TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF AMARILLO, ILLINOIS TOOL WORKS, INC. AND PANHANDLE PURE, LLC

STATE OF TEXAS §
§
COUNTY OF POTTER §

This Tax Abatement Agreement ("*Agreement*"), is entered into as of this 8th day of October, 2020 ("*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, Illinois Tool Works, Inc., a Delaware corporation ("*ITW*"), and Panhandle Pure, LLC, a Texas limited liability company ("*PPLLC*").

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 20th day of August, 2019, the City Council readopted the Policy Statement by the passage of Resolution No. 08-20-19-2; and

WHEREAS, the City's current Policy Statement entitled:

RESOLUTION ADOPTING GUIDELINES
AND CRITERIA FOR TAX ABATEMENT WITHIN REINVESTMENT ZONES
FOR THE
CITY OF AMARILLO

Is attached as Exhibit A hereto; and

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

WHEREAS, entering into this Agreement will produce public benefits:

1) enhancing and diversifying the economic and industrial bases of the Amarillo area;

2) contributing to the retention and expansion of primary employment; and

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

WHEREAS, the Premises is currently located in a Texas Enterprise Zone (the Premises and surrounding areas in the Texas Enterprise Zone may referred to as the "*Zone*") and, as such, no ordinance establishing a reinvestment zone for the Premises is required under Tax Code § 312.2011; and

WHEREAS, ITW currently holds title to the Premises, but PPLLC expects to receive title to the Premises under a real estate purchase contract between ITW and PPLLC ("***Purchase Agreement***"); and

WHEREAS, the contemplated uses of the Premises, 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, PPLLC's use of the Premises is expected to favorably influence the economic and employment base of the City; 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; ITW and PPLLC 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 Texas Tax Code.

2) "Eligible Property Value" shall mean the value of PPLLC'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 PPLLC for design, assembly, manufacturing, storage, training, repair, or other purposes in the Zone.

4) "Qualified Personal Property" shall mean PPLLC's machinery, equipment, furniture, fixtures, and other tangible personal property that are eligible for tax abatement under Tax Code Chapter 312 and that:

a) is owned by PPLLC or a third party as described in Section 2(11)(b);

b) is located in the Zone; and

c) but for this Agreement would be subject to appraisal by the Potter County Appraisal District or its successor for the applicable tax year.

5) "Premises" shall mean the parcel of land owned by ITW and to be owned by PPLLC under the Purchase Agreement in Amarillo, Potter 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) PPLLC 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 created by PPLLC.

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 PPLLC's corporate, public, employee, and business relations requirements.

4) The Premises are presently owned by ITW and are to be owned by PPLLC under the Purchase Agreement. ITW joins herein solely as an accommodation party currently owning the Premises which are to be transferred to PPLLC under such Purchase Agreement; provided, however, that all parties hereto agree that the Purchase Agreement is the sole agreement between ITW and PPLLC with respect to the purchase and sale of the Property, and this Agreement does not create, and shall not be construed

to create, an independent obligation of ITW to convey the Property to PPLLC. 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 resolution of the City Council of the City of Amarillo authorizing execution of this Agreement.

10) During the period of tax abatement herein authorized, PPLLC 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) PPLLC; or

    b) A third party when

        i) PPLLC is contractually obligated to pay taxes on said personal property; and

        ii) PPLLC renders said personal property for taxation.

12) The construction and development of the Qualified Facilities and Qualified Personal Property contemplated by this Agreement may occur in Phases. Each Phase will be created as set forth in Section 4 of this Agreement.

<u>3. Term and Abatement Period</u>

A nine (9) year tax abatement is hereby granted to PPLLC subject to meeting the conditions herein. For each Phase (as hereafter defined), the nine (9) year abatement period commences beginning on January 1 of the first tax year for which PPLLC files an approved abatement application with the Potter County Appraisal District. For each subsequent Phase, the nine (9) year abatement period commences on January 1 of the first tax year for which PPLLC timely file an approved abatement application for that Phase with the Potter County Appraisal District.

<u>4. Construction May Occur in Phases</u>

At its option, PPLLC may elect to stage development of the Qualified Facilities and Qualified Personal Property to occur at different times within the Zone. If PPLLC chooses to make this election, each individual Phase shall be eligible for Abatement under the terms of this Agreement for a period of nine (9) years.

PPLLC 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 is the tenth (10^{th}) anniversary of the Effective Date.

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.

Year of Abatement	Rate of Abatement on Incremental Increase
1	90%
2	90%
3	90%
4	90%
5	90%
6	90%
7	90%
8	90%
9	90%

6. Records and Audits

1) At all times throughout the term of this Agreement, the City and the Potter County Appraisal District shall have reasonable access to the Premises by their employees or agents, accompanied by PPLLC personnel, for the purpose of inspecting the Premises to ensure the Qualified Facilities and Qualified Personal Property are maintained in accordance with the conditions of this Agreement and shall have access to the books and records of PPLLC for purposes of determining compliance with state law and this Agreement.

2) Before December 31 of each year, PPLLC 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 PPLLC shall not be considered in default hereunder until it 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

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

8. Breach and Default

In the event that PPLLC:

1) fails or refuses to comply with Section 7 of 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; or,

4) breaches any of the terms or conditions of this Agreement;

then PPLLC shall be in default of this Agreement.

If PPLLC defaults in its performance of 1, 2, 3, or 4 above, the City shall give them written notice of default. If PPLLC 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, PPLLC 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 PPLLC, and PPLLC has begun efforts to cure the default, then after first advising the City of its efforts, PPLLC may utilize an additional one hundred eighty (180) days to cure the default. Time in addition to the foregoing two hundred seventy (270) day cure period may be authorized by the City, in its sole and absolute discretion.

Failure to timely cure any default will result in the cancellation of this Agreement and the retroactive loss of the tax abatement. Additionally after the expiration of the applicable notice and cure periods, all taxes which would have otherwise been paid to the City during the tax year in which the default occurs without the benefit of abatement plus ten percent (10%) interest beginning on the date of expiration of the cure period will be owed by PPLLC 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 PPLLC 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 PPLLC to an entity controlling, controlled by, or under common control with PPLLC without further consent of the City.

2) This Agreement may be assigned by PPLLC 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 either ITW or PPLLC notifies City that PPLLC has not acquired the Property pursuant to the terms and conditions of the Purchase Agreement.

10. Indemnity

It is understood and agreed among the parties that PPLLC, in performing its obligations hereunder, is acting independently of City and ITW. City and ITW assume no responsibilities or liabilities in connection therewith to PPLLC or to third parties, and City agrees that ITW has no responsibility or liability under this Agreement with respect to the obligations of PPLLC. PPLLC agrees to indemnify and hold City and ITW and their agents, employees, and officers harmless from penalties, fines, damages of every kind, attorney fees, costs, and interest that arise out of or relate to PPLLC'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 PPLLC:
Panhandle Pure, LLC
Attn: Brian Piancino
1401 W. Farmers Avenue
Amarillo, Texas 79118
Telephone: (806) 345-7774
Email: bpiancino@afiama.com

with a copy to (which shall not constitute notice):
Hajjar Peters, LLP
Attn: Johnny Merritt
3144 Bee Caves Rd.
Austin, Texas 78746
Telephone: (512) 637-4956
Email: jmerritt@legalstrategy.com

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

12. City Authorization

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

13. PPLLC and ITW Authorization

This Agreement was entered into by PPLLC and ITW pursuant to proper authority whereby an authorized executive officer of PPLLC and ITW, 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. PPLLC Standing

PPLLC shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same and PPLLC shall be entitled to intervene in said litigation.

17. Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State District Court of Potter County, Texas. This Agreement is performable in Potter County, Texas.

18. Recordation of Agreement

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

19. Entire Agreement

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

Notwithstanding the foregoing provisions, this Agreement does not modify, alter, or amend any other agreement or instrument between the City and PPLLC 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 PPLLC, ITW, and the City. Each party agrees that its sole execution of an original shall constitute its consent to, and acceptance of the Agreement, without the necessity of a single copy being executed by all parties.

{Signature Pages Follow}

Executed to be effective as of the Effective Date.

CITY OF AMARILLO, TEXAS

By: ______________________________
Jared Miller, City Manager

Attest:

____
Frances Hibbs, City Secretary

Approved as to form:

____
Bryan S. McWilliams, City Attorney

City's Acknowledgment

STATE OF TEXAS §
§
COUNTY OF POTTER §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Jared Miller, City Manager of the City of Amarillo, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the City of Amarillo, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate resolution 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 8th day of October, 2020.

JAN SANDERS
Notary Public, State of Texas
Notary ID #004900110
My Commission Expires 04-29-2021

Jan Sanders
____
Notary Public, State of Texas

PANHANDLE PURE, LLC

By: Randy Arceneaux
Printed Name: Randy Arceneaux
Title: President

PPLLC Acknowledgment

PANHANDLE PURE, 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 Randy Arceneaux, as President of Panhandle Pure, 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 Panhandle Pure, 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 8th day of October, 2020.

Cindy Craig
Notary Public, State of Texas

NOTARY PUBLIC STATE OF TEXAS
CINDY JEAN CRAIG
Notary ID # 126743648
My Commission Expires
December 5, 2020

ILLINOIS TOOL WORKS, INC.

By: ______________________________

Printed Name: Randall J. Scheuneman

Title: Vice President and Chief Accounting Officer

ITW Acknowledgment

ILLINOIS TOOL WORKS, INC.

STATE OF ~~TEXAS~~ Illinois §
§
COUNTY OF ~~POTTER~~ Cook §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Randall J. Scheuneman, as Vice President and Chief Accounting Officer of Illinois Tool Works, Inc., a Delaware 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 Illinois Tool Works, Inc., 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 7th day of October, 2020.

"OFFICIAL SEAL"
PHILLIP J. MCGOVERN
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 12/12/2021

____
Notary Public, State of Illinois

EXHIBIT A
POLICY STATEMENT

RESOLUTION NO. 08-20-19-2

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 20th day of August, 2019.

CITY OF AMARILLO

Ginger Nelson, Mayor, City of Amarillo

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan S. McWilliams, City Attorney

EXHIBIT B

Property Description
1001 NW 1st Ave., Amarillo, TX

TRACT 1:

A 5.361 acre tract of land out of Section 169, Block 2, A.B. & M. Survey, Potter County, Texas, further being: (i) all of Lot 1, Block 1 of the J. L. Langston Subdivision Unit No. 2, an addition to the City of Amarillo, Potter County, Texas, according to the map or plat thereof, recorded in Volume 1579, Page 38 of the Official Public Records of Potter County, Texas; (ii) all of Lot 4 and 5, J. L. Langston Subdivision, an addition to the City of Amarillo, according to the map or plat thereof, recorded in Volume 151, Page 291 of the Deed Records of Potter County, Texas; (iii) a portion of that certain tract of land described in that certain instrument recorded in Volume 718, Page 11 of the Deed Records of Potter County, Texas, all of that certain tract of land described in that certain instrument recorded in Volume 2725, Page 57, of said Official Public Records; (iv) a portion of that certain tract of land described in that certain instrument recorded in Volume 2282, Page 64, of said Official Public Records; (v) all of that certain tract of land described in that certain instrument, recorded in Volume 2202, Page 287, of said Official Public Records; (vi) all of that certain tract of land described in that certain instrument recorded in Volume 2066, Page 516, of said Official Public Records; (vii) all of that certain tract of land described in that certain instrument recorded in Volume 3299, Page 131, of said Official Public Records; (viii) a portion of certain tract of land described in that certain instrument recorded in Volume 3214, Page 592, of said Official Public Records; (ix) a portion of that certain tract of land described in that certain instrument recorded in Volume 3282, Page 597, of said Official Public Records; and (x) a portion of that certain tract of land described in that certain instrument recorded in Volume 3345, Page 458, of said Official Public Records; said 5.631 acre tract of land and being described by metes and bounds as follows:

BEGINNING at the Southeast intersection of N.W. 1st Avenue and N. Madison Street said point being the South R.O.W. line of N.W. 1st Avenue and the East R.O.W. line of N. Madison Street, the POINT OF BEGINNING of this tract, whence a 1/2" iron rod found with cap stamped 5374, bears S 46 °05' 02" West, 0.14 feet;

THENCE S 09° 24' 08" W, 138.96 feet to a 1/2" iron rod found with cap stamped "RPLS 5374", in the Northerly R.O.W. line of the BNSF Railway and on a curve to the left whose radius is 2391.83 feet;

THENCE along the chord bearing and distance of South 69° 53' 15" West, 63.42 feet, along said curve to the left and along said railroad R.O.W., being 100.0 feet Northwesterly from the centerline of the Old Chicago Island main track, now being the BNSF Railway industry track, to a 1/2" iron rod found with cap stamped "Furman RPLS 1995" found (Record Monument in Volume 3214, Page 529);

THENCE N 80° 35' 52" W, along the Northerly railroad R.O.W. line same being 25.0 feet Northwesterly and parallel to the centerline of the Main Track of the BNSF Railway as it exists on the ground a distance of 1089.90 feet to a sawed "X" set in concrete;

THENCE S 09° 24' 08" W, along said railroad R.O.W. line 1.0 feet to a sawed "X" set in concrete;

THENCE N 80° 35' 52" W, along said railroad R.O.W. line same being 24.0 feet Northwesterly and parallel to the said centerline of the Main Track of the BNSF Railway as exists on the ground, a distance of 336.23 feet to a 1/2" X 24" rebar with cap stamped "Gresham PLS 1939" set in the Easterly R.O.W. line of the Adams-Hughes Connector (Street Deed, Volume 1510, Page 607) and on a curve to the right having a radius of 912.93 feet;

THENCE along chord bearing and distance of N 01° 26' 07" W, 174.30 feet along said curve to the right and along the Easterly R.O.W. line of said Adams-Hughes Connector to a 60d nail with washer stamped "GAI (Gresham & Associates, Inc.) PLS 1939" set in the South R.O.W. line of N.W. 1st Avenue;

THENCE S 80° 35' 52" E, along said Southerly R.O.W. line of N.W. 1st Avenue to a 1/2" X 24" rebar with cap stamped "Gresham PLS 1939", a distance of 38.09 feet set for the Northwest corner of Lot 2, J.L. Langston Subdivision recorded in Volume 151, Page 291, Deed Records Potter County, Texas;

THENCE S 09° 24' 08" W, along the West line of said Lot 2, 49.10 feet to a 1/2" X 24" rebar with cap stamped "Gresham PLS 1939" set for the Southwest corner of said Lot 2, whence the center line of said BNSF Railway main track as exists on the ground bears South 09° 24' 08" West, 146.1 feet;

THENCE S 80° 35' 52" E, along the Southerly line of said Lot 2, same being the Northerly line of BNSF Railway as called in deed recorded in Volume 718, Page 111, Potter County Deed Records a distance of 75.0 feet to a 1/2" X 24" rebar with cap stamped "Gresham PLS 1939", set for the Southeast corner of said Lot 2;

THENCE N 09° 24' 08" E, along the Easterly line of said Lot 2, 49.10 feet to a 1/2" X 24" rebar with cap stamped "Gresham PLS 1939", set in the Southerly R.O.W. line of N.W. 1st Avenue;

THENCE S 80° 35' 52" E, along said Southerly R.O.W. line of N.W. 1st Avenue, same being 40.0 feet South and parallel to the Southerly line of Blocks 119 and 120, Glidden & Sanborn Addition as recorded in Volume 65, Pages 12 and 13, Deed Records, Potter County, Texas and parallel and 195.2 Northerly from the center line of BNSF Railway main track as it exists on the ground, a distance of 561.0 feet to a Mag nail with washer stamped "GAI PLS 1939" set at the intersection of said Southerly R.O.W. line of 1 st Avenue and the Westerly R.O.W. of Adams Street;

THENCE S 09° 24' 08" W, along the said Westerly R.O.W. line of N. Adams Street 49.10 feet to a point;

THENCE S 80° 35' 52" E, along the Southerly R.O.W. line of N. Adams Street, same being parallel and 146.1 feet Northerly from the center line of BNSF main track as it exists on the ground, a distance of 80.0 feet to a 60d nail with washer stamped "GAI PLS 1939" set at the Southeasterly corner of N. Adams Street R.O.W.;

THENCE N 09° 24' 08" E, along the Easterly R.O.W. line of Adams Street a distance of 49.10 feet to a 60d nail with washer stamped "GAI PLS 1939" set at the intersection of the Southerly R.O.W. line of N.W. 1st Avenue and the Easterly R.O.W. line of N. Adams Street;

THENCE S 80° 35' 52" E, along the Southerly R.O.W. line of N.W. 1 st Avenue same being 40.0 feet South and parallel to the Southerly line of Block 131 of said Glidden and Sanborn Addition, a distance of 100.0 feet to a 1/2" iron rod found;

THENCE S 09° 24' 08" W, 49.10 feet to a 1/2" X 24" rebar set with cap stamped "Gresham PLS 1939", whence the center line of the BNSF Railway main track as exists on the ground bears South 09° 24' 08" West, a distance of 146.1 feet;

THENCE S 80° 35' 52" E, parallel and 146.1 feet Northerly from the center line of the BNSF main track as it exists on the ground at 200.0 feet pass the Southwest corner of N. Jefferson Street R.O.W. continue a total distance of 280.0 feet to a 1/2" X 24" rebar with cap stamped "Gresham PLS 1939" set at the Southeast corner of N. Jefferson Street R.O.W.;

THENCE N 09° 24' 08" E, along the Easterly R.O.W. line of N. Jefferson Street, 49.10 feet to a point in the Southerly R.O.W. line of N.W. 1st Avenue, whence a 1/2" iron rod with cap stamped "RPLS 5374" bears North 20° 26' 55" West, 0.17 feet;

THENCE S 80° 35' 52" E along the Southerly R.O.W. line of N.W. 1st Avenue same being 40.0 feet South and parallel to the Southerly line of Block 132 of said Glidden and Sanborn Addition and 195.2 feet Northerly and parallel from the center line of BNSF main track as it exists on the ground, a distance of 380.0 feet to the POINT OF BEGINNING of this tract;

NOTE: COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.

TRACT 2:

Being a part of Lot 6, Block 120, Glidden and Sanborn Addition to the City of Amarillo, Potter County, Texas, according to the map or plat thereof, of record in Volume 65, Pages 12-13, of the Deed Records of Potter County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a mag nail set with washer stamped "GAI 1939", set at the intersection of the North line of N.W. 1st Avenue and the East line of N. Washington Street, the Southwest corner of said Lot 6, Block 120, Glidden and Sanborn Addition, the Southwest corner of this tract and POINT OF BEGINNING;

THENCE N 09° 24' 08" E, 60.00 feet along the East line of N. Washington Street to a 1/2" X 24" rebar set with cap stamped "GRESHAM PLS 1939", the Northwest corner of said Lot 6 and the Southwest corner of Lot 7, for the Northwest corner of this tract;

THENCE S 80° 35' 52" E, 93.17 feet along the North line of Lot 6 and the South line of Lot 7, to a 3/8" iron rod found with a yellow cap stamped "RPLS 1912", found for the Northeast corner of this tract;

THENCE S 09° 02' 22" W, 60.00 feet to a 3/8" iron rod found with a yellow cap stamped "RPLS 1912", found in the North line of N.W. 1 st Avenue and the South line of said Block 6 for the Southeast corner of this tract;

THENCE N 80° 35' 52" W, 93.55 feet along the South line of said Lot 6 and the North line of said N.W. 1st Avenue to the POINT OF BEGINNING of this tract.

NOTE: COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.