A REGULAR MEETING OF THE AMARILLO CITY COUNCIL TO BE HELD ON TUESDAY, OCTOBER 29, 2019 AT 1:00 P.M., CITY HALL, 601 SOUTH BUCHANAN STREET, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

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

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

INVOCATION: Mary Nell Hunt

PUBLIC ADDRESS
(For items on the agenda for City Council consideration)

AGENDA

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

   A. Review agenda items for regular meeting and attachments;
   B. 2019/2020-2023/2024 Community Investment Program (CIP) Plan;
   C. Fleet Asset Software Update;
   D. Update on Traffic Management System; and
   E. Request future agenda items and reports from City Manager.

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

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

   A. **CONSIDER APPROVAL – MINUTES**:
   Approval of the City Council minutes for the meeting held on October 22, 2019.

   B. **CONSIDERATION OF ORDINANCE NO. 7826**:
   (Contact: Cris Valverde, Assistant Director of Planning and Development Services)
   This is the second and final reading to consider vacation of an existing 20-foot alley lying between Lots 1 through 5 and 6 through 10, Block 82, Plemons Addition, in Section 170, Block 2, A.B.&M. Survey, Potter County, Texas. (Vicinity: Southeast 7th Avenue and Pierce Street; Applicant: Potter County Judge Nancy Tanner.)

C. **CONSIDER PURCHASE -- AUTOMATED SIDE LOADERS (ASL) FOR CART SERVICE ADDITION TO FLEET**:
(Contact: Glenn Lavender, Fleet Services Superintendent)
Award to: East Texas Mack Truck Sales LLC -- $306,000.00
This item was approved in the 2019/2020 Budget. An addition to Solid Waste Collection Division to enhance residential collection services and address growth within the City. This vehicle will be used to transition current hand-collection customers to the curbside cart collection program. Resources currently dedicated to hand-collection will be reassigned to alley clean up efforts.

D. **CONSIDER APPROVAL – CHANGE ORDER NO. 2 FOR STREETS NORTHWEST QUADRANT SEAL COAT FY 2016/2017 – FY 2020/2021 COMMUNITY INVESTMENT PROGRAM, PROPOSITION 1**:
(Contact: Matthew Thomas, City Engineer)
CDM Holdings, LLC -- $145,419.20
This item is to consider approval of Change Order No. 2 to the construction contract for the seal coating of streets within Amarillo. This change order will revise estimated quantities to match actual purchased and installed quantities.

Original Contract:	$ 4,879,505.20
Current Change Order:	$ 145,419.20
Previous Change Orders:	$ 216,898.32
Revised Contract Total:	$ 5,241,822.72

E. **CONSIDER APPROVAL – PROFESSIONAL SERVICES AGREEMENT FOR 34TH AVENUE PUMP STATION ELECTRICAL REHABILITATION PROJECT**:
(Contact: Matthew Thomas, City Engineer)
Reynolds Engineering Associates, Inc. -- $287,955.00
This item is to consider approval of the professional services agreement for the design and construction phases of the 34th Avenue Pump Station Electrical Rehabilitation project.

F. **CONSIDER PURCHASE – STREET SWEEPER**:
(Contact: Glenn Lavender, Fleet Services Superintendent)
Heil of Texas -- $291,365.00
This item is the scheduled replacement of Unit 7920, a 2013 Freightliner/Elgin Eagle Street Sweeper. This equipment is used by the Street Division for daily operational requirements. Unit 7920 has reached its useable lifecycle.

3. **NON-CONSENT ITEMS**:

A. **CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT - BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND SSI FOODS, LLC AND BOVINA BURGER, LLC**:
(Contact: Kevin Carter, Amarillo Economic Development Corporation)
This item discusses, considers and possibly approves a location incentives agreement with SSI Foods, LLC and Bovina Burger, LLC, for the creation of new jobs in Amarillo. The Location Incentive Agreement (LIA) provides for the conveyance of 17.1 acres of land in the Centerport Business Park and incentives that are performance based for the creation of up to 150 new jobs over a five-year period. The agreement prescribes a total grant of up to $2.1 million dependent upon specific performance achievements detailed in the agreement. The agreement requires SSI Foods, LLC and Bovina Burger, LLC to create the jobs and payroll first and then receive incentive payments upon the achievement of annual performance metrics.

B. **CONSIDER APPROVAL – TAX ABATEMENT AGREEMENT – BOVINA BURGER LLC AND SSI FOODS LLC**:
(Contact: Andrew Freeman, Director of Planning and Development Services)
This item considers approving a tax abatement agreement between the City of Amarillo and Bovina Burger LLC, and SSI Foods LLC associated with an Amarillo Economic Development Corporation incentive project. The requested tax abatement agreement is for a 10-year, 100% abatement on real and business property for the approximately $42 million project investment, less the real property's current value. The Amarillo City Council adopted the required Guidelines and Criteria for Tax Abatement on August 20, 2019. The project is located within Reinvestment Zone #10, established by the Amarillo City Council on October 15, 2019. The project is eligible for consideration of an ad-valorem tax abatement.

C. **EXECUTIVE SESSION**:
City Council may convene in Executive Session to receive reports on or discuss any of the following pending projects or matters:
(1) Section 551.072 -- Discuss the purchase, exchange, lease, sale, or value of real property and public discussion of such would not be in the best interests of the City's bargaining position:
   a. Discuss property located in the NE quadrant of the Central Business District.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (601 South Buchanan Street) of the building. An access ramp leading to the main entry is located at the southwest corner of the building. Parking spaces for individuals with disabilities are available in the south parking lot. City Hall is equipped with restroom facilities, communications equipment and elevators that are accessible. Individuals with disabilities who require special accommodations or a sign language interpreter must contact the City Secretary's Office 48 hours prior to meeting time by telephoning 378-3013 or the City TDD number at 378-4229.

Posted this 25th day of October 2019.

Regular meetings of the Amarillo City Council stream live on Cable Channel 10 and are available online at:
http://amarillo.gov/city-hall/city-government/view-city-council-meetings
Archived meetings are also available.

A

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 22nd day of October 2019, the Amarillo City Council met at 1:00 p.m. for a regular meeting held in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

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

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

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

The invocation was given by Konni Murphy. Adrian Avilia led the Pledge of Allegiance. Mayor Nelson established a quorum, called the meeting to order, welcomed those in attendance and the following items of business were conducted:

PUBLIC ADDRESS

There were no comments.

ITEM 1:

A. Review agenda times for regular meeting and attachments;
B. Martin Road Lake Improvements Update;
C. Lovin' Local Shopping Day Update; and
D. Request future agenda items and reports from City Manager.

CONSENT ACTION ITEMS:

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

A. **MINUTES**:
Approval of the City Council minutes for the meeting held on October 15, 2019.

B. **CONSIDERATION OF ORDINANCE NO. 7825**:
(Contact: Casie Stoughton, Director of Public Health)
This item is the second and final reading of an ordinance amending the Amarillo Municipal Code, Chapter 8-5, to reserve sections and to add a new article VI, to provide for the public health department.

C. **CONSIDER AWARD – OFFICEWISE/NAVAJO OFFICE PRODUCTS**:
(Contact: Trent Davis, Purchasing Agenda)
Award to Officewise/Navajo Office Products - in the amount not to exceed $275,000.00
This item awards the office supplies annual contract awarded to Officewise/Navajo Office Products off of the TexBuy Purchasing Cooperative RFP #018-001.

D. **CONSIDER AWARD – CLAMPS SUPPLY AGREEMENT**:
(Contact: Trent Davis, Purchasing Agent)

Award to Ferguson Enterprises LLC:	$37,436.60
Award to Western Industrial Supply Co.:	$30,607.65
Award to Morrison Supply Co.:	$18,541.10
Total Awarded:	$86,585.35

This item awards the clamps supply agreement for use by the Water Distribution and Parks Department.

E. **CONSIDER AWARD – ELECTRICAL SUPPLIES ANNUAL CONTRACT**:
(Contact: Trent Davis, Purchasing Agent)
Award to Dealers Electrical Supply in an amount not to exceed $423,000.00
This item awards the electrical contract to purchase electrical supplies.

F. **CONSIDER AWARD – INSTALLATION OF TWELVE (12) OUTDOOR WARNING SIRENS**:
(Contact: Chip Orton, Emergency Management Coordinator)
Award to Prickly Pear Contracting -- $72,514.00
This item was a bond approved purchase to install (12) twelve outdoor warning sirens for the Amarillo Area Office of Emergency Management Outdoor Warning System.

G. **CONSIDER APPROVAL – AVIATION CLEAR ZONE EASEMENT**:
(Contact: Cris Valverde, Assistant Director of Planning and Development Services)
This item considers approval of an Aviation Clear Zone Easement, being 4,450 feet above mean sea level above the plat of Yucca Addition Unit No. 4, a suburban subdivision to the City of Amarillo, being an unplatted tract of land, in Section 143, Block 2, AB&M Survey, Randall County, Texas.

H. **CONSIDER APPOINTMENT – BOARDS AND COMMISSIONS**:
(Contact: Mitchell Normand, Director of Human Resources)
This item considers confirming the City Manager's reappointment of Lawrence Walker to the Civil Service Commission for a three-year term.

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

NON-CONSENT ITEMS:

ITEM 3A: Mayor Nelson presented the first reading of an ordinance considering a vacation of an existing 20-foot alley lying between Lots 1 through 5 and 6 through 10, Block 82, Plemons Addition, in Section 170, Block 2, A.B.&M. Survey, Potter County, Texas. (Vicinity: Southeast 7th Avenue and Pierce Street; Applicant: Potter County Judge Nancy Tanner.) This item was presented by consider vacation of an existing 20-foot alley lying between Lots 1 through 5 and 6 through 10, Block 82, Plemons Addition, in Section 170, Block 2, A.B.&M. Survey, Potter County, Texas. (Vicinity: Southeast 7th Avenue and Pierce Street; Applicant: Potter County Judge Nancy Tanner.) This item was presented by Cris Valverde, Assistant Director of Planning and Development Services. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. Motion was made that the following captioned ordinance be passed on first reading by Councilmember Powell, seconded by Councilmember Smith:

ORDINANCE NO. 7826

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF AMARILLO, TEXAS DETERMINING LACK OF PUBLIC NECESSITY FOR AN ALLEY IN THE VICINITY OF SOUTHEAST SEVENTH AVENUE AND SOUTH PIERCE STREET, POTTER COUNTY, TEXAS; VACATING AND ABANDONING THE HEREIN DESCRIBED RIGHT-OF-WAY SAVE AND EXCEPT A PUBLIC UTILITY EASEMENT; AUTHORIZING THE CITY MANAGER TO CONVEY SUCH REAL PROPERTY TO ABUTTING LANDOWNERS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

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

Mayor Nelson advised that the meeting was adjourned.

ATTEST:

Frances Hibbs, City Secretary	Ginger Nelson, Mayor

B

Amarillo City Council
Agenda Transmittal Memo

CITY OF AMARILLO
CITY MANAGER

Meeting Date	October 29, 2019	Council Priority	Regular Agenda Item- Public Hearing

Department	Cris Valverde Assistant Director of Planning and Development Services

Agenda Caption

This is second and final reading to consider vacation of an existing 20-foot alley lying between Lots 1 through 5 and 6 through 10, Block 82, Plemons Addition, in Section 170, Block 2, A.B.&M. Survey, Potter County, Texas .
VICINITY: SE 7th Ave and Pierce St.
APPLICANT: Judge Nancy Tanner for Potter County

Agenda Item Summary

The applicant is requesting abandonment of the above-mentioned alley in order to consolidate the east and west halves of Block 82 into a unified development site for development of the new Potter County Courthouse.

The alleyway proposed to be abandoned is located within a block in Downtown Amarillo and all land adjacent to the alley is vacant. The applicant owns all land within the block.

This vacation request has been reviewed by the typical City departments and local utility companies. There are several utilities within the alley to be abandoned, however the applicant will be relocating all utility equipment in the alley prior to construction.

As with any request to vacate public right-of-way, an applicant is required to either pay fair market value to acquire the alleyway, dedicate an area of equal or greater value, pay only the higher cost of the fair market value or the relocation cost, or complete a combination of these requirements.

In this particular case and alluded to above, the applicant will be relocating all existing utilities in the alley to accommodate the new Potter County Courthouse. Estimated relocation costs are $150,000 and this far exceeds the appraised value of the alley ($46,000). Therefore, no fair market value payment will be required.

Requested Action/Recommendation

Considering the above, The Planning and Zoning Commission is of the opinion that the alley requested for abandonment no longer serves a public purpose as originally intended and if vacated will not have any detrimental impacts on the area. Therefore, Planning Commissioners recommend as presented.

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

ORDINANCE NO. 7826

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF AMARILLO, TEXAS DETERMINING LACK OF PUBLIC NECESSITY FOR AN ALLEY IN THE VICINITY OF SOUTHEAST SEVENTH AVENUE AND SOUTH PIERCE STREET, POTTER COUNTY, TEXAS; VACATING AND ABANDONING THE HEREIN DESCRIBED RIGHT-OF-WAY SAVE AND EXCEPT A PUBLIC UTILITY EASEMENT; AUTHORIZING THE CITY MANAGER TO CONVEY SUCH REAL PROPERTY TO ABUTTING LANDOWNERS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, Potter County, Texas petitioned the City of Amarillo to abandon an existing twenty foot (20') alley right-of-way located in the vicinity of Southeast Seventh Avenue and South Pierce Street, Potter County, Texas; and

WHEREAS, after reviewing information presented, the Planning and Zoning Commission of the City of Amarillo has recommended to the City Council that there is no public necessity for the following-described alley; and

WHEREAS, the City Council, having reviewed said recommendation and having considered all relevant information pertaining to the proposed vacation described below, is of the opinion that same is no longer needed for public purposes; and

WHEREAS, the City Council further decides that such vacation of alley right-of-way excepted a public utility easement, which is retained for current utilities; and

WHEREAS, the City Council further determined that this alley vacation and abandonment is not detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood and is in the best interest of the City of Amarillo's citizens

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

SECTION 1: That the herein-described ALLEY to be vacated and abandoned for public purposes:

Vacation of an existing 20-foot alley lying between Lots 1 through 5 and 6 through 10, Block 82, Plemons Addition, in Section 170, Block 2, A.B.&M. Survey, Potter County, Texas and being further described in the attached Exhibit 1 incorporated herein.

SAVE AND EXCEPT: A Public Utility Easement is hereby retained over the entire area of abandonment. Upon completed relocation/ rerouting of existing utility equipment, said portion of the Public Utility Easement encroached upon with a structure and/ or no longer containing utility equipment, shall be abandoned entirely.

SECTION 2: The City Manager is authorized to execute an instrument of conveyance to abutting land owner(s) as allowed by law.

SECTION 3: Repealer. All ordinances and resolutions or parts thereof in conflict with this Ordinance are hereby repealed to the extent of conflict with this Ordinance.

SECTION 4: Severability. If any provision, section, subsection, clause or the application of sale to any person or set of circumstances for any reason is held to be unconstitutional, void or

invalid or for any reason unenforceable, the validity of the remaining portions of this Ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this Ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 5: Effective Date: This Ordinance shall be effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the 22nd day of October, 2019 and PASSED on Second and Final Reading on this the 29th day of October, 2019.

_____
Ginger Nelson, Mayor

ATTEST:

_____
Frances Hibbs, City Secretary

APPROVED AS TO FORM:

_____
Bryan McWilliams, City Attorney

Vacation of the 20' Alley

CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 " = 150 '
Date: 9/18/2019
Case No: V-19-03

V-19-03 Vacation of the 20' alley lying between Lots 1 through 5 and 6 through 10, Block 82, Plemons Addition, in Section 170, Block 2, AB&M Survey, Potter County, Texas.

Vicinity: Fillmore St and 6th Ave

APPLICANT: Judge Nancy Tanner

AP: N-12

DISCLAIMER: The City of Amarillo is providing this information as a public service. The information shown is for information purposes only and except where noted, all of the data or features shown or depicted on this map is not to be construed or interpreted as accurate and/or reliable; the City of Amarillo assumes no liability or responsibility for any discrepancies or errors for the use of the information provided.

Amarillo City Council
Agenda Transmittal Memo

Meeting Date	October 29, 2019	**Council Priority**	Fiscal Responsibility, Best Practices, Customer Service
Department	Public Works - Fleet Services Division		
Contact	Glenn Lavender, Fleet Services Superintendent		

Agenda Caption

CONSIDER: Purchase of ASL Automated Side Loaders for Cart Service. Addition to Fleet

Award to: East Texas Mack Truck Sales LLC $306,000.00
Purchase will be thru TIPS Contract 170802

Agenda Item Summary

19/20 Budget approved addition to Solid Waste Collection Division to enhance residential collection services and address growth within the City. This vehicle will be used to transition current hand-collection customers to the curbside cart collection program. Resources currently dedicated to hand-collection will be reassigned to alley clean up efforts.

Requested Action

Recommend purchase approval of ASL Automated Side Loader for Solid Waste Collection Division. This purchase will be on TIPS Contract #170802. TIPS contract assures discounted governmental pricing and quicker delivery schedules.

Funding Summary

Funding for this purchase will be from 61120.84100 Fleet Services Auto – Rolling Stock & Equipment. Total Purchase $306,000.00

Community Engagement Summary

Solid Waste Division held Community Engagement meetings on January 4th, 8th, 18th, 24th, and 25th. Discussion over change of Customer Refuse collection practices concerning refuse dumpsters in streets, public right of ways, residential dumpster front curb, and hand bag collection locations. Continued expansion of residential kart services

Staff Recommendation

Staff Recommends approval of purchase of ASL Automated Side Loaders – Cart Style.

Bid No. 6610 PURCHASE OF 2020 MACK/HEIL AUTOMATED SIDELOADER
Opened 4:00 p.m. October 11, 2019

To be awarded as one lot		EAST TEXAS MACK TRUCK SALES LLC
Line 1 2020 Mack/Heil LR64R-28 Yard Python, per specifications		
1 ea		
Unit Price	$305,925.000	
Extended Price		305,925.00
Line 2 Documentary Fee, per specifications		
1 ea		
Unit Price	$75.000	
Extended Price		75.00
Bid Total		306,000.00
Award by Vendor		306,000.00

D

Amarillo City Council
Agenda Transmittal Memo

Meeting Date	October 29, 2019	**Council Priority**	Transportation
Department	Capital Projects & Development Engineering		
Contact	Matthew Thomas		

Agenda Caption

CONSIDER APPROVAL – Change Order No. 2 for Bid #6401/Project #462060 – Streets Northwest Quadrant Seal Coat FY 16/17 – FY 20/21 Community Investment Program, Proposition 1

CDM Holdings, LLC. - $145,419.20

Agenda Item Summary

This item is to consider approval of Change Order No. 2 to the construction contract for the seal coating of streets within Amarillo. This change order will revise estimated quantities to match actual purchased and installed quantities.

Original Contract:	$ 4,879,505.20
Current Change Order:	$ 145,419.20
Previous Change Orders:	$ 216,898.32
Revised Contract Total:	$ 5,241,822.72

Requested Action

Consider approval to CDM Holdings, LLC. - $145,419.20

Funding Summary

Funding for this project will be available in the Project Budget Number 462060. This project was approved in the FY 16/17 – FY 20/21 Community Investment Program Budget. The construction expenses for this project are funded from the Proposition 1 Bonds.

Community Engagement Summary

The work performed as part of this change order has minimal impact; however the community was engaged during the construction of this project.

Staff Recommendation

City Staff is recommending approval of the change order.

6401 FY 2017-2021 COMMUNITY INVESTMENT PROGRAM:STREET & DRAINAGE IMPROVEMENTS: STREET MAINTENANCE NORTHWEST QUADRANT SEAL COAT
Opened 4:00 p.m., April 04, 2019

To be awarded as one lot	CDM HOLDINGS LLC		LA FULLER & SONS CONSTRUCTION	
Line 1 Seal Coat, per specifications				
1,612,324 sy				
Unit Price	$2.800		$3.19	
Extended Price		4,514,507.20		5,143,313.56
Line 2 Remove reflectorized Pavement Markings, per specifications				
4,000 sf				
Unit Price	$1.750		$2.20	
Extended Price		7,000.00		8,800.00
Line 3 Reflectorized Pavement Markings White 4" Broken, per specifications				
470 lf				
Unit Price	$0.200		$0.25	
Extended Price		94.00		117.50
Line 4 Reflectorized Pavement Markings White 4" Solid, per specifications				
18,230 lf				
Unit Price	$0.200		$0.25	
Extended Price		3,646.00		4,557.50
Line 5 Reflectorized Pavement Markings Yellow 4" Broken, per specifications				
15,760 lf				
Unit Price	$0.200		$0.25	
Extended Price		3,152.00		3,940.00

Line 6 Reflectorized Pavement Markings Yellow 4" Solid, per specifications					
31,730	lf				
	Unit Price	$0.200		$0.25	
	Extended Price		6,346.00		7,932.50
Line 7 Reflectorized Pavement Markings White 8" Solid, per specifications					
17,600	lf				
	Unit Price	$0.400		$0.50	
	Extended Price		7,040.00		8,800.00
Line 8 Reflectorized Pavement Markings White 20" Solid, per specifications					
290	lf				
	Unit Price	$3.000		$3.75	
	Extended Price		870.00		1,087.50
Line 9 Reflectorized Pavement Markings White 24" Solid, per specifications					
450	lf				
	Unit Price	$3.000		$3.75	
	Extended Price		1,350.00		1,687.50
Line 10 Reflectorized Pavement Markings White Arrow Straight, per specifications					
3	ea				
	Unit Price	$100.000		$125.00	
	Extended Price		300.00		375.00

Line 11 Reflectorized Pavement Markings White Arrow Right Turn, per specifications				
6 ea				
Unit Price	$100.000		$125.00	
Extended Price		600.00		750.00
Line 12 Reflectorized Pavement Markings White Arrow Left Turn, per specifications				
20 ea				
Unit Price	$100.000		$125.00	
Extended Price		2,000.00		2,500.00
Line 13 Reflectorized Pavement Markings White Arrow Straight/Left Turn, per specifications				
6 ea				
Unit Price	$100.000		$125.00	
Extended Price		600.00		750.00
Line 14 Reflectorized Pavement Markings White Crosswalk Type A, per specifications				
37 ea				
Unit Price	$400.000		$500.00	
Extended Price		14,800.00		18,500.00
Line 15 Reflectorized Pavement Markings White Crosswalk Type B, per specifications				
19 ea				
Unit Price	$800.000		$995.00	
Extended Price		15,200.00		18,905.00

Line 16 Reflectorized Pavement Markings White Crosswalk Type C, per specifications				
1 ea				
Unit Price	$500.000		$625.00	
Extended Price		500.00		625.00
Line 17 Reflectorized Pavement Markings White Shared Lane Markings, per specifications				
3 ea				
Unit Price	$300.000		$375.00	
Extended Price		900.00		1,125.00
Line 18 Reflectorized Pavement Markings White Bicycle Lane Marking, per specifications				
2 ea				
Unit Price	$300.000		$375.00	
Extended Price		600.00		750.00
Line 19 Furnish, Install and Maintain Traffic Control Plan, per specifications				
1 ls				
Unit Price	$25,000.000		$90,000.00	
Extended Price		25,000.00		90,000.00
Line 20 Mobilization/Demobilization, per specifications				
1 ls				
Unit Price	$225,000.000		$113,224.00	
Extended Price		225,000.00		113,224.00

Line 21 Relocation of Vehicles, per specifications					
1	ls				
	Unit Price	$50,000.000		$30,000.00	
	Extended Price		50,000.00		30,000.00
	Bid Total		4,879,505.20		5,457,740.06
	Award to Vendor		4,879,505.20		
	Change Order #1		216,898.32		
	Change Order #2		145,419.20		
	Revised Total		5,241,822.72		

E

Amarillo City Council
Agenda Transmittal Memo

Meeting Date	October 29, 2019	**Council Priority**	Infrastructure Initiative
Department	Capital Projects & Development Engineering		
Contact	Matthew Thomas		

Agenda Caption

CONSIDER – Professional Services Agreement with Reynolds Engineering Associates, Inc. – 34th Avenue Pump Station Electrical Rehabilitation for Project No. 530045, in the amount of $287,955.00

Agenda Item Summary

This item is to consider approval of the professional services agreement for the design and construction phases of the 34th Avenue Pump Station Electrical Rehabilitation project.

Requested Action

Consider approval of agreement with Reynolds Engineering Associates, Inc. in the amount of $287,955.00 for execution by the City Manager.

Funding Summary

Funding for this project is available in the Project Budget Number 530045. This project was approved in the FY 18/19 Community Investment Program. This project is funded with water and sewer revenue bonds.

Community Engagement Summary

The work is located within the boundaries of the 34th Avenue Pump Station. As the project progresses through design, coordination will occur with water transmission personnel. Design of the project is not anticipated to have physical impact on the plant and very minor impact on the surrounding community.

Staff Recommendation

City Staff is recommending approval of the contract.

Bid No. 6617 PROFESSIONAL SERVICES-ENGINEER DESIGN & CONSTRUCTION PHASE 3
Opened 4:00 p.m. October 17, 2019

To be awarded as one lot	REYNOLDS ENGINEERING ASSOCIATES INC	
Line 1 Engineering Design Contract for 34th Ave Pump Station, per specifications		
1 ea		
Unit Price	$287,955.000	
Extended Price		287,955.00
Bid Total		287,955.00
Award by Vendor		287,955.00

Amarillo City Council
Agenda Transmittal Memo

Meeting Date	October 29, 2019	Council Priority	Fiscal Responsibility, Best Practices, Customer Service
Department	Public Works / Fleet Services Division		
Contact	Glenn Lavender, Fleet Services Superintendent		

Agenda Caption

Consider: Purchase of Street Sweeper.

Award to: Heil of Texas $291,365.00
Utilizing HGAC Contract SW-04-18A

Agenda Item Summary

Scheduled replacement of unit 7920, 2013 Freightliner/Elgin Eagle Street Sweeper. Equipment used by the Street Division for daily operational requirements. 7920 has reached its useable life cycle.

Requested Action

Recommend purchase for 2020 Schwarze Sweeper
This purchase will be on HGAC contract #SW-04-18A. Contract assures discounted governmental pricing and quicker delivery schedules. Contract purchase allows for best value evaluation and vendor support

Funding Summary

Funding for this purchase will be from 61120.84100 Fleet Services Auto Rolling Stock & Equipment.

Community Engagement Summary

N/a

Staff Recommendation

Staff Recommends Council approval of purchase.

Bid No. 6620 PURCHASE OF MECHANICAL STREET SWEEPER
Opened 4:00 p.m. October 18, 2019

To be awarded as one lot	HEIL OF TEXAS	
Line 1 2014 Schwartz Sweeper Street Sweeper Mechanical, per specifications		
1 ea		
Unit Price	$302,865.000	
Extended Price		302,865.00
Line 2 Freight, per specifications		
1 ea		
Unit Price	$3,500.000	
Extended Price		3,500.00
Line 3 Pre Delivery Inspection, per specifications		
1 ea		
Unit Price	$1,000.000	
Extended Price		1,000.00
Line 4 Discount, per specifications		
1 ea		
Unit Price	($16,000.000)	
Extended Price		(16,000.00)
Bid Total		291,365.00
Award by Vendor		291,365.00

A

Amarillo City Council
Agenda Transmittal Memo

Meeting Date	October 29, 2019	**Council Priority**	Economic Development
Department	Amarillo Economic Development Corporation		
Contact	Kevin Carter, President and CEO, Amarillo Economic Development Corporation		

Agenda Caption

CONSIDER APPROVAL – LOCATION INCENTIVE AGREEMENT - BETWEEN AMARILLO ECONOMIC DEVELOPMENT CORPORATION AND SSI FOODS LLC AND BOVINA BURGER LLC:

This item considers approving a Location Incentive Agreement (LIA) between Amarillo Economic Development Corporation and SSI Foods LLC and Bovina Burger LLC for the creation of new jobs in Amarillo. The Location Incentive Agreement (LIA) provides for the conveyance of 17.1 acres of land in the CenterPort Business Park and incentives that are performance based for the creation of up to 150 new jobs over a five-year period. The agreement prescribes a total grant of up to $2.1 million dependent upon specific performance achievements detailed in the agreement. The agreement requires SSI Foods LLC and Bovina Burger LLC to create the jobs and payroll first and then receive incentive payments upon the achievement of annual performance metrics.

Agenda Item Summary

The Amarillo Economic Development Corporation has been working with SSI Foods since an initial site visit in March 2019. SSI has been considering multiple sites in different states for a new food processing facility. Highlights of the project include:

- 17.10 acres for 75,000 square foot facility
- Infrastructure commitment of road, water and sewer in CenterPort
- $19MM estimated construction budget; $23MM in equipment
- Company projects 75MM lbs. of product produced every year
- Customers are providing 5-10 years of volume commitments
- Partnership between AgriBeef, Gauge Capital and Private Capital
- Projected new employees: 150
- Projected payroll: $6,750,000
- Job incentive of $10,000 per job paid out over a 5-year period
- Additional 15 acres reserved that could be purchased or granted based on additional employee and payroll commitment

Based on the level of capital investment, full-time jobs created, and projected payroll, the AEDC Board of Directors approved the LIA on September 20, 2019 with a 4-0 vote. This level of incentive is in line with criteria found in Council's recently approved comprehensive guidelines and criteria for economic development incentives.

Requested Action

Approve as presented

Amarillo City Council
Agenda Transmittal Memo

CITY OF AMARILLO
CITY MANAGER

Funding Summary

Conveyance of Land and Per Job Incentive

Community Engagement Summary

N/A

Staff Recommendation

AEDC staff recommends approval of Location Incentive Agreement

LOCATION INCENTIVES AGREEMENT
by and between
AMARILLO ECONOMIC DEVELOPMENT CORPORATION
and
SSI FOODS LLC
and
BOVINA BURGER LLC

This Agreement, entered into effective as of the 29th day of October, 2019 ("**Effective Date**"), is by and between the **AMARILLO ECONOMIC DEVELOPMENT CORPORATION** ("**Amarillo EDC**"), a Texas corporation organized and chartered under Chapters 501 and 504 of the Texas Local Government Code, having its principal place of business in Amarillo, Potter County, Texas, **SSI FOODS LLC**, a Nevada limited liability company authorized to do business in Texas, with its principal place of business in Eagle, Ada County, Idaho ("**SSI**"); and **BOVINA BURGER LLC**, an Idaho limited liability company authorized to do business in Texas, with its principal place of business at 1555 Shoreline Dr., Suite 320, Boise, ID 83702 ("**Bovina**").

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

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

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

Bovina is a real estate holding company affiliated with and owned by one or more of the owners of **SSI** that will lease the Property (defined below) to **SSI** under the Lease (defined below).

Amarillo EDC, by its execution of this Agreement, extends to **SSI** and **Bovina** an offer of financial incentives as inducement for **SSI** to establish and expand operations and employment in Amarillo. **SSI** and **Bovina**, by their execution of this Agreement, accept **Amarillo EDC's** offer of financial

incentives. **Bovina** pledges to use its best efforts to cause the construction of the Facility on the Property and **SSI** pledges to use its best efforts to establish and expand Amarillo Operations to the full extent provided in this Agreement.

The following defined terms will be used in this Agreement:

Defined Term	Definition
Affiliate	Any entity in which **SSI** owns at least a 50% equity interest and that executes and delivers to **Amarillo EDC**, in form and substance reasonably satisfactory to **Amarillo EDC**, an agreement to be bound by the reporting requirements of this Agreement.
Amarillo Operations	**SSI's** and its Affiliates' food production activities and operations provided primarily at or from the Facility with jobs categorized primarily in NAICS Sector Number 31
Date Zero	January 1, 2023
Date One	The first anniversary of Date Zero
Date Two	The second anniversary of Date Zero
Date Three[1]	The third anniversary of Date Zero
Employee	Employees of **SSI** and its Affiliates engaged on behalf of **SSI** or its Affiliates in Amarillo Operations at or from the Facility
Expansion Grant	As more particularly described in Section 3
Expansion Increment	Each **full** increment of ten FTEs **and** $450,000 in Payroll maintained in Amarillo Operations; provided, however, the term will not include increments beyond 150 FTEs or $6,750,000 in Payroll, in the aggregate
Facility	A food production and processing facility and related improvements (whether one or multiple structures) to be located on the Property (defined below) in **Amarillo EDC's** CenterPort Business Park
FTE	An employee, to be counted as one FTE, will be any employee who has worked 1,820 hours or more during that period. Employees working more than 1,820 hours in a year will be counted as one FTE. Part-time Employees for a year will be treated as partial FTEs for the year and will be calculated by dividing the number of hours actually worked for each Employee working less than 1,820 hours by 1,820 and rounded to the nearest one-hundredth place. Full-time but less than full year Employees will be treated as partial FTEs and calculated as above. In no event may any one person count as more than one FTE for any year. The total of full-time FTEs and partial FTEs will constitute the total FTEs for the year.

[1] The fourth through tenth anniversaries of Date Zero will be referred to in the same manner (e.g. Date Ten is the tenth anniversary of Date Zero).

Defined Term	Definition
Lease	That certain written lease agreement of the Property between **Bovina**, as landlord, and **SSI**, as tenant, whether now or hereafter in existence.
Payroll	Total Gross Wages (as defined by and reportable to the Texas Workforce Commission) paid to Employees; provided, however, that the following components of compensation will be includable in Payroll: salary, hourly wages, and bonuses
Property	That certain tract of real property described on Exhibit B, attached and incorporated fully
Retention Year	Each 12-month period beginning on Date Zero through Date Nine

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

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

a. **SSI** and **Bovina** hereby request, and **Amarillo EDC** hereby agrees to grant and provide to **SSI** and **Bovina** up to the aggregate amount of $2,100,000 in cash and/or property under the terms and conditions of this Agreement. **Bovina** acknowledges that there are one or more potential repayment obligations to **Amarillo EDC** under the terms of this Agreement and that in order to secure **Bovina's** performance, **Bovina** will grant to **Amarillo EDC** a security interest in the Property by written Deed of Trust in the form attached hereto as Exhibit A. **Amarillo EDC** agrees to reasonably subordinate the lien under such Deed of Trust ("**AEDC Lien**") to such liens securing construction and permanent financing of **Bovina's** improvements to the Property (excluding future advances not made to finance the original construction of the Facility or the original permanent financing after construction) which subordination will be evidenced and reflected by a Subordination Agreement in form and content reasonably acceptable to **Amarillo EDC**. Security for the performance by **SSI** and **Bovina** of all obligations arising under or related to this Agreement is the Property, together with its improvements, fixtures, and appurtenances, whether now located on or to be located on the Property (collectively, the "**Collateral**"). At Closing, **Bovina** will execute and deliver the Deed of Trust and all other instruments or documents reasonably necessary or appropriate to implement the terms of this Agreement.

b. The consideration to be paid, advanced or expended by **Amarillo EDC** includes, (a) the conveyance by **Amarillo EDC** to **Bovina** of the Property, a 17.10-acre tract of land described at Exhibit B attached hereto, with an agreed present value of $600,000; and (b) up to $1,500,000 in cash as job creation and retention grants to be provided, subject to **SSI's** qualification therefore, in installments as more specifically set out in this Agreement. The Property is being conveyed and made available to **Bovina** to allow it to construct or cause the construction of the Facility thereon. The funds described in Section 3 are being made available to **SSI** for

establishing and expanding operations on the Property and will be disbursed to or on behalf of **SSI** in accordance with the terms of this Agreement, against delivery of all documents or instruments required under this Agreement.

c. **Bovina** agrees to cause **Beef Men LLC**, an Idaho limited liability company, and **Bona Fide Beef LLC**, an Idaho limited liability company, to execute and deliver that certain guaranty for the benefit of **Amarillo EDC** in the form of Exhibit C ("**Guaranty**"). The full execution and delivery of the Guaranty is a precondition to **Amarillo EDC's** obligations under this Agreement.

d. The parties stipulate that **Bovina** may contract with a third-party developer ("**Developer**") with respect to its duties related to construction of the Facility. **Amarillo EDC** consents to such arrangement; provided that in no event will **Amarillo EDC** be deemed to owe the Developer (or any other third-party) any duties under this Agreement, including with respect to the conveyance of title to the Property and the Expansion Grant payments.

2. **Conveyance of the Property and Construction of Facility**.

a. At the closing of the transactions contemplated by this Agreement ("**Closing**"), **Amarillo EDC** will convey the Property to **Bovina** by Special Warranty Deed in the form of Exhibit D, attached hereto and made a part hereof for all purposes ("**Deed**"). The Deed will contain a reversionary clause as more specifically described therein, triggered in the event construction of the Facility has not begun within 12 months of Closing or is not thereafter diligently pursued to completion within 24 months of Closing. The Deed will contain "as is, where is, with all faults" disclaimers reasonably acceptable to **Amarillo EDC**. Closing will occur at American Land Title, LLC, 620 S. Taylor, Suite 104, Amarillo, Texas 79101 ("**Title Company**"); provided that the parties will reasonably cooperate to accommodate a remote closing. At Closing, **Bovina** will, at its expense, cause the Title Company to issue to **Amarillo EDC** a lender's policy of title insurance with coverage in the amount of no less than $600,000. All costs and fees associated with Closing (save and except **Amarillo EDC's** attorneys' fees related thereto) will be borne solely by **Bovina**; provided that **Amarillo EDC** agrees to obtain, at its expense, a survey of the Property ("**Survey**"). Such Survey will, when completed, be attached to or incorporated into this Agreement (and its Exhibits) in all appropriate places.

b. On or before the expiration of 12 months after Closing, **Bovina** agrees to commence construction of the Facility on the Property and to thereafter diligently pursue construction in a commercially reasonable manner. On or before the expiration of 24 months after Closing: (i) **Bovina** agrees to cause the Facility to be ready to be occupied by **SSI**; and (ii) **SSI** agrees to commence Amarillo Operations at the Facility. Amarillo Operations will be deemed to have commenced when, and only when: (a) construction of the Facility has been substantially completed (excepting only normal punch-out items); (b) **SSI** and/or **Bovina**, as appropriate, have unconditionally received all approvals and certifications of occupancy and operation from any

governmental or other entity with jurisdiction over the Property for the operations contemplated thereby; (c) at least twenty Employees are employed by **SSI** and actually working at the Facility; and (d) **SSI** has delivered written notice certifying such facts to **Amarillo EDC** and providing such back-up documentation as **Amarillo EDC** may reasonably request.

c. The Facility must be at least 75,000 square feet and constructed as a concrete tilt-up and/or insulated metal panel building or buildings. **SSI** will insure that, with respect to the construction of the Facility, all contractors, subcontractors, and materialmen are timely paid in accordance with their respective contracts. In the event any liens are filed against the Property, **SSI** will take such measures to protect the Property including, if necessary, bonding around such liens in accordance with applicable law.

d. Reasonably promptly after the commencement of construction of the Facility, **Amarillo EDC** will, at its expense, cause there to be a 49-foot wide curb-cut immediately to the south of the southwest corner of the Property and to construct a 49-foot by 1,200-foot concrete private road from such curb-cut to the east along the southern boundary of the Property along with a 1,243.1-foot 8" water line and an 825-foot sewer line. Such amounts expended by **Amarillo EDC** under this Section 2(d) will not be included in the calculation of any repayment obligation of **Bovina** that may arise hereunder. **SSI** and **Bovina** agree that the vehicular entrance to the Property will solely be from this private road and that no curb-cuts into public streets will be allowed. It is contemplated that such private road could be extended and may be publicly dedicated by **Amarillo EDC** in its sole and absolute discretion. **SSI** and **Bovina** waive, release, and relinquish **Amarillo EDC** from any and all claims and damages arising from or relating to their use of such private road.

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

a. From and after the Effective Date, **SSI** agrees to use its best efforts to establish and expand Amarillo Operations, creating new FTEs and increasing Payroll. Provided **SSI** qualifies under the terms of this Section 3, **Amarillo EDC** will pay to **SSI** one or more expansion grant payments under the terms of this section (each an "**Expansion Grant**" and together the "**Expansion Grants**").

b. Each Expansion Grant will be up to $100,000, payable in five annual installments of up to $20,000, each subject to reduction as described in Section 3(c). **SSI** will be eligible for one Expansion Grant for each full Expansion Increment newly created prior to Date Five. **SSI** agrees to maintain each Expansion Increment in Amarillo Operations for a four-year period beginning at the end of the Retention Year in which each such Expansion Increment was originally created. So, if the first full Expansion Increment is newly created in the year ending the day before Date Three, the four-year Expansion Grant retention requirement begins on Date Three.

No Expansion Increment will be deemed to have been created unless and until both the full 10 FTEs and $450,000 in Payroll for such Expansion Increment have been newly created.

c. The first of five annual Expansion Grant installments called for under Section 3(b) will be due after the Retention Year in which a full Expansion Increment is first newly created. For each of the four years thereafter, if **SSI** maintains both the additional 10 FTEs and $450,000 in Payroll related to such Expansion Increment, there will be no deduction from the Expansion Grant installment amount due under Section 3(b) for such year and Expansion Increment. If, during such four-year period, **SSI** fails to maintain one or both of the FTE or Payroll amounts required for an Expansion Increment, the Expansion Grant installment related to such year and Expansion Increment will be reduced or eliminated altogether, as follows:

1. Should **SSI** meet only one of either the FTE or Payroll amounts required (10 for FTEs and $450,000 for Payroll) related to an Expansion Increment, and miss the other target by no more than five percent (5%), the Expansion Grant installment called for under Section 3(b) for such year will be calculated as follows: $20,000 X (Actual amount of FTE or Payroll maintained [using the figure that fell short of the required amount] related to such Expansion Increment / [10 if FTEs fell short or $450,000 if Payroll fell short]).

2. There will be no Expansion Grant installment due for any Retention Year under Section 3(b) if either: (i) **SSI** meets only one of either the FTE or Payroll amounts required related to an Expansion Increment (again, being 10 FTEs and $450,000 in Payroll for each Expansion Increment), and misses the other requirement by more than five percent (5%); or (ii) **SSI** fails to achieve (by any margin) both the FTE or Payroll amounts required related to such Expansion Increment.

No level of future performance by **SSI** will give rise to a payment obligation of **Amarillo EDC** related to prior deductions from Expansion Grant payments. Each Expansion Increment will be measured on its own, so each Expansion Increment stands on its own for purposes of the reduction or elimination of the four (4) annual Expansion Grant installment payments as described in Section 3(b). So, the denominator of the fraction in Section 3(c)(1) will only ever be 10 or $450,000, depending on whether the additional FTE or Payroll requirement was missed for such year.

d. The FTE and Payroll reports required to be provided by **SSI** under Section 5 will be used to measure whether an Expansion Increment has been newly created, and whether it has been maintained. Each installment of an Expansion Grant will be payable within ten (10) business days of **Amarillo EDC's** receipt and approval of such reports which establish the creation and/or retention of an Expansion Increment.

e. Notwithstanding anything else herein to the contrary, the maximum aggregate amount **Amarillo EDC** will in any event be obligated to pay under this Agreement will be $1,500,000. After each 4-year Expansion Grant payment period, no Expansion Increment can be newly created for the same increment of FTEs and Payroll.[2]

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

g. While **SSI** may enjoy a ramp-up period prior to January 1, 2023 (when the first Retention Year commences), **SSI** may, upon advance written notice to **Amarillo EDC**, elect to instead have the first Retention Year commence on January 1, 2022; provided that in no event may the notice be given prior to the commencement of Amarillo Operations. In such event, the definition of Date Zero will instead be January 1, 2022, for all purposes.

4. **Potential Repayment Obligation of SSI**.

a. Notwithstanding anything else herein to the contrary and in addition to any other repayment obligation triggers in this Agreement, should Amarillo Operations cease while **Amarillo EDC** has any potential payment obligation under this Agreement, **SSI** will not receive any Expansion Grant for the year in which Amarillo Operations ceased, nor any future years, and **Bovina** will repay to **Amarillo EDC** the value of the Property as set out in this Agreement within one hundred and twenty (120) days of notice of default by **Amarillo EDC**. **Bovina** acknowledges the receipt and adequacy of valuable consideration for its promise to repay described in this Agreement.

b. For purposes of section 4 of this Agreement, a cessation of operations occurs if (i) the Amarillo Operations are permanently discontinued; (ii) **SSI** fails to timely provide the reports required under this Agreement for more than one Retention Year; or (iii) for any year in which **SSI** is eligible for a payment under this Agreement, **SSI** maintains less than 30 FTEs in Amarillo Operations. A temporary halt, temporary delay, business disruption, or similar occurrence, whether or not caused by a force majeure event, does not constitute a cessation of operations.

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

a. Amarillo EDC may reasonably request reporting and backup documentation from SSI. The timing, contents, and other matters regarding such additional reports and backup

[2] To avoid any confusion, the "floor" for FTEs and Payroll on which each Expansion Increment is measured will rise with the establishment of each Expansion Increment. So, for example, if the third Expansion Increment is established (representing FTEs 21-30 and Payroll of $900,001 to $1,350,000) but FTE or Payroll levels fall back under 20 and $900,000, respectively, no new Expansion Increment will be deemed to have been created if FTEs and Payroll levels rise back up to 30 FTEs and $1,350,000 in Payroll.

documentation, if any, shall be subject to the parties' mutual agreement. In addition to any such additional reporting and backup documentation, **SSI** will, without demand or other request therefore, deliver to **Amarillo EDC** copies of each and every quarterly report submitted to the Texas Workforce Commission ("**TWC**"), contemporaneously with their submission to the TWC (and in no event beyond the deadline for such reports to the TWC), related to Amarillo Operations. Additionally, contemporaneously with each quarterly report submitted to the TWC, **SSI** will provide a separate report listing all employees in the order they appear on the report submitted to the TWC and indicating the total number of hours worked and Payroll received in Amarillo Operations by each Employee during such quarter. In addition, each report for the fourth quarter of each year will include the number of FTEs that each Employee represents for such year, Payroll received by each Employee, and a total aggregate number of FTEs maintained in Amarillo Operations during such year (in no event will any one person count as more than one FTE in any year). On each such report, **SSI** will clearly mark each employee who was not, during the period the report relates to, engaged primarily in Amarillo Operations (such employees will not count towards the FTE and Payroll figures under this Agreement). Each such report will be certified to **Amarillo EDC** as true and correct by the Chief Executive Officer or Chief Financial Officer of **SSI**. All reporting under this Agreement must be sent by email to reporting@amarilloedc.com and to such other addresses as **Amarillo EDC** may from time-to-time designate in writing to the persons designated to receive Notice under this Agreement.

b. **SSI** also will allow **Amarillo EDC** and its agents to reasonably examine **SSI's** records necessary to verify employment in Amarillo Operations should **Amarillo EDC** so request. **Amarillo EDC** understands that such information will be for **Amarillo EDC**'s use solely to confirm the accuracy of reports required hereunder and to enforce **Amarillo EDC's** rights under this Agreement. Subject to any applicable Texas Public Information Act provision, or similar law, **Amarillo EDC** agrees that such review and examination will be subject to reasonable confidentiality safeguards (including, without limitation, the execution and delivery by **Amarillo EDC** and/or its agents, as appropriate, of a reasonable and mutually agreeable confidentiality agreement) and that an **SSI** representative will have the right to accompany **Amarillo EDC** or its agents during such review. **Amarillo EDC** or its agents, as appropriate, will be allowed to make and retain copies or transcriptions of **SSI** records reasonably required to carry out the purposes of this section 5.b. Any inspection will be done with at least five days' advance notice to **SSI**, will occur during normal working hours, and will continue from day-to-day until complete.

c. **SSI** will provide reports on a timely basis to **Amarillo EDC**, as provided in this section 5, and failure to do so will constitute a condition of default under this Agreement subject to section 5.e of this Agreement. In the event an FTE or Payroll amount reported to **Amarillo EDC** is discovered by **SSI** to be inaccurate in any way, **SSI** will notify **Amarillo EDC** of such inaccuracy within ten (10) business days of discovering the inaccurate information, and **SSI** will provide a substitute report, highlighting each item of information which was inaccurate, as soon as reasonably possible and in any case within ten (10) business days of discovering the inaccurate information. If such replacement report establishes that **SSI** received a payment under

this Agreement that it was not entitled to receive, in addition to any other rights or remedies of **Amarillo EDC** hereunder, **SSI** will repay such amount to the **Amarillo EDC** with interest at five percent (5%) per year since within thirty (30) business days of the date of such improper payment.

d. To qualify as an Affiliate of **SSI** under this Agreement, each such Affiliate must execute and deliver to **Amarillo EDC** a written agreement including such terms as **Amarillo EDC** reasonably deems appropriate, including without limitation an agreement by such Affiliate to be bound by the terms of this Section 5 and to have the Chief Executive Officer, or equivalent supreme corporate official, certify all reports required hereunder as true and correct to **Amarillo EDC**. The qualification of any third-party as an Affiliate under this Agreement will in no way alter the incentive payment procedures under this Agreement.

e. The parties agree to confer in good faith regarding any dispute regarding the reporting requirements in paragraph 5 of this Agreement, including (without limitation) any dispute regarding the timeliness, accuracy, or required contents of any report. **SSI** shall be provided notice and a reasonable opportunity to cure any alleged defect in any report, including any alleged defect as to timing, accuracy, or required contents of any report. Any cure period shall not be longer than twenty (20) business days.

6. **Possible Expansion**.

a. **Amarillo EDC** will, until the fifth anniversary of the Effective Date, hold a 15-acre tract bordering the East line of the Property ("**Expansion Property**") for **SSI's** expansion of Amarillo Operations. If **SSI** and **Bovina** provide written notice to **Amarillo EDC** of their desire to expand onto the Expansion Property at least six months prior to the fifth (5th) anniversary of the Effective Date, the parties will enter into good faith negotiations with respect to another Location Incentives Agreement on terms substantially identical to the terms of this Agreement, modified as is necessary to apply to the Expansion Property ("**Expansion Agreement**"). Without limiting the generality of the foregoing, with respect to the Expansion Agreement: (i) the deemed value of the Expansion Property will be $600,000.00; (ii) the deed conveying the Expansion Property will be a Special Warranty Deed and will contain reversionary clauses and "as is, where is, with all faults" disclaimers identical to those in the Deed; (iii) **SSI** will be subject to the same commitments as set out under this Agreement with respect to its goal to expand its operations in Amarillo, Texas and increase its employment (iv) **SSI** will be eligible for the same Expansion Grant benefits as provided in this Agreement; provided, however there will be established floors for FTEs and Payroll for purposes of determining when an Expansion Increment has been newly created equal to the number of FTEs and Payroll for which **SSI** has received any Expansion Grant installments under this Agreement; (v) **Bovina** will construct another facility (whether one or more buildings) on the Expansion Property with an agreed size requirement and lease the Expansion Property to **SSI**; and (vi) no new, additional Expansion Increments may be qualified for under the terms of this Agreement; *provided that* any remaining, unpaid annual installments under Section 3(b) & (c)

for Expansion Increments already then created will continue to be made under the terms of Section 3.

b. Closing of the transfer of the Expansion Property will occur on a date mutually acceptable to the parties, promptly after the entry of the Expansion Agreement.

c. In no event may any Employee that is counted as all or part of an FTE under this Agreement also be counted as all or part of an FTE under the Expansion Agreement, and vice versa. In no event may any Payroll that is counted under this Agreement also be counted as Payroll under the Expansion Agreement, and vice versa.

d. **SSI** may not record or file anything in the public records of the county in which the Expansion Property is located with respect to the terms of this Section 6.

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

a. SSI Foods LLC is a for-profit limited liability company, duly organized and existing in good standing under the laws of the State of Nevada and is authorized to transact business in the State of Texas.

b. The establishment and expansion of Amarillo Operations has been duly authorized by **SSI's** board of directors or equivalent governing authority and this Agreement and the performance by **SSI** of its obligations under this Agreement are not in contravention of any law, rule or regulation or of the provisions of **SSI's** articles of incorporation or bylaws (or similar formation and governing documents), or of any agreement or instrument to which **SSI** is a party or by which it may be bound.

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

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

e. The Texas Public Information Act, the Texas Open Meetings Act, and certain document retention statutes and regulations (together, "**Public Information Laws**") apply to

Amarillo EDC and, as such, this Agreement and some or all of the information, communications, or documents created, obtained, or maintained by **Amarillo EDC** under this Agreement may be subject to required retention and public disclosure.

8. **Bovina's Representations and Warranties**. **Bovina** represents and warrants to **Amarillo EDC** as of the Effective Date, and continuously for so long as **Bovina** has a potential repayment obligation to **SSI**, the following:

a. Bovina Burger LLC is a for-profit limited liability company, duly organized and existing in good standing under the laws of the State of Idaho and is authorized to transact business in the State of Texas.

b. The construction of the Facility and entry of the Lease have been duly authorized by **Bovina's** board of directors or equivalent governing authority and this Agreement and the performance by **Bovina** of its obligations under this Agreement are not in contravention of any law, rule or regulation or of the provisions of **Bovina's** articles of incorporation or bylaws (or similar formation and governing documents), or of any agreement or instrument to which **Bovina** is a party or by which it may be bound.

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

d. No certificate or statement herewith, heretofore delivered, or to be delivered by **Bovina** to **Amarillo EDC** in connection herewith or in connection with any transaction contemplated hereby, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements or information contained therein from being misleading.

e. The Public Information Laws apply to **Amarillo EDC** and, as such, this Agreement and some or all of the information, communications, or documents created, obtained, or maintained by **Amarillo EDC** under this Agreement may be subject to required retention and public disclosure.

9. **Amarillo EDC's Representations and Warranties**. **Amarillo EDC** represents and warrants to **SSI** and **Bovina** as of the Effective Date the following:

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

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

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

10. **Force Majeure**. If, by reason of force majeure, such as fire, flood, windstorm, or other act of God, undue delay or denial of any permit or other authorization required from any third party, any party is reasonably unable to fulfill its obligations under this Agreement, such party will use reasonable and diligent effort to rectify the situation within a reasonable time, which period will, in no event, be longer than three (3) months, and which period will be added to any scheduled period or deadline hereunder.

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

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

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

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

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

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

In addition to any other remedy available by law, should any of these conditions not be cured by the appropriate party within a period of twenty (20) business days following written notice from **Amarillo EDC**, **Amarillo EDC** may, at its option, terminate any and all obligations of **Amarillo EDC** under this Agreement and require: (i) **Bovina** to repay the deemed value of the Property; and (ii) **SSI** to repay all amounts received by it under this Agreement, less any amounts previously repaid by **SSI**.

12. **Governing Law, Venue, and Attorneys' Fees**. All obligations of the parties are performable in Amarillo, Potter County, Texas, and this Agreement is governed by the laws of the State of Texas. Venue for any action arising from or related to this Agreement will be exclusively in the State District Courts in and for Potter County, Texas. The prevailing party to any lawsuit arising from or related to this Agreement will be entitled to recover its reasonable and necessary attorneys' fees and costs. Interest on amounts past-due hereunder will accrue at the rate of five percent (5%) per year.

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

For Amarillo EDC

Attn: Mr. Kevin Carter, President/CEO
Amarillo Economic Development Corporation
801 South Fillmore, Suite 205
Amarillo, Texas 79101
Reporting@AmarilloEDC.com
Kevin@AmarilloEDC.com

With a copy (which will not constitute notice) to

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

For SSI

Attn: Kirk Smith
SSI Foods LLC
P.O. Box 309
Eagle, ID 83616
kgsmith@ssis3.net

For Bovina

Attn: Kim Stuart
Bovina Burger LLC
1555 W. Shoreline Dr., Suite 320
Boise, ID 83702
kim.stuart@agribeef.com

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

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

15. **Tax Abatement**. **Amarillo EDC** will support and participate in **Bovina's** and **SSI's** application for property tax abatement under Chapter 312 of the Texas Tax Code to any taxing authority with jurisdiction over the Property. The taxing districts have historically been receptive to requests for tax abatement when significant investment in real property and job creation are shown. However, **Amarillo EDC** has no authority over such taxing districts and does not warrant or represent that **SSI** or **Bovina** will be granted a tax abatement by any or all of the tax districts. Notwithstanding anything else herein to the contrary, if **SSI** or **Bovina** do not qualify for tax abatement in an amount reasonably acceptable to **SSI** and **Bovina**, **SSI** or **Bovina** may terminate this Agreement upon written notice to **Amarillo EDC** on or before Closing. This option to terminate expires automatically if such notice is not actually received by **Amarillo EDC** by Closing.

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

17. **Broker Commissions**. **Bovina** represents and warrants to **Amarillo EDC** that it is solely responsible for any commissions or similar fees (each a "**Commission**") of brokers, finders, realtors, or similar agents claiming a right to a Commission by, though, or under **Bovina**.

18. **Certification Regarding Undocumented Workers**.

a. **SSI** certifies that it does not and will not knowingly employ an Undocumented Worker, defined below, between the Effective Date and the date upon which both parties no longer owe any duties under this Agreement. "**Undocumented Worker**" will mean an individual who, at any time during employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized under law to be employed in that manner in the United States. **SSI** will notify **Amarillo EDC** within ten (10) business days if: (i) **SSI** becomes aware it employs or has employed an Undocumented Worker at the Facility between the Effective Date and the date upon which both parties no longer owe any duties under this Agreement; (ii) **SSI** becomes aware or receives notice that it is alleged to have employed an Undocumented Worker at the Facility between the Effective Date and the date upon which both parties no longer owe any duties under this Agreement; or (iii) **SSI** is convicted of a violation under the following subparagraph.

b. If between the Effective Date and the date on which both parties no longer owe any duties under this Agreement, **SSI** knowingly employs an Undocumented Worker or is convicted of a violation under 8 U.S.C. Section 1324a(f), **SSI** will repay to **Amarillo EDC** the entire amount received by **SSI** hereunder and **Bovina** will repay to **Amarillo EDC** the deemed value of the Property. Such amount will be due and payable in full on the 120th day after the date **Amarillo EDC** notifies **SSI** of the violation and interest will accrue on such amount at the rate of five percent (5%) per year thereafter.

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

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

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

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By:_____
Kevin Carter, President and CEO

_____

SSI FOODS LLC

By:_____

Printed Name:_____

Title:_____

BOVINA BURGER LLC

By:_____

Printed Name:_____

Title:_____

EXHIBIT A

DEED OF TRUST

Date: _____, 2019

Grantor: BOVINA BURGER LLC, an Idaho limited liability company

Grantor's Mailing Address (including county):

1555 W. Shoreline Dr., Suite 320
Boise, ID 83702

Trustee: JOHN B. ATKINS

Trustee's Mailing Address (including county):

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

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

Beneficiary's Mailing Address (including county):

801 South Fillmore, Suite 205
Amarillo (Potter County), Texas 79101

LIA: Location Incentives Agreement between Grantor, Beneficiary, and SSI Foods LLC ("**SSI**") dated October 29, 2019

Terms of Payment: As provided under the LIA.

Property: [To be inserted when Survey is completed]

Prior Liens: None.

Other Exceptions to Conveyance and Warranty:

This Property is subject to all easements, rights-of-way, and prescriptive rights, whether of record or visible and apparent; all presently recorded restrictions, reservations, covenant conditions, municipal zoning restrictions, oil and gas leases, mineral severances, and other

instruments, other than liens and conveyances, that affect the Property; rights of adjoining owners of any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines, and any encroachments or overlapping of improvements.

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

Grantor's Obligations

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

1. keep the Property in good repair and condition, reasonable wear and tear excepted;
2. pay all taxes and assessments on the property when due;
3. preserve the lien's priority as it is established in this Deed of Trust;
4. maintain an insurance policy evidenced by a certificate of insurance that:
    a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
    b. provides fire and extended coverage, including windstorm coverage;
    c. protects Beneficiary with a standard mortgage clause;
    d. provides flood insurance at any time the property is in a flood hazard area; and
    e. contains such other coverage as Beneficiary may reasonably require;
5. deliver evidence of insurance in the form of a certificate of insurance to Beneficiary and deliver renewals to Beneficiary within thirty days of renewal of the policy;
6. keep any buildings occupied as required by the insurance policy; and
7. if this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds from the LIA are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. If there shall occur any insured damage to or destruction of the Property or any part thereof, and if (i) in the judgment of Grantor's engineers the Property can be restored, within a reasonable time to an Economic unit valuable adequately securing the

obligation, and (ii) Beneficiary receives assurances reasonably satisfactory to Beneficiary that revenue from the Property will continue in full force and effect after restoration and Amarillo Operations can be maintained as defined and required under the LIA, then, if and so long as there is no Default hereunder, Beneficiary will make available to Grantor for such restoration, proceeds of insurance, if any, collected by Beneficiary because of the act or occurrence and not restricted by any adverse claim thereto.

4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may, pursuant to terms and conditions of the LIA perform those obligations and be reimbursed by Grantor on demand for any sums so paid, including reasonable attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the LIA. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor fails to perform any of Grantor's obligations under the LIA or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by the LIA, then Beneficiary may:
    a. declare the amount owed by Grantor under the LIA immediately due;
    b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
    c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Obligations.

Trustee's Duties

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

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

General Provisions

1. If any of the Property is sold under this Deed of Trust, Grantor shall immediately surrender possession to the purchaser thereof. If Grantor fails to do so, Grantor

shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

2. Recitals in any Trustee's deed conveying the Property will be presumed to be true. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
3. This lien shall remain superior to liens later created even if the time of payment of all or part of Grantor's obligations under the LIA are extended or part of the Property is released.
4. If any portion of Grantor's obligations under the LIA cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge of that portion.
5. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses reasonably incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the amounts owed under the LIA. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
6. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in Default under the LIA or this Deed of Trust. Grantor will apply all rent and other income and receipts to payment of its obligations under the LIA and performance of this Deed of Trust, but if the rent and other income and receipts exceed the amount due under the LIA and Deed of Trust, Grantor may retain the excess. If Grantor defaults in payment of the Obligations or performance of this Deed of Trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the Property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the LIA and this Deed of Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.
7. Interest on the Obligations is secured by this Deed of Trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum

amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

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

Bovina Burger LLC

By: _____
Kirk Smith, its _____

THE STATE OF IDAHO §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 2019, by Kirk Smith, _____ of Bovina Burger LLC, an Idaho limited liability company, on behalf of said company.

_____
Notary Public, STATE OF IDAHO

After recording return to:

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

EXHIBIT B

PROPERTY DESCRIPTION

PROPERTY DESCRIPTION:

A 17.10 acre tract of land lying in Section 61, Block 2, A.B. & M. Survey, Potter County, Texas, and being a portion of that certain tract described in Warranty Deed recorded in Volume 4007, Page 133, Official Public Records of Potter County, Texas, said 17.10 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap marked "4263" found in the North line of Section 61, whence a 1/2" iron rod found for the Northwest corner of Section 61 bears South 89 degrees 56 minutes 10 seconds West, 75.42 feet;

THENCE South 89 degrees 56 minutes 10 seconds East, along the North line of Section 61, a distance of 1128.05 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE South 00 degrees 03 minutes 50 seconds West, a distance of 657.05 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE North 89 degrees 56 minutes 10 seconds West, a distance of 1109.43 feet to a 3/8" iron rod with cap marked "HBD" set in the East right of way line of Folsom Road;

THENCE North 00 degrees 24 minutes 06 seconds East, along the East right of way line of Folsom Road, a distance of 105.93 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE North 07 degrees 32 minutes 05 seconds West, along the East right of way line of Folsom Road, a distance of 474.20 feet to a 1/2" iron rod with cap marked "4263";

THENCE South 90 degrees 56 minutes 10 seconds East, a distance of 43.50 feet to a 3/8" iron rod with cap marked "4263" found;

THENCE North 00 degrees 02 minutes 00 seconds East, a distance of 81.08 feet to the POINT OF BEGINNING of this tract;

Said tract contains a computed area of 17.10 acres of land.

EXHIBIT C
GUARANTY FOR THE BENEFIT OF
AMARILLO ECONOMIC DEVELOPMENT CORPORATION

Specification of Obligations Guaranteed. By written agreement entitled Location Incentives Agreement (the "**Agreement**") by and between **AMARILLO ECONOMIC DEVELOPMENT CORPORATION** ("**Amarillo EDC**"), **SSI FOODS LLC**, a Nevada limited liability company ("**SSI**"), and **BOVINA BURGER LLC**, an Idaho limited liability company ("**Bovina**") dated October 29, 2019, **Amarillo EDC**, **SSI**, and **Bovina** entered into an agreement to induce **SSI** to establish and expand Amarillo Operations as therein defined. As inducement for **Amarillo EDC** to enter into such Agreement, the Agreement provides that **Beef Men LLC**, an Idaho limited liability company and **Bona Fide Beef LLC**, an Idaho limited liability company (together, jointly and severally, "**Guarantor**") shall guarantee performance of the obligations of **SSI** under the Agreement, which is incorporated herein by reference and made a part hereof for all purposes.

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

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

Guaranty of Payment. This is an unconditional and continuing guaranty of payment and performance to **Amarillo EDC**, its successors and assigns, and not just a guaranty of collection. **Amarillo EDC** may enforce **Guarantor's** obligations hereunder without first suing or enforcing its rights or remedies for an uncured default against **SSI** or **Bovina**, or against any other guarantor and if an action for enforcement is brought directly against **Guarantor**, **Guarantor** shall be entitled to all defenses available to **SSI** or **Bovina**, as appropriate. Alternatively, **Amarillo EDC** may enforce the Agreement obligations against **SSI** or **Bovina**, as appropriate, any final judgment for which shall be covered by this Guaranty. If **Amarillo EDC** recovers a final, unappealable judgment against **SSI** or **Bovina**, **Guarantor** shall not be entitled to assert any defense to the payment of such judgment or recovery, whether or not such defense could be separately asserted by **Guarantor** as a guarantor, so long as **Guarantor** shall not have been prevented by **Amarillo EDC** from intervening in any action brought by **Amarillo EDC**. Performance by **Guarantor**

under the terms of this Guaranty shall in no event excuse or alleviate performance by **SSI** or **Bovina** of any other obligation under the terms of the Agreement not so performed by **Guarantor**, provided, however, **Amarillo EDC** shall not be entitled to double recovery.

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

Guarantor's Representations and Warranties. Each Guarantor represents and warrants on behalf of itself only, the following:

a. It is duly formed, validly existing, and in good standing under the laws of its State of incorporation and is authorized to transact business in the State of Texas;

b. It has all requisite power and authority to enter into this Guaranty and to carry out the terms and provisions of this Guaranty and **Guarantor's** responsibilities specified in the Agreement;

c. To the best of Guarantor's knowledge, the execution of this Guaranty is not in contravention of any law, rule or regulations or of any agreement or instrument to which it is a party or by which it may be bound;

d. To the best of Guarantor's knowledge, no action, proceeding, or investigation is pending or threatened which in any way prevents or interferes with or adversely affects its ability to enter into and perform under this Guaranty, or its ability to meet its obligations under this Guaranty; and

e. It is an equity owner of **Bovina** and has received or will receive direct or indirect benefit from the Agreement and the making of this Guaranty; it is familiar with the financial condition of **Bovina**; and **Amarillo EDC** has made no representations to it in order to induce it to execute this Guaranty other than as set forth in the Agreement.

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

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

For **Amarillo EDC**:

Amarillo Economic Development Corporation
Attn: Kevin Carter, President and CEO
801 S. Fillmore, Suite 205
Amarillo, TX 79101

For **Guarantor**:

Beef Men LLC
Kirk Smith
P.O. Box 309
Eagle, ID 83616

Bona Fide Beef LLC
Kim Stuart
1555 Shoreline Drive, Ste. 320
Boise, ID 83702

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

{Signature Page Follows}

EXECUTED this ___ day of _____, 2019.

Guarantor:

Beef Men LLC

By:_____

Printed Name:_____

Title:_____

Bona Fide Beef LLC

By:_____

Printed Name:_____

Title:_____

ACCEPTED:

Amarillo Economic Development Corporation

By:_____
Kevin Carter, President and CEO

EXHIBIT D

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

SPECIAL WARRANTY DEED

Date: _____

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

Grantor's Mailing Address:

801 S. Fillmore, Suite 205
Amarillo, Texas 79101

Grantee: Bovina Burger LLC, an Idaho limited liability company

Grantee's Mailing Address:

1555 W. Shoreline Dr., Suite 320
Boise, ID 83702

Consideration: Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor, together with obligations owed or that may become owed by Grantee under that certain Location Incentives Agreement dated as of October 29, 2019, executed by Grantee (the "**LIA**") and SSI Foods LLC ("**SSI**"). Performance by Grantee under the LIA is secured by a deed of trust lien against the Property as set forth in a deed of trust of even date from Grantee to JOHN B. ATKINS, TRUSTEE.

Property (including any improvements):

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

Reservations from Conveyance and Exceptions to Conveyance and Warranty:

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

GRANTEE IS PURCHASING THE PROPERTY "**AS IS**" WITH ALL FAULTS AND DEFECTS, AND GRANTEE ACKNOWLEDGES AND AGREES THAT, GRANTOR HAS NOT MADE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, OR THE PRESENCE OR ABSENCE OF ANY POLLUTANT, HAZARDOUS WASTE, GAS OR SUBSTANCE OR SOLID WASTE ON OR ABOUT THE PROPERTY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY INTEND TO CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL AUTHORITY OR BODY HAVING JURISDICTION INCLUDING, WITHOUT LIMITATION, ALL APPLICABLE ZONING LAWS, (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE PROPERTY, OR (F) ANY OTHER MATTER RELATED TO OR CONCERNING THE PROPERTY, AND GRANTEE SHALL NOT SEEK RECOURSE AGAINST GRANTOR ON ACCOUNT OF ANY LOSS, COST OR EXPENSE SUFFERED OR INCURRED BY GRANTEE WITH REGARD TO ANY OF THE MATTERS DESCRIBED IN CLAUSES (A) THROUGH (F) ABOVE. GRANTEE ACKNOWLEDGES THAT GRANTEE, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED BY GRANTOR. GRANTEE ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS DEED ARE AN INTEGRAL PORTION OF THIS DEED AND THAT GRANTOR WOULD NOT SELL THE PROPERTY TO GRANTEE WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH HEREIN.

It is expressly understood and agreed, however, that this conveyance is made upon the condition that Grantee, subject to Excusable Delays (defined below): (i) commences construction of the Facility within 12 months of the date hereof (which will be deemed satisfied if Grantee obtains permits and actually breaks ground prior to such date), and (ii) thereafter pursues construction of the Facility in a commercially reasonable manner to Substantial Completion within 24 months after the date hereof. Should Grantee fail to meet either of the conditions above, title to the Property shall revert to Grantor, its successors or assigns. As used herein, the term "Facility" shall mean that certain industrial building and related improvements to be located on the Property conveyed hereby; and the term "Excusable Delay" shall mean any delay in obtaining the necessary permits and approvals

or in the actual construction of the Facility is caused by strikes, lockouts, labor disputes, casualties, terrorism, acts of God or the public enemy, governmental embargo restrictions, shortages of fuel, labor or building materials, action or non-action of public utilities, or adverse weather conditions. Furthermore, the Facility shall be deemed "Substantially Complete" upon the satisfaction of all of the following: (a) construction of the Facility has been substantially completed; (b) Grantee and SSI have unconditionally received all approvals and certifications of occupancy and operation from any governmental or other entity with jurisdiction over the Property for the operations contemplated by Grantee; and (c) Grantee has delivered written notice certifying such facts to Grantor and providing such back-up documentation as Grantor may reasonable request. In the event of an Excusable Delay, the time required to commence or Substantially Complete construction of the Facility shall be extended for such period of time as may be reasonable necessary to compensate for the resulting delay.

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

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

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By:_____
Kevin Carter, President and CEO

STATE OF TEXAS §

COUNTY OF POTTER §

This instrument was acknowledged before me on the ____ day of _____, 20___, by Kevin Carter, President and CEO of AMARILLO ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

EXHIBIT A
TO SPECIAL WARRANTY DEED
PROPERTY DESCRIPTION

PROPERTY DESCRIPTION:

A 17.10 acre tract of land lying in Section 61, Block 2, A.B. & M. Survey, Potter County, Texas, and being a portion of that certain tract described in Warranty Deed recorded in Volume 4007, Page 133, Official Public Records of Potter County, Texas, said 17.10 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap marked "4263" found in the North line of Section 61, whence a 1/2" iron rod found for the Northwest corner of Section 61 bears South 89 degrees 56 minutes 10 seconds West, 75.42 feet;

THENCE South 89 degrees 56 minutes 10 seconds East, along the North line of Section 61, a distance of 1128.05 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE South 00 degrees 03 minutes 50 seconds West, a distance of 657.05 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE North 89 degrees 56 minutes 10 seconds West, a distance of 1109.43 feet to a 3/8" iron rod with cap marked "HBD" set in the East right of way line of Folsom Road;

THENCE North 00 degrees 24 minutes 06 seconds East, along the East right of way line of Folsom Road, a distance of 105.93 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE North 07 degrees 32 minutes 05 seconds West, along the East right of way line of Folsom Road, a distance of 474.20 feet to a 1/2" iron rod with cap marked "4263";

THENCE South 90 degrees 56 minutes 10 seconds East, a distance of 43.50 feet to a 3/8" iron rod with cap marked "4263" found;

THENCE North 00 degrees 02 minutes 00 seconds East, a distance of 81.08 feet to the POINT OF BEGINNING of this tract;

Said tract contains a computed area of 17.10 acres of land.

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

1. Taxes for 2019 and all subsequent years.
2. Roll-back, change-in-use, and similar taxes whether related to or assessed before or after closing.
3. [Other items revealed by the Commitment for Title Insurance]

AFTER RECORDING RETURN TO:
Bovina Burger LLC
1555 W. Shoreline Dr., Suite 320
Boise, ID 83702

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

B

Amarillo City Council
Agenda Transmittal Memo

Meeting Date	October 29, 2019	**Council Priority**	Economic Development and Redevelopment
Department	Planning and Development Services	**Contact Person**	Andrew Freeman, Director of Planning and Development Services

Agenda Caption

CONSIDER APPROVAL – TAX ABATEMENT AGREEMENT – BOVINA BURGER LLC AND SSI FOODS LLC:

This item considers approving a tax abatement agreement between the City of Amarillo and Bovina Burger LLC, and SSI Foods LLC associated with an Amarillo Economic Development Corporation incentive project. The requested tax abatement agreement is for a 10-year, 100% abatement on real and business property for the approximately $42 million project investment, less the real property's current value. The Amarillo City Council adopted the required Guidelines and Criteria for Tax Abatement on August 20, 2019. The project is located within Reinvestment Zone #10, established by the Amarillo City Council on October 15, 2019. The project is eligible for consideration of an ad-valorem tax abatement.

Agenda Item Summary

The Amarillo Economic Development Corporation has been working with SSI Foods since an initial site visit in March 2019. SSI has been considering multiple sites in different states for a new food processing facility. Highlights of the project include:

- 17.10 acres for 75,000 square foot facility
- $19MM estimated construction budget; $23MM in equipment
- Company projects 75MM lbs. of product produced every year
- Customers are providing 5-10 years of volume commitments
- Partnership between AgriBeef, Gauge Capital and Private Capital
- Projected new employees: 150
- Projected payroll: $6,750,000
- Additional 15 acres reserved that could be purchased or granted based on additional employee and payroll commitment

Based on the level of capital investment, full-time jobs created, and projected payroll staff recommends a 10-year, 100% abatement of real and business property for this project. This level of incentive is in line with criteria found in Council's recently approved comprehensive guidelines and criteria for economic development incentives.

Requested Action

Approve as presented

Funding Summary

This will be abatement on the future tax increment created by the project's investment

Community Engagement Summary

n/a

Staff Recommendation

Staff recommends approval as presented

TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF AMARILLO, AMARILLO ECONOMIC DEVELOPMENT CORPORATION, BOVINA BURGER LLC, AND SSI FOODS LLC

STATE OF TEXAS §
§
COUNTY OF POTTER §

This Tax Abatement Agreement (the "Agreement"), is entered into as of this _____ day of _____, 2019, by and between the City of Amarillo, Texas ("the 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 corporation organized under Texas Local Government Code Chapters 501 & 504 having its principal place of business in Amarillo, Potter County, Texas ("Amarillo EDC"), Bovina Burger LLC, an Idaho limited liability company ("Bovina" or "Owner"), and SSI Foods LLC, a Nevada limited liability company ("SSI" or "Owner").

WITNESSETH:

WHEREAS, the City Council of the City of Amarillo, Texas (the "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 (the "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 (the "Tax Code"), and provides for the availability of tax abatement for both new facilities and structures and for the contemplated expansion or modernization of existing facilities or structures; and

WHEREAS, entering into this Agreement will produce public benefits:

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

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

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

WHEREAS, on the 15th day of October, 2019, the City Council adopted Ordinance No. 7824 establishing City of Amarillo Reinvestment Zone No. 10 ("Reinvestment Zone No. 10") for commercial/industrial tax abatement, as authorized by Tax Code Chapter 312; and

WHEREAS, Amarillo EDC currently holds title to the Premises (defined below), but Bovina will receive title to the Premises under that certain Location Incentives Agreement between Amarillo EDC, Bovina, and SSI dated _____, 2019 (the "LIA"); and

WHEREAS, the contemplated uses of the Premises, the contemplated improvements to the Premises as set forth in this Agreement, the contemplated equipment, and 0ther business personal property, and the other terms of this Agreement will encourage development of Reinvestment Zone No. 10, 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, Bovina and SSI are related business entities by which, for purposes of this project, Bovina will own and control the necessary land for the project and SSI will operate the necessary business and business personal equipment needed for the project, in order to jointly produce the desired economic benefit sought by Amarillo EDC and the City by this project. Accordingly, Bovina and SSI jointly and severally seek the tax abatement(s) and other incentives, if any, in the LIA. Bovina and SSI agree to be jointly and severally obligated to perform this Agreement, understanding that in the event either of them should fail or refuse to perform this Agreement or the LIA, then the contemplated economic development project will fail in its essential purpose, constitute an act of default by both Bovina and SSI, jointly and severally, even though just one of those might be in actual default; and

WHEREAS, Bovina's and SSI'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 property to be included in the Reinvestment Zone No. 10 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 Reinvestment Zone No. 10 and business activity which contributes to the overall economic development of the City and enhancement of the tax base in the City; SSI and Bovina 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 Bovina's Qualified Facilities and SSI's Qualified Personal Property, and Bovina's fee simple or leasehold interest in the Qualified Facilities and SSI's in 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 Reinvestment Zone No. 10 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 Reinvestment Zone No. 10 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 Bovina for design, assembly, manufacturing, storage, training, repair, or other purposes in Reinvestment Zone No. 10.

4) "Qualified Personal Property" shall mean SSI'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 SSI or a third party as described in Section 2(11)(b);

   b) is located in the Reinvestment Zone No. 10; 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 to be owned by Bovina consisting of approximately 17.10 acres, more or less, in Amarillo, Potter County, Texas, and which is more fully described on Exhibit B, which is attached hereto and incorporated by reference, and is located within Reinvestment Zone No. 10.

6) "Abatement" shall mean the tax abatement rate in those percentages set forth in Section 5 for each applicable year.

2. General Provisions

1) Bovina and SSI agree that its respective 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 as set forth in the LIA, as it may be amended, which is incorporated by reference as if set forth fully herein.

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 SSI's and Bovina's corporate, public, employee, and business relations requirements.

4) The Premises are presently owned by Amarillo EDC and are to be owned by Bovina under the LIA. Amarillo EDC joins herein solely as an accommodation party currently owning the Premises which are to be transferred to Bovina under such LIA. The Premises are located solely within the corporate limits of the City and within Reinvestment Zone No. 10.

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, Bovina and SSI 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) Bovina or SSI as their interests may appear; or

    b) A third party when

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

        ii) SSI 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.

3. Term and Abatement Period

A ten (10) year tax abatement is hereby granted to Owners subject to meeting the conditions herein. For each Phase (as hereafter defined), the ten (10) year abatement period commences beginning on January 1 of the first tax year for which Owners file an approved abatement application with the Potter County Appraisal District. For each subsequent Phase, the ten (10) year abatement period commences on January 1 of the first tax year for which Owners timely file an approved abatement application for that Phase with the Potter County Appraisal District.

4. Construction May Occur in Phases

At its option, Bovina and SSI may elect to stage development of the Qualified Facilities and Qualified Personal Property to occur at different times within Reinvestment Zone No. 10. If those Owners choose to make this election, each individual Phase shall be eligible for Abatement under the terms of this Agreement for a period of ten (10) years.

Bovina and/or SSI, as appropriate, 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 Reinvestment Zone No. 10, Phase 1, Reinvestment Zone No. 10, 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 Reinvestment Zone No. 10, being October 15, 2024, unless renewed or extended to a later date by the City.

5. Rate of Abatement

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

1) Scope of Abatement. The annual rate of abatement will be applied as set forth below to the Eligible Property Value.

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

Year of Abatement	Rate of Abatement on Incremental Increase
1	100%
2	100%
3	100%
4	100%
5	100%
6	100%
7	100%
8	100%
9	100%
10	100%

6. Records and Audits

1) At all times throughout the term of this Agreement, the City and the Potter County Appraisal District shall have reasonable access to the Premises by their employees or agents, accompanied by Bovina or SSI 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 Bovina and SSI for purposes of determining compliance with state law and this Agreement.

2) Before December 31 of each year, Bovina and SSI must each 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 Bovina and SSI 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

Owners shall not be entitled to any Eligible Property Value tax abatement under this Agreement for any tax year during which either Owner is in default of or fails to meet the minimum performance criteria of the LIA, as it may be amended; provided that Owners will not be deemed to be in default of or to have failed to meet the minimum performance criteria of the LIA solely because any Expansion Grant (as defined in the LIA) installment payment is reduced or eliminated under Section 3(c) of the LIA.

8. Breach and Default

In the event that either SSI or Bovina:

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 both SSI and Bovina shall be in default of this Agreement.

If either SSI or Bovina defaults in its performance of 1, 2, 3, or 4 above, the City shall give them written notice of default. If they have 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, SSI and Bovina 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 SSI or Bovina, and SSI or Bovina has begun efforts to cure the default, then after first advising the City of its efforts, SSI or Bovina 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 Bovina and SSI 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 Bovina or SSI 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

1) This Agreement may be assigned by Bovina or SSI to an entity controlling, controlled by, or under common control with Bovina or SSI, as applicable, without further consent of the City.

2) This Agreement may be assigned by Bovina or SSI to any other entity only with the consent of the City, which consent shall not be unreasonably withheld.

10. Indemnity

It is understood and agreed between the parties that Bovina and SSI, 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 Bovina, SSI, or to third parties. Bovina and SSI each agree to indemnify and hold City and Amarillo EDC and their agents, employees, and officers harmless from penalties, fines, damages of every kind, attorney fees, costs, and interest that arise out of or relate to Bovina's and SSI's joint or several acts and 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 Bovina:
Bovina Burger LLC
Attn: Kirk Smith
P.O. Box 309
Eagle, Idaho 83616

For SSI:
SSI Foods LLC
Attn: Kirk Smith
P.O. Box 309
Eagle, Idaho 83616

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. The resolution authorized the City Manager, or designee, to execute this Agreement on behalf of the City.

13. Bovina and SSI Authorization

This Agreement was entered into by Bovina and SSI pursuant to proper authority whereby a managing member or manager of Bovina and SSI, 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. Bovina and SSI Standing

Bovina and SSI 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 Bovina 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 either Owner 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 the Owners 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.

CITY OF AMARILLO, TEXAS

By: _____
Printed Name: _____
Title: _____
Date: _____

Attest:

_____
Frances Hibbs, City Secretary

Approved as to form:

_____
Bryan S. McWilliams, City Attorney

BOVINA BURGER LLC

By: _____
Printed Name: Kirk Smith
Title: President of Authorized Managing Member
Date: _____

Attest:

_____
_____, Secretary

SSI FOODS LLC

By: _____
Printed Name: Kirk Smith
Title: President
Date: _____

Attest:

_____
_____, Secretary

AMARILLO ECONOMIC DEVELOPMENT CORPORATION

By: _____
Name: Kevin Carter
Title: President and CEO

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 _____ day of _____, 2019.

_____
Notary Public, State of Texas

Corporate Acknowledgments

BOVINA BURGER LLC

STATE OF _____ §
§
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Kirk Smith, as President of an authorized managing member of Bovina Burger LLC, an Idaho 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 Bovina Burger LLC, an Idaho limited liability company, that he/she was duly authorized to perform the same by appropriate resolution of such corporation, and that he/she executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2019.

_____
Notary Public, State of _____

SSI FOODS LLC

STATE OF _____ §
§
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Kirk Smith, President of SSI Foods LLC, a Nevada 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 SSI Foods LLC, a Nevada limited liability company, that he/she was duly authorized to perform the same by appropriate resolution of such corporation, and that he/she executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2019.

_____
Notary Public, State of _____

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, President and CEO of Amarillo Economic Development Corporation, a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Amarillo Economic Development Corporation, that he was duly authorized to perform the same by appropriate resolution of such corporation, and that he executed the same as the act of the said corporation for purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2019.

_____
Notary Public, State of Texas

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

PREMISES DESCRIPTION

A 17.10 acre tract of land lying in Section 61, Block 2 A.B. & M. Survey, Potter County, Texas, and being a portion of that certain tract described in Warranty Deed recorded in Volume 4007, Page 133, Official Public Records of Potter County, Texas said 17.10 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap marked "4263" found in the North line of Section 61, whence a 1/2" iron rod found for the Northwest corner of Section 61 bears South 89 degrees 56 minutes 10 seconds West, 75.42 feet;

THENCE South 89 degrees 56 minutes 10 seconds East, along the North line of Section 61, a distance of 1128.05 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE South 00 degrees 03 minutes 50 seconds West, a distance of 657.05 feet to a 3/8" iron rod with cap marked "HBD" set;

THENCE North 89 degrees 56 minutes 10 seconds West, a distance of 1109.43 feet to a 3/8" iron rod with cap marked "HBD' set in the East right of way line of Folsom Road;

THENCE North 00 degrees 24 minutes 06 seconds East, along the East right of way line of Folsom Road, a distance of 105.93 feet in a 3/8" iron rod with cap marked "HBD" set;

THENCE North 07 degrees 32 minutes 05 seconds West, along the East right of way line of Folsom Road, a distance of 474.20 feet to a 1/2" iron rod with cap marked "4263";

THENCE South 90 degrees 56 minutes 10 seconds East, a distance of 43.50 feet to a 3/8" iron rod with cap marked "4263" found;

THENCE North 00 degrees 02 minutes 00 seconds East, a distance of 81.08 feet to the POINT OF BEGINNING of this tract;

Said tract contains a computed area of 17.10 acres of land.