by March 31, 2020, this Agreement shall terminate without further obligations upon **Amarillo EDC** or **GSEC**.

11. CERTIFICATION REGARDING UNAUTHORIZED WORKERS

11.1 **GSEC** certifies that it does not and will not knowingly employ an Unauthorized Worker, defined below, between the Effective Date and the date upon which **GSEC** no longer owes any duties under this Agreement. "**Unauthorized Worker**" shall 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. **GSEC** shall immediately notify **Amarillo EDC** if: (i) **GSEC** becomes aware it employs or has employed an Unauthorized Worker; (ii) **GSEC** becomes aware or receives notice that it is alleged to have employed an Unauthorized Worker; or (iii) **GSEC** is convicted of a violation under the following paragraph.

11.2 If between the Effective Date and the date on which **GSEC** no longer owes any duties under this Agreement, **GSEC** knowingly employs an Unauthorized Worker or is convicted of a violation under 8 U.S.C. Section 1324a(f), **Amarillo EDC's** obligations under this Agreement shall forever cease and **GSEC** shall repay to **Amarillo EDC** the entire grant amount received by **GSEC** hereunder. Such amount shall be due and payable in full on the 120th day after the date **Amarillo EDC** notifies **GSEC** of the violation and interest shall accrue on such amount at the contract rate thereafter.

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 SHALL NOT BE UNREASONABLY WITHHELD.

THIS WRITTEN AGREEMENT, THE NDA AND THE EXISTING LIA (AS DEFINED BELOW) REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

12. COOPERATION ON PUBLICITY

GSEC agrees to use best efforts to have one or more of its representatives attend all public events (e.g. ribbon-cuttings, ground-breakings, press conferences) related in any way to this Agreement. Further, GSEC agrees to reasonably cooperate with **Amarillo EDC** on press releases and other publicity related to the subject matter of this Agreement. **Amarillo EDC** agrees to provide GSEC with a reasonable advance opportunity to review and comment on such press releases and publicity.

13. ENTIRE AGREEMENT AND STIPULATION REGARDING EXISTING LIA

This Agreement and the NDA constitute the entire agreement of the parties with respect to the subject matter hereof. GSEC and **Amarillo EDC** acknowledge the existence and continuing validity of that certain Location Incentives Agreement between the parties dated May 19, 2010, as it may be amended ("*Existing LIA*"). Except as provided in Section 7.6, the terms of and performance under this Agreement and the Existing LIA shall be independent from each other and performance under one such agreement shall in no event be considered performance under the other.

14. SURVIVAL

Each Section hereof which by its terms or nature should survive the expiration, cancellation or other termination hereof, shall survive any such expiration, cancellation or other termination of this Agreement, including without limitation the confidentiality requirement in Article 3 and the requirements of Section 3.5.

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

Golden Spread Electric Cooperative, Inc.

By: _____
Scott Gross,
Interim President and Chief Executive Officer

Date: _____

Amarillo Economic Development Corporation

By: _____
Kevin Carter, President and CEO

Date: _____

**EXHIBIT A
FORM OF CERTIFICATE**

[GSEC LETTERHEAD]

I, _____ [PRINTED NAME] _____, as _____ [TITLE] _____ of Golden Spread Electric Cooperative, Inc. (“**GSEC**”), provide this Certificate in connection with that certain Location Incentives Agreement (“**Agreement**”) between GSEC and the Amarillo Economic Development Corporation (“**Amarillo EDC**”) dated effective as of June 1, 2019. 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 GSEC that the following are true and correct for the Performance Year (as defined in the Agreement) indicated below:

1. All funds received by GSEC 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 GSEC’s headquarters in Amarillo, Texas.
2. Payroll in Amarillo Operations for the indicated Performance Year totaled: \$ _____.
3. _____ FTEs (as defined in the Agreement) were maintained by GSEC in Amarillo Operations for the indicated Performance Year.

PERFORMANCE YEAR: **June 1, 20**____ **through May 31, 20**____

Printed Name: _____
Title: _____