



ORDINANCE NO. 7997

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

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

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

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

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

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

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

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

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

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

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

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

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

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

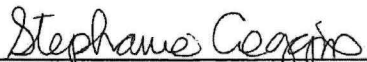
SECTION 5. That the establishment of City of Amarillo Reinvestment Zone No. 19 shall take effect on the date of the final passage of this Ordinance.

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



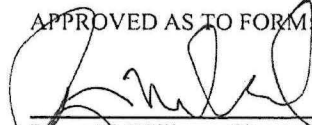
Freda Powell, Mayor Pro Tem

ATTEST:



Stephanie Coggins, City Secretary

APPROVED AS TO FORM:



Bryan McWilliams, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF REINVESTMENT ZONE NO. 19

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

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

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

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

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

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

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

STATE OF TEXAS §
 §
COUNTY OF POTTER §

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

WITNESSETH:

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

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

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

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

WHEREAS, entering into this Agreement will produce public benefits:

- 1) enhancing and diversifying the economic and industrial bases of the Amarillo area;
- 2) contributing to the retention and expansion of primary employment; and

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

- 3) attracting major investment that will be of benefit to the Premises (as hereafter defined) and that will contribute to the economic development of the City; and

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

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

WHEREAS, the contemplated uses of the Premises (a distribution center), the contemplated improvements to the Premises as set forth in this Agreement, the contemplated equipment, and other business personal property, and the other terms of this Agreement will encourage development of the Zone, are in accordance with the purposes for its creation, and are in compliance with the Policy Statement, the Ordinance, and all applicable laws; and

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

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

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

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

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

1. Definitions

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

- 1) “Tax Code” means the relevant provisions of the Texas Tax Code.

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

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

- 3) “Qualified Facilities” shall mean the buildings and other improvements constructed by or for the benefit of Recipient for design, assembly, manufacturing, distribution, storage, training, repair, or other purposes in the Zone, consisting of a distribution facility expected to cost no less than \$20,000,000.
- 4) “Qualified Personal Property” shall mean Recipient’s machinery, equipment, furniture, fixtures, and other tangible personal property that are eligible for tax abatement under Tax Code Chapter 312, consisting of furniture, fixtures, and equipment sufficient to carry on distribution activities that:
 - a) is owned by Recipient or a third party as described in Section 2(11)(b);
 - b) is located in the Zone; and
 - c) but for this Agreement would be subject to appraisal by the Potter-Randall Appraisal District or its successor for the applicable tax year.
- 5) “Premises” shall mean the parcel of land owned by Amarillo EDC and to be owned by Recipient under the LIA in Amarillo, Randall County, Texas, as described on Exhibit B, which is attached hereto and incorporated by reference, and is located within the Zone.
- 6) “Abatement” shall mean the tax abatement rate in those percentages set forth in Section 5 for each applicable year.

2. General Provisions

- 1) Recipient agrees that its use of the Premises will be in accordance with applicable state and local laws and regulations.

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

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

3. Term and Abatement Period

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

4. Construction May Occur in Phases

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

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

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

5. Rate of Abatement

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

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

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

6. Records and Audits

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

7. Performance Requirement

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

8. Breach and Default

In the event that Recipient:

- 1) fails to make the improvements or repairs in accordance with this Agreement;
- 2) allows *ad valorem* taxes on the Premises, Qualified Facilities, or Qualified Personal Property subject to abatement to become delinquent and fails to timely and properly follow the legal procedures for the protest and/or appeal of such *ad valorem* taxes,

- 3) fails or refuses to timely file required documents with the State Comptroller or local tax appraisal district in connection with the tax abatement set forth in this Agreement; or
- 4) breaches any of the terms or conditions of this Agreement;

then Recipient shall be in default of this Agreement.

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

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

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

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

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

10. Indemnity

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

11. Notice

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

For Recipient:

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

For City of Amarillo, Texas:

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

For Amarillo EDC:

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

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

12. City Authorization

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

13. Recipient and Amarillo EDC Authorization

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

14. Severability

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

15. Estoppel Certificate

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

16. Applicable Law

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

17. Recordation of Agreement

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

18. Entire Agreement

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

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

Executed to be effective as of the Effective Date.

CITY OF AMARILLO, TEXAS

By: _____

Jared Miller, City Manager

Attest:

Stephanie Coggins

Stephanie Coggins, City Secretary

Approved as to form:

Bryan S. McWilliams

Bryan S. McWilliams, City Attorney

City's Acknowledgment

STATE OF TEXAS

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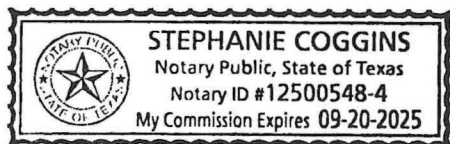
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COUNTY OF POTTER

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of August, 2022.



Stephanie Coggins

Notary Public, State of Texas

A-5 REALTY, LLC

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

By: _____

Printed Name: Daniel Cramer

Title: CEO

A-5 Realty Acknowledgment

A-5 REALTY, LLC

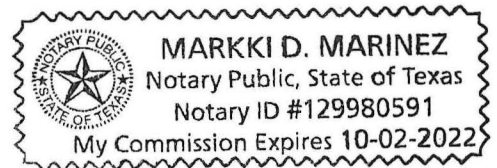
STATE OF TEXAS §
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COUNTY OF Pandall §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12 day of August, 2022.

Markki D. Marinez

Notary Public, State of Texas



A-7 AUSTIN, LLC

By: [Signature]
Printed Name: Daniel Cramer
Title: CEO

Austin Hose Acknowledgment

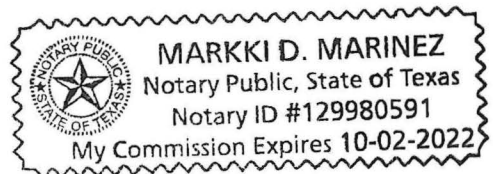
A-7 AUSTIN, LLC

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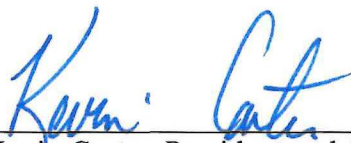
BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Daniel Cramer, as CEO of A-7 Austin, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12 day of August, 2022.

[Signature]
Notary Public, State of Texas



**AMARILLO ECONOMIC DEVELOPMENT
CORPORATION**

By: 
Kevin Carter, President and CEO

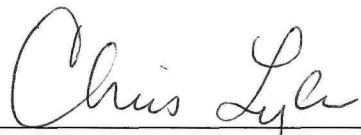
Amarillo EDC Acknowledgment

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

STATE OF TEXAS §
 §
COUNTY OF POTTER §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22nd day of August, 2022.


Notary Public, State of Texas

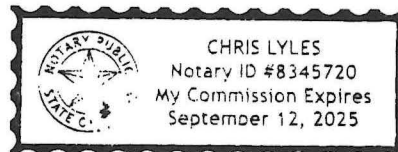


EXHIBIT A

POLICY STATEMENT

08/17/2021 _____

RESOLUTION NO. 08-24-21-1

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

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

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

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

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

SECTION 2. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this resolution or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this resolution, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 3. This Resolution is immediately effective upon passage.

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

THE CITY OF AMARILLO


Ginger Nelson, Mayor, City of Amarillo

ATTEST:


Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

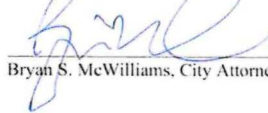

Bryan S. McWilliams, City Attorney

EXHIBIT B

Property Description

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

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

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

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

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

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

Resolution No. 2022- 34

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

COUNTY OF RANDALL §
STATE OF TEXAS §

On the date first written below, Randall County hereby joins in the Tax Abatement Agreement, attached as Exhibit A and incorporated as if set forth at length herein, between A-5 Realty, LLC, A-7 Austin, LLC, Amarillo Economic Development Corporation, and the City of Amarillo on the same terms and conditions as the City of Amarillo and as of the date of such agreement.

COUNTY OF RANDALL, TEXAS

By: Christy Dyer
Christy Dyer, County Judge

Date: 9/13/2022

Attest:

Susan B. Allen
Susan Allen, County Clerk

Approved as to form:

Richard Gore
Richard Gore, Assistant Criminal District Attorney



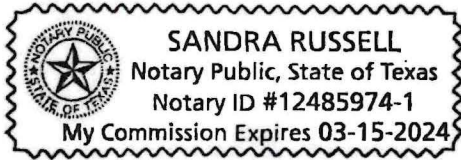
County's Acknowledgment

STATE OF TEXAS §
COUNTY OF RANDALL §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Christy Dyer, County Judge of the County of Randall, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument and

acknowledged to me that the same was the act of the County of Randall, Texas, that she was duly authorized to perform the same by appropriate resolution of the Commissioner's Court of Randall County, Texas, and that she executed the same as the act of the said County for the purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 13th day of September, 2022.



Sandra Russell
Notary Public, State of Texas

Exhibit A

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

STATE OF TEXAS §
 §
COUNTY OF POTTER §

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

WITNESSETH:

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

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

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

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

WHEREAS, entering into this Agreement will produce public benefits:

- 1) enhancing and diversifying the economic and industrial bases of the Amarillo area;
- 2) contributing to the retention and expansion of primary employment; and

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

- 3) attracting major investment that will be of benefit to the Premises (as hereafter defined) and that will contribute to the economic development of the City; and

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

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

WHEREAS, the contemplated uses of the Premises (a distribution center), the contemplated improvements to the Premises as set forth in this Agreement, the contemplated equipment, and other business personal property, and the other terms of this Agreement will encourage development of the Zone, are in accordance with the purposes for its creation, and are in compliance with the Policy Statement, the Ordinance, and all applicable laws; and

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

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

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

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

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

1. Definitions

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

- 1) "Tax Code" means the relevant provisions of the Texas Tax Code.

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

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

- 3) "Qualified Facilities" shall mean the buildings and other improvements constructed by or for the benefit of Recipient for design, assembly, manufacturing, distribution, storage, training, repair, or other purposes in the Zone, consisting of a distribution facility expected to cost no less than \$20,000,000.
- 4) "Qualified Personal Property" shall mean Recipient's machinery, equipment, furniture, fixtures, and other tangible personal property that are eligible for tax abatement under Tax Code Chapter 312, consisting of furniture, fixtures, and equipment sufficient to carry on distribution activities that:
 - a) is owned by Recipient or a third party as described in Section 2(11)(b);
 - b) is located in the Zone; and
 - c) but for this Agreement would be subject to appraisal by the Potter-Randall Appraisal District or its successor for the applicable tax year.
- 5) "Premises" shall mean the parcel of land owned by Amarillo EDC and to be owned by Recipient under the LIA in Amarillo, Randall County, Texas, as described on Exhibit B, which is attached hereto and incorporated by reference, and is located within the Zone.
- 6) "Abatement" shall mean the tax abatement rate in those percentages set forth in Section 5 for each applicable year.

2. General Provisions

- 1) Recipient agrees that its use of the Premises will be in accordance with applicable state and local laws and regulations.

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

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

3. Term and Abatement Period

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

4. Construction May Occur in Phases

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

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

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

5. Rate of Abatement

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

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

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

6. Records and Audits

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

7. Performance Requirement

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

8. Breach and Default

In the event that Recipient:

- 1) fails to make the improvements or repairs in accordance with this Agreement;
- 2) allows *ad valorem* taxes on the Premises, Qualified Facilities, or Qualified Personal Property subject to abatement to become delinquent and fails to timely and properly follow the legal procedures for the protest and/or appeal of such *ad valorem* taxes,

- 3) fails or refuses to timely file required documents with the State Comptroller or local tax appraisal district in connection with the tax abatement set forth in this Agreement; or
- 4) breaches any of the terms or conditions of this Agreement;

then Recipient shall be in default of this Agreement.

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

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

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

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

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

10. Indemnity

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

11. Notice

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

For Recipient:

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

For City of Amarillo, Texas:

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

For Amarillo EDC:

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

with a copy to (which shall not constitute notice):

Underwood Law Firm, PC
Attn: John B. Atkins
500 S. Taylor St., Suite 1200
Amarillo, Texas 79101
Email: john.atkins@uwlaw.com

12. City Authorization

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

13. Recipient and Amarillo EDC Authorization

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

14. Severability

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

15. Estoppel Certificate

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

16. Applicable Law

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

17. Recordation of Agreement

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

18. Entire Agreement

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

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

Executed to be effective as of the Effective Date.

CITY OF AMARILLO, TEXAS

By:

Jared Miller, City Manager

Attest:

Stephanie Coggins

Stephanie Coggins, City Secretary

Approved as to form:

Bryan S. McWilliams, City Attorney

City's Acknowledgment

STATE OF TEXAS

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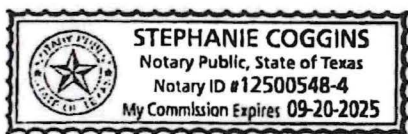
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COUNTY OF POTTER

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of August, 2022.



Stephanie Coggins

Notary Public, State of Texas

A-5 REALTY, LLC

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

By: [Signature]
Printed Name: Daniel Cramer
Title: CEO

A-5 Realty Acknowledgment

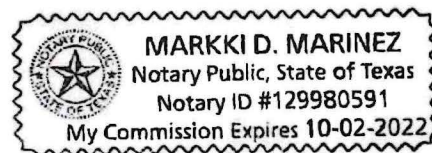
A-5 REALTY, LLC

STATE OF TEXAS §
 §
COUNTY OF Randall §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12 day of August, 2022.

[Signature]
Notary Public, State of Texas



A-7 AUSTIN, LLC

By: [Signature]
Printed Name: Daniel Cramer
Title: CEO

Austin Hose Acknowledgment

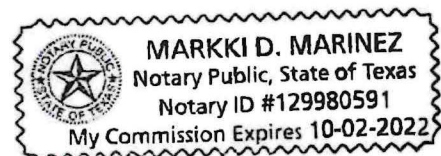
A-7 AUSTIN, LLC

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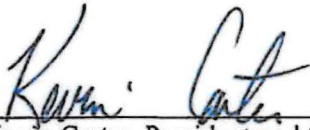
BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Daniel Cramer, as CEO of A-7 Austin, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12 day of August, 2022.

[Signature]
Notary Public, State of Texas



**AMARILLO ECONOMIC DEVELOPMENT
CORPORATION**

By: 
Kevin Carter, President and CEO

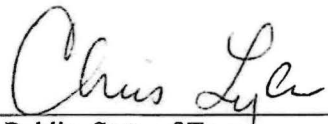
Amarillo EDC Acknowledgment

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

STATE OF TEXAS §
 §
COUNTY OF POTTER §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22nd day of August, 2022.


Notary Public, State of Texas

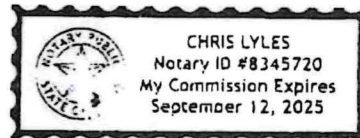


EXHIBIT A

POLICY STATEMENT

08/17/2021

RESOLUTION NO. 08-24-21-1

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

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

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

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

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

SECTION 2. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this resolution or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this resolution, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

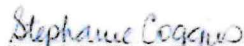
SECTION 3. This Resolution is immediately effective upon passage.

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

THE CITY OF AMARILLO


Ginger Nelson, Mayor, City of Amarillo

ATTEST:


Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

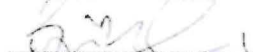

Bryan S. McWilliams, City Attorney

EXHIBIT B

Property Description

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

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

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

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

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

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

PARTICIPATION AGREEMENT FOR TAX ABATEMENT

STATE OF TEXAS §
 §
COUNTY OF POTTER §

WHEREAS, the City of Amarillo, Texas (the "City") has established tax Reinvestment Zone No. 19 (the "Zone"); and

WHEREAS, on August 2, 2022, the City approved entry into a tax abatement agreement with A-7 Austin, LLC and A-5 Realty, LLC (together, "Recipient") and Amarillo Economic Development Corporation granting to Recipient a 6-year abatement on 60% of property taxes eligible for abatement (the "Abatement Agreement") for a portion of the property to be owned by Recipient in the Zone; and

WHEREAS, after hearing properly called and noticed, by majority vote, the Board of Regents of Amarillo Junior College District (the "District") hereby finds that the District should participate in the Abatement Agreement for the purposes outlined therein; and

WHEREAS, the District will indicate its election to be bound by the Abatement Agreement through the execution of this Participation Agreement to the Abatement Agreement (the "Participation Agreement") once the Abatement Agreement is executed and approved by the City; THEREFORE:

BE IT RESOLVED BY THE BOARD OF REGENTS OF AMARILLO JUNIOR COLLEGE DISTRICT:

1. That Amarillo Junior College District hereby officially elects to participate in and be bound by terms of the Abatement Agreement insofar as it applies to Amarillo College taxes and to execute this Participation Agreement for the purposes and on the conditions outlined in said agreements; and
2. That Anette Carlisle, Chairman, Amarillo Junior College District Board of Regents be, and is hereby authorized and directed to execute this Participation Agreement and to do anything else necessary or appropriate to indicate the District's election to participate in the Abatement Agreement.

Passed and approved the 31 day of August, 2022.



Anette Carlisle, Chairperson Amarillo Junior College
District Board of Regents

ATTEST:



Sally Jennings, Secretary, Board of Regents
Amarillo Junior College District

On the date first written below, the Amarillo Junior College District hereby joins in the preceding Tax Abatement Agreement between A-7 Austin, LLC, A-5 Realty, LLC, Amarillo Economic Development Corporation, and the City of Amarillo on the same terms and conditions as the City of Amarillo.

AMARILLO JUNIOR COLLEGE DISTRICT

By: 
Anette Carlisle, Chairman
Date: _____, 2022

Attest:


Sally Jennings, Secretary, Board of Regents Amarillo
Junior College District

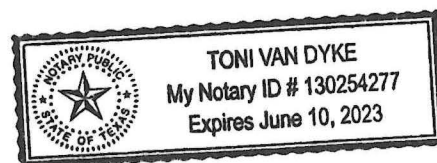
Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF POTTER §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Anette Carlisle, Chairman of the Amarillo Junior College District Board of Regents, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the Amarillo Junior College District, that he was duly authorized to perform the same by appropriate resolution of the Board of Regents of the Amarillo Junior College District, and that he executed the same as the act of the said Amarillo Junior College District for the purpose and consideration therein expressed, and in the capacity therein stated.

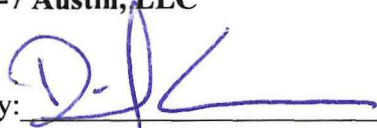
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 31 day of August, 2022.


Notary Public, State of Texas



ACCEPTED:

A-7 Austin, LLC

By: 

Printed Name: Daniel Cramer

Title: CEO

A-5 Realty, LLC

By: 

Printed Name: Daniel Cramer

Title: Manager

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Susan B. Allen

2022021761

10/27/2022 12:49 PM

Fee: 186.00

Susan B. Allen, County Clerk

Randall County, Texas

AG