

AGENDAS

FOR THE AMARILLO CITY COUNCIL WORK SESSION TO BE HELD ON TUESDAY, AUGUST 7, 2018 AT 4:00 P.M. AND THE REGULAR MEETING OF THE AMARILLO CITY COUNCIL AT 5:00 P.M., CITY HALL, 509 SOUTHEAST 7th AVENUE, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

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.

WORK SESSION

- A. City Council will discuss or receive reports on the following current matters or projects.
- (1) Review agenda items for regular meeting and attachments;
 - (2) Update on North Heights Art Project;
 - (3) Presentation on VIA Airlines;
 - (4) Discuss City Council Work Session and Regular meeting times;and
 - (5) Consider future Agenda items and request reports from City Manager.
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REGULAR MEETING ITEMS

INVOCATION: Greg Dowell, Central Church of Christ

PUBLIC COMMENT: Citizens who desire to address the City Council with regard to matters on the agenda or having to do with the City's policies, programs, or services will be received at this time. The total time allotted for comments is 30-minutes with each speaker limited to three (3) minutes. City Council may not discuss items not on this agenda, but may respond with factual, established policy information, or refer to staff. The City Council may choose to place the item on a future agenda.
(Texas Attorney General Opinion. JC-0169.)

1. **CONSENT AGENDA:**

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. **MINUTES:**

Approval of the City Council minutes of the regular meeting held on July 31, 2018.

B. **ORDINANCE NO. 7747:**

(Contact: Sherry Bailey, Senior Planner)

This is the second and final reading of an ordinance rezoning a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas, to amend an existing Planned Development District (PD-257) modifying the existing stipulations for 1706 South Polk Street. (Vicinity: 17th Avenue and Polk Street.)

- C. **CONSIDER – CANOPY ASSEMBLY REPLACEMENT FOR SIX PASSENGER BOARDING BRIDGES:**
(Contact: Michael W. Conner, Director of Aviation)
Awarded to: ERMCA Aviation, LLC -- \$91,180.00
This item is the award of the bid for the removal and replacement of all six (6) canopy assemblies for Passenger Boarding Bridges.
- D. **APPROVAL -- METROPOLITAN PLANNING ORGANIZATION CONTRACT:**
(Contact: Travis Muno, MPO Administrator)
This item is to approve a planning contract between the City of Amarillo, Texas Department of Transportation and the Amarillo Metropolitan Planning Organization for carrying out the metropolitan planning process.

REGULAR AGENDA

2. **PRESENTATION – AMARILLO INDEPENDENT SCHOOL DISTRICT'S (AISD) GIFTED AND TALENTED CAMP STUDENTS:**
This group of AISD Gifted and Talented students will give a presentation on transportation and disc golf.
3. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7748:**
(Contact: Sherry Bailey, Senior Planner)
This is a public hearing and first reading of an ordinance to rezone a 5 acre portion of Lot 1, Block 24, Westcliff Park Unit No 51, in Section 25, Block 9, BS&F Survey, Potter County, Texas, plus one half of all bounding streets, alleys, and public ways to change from Planned Development - 55 (PD-55) to Planned Development - 55 Amended (PD-55A)
4. **RESOLUTION -- ORGANIZATIONAL STRUCTURE:**
(Contact: Floyd Hartman, Assistant City Manager)
This item approves an update to the City's Organizational Structure, last updated in November 2016, to reflect current reporting responsibilities, assimilation of the duties of the two offices (Strategic Initiatives and Economic Development), and combining planning and economic development into a new department to be titled Planning and Development Services.
5. **RESOLUTION – APPROVING A SETTLEMENT AGREEMENT WITH SOUTHWESTERN PUBLIC SERVICE COMPANY:**
(Contact: Michelle Bonner, Deputy City Manager)
This resolution authorizes a settlement agreement between the Alliance of XCEL Municipalities (AXM) and Southwestern Public Service (SPS) regarding the company's intent to change electric.
6. **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 551.087 – Deliberation regarding economic development negotiations; discussion of commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by same:
(a) City Economic Development Project #18-07 in the vicinity of Southeast 3rd Avenue and South Pierce Street.
(2) Section 551.072 - Deliberation regarding real property; discussion regarding purchase, exchange, lease or value of real property:
(a) City Economic Development Project #18-07 in the vicinity of Southeast 3rd Avenue and South Pierce Street.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (Southeast 7th Avenue) 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 3rd day of August 2018.

Amarillo City Council meetings 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.

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	August 7, 2018	Council Priority	Transportation
Department	Aviation		
Contact	Michael W. Conner: Director of Aviation		

Agenda Caption

PRESENTATION: VIA Airlines Airport Use & Lease Agreement (Plus Amendment 1 & Amendment 2).

Agenda Item Summary

This agreement between the City of Amarillo and VIA Airlines is the standard airport use & lease agreement for all signatory airlines operating at the Rick Husband Amarillo International Airport. This agreement package also includes the standard amendment 1, which provides the fee incentives to the airline, and standard amendment 2, which modifies two terms of the use & lease agreement.

Requested Action

PRESENTATION at City Council Work Session.

Funding Summary

This agreement, and the amendments, are primarily revenue generating.

Community Engagement Summary

Level 1 – modest impact on selected area or community group.

Staff Recommendation

Airport staff recommends approval of the Airport Use & Lease Agreement with VIA Airlines (including Amendment 1 and Amendment 2).

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO



On the 31st day of July 2018, the Amarillo City Council met at 4:00 p.m. for a work session, and the regular session was held at 5:00 p.m. in the Council Chamber located on the third floor of City Hall at 509 Southeast 7th Avenue, with the following members present:

GINGER NELSON
ELAINE HAYS
FREDA POWELL
HOWARD SMITH

MAYOR
COUNCILMEMBER NO. 1
COUNCILMEMBER NO. 2
COUNCILMEMBER NO. 4

Absent was Councilmember Sauer. Also in attendance were the following administrative officials:

JARED MILLER
MICHELLE BONNER
BRYAN MCWILLIAMS
STEPHANIE COGGINS
FRANCES HIBBS

CITY MANAGER
DEPUTY CITY MANAGER
INTERIM CITY ATTORNEY
ASSISTANT TO THE CITY MANAGER
CITY SECRETARY

The invocation was given by Carol Smith. Mayor Nelson led the Pledge of Allegiance.

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

PUBLIC COMMENT:

Teresa Kenedy, 1914 South Highland Street, spoke on a new historical book, *Barrio Historical District Past, Present and Future*. Ordering is now available and a kickoff party is set for September 10. Noah Dawson, 1133 Sugarloaf Drive, spoke on liberty issues and a safety net. James Schenck, 6216 Gainsborough Road, stated he appreciated the reminder of the individual liberties and freedom, and also suggested zero based budgeting. Mike Fisher, 4410 Van Kriston Drive, questioned the definition of 'Barrio.' He spoke on the recent water presentations, trash issues, G7, closed brush sites, and a recent comment about citizens possibly being punished for not locking their vehicle doors. He further asked that code violations to be placed on an agenda. Claudette Smith, 4410 Van Kriston Drive, stated she has been attending Council meetings for six months. She questioned the fiscal irresponsibility, and the need to keep Amarillo financially sound even during economic downturns. Edith DiTommaso, 1613 Bowie Street #B, invited Council to the Golden Spread Farmers Market and added that food stamps are doubled. There were no further comments.

ITEM 1: 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, seconded by Councilmember Smith.

A. **MINUTES:**

Approval of the City Council minutes of the regular meeting held on July 24, 2018.

B. **ORDINANCE NO. 7746:**

(Contact: Cody Balzen, Planner II)

This is the second and final reading of an ordinance rezoning a 25.73 acre tract of land situated in Section 65, Block 9, BS&F Survey, Randall County, Texas, plus one half of all bounding streets, alleys, and public ways to change from Agricultural District (A) to Residential District 3 (R-3). (Vicinity: Heritage Hills Parkway and Arlo Drive.)

C. **ACCEPTANCE – TUBERCULOSIS FEDERAL GRANT:**

(Contact: Casie Stoughton, Public Health Director)
Grantor: Texas Department of State Health Services
Grant Amount: \$44,269
Required Match: \$8,854
Total Award: \$53,123

This item accepts the award from the Texas Department of State Health Services from January 1, 2019 thru December 31, 2019 to continue funding to prevent and control the transmission of active and latent tuberculosis.

D. **APPROVAL -- AMARILLO CP1704 AMENDMENT 3 FOR THE AGREEMENT-IN-PRINCIPLE (AIP) GRANT (PANTEK):**

(Contact: Chip Orton, Director of Emergency Management)

This agenda item is to approve a budget amendment with the Agreement-in-Principle (AIP) Grant (Pantex) which will allow funding of the EOC audio-visual control system project.

E. **APPROVAL – CONSIDER THE THIRD AMENDMENT TO THE LEASE BETWEEN THE CITY OF AMARILLO AND KRAMS, INC., D/B/A ARDEN COMPANIES:**

(Contact: Michael Conner, Director of Aviation)

Krams, Inc. d/b/a Arden Companies -- \$259,375.00

This item is the consideration of the third amendment to the current lease agreement with Krams, Inc., d/b/a Arden Companies. The amendment is for the repair of the roof located on Building 1 of their leasehold. Arden has agreed to pay for the initial cost to complete the repair work in exchange for rental abatement. The estimated cost, as attached to the amendment in Exhibit A, is approximately \$259,375.00. Arden has an interest rate of five (5%) percent per annum. Anticipated total cost for roof repair to be abated is \$272,343.75. Invoices evidencing the actual cost of the roof work will be provided and tracked appropriately. No changes are being made to the material terms in the current master lease.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, and Smith; voting NO were none; the motion carried by a 4:0 vote of the Council.

REGULAR AGENDA

ITEM 2: Kevin Starbuck, Assistant City Manager presented an update on the Implementation of the Nexgen Radio Communications System. He stated the project was an opportunity from previous Councils and the current Council. He further explained the need for the improvements and the new system's capabilities.

ITEM 3: Mayor Nelson presented the second and final reading of an ordinance rezoning a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas, to amend an existing Planned Development District (PD-257) modifying the existing stipulations for 1706 South Polk Street. (Vicinity: 17th Avenue and Polk Street.) This item was presented by Sherry Bailey, Senior Planner. Councilmember Hays inquired about the finite list of uses. Mayor Nelson opened a public hearing. Todd Dailey, 1706 South Polk Street, stated the house was built in 1909. He further stated the area is more commercial with additional adaptive uses, and it can be maintained for the future and be preserved. There were no further comments. Mayor Nelson closed the public hearing. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that the following captioned ordinance be passed:

ORDINANCE NO. 7746

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF SW 17th AVE. AND S. POLK STREET, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, and Smith; voting NO were none; the motion carried by a 4:0 vote of the Council.

Items A(4) and (5) of the Work Session were completed at this time.

ITEM 4: Mr. McWilliams advised at 6:22 p.m. that the City Council would convene in Executive Session per Texas Government Code (1) Section 551.087 - Deliberation regarding economic development negotiations; discussion regarding commercial or financial information received from a business prospect:

- (a) Project #17-10-01 (Manufacturing)
- (b) Project #17-11-06 (Customer Service Center)
- (c) Project #18-05-02 (Manufacturing)
- (d) Project #18-06-01 (Professional, Scientific and Technical Services)

Mr. McWilliams announced that the Executive Session was adjourned at 7:17 p.m. and recessed the Regular Meeting.

ATTEST:

Frances Hibbs, City Secretary

Ginger Nelson, Mayor

B



Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 7, 2018	Council Priority	Community Beautification
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Department	Planning
Contact	Sherry Bailey, Senior Planner

Agenda Caption

Ordinance No. _____

This is the second and final reading of an ordinance to rezone a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas to amend an existing Planned Development District (PD-257) modifying the existing stipulations for 1706 S. Polk Street.

Agenda Item Summary

Area Characteristics

This area is zoned Multi-Family -2 with a number of one lot Planned Development zonings for individual business uses. Interstate-40 is just one block to the south with the State Highway 87, Interstate-40 and Interstate-27 interchange just one block to the east. Remarkably, this area which has been a transition area since the 1980's has managed to maintain a lot of its historic neighborhood significance due in large part to the multiple Planned Development zonings that have occurred which allow commercial uses while requiring continued structural integrity be maintained.

Proposal

The property in question received a Planned Development rezoning designation in September of 1997. Ordinance 6310 was approved and it set the standards for the transition of this property from a residence to an oil and gas office limiting the staff at that time to four with parking for four. It also limited the hours of operation to 8:00 am to 5:00pm Monday through Friday, the exterior of the building to remain residential with minor alterations, the existing landscaping to remain, and no external lighting except for a porch light, no signage other than two non-illuminated 11" X 32" wooden wall signs which contained the business name. The minor changes approved as part of the Planned Development zoning also included the separate apartment in the rear of the lot. These restrictions served to maintain the residential character of this property with similar Planned Development zonings occurring further down the block, across the street, north in the next block and on the back side of this and other blocks in the neighborhood.

Todd and Melissa Dailey, the property owners, are requesting amendments to the Planned Development zoning which will allow them to market their property for the highest and best use which still maintaining the heart of the Planned Development zonings within this area that maintain the original intent of preserving the historic character of the neighborhood.

The property owners are asking to broaden the conditions to the following:

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- The uses that are allowed in an Office District 1 to include: Single Family residential; Art Gallery, Community Center, Day Care Center; Retail, office and related uses.
- The employee limitation be raised to six since the existing site has parking not only in the large driveway but off the rear alley as well.
- They would like the landscaping restriction to remain but to be worded so that modification of the types of plants and replacement of dead plant material can occur.
- They would like to see the hours of operation extended from 8:00 am to 8:00 pm and 8:00am to 5:00 pm on Saturdays [which is more in keeping with today’s business hours].
- The signage requirement reflect the Amarillo Downtown Urban Design Standards.

Analysis

When reviewing applications for zone change, in this case an amendment, staff first goes to the City’s Comprehensive Plan to make sure the request is in keeping with the stated intentions for development by the city. In Amarillo’s Comprehensive Plan the predominate theme throughout the plan is the preservation of the city’s strong neighborhoods while encouraging commercial revitalization/infill in the older areas of the city. Community aesthetics and image are also a top priority. The request before the Planning Commission meets both of those priorities.

This area of the city is one of the older more historic neighborhoods that has been encountering the pressures of development for years. The decision by the city to treat this area as a transitional area within a strong neighborhood setting has preserved the integrity of the residential structures and the neighborhood character as called out in the Comprehensive Plan.

In looking at the amendments requested by the applicant most of them could occur without significantly affecting the neighborhood or the residential character of the structure. In reviewing the Office-1 list, as long as all of the conditions of approval for the amended Planned Development were adhered to it does not appear that anything on the proposed list would impact the residential or historic character of the neighborhood.

Requested Action

The applicants, Todd and Melissa Dailey are requesting the ordinance providing for the amendment to the Planned Development -257 (PD-257) be approved..

Planning & Zoning Commission July 22, 2018 Meeting Draft Minutes

Sherry Bailey, Senior Planner, presented this item, and advised that the applicant is requesting a zone change from Planned Development District 257 (PD-257) to amended Planned Development 257 (PD-257) to modify the existing requirements. Ms. Bailey ended the presentation with a staff recommendation of approval as presented.

Melissa Dailey, 601 East 1st in Fort Worth, TX, stood to explain her plans for the rezoning proposal. Ms. Dailey noted the careful and involved restoration of the property, and further explained the uses of the surrounding properties and how this rezoning would work alongside those. Ms. Dailey noted that

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the uses would be restricted with this amendment. Ms. Dailey then answered a few questions from the board.

Chairman Parker asked if anyone wanted to speak in favor or against this item. No comments were made.

A motion to approve Z-18-20 was made by Commissioner Thomason, seconded by Commissioner Ford, and carried unanimously.

Community Engagement Summary

Notices have been sent out to 21 property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has not received any comments regarding this request, either in favor of or in opposition to the request.

A public hearing was held by the Planning & Zoning Commission on July 22, 2018. Only the applicant appeared on this application.

Items Attached

Ordinance
Map exhibits
Site exhibit
Pictures
Previous ordinances

ORDINANCE NO. 7747

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF SW 17th AVE. AND S. POLK STREET, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

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

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

Rezoning a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas to amend an existing Planned Development District - 257 (PD-257) to modify the existing stipulations for 1706 S. Polk Street.

Those stipulations to include:

- The uses that are allowed in an Office District 1 to include: Single Family Residential; Art Gallery; Community Center; Day Care Center; Retail, Office and related uses.
- The employee limitation be raised to six since the existing site has parking not only in the large driveway but off the rear alley as well.

- The landscaping restriction remains the same but is modified to the extent of the types of plants and replacement of dead plant material.
- Hours of operation shall be extended Monday through Friday from 8:00 am to 8:00 pm and 8:00 am to 5:00 pm on Saturdays.
- The signage requirements reflect the Amarillo Downtown Urban Design Standards.

SECTION 3. In the event this ordinance or any part hereof is found to be invalid, such invalidity shall not affect the remaining portions of the Ordinance, and such remaining portions shall continue to be in full force and effect. The Director of Planning is authorized to make corrections and minor changes to the site plan or development documents to the extent that such does not materially alter the nature, scope, or intent of the approval granted by this ordinance.

SECTION 4. All ordinances and resolutions or parts thereof that conflict with this ordinance are hereby repealed, to the extent of such conflict.

SECTION 5. This Ordinance shall become effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the 31st day of July, 2018 and **PASSED** on Second and Final Reading on this the 7th day of August, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
Interim City Attorney



Z-97-20 Rezoning of a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas, to change from Multiple Family Dwelling District-2 to Planned Development (PD) for private professional office (Vicinity: 17th & Polk)

APPLICANT: Helen H. Benton for Dee Zane Pond

P+Z 5+R 9897

1. The adjacent zoning consists of Planned Development-138 to the east and Multiple Family Dwelling District in all other directions.
2. The adjacent land use consists of the Junior League to the north, a membership lodge to the northeast, an office to the east and southeast, a bed and breakfast to the south, and single-family homes in all other directions.
3. The applicant is requesting this planned development to convert an existing two-story residence into an oil and gas company office. There is also a detached apartment on the site. Because this site is located within an area of historical significance as defined in the Comprehensive Plan Update, this request may be reviewed as a planned development in that it meets the criteria set forth in Section 4-10 of the Amarillo Zoning Ordinance.
4. The required site plan and photographs for building elevations have been reviewed by the customary City departments and local utility companies. These items are in order and represent the following development standards.
 - (A) The conversion of an existing 4,210 square feet residential structure into a four-person office;
 - (B) The exterior of the residential building will not be altered other than the general refurbishing of windows, exterior doors, roofing, and painting of the exterior walls. The apartment is to undergo similar exterior remodeling as well;
 - (C) All existing landscaping will remain. The amount of on-site landscaping is 60%;
 - (D) The hours and days of operation of the office will be 8:00 A.M. to 5:00 P.M., Monday through Friday;
 - (E) No external lighting will be provided on the site with the exception of a porch light;
 - (F) No signage will be located on the property other than two non-illuminated, 11" x 32" wooden wall signs that identify the name and occupant of the office facility;
 - (G) The applicant is proposing one off-street parking space for handicapped parking. Typically, for the size of office space and apartment being proposed in this request, 12 parking spaces would be required. However, the applicant has limited the number of employees to four and there is additional off-street parking space in the existing driveways, therefore, no additional parking spaces are required. The applicant/owner will be responsible for providing off-street parking for any increase in personnel or if a different office occupation located at this site.

This neighborhood has been transitioning from single-family residential use to more intense uses for a number of years. There are three existing planned developments for offices, two bed and breakfast facilities, and other uses such as the Junior League and the mason's building located in this block.

From our review of this proposal, we believe the development restraints listed on the site plan provide adequate measures to preserve the residential integrity of the area. For a PD to reflect good zoning principles, the use permitted and the design should ensure compatibility with adjacent land uses. In this case, the Planning staff believes the proposed use will be compatible with surrounding development. The Planning Department recommends approval of this request.

ITEM 3: Mayor Seliger presented an ordinance changing the zoning of a lot located on the west side of the 1700 block of S. Polk Street from Multiple Family Dwelling District-2 to Planned Development for a professional office. There were no questions or comments concerning this ordinance. Motion was made by Commissioner Knapp, seconded by Commissioner Bosch, that the following captioned ordinance be passed on second and final reading:

ORDINANCE NO. 6310 CC 9-23-97

AN ORDINANCE PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Seliger, Commissioners Knapp, Bosch, Keys and Sisemore; voting NO were none; the motion carried by a 5:0 vote of the Commission.

ITEM 2: Mayor Seliger presented an ordinance changing the zoning of a lot located on the west side of the 1700 block of S. Polk Street from Multiple Family Dwelling District-2 to Planned Development for a professional office. There were no questions or comments concerning this ordinance. Motion was made by Commissioner Keys, seconded by Commissioner Knapp, that the following captioned ordinance be passed on first reading:

ORDINANCE NO. 6310 CC 9-16-97

AN ORDINANCE PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Seliger, Commissioners Knapp, Bosch, Keys and Sisemore; voting NO were none; the motion carried by a 5:0 vote of the Commission.

ITEM 2: Z-97-20 Rezoning of a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas, to change from Multiple Family Dwelling District-2 to Planned Development (PD) for private professional office (Vicinity: 17th & Polk) pt 2 9-8-97
APPLICANT: Helen H. Benton for Dee Zane Pond

The applicant's request to convert an existing two-story residence (4,210 sq. ft.) into a four person oil and gas company office is being considered as a planned development because it is in a historically-significant area. There is also a detached apartment on the site. The required site plan and photographs for building elevations have been reviewed and are in order. Off-street parking is limited to one handicapped parking space plus area from the existing driveway. Any increase in personnel or change in use will require an amended planned development to increase off-street parking. The staff recommended approval because the neighborhood has been transitioning from residential to more intense uses and they feel the standards listed on the site plan adequately protect the residential integrity of the area.

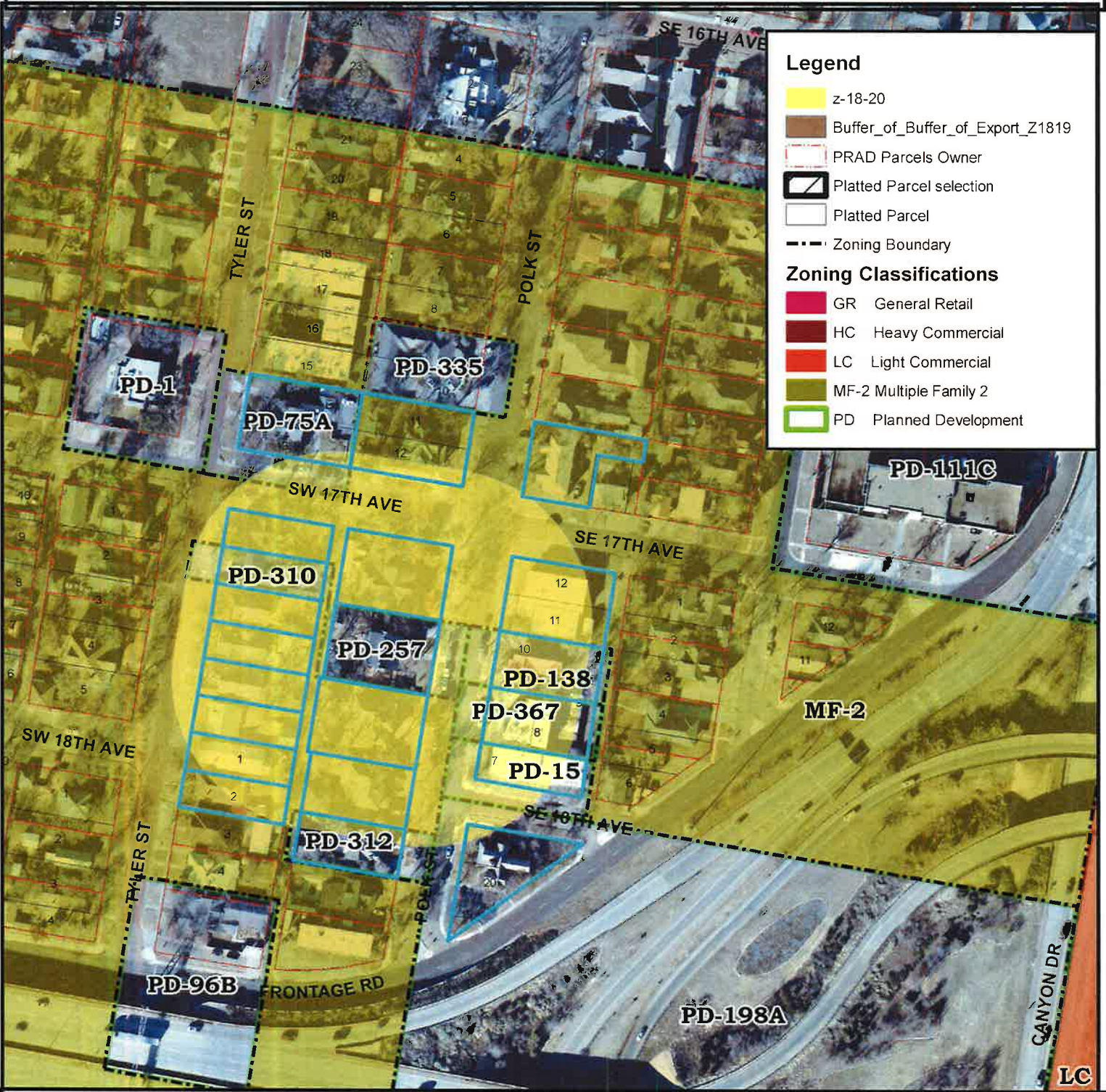
MOTION to approve Z-97-10 was made by Commissioner McCaffree, was seconded by Commissioner Washer, and carried unanimously (5:0).

**Request for Modification to Planned Development, Ordinance 6310
1706 S. Polk Street, Amarillo, Texas 76102**

This request by the owners of 1706 S Polk Street, Todd and Melissa Dailey, is to amend the requirements for the PD for 1706 S. Polk Street. Specifically we are requesting the following amendments:

- Uses allowed be all uses allowed in Office District 1 (currently seems to restrict the use to an oil and gas company)
- Up to 6 employees allowed (currently restricted to 4), and if there are additional employees, one additional off-street space will be provided for each additional employee. Six parking spaces are currently available in the existing front driveway. Additional parking could be provided in the rear of the main structure.
- The area in the front yard currently landscaped to remain landscaped (currently language states that all existing landscaping will remain – this does not allow for a modification of the types of plants or replacement of dead plant materials)
- Maximum hours of operation to be 8am – 8pm weekdays, 8am – 5pm Saturdays.
- Signage to meet the Downtown Urban Design Standards.

CASE Z-18-20
REZONE FROM PLANNED DEVELOPMENT- 257 (PD-257)
TO PLANNED DEVELOPMENT AMENDED - 257 (PD-257 AMENDED)



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 184 feet
Date: 7/5/2018



Rezoning of a portion of Block 237, Plemons Addition out of Section 170, Block 2, AB&M Survey, Amarillo, Texas to amend an existing Planned Development District (PD-257) to modify the existing requirements for 1706 S. Polk Street.

Applicant: Todd & Melissa Dailey

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	August 7, 2018	Council Priority	Transportation Systems
Department	Aviation		
Contact	Michael W. Conner – Director of Aviation		

Agenda Caption

CONSIDER: Award Bid No. 6142 – Canopy Assembly Replacement for Six Passenger Boarding Bridges
Total Bid Amount: \$91,180.00 to be awarded to ERMCAviation, LLC

Agenda Item Summary

This item is the award of the bid for the removal and replacement of all six (6) canopy assemblies for Passenger Boarding Bridges (PBB’s). Included in the bid scope were the following items:

- 1. Removal of all six (6) existing canopy assemblies.
- 2. Installation of all six (6) new canopy assemblies.
- 3. Integration of motor controls for each canopy assembly to ensure operation as designed.

Requested Action

Award bid for total contract in the amount of \$91,180.00 to ERMCAviation, LLC.

Funding Summary

Funding for this project will be from the Airport’s currently approved FY 17/18 O&M budget.

Community Engagement Summary

Level 1 – Modest impact on selected area and/or community group.

Staff Recommendation

Airport staff recommends award of bid no. 6142 in the amount of \$91,180.00 to ERMCAviation, LLC.

Bid No. 6142 CANOPY ASSEMBLY REPLACEMENT FOR SIX PASSENGER BOARDING BRIDGES AT THE RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT
 Opened 4:00 p.m. July 19, 2018

To be awarded as one lot		ERMC	THYSSENKRUPP AIRPORT SYSTEMS INC	JBT
Line 1 Furnish all necessary superintendence, labor, materials, tools, equipment, machinery and apparatus, and whatever else may be necessary to complete all the work covered by this Proposal within the time stated, per specifications				
1 ea				
Unit Price		\$91,180.000	\$112,500.000	\$149,962.000
Extended Price		91,180.00	112,500.00	149,962.00
Bid Total		\$91,180.00	\$112,500.00	\$149,962.00
Award to Vendor		\$91,180.00		



Amarillo City Council

Agenda Transmittal Memo



Meeting Date	August 7, 2018	Council Priority	Transportation
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Department	Planning Contact Travis Muno
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Agenda Caption

Consideration and approval of a planning contract between the City of Amarillo, Texas Department of Transportation and the Amarillo Metropolitan Planning Organization for carrying out the metropolitan planning process.

Agenda Item Summary

This contract is being considered for the purpose of outlining the requirements and responsibilities of the parties for federal reimbursement using consolidated Planning Grant funds and other federal transportation funds that may be used for planning. This is a six year contract.

Requested Action

MPO Policy Committee and Legal Staff have reviewed the associated Contract and recommend the City Council approve the item as submitted.

Funding Summary

N/A

Community Engagement Summary

The item was distributed to all applicable internal and external entities. No objections were received. The item was approved by the Metropolitan Planning Organization Policy Committee at its Public Meeting on July 19, 2018.

Staff Recommendation

Staff recommends the approval of this Contract.

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STATE OF TEXAS §

COUNTY OF TRAVIS §

AGREEMENT WITH METROPOLITAN PLANNING ORGANIZATION

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the “Department,” the Amarillo Metropolitan Planning Organization (MPO) Policy Committee, called the “MPO”, which has been designated by the Governor of the State of Texas as the MPO of the **Amarillo** urbanized area, and the **City of Amarillo**, which serves as the Fiscal Agent for the MPO.

W I T N E S S E T H

WHEREAS, 23 United States Code (USC) §134 and 49 USC §5303 require that MPOs, in cooperation with the Department and transit agencies, develop transportation plans and programs for urbanized areas of the State; and

WHEREAS, 23 Code of Federal Regulations (CFR) 450.314 requires the MPO, State, and public transportation operators within each metropolitan planning area to enter into a written agreement to clearly identify the responsibilities of the parties in carrying out the metropolitan planning process; and

WHEREAS, 23 USC §104(d) authorizes Metropolitan Planning funds and 49 USC §5305 authorizes funds to be made available to MPOs designated by the Governor to support the urban transportation planning process; and

WHEREAS, the Department participates in the Consolidated Planning Grant program in which federal transit planning funds authorized under 49 USC §5305 are transferred to the Federal Highway Administration, combined with additional federal funds, and distributed to the state as a single distribution; and

WHEREAS, the federal share payable for authorized activities using the Consolidated Planning Grant funds is eighty percent (80%) of allowable costs; and

WHEREAS, Texas Transportation Code §221.003 authorizes the Department to expend federal and state funds for improvements to the state highway system; and

WHEREAS, Texas Transportation Code §201.703 authorizes the Department to expend federal funds and to provide state matching funds for allowable costs necessary for the improvement of roads not in the state highway system; and

WHEREAS, this agreement outlines the requirements and responsibilities of the parties for federal reimbursement using Consolidated Planning Grant funds and other federal transportation funds that may be used for planning (e.g., Surface Transportation Program, National Highway System, Congestion Mitigation and Air Quality, etc.); and

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WHEREAS, the Governor of the State of Texas and the City of Amarillo have executed an agreement pursuant to the MPO designation; and

WHEREAS, an area equal to or larger than the above-mentioned urbanized area has been delineated in accordance with federal and state guidelines where required metropolitan transportation planning activities may take place; and

WHEREAS, 23 Code of Federal Regulations (CFR) §420.117(a) requires that in accordance with 49 CFR §18.40, the Department shall monitor all activities performed by its staff or by sub-recipients with Federal Highway Administration (FHWA) planning and research funds to assure that the work is being managed and performed satisfactorily and that time schedules are being met; and

NOW THEREFORE, it is agreed as follows:

A G R E E M E N T

Article 1. Agreement Period

- A. This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. The Department shall not continue its obligation to the MPO under this agreement if the Governor's designation of the MPO is withdrawn; if federal funds cease to become available; or if the agreement is terminated as provided below.
- B. This agreement expires on September 30, 2024. No fewer than one hundred and twenty (120) days before the expiration date, the Department may, at its sole discretion, exercise in writing an option to extend the agreement by a period of no more than two years. The Department may exercise this option no more than two times. If all terms and conditions of this agreement remain viable and no amendment to the existing agreement or new agreement is required, a letter from the Department to the MPO shall constitute renewal of this agreement subject to all terms and conditions specified in this agreement. However, an amendment or a new agreement may be executed, if necessary.

Article 2. Responsibilities of the Department

The responsibilities of the Department are as follows:

- A. Assist in the development of the Unified Planning Work Program (UPWP), approve the format of work programs submitted by the MPO, and, where required by federal law or regulation, monitor the MPO's performance of activities and expenditure of funds under a UPWP. Where monitoring is not required, the Department is responsible for reviewing the MPO's activities and expenditure of funds, and will comment on and make suggestions relating to those activities and expenditures.
- B. Develop a time line for development of the UPWP by the MPO; and in consultation with the MPOs, shall develop a standard UPWP format to be used by all MPOs.
- C. Make available to the MPO its share of all federal metropolitan planning funds and provide the required non-federal match as authorized by the Texas Transportation Commission. The Department will distribute federal transportation planning funds to the MPO based on a formula developed by the Department, in consultation with the MPOs, and approved by FHWA, the Federal Transit Administration (FTA), and other applicable federal agencies.
- D. Provide to the MPO, as appropriate, technical assistance and guidance for the collection, processing, and forecasting of socio-economic data needed for the development of traffic

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- forecasts, plans, programs, and planning proposals within the metropolitan area, including collecting, processing, and forecasting vehicular travel volume data in cooperation with the MPO, as appropriate.
- E. Jointly promote the development of the intermodal transportation system within the metropolitan area by identifying points in the system where access, connectivity, and coordination between the modes and inter-urban facilities would benefit the entire system.
 - F. Share with the MPO information and information sources concerning transportation planning issues that relate to this agreement.
 - G. Cooperatively develop and share information with the MPO related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO, and the collection of data for the State asset management plan for the National Highway System (NHS).

Article 3. Responsibilities of the MPO

The MPO is an organization created to ensure that existing and future expenditures on transportation projects and programs are based on a continuing, cooperative, and comprehensive planning process. The responsibilities of the MPO are as follows:

- A. Document planning activities in a UPWP to indicate who will perform the work, the schedule for completing it, and all products that will be produced. In cooperation with the Department and public transportation operators as defined by 23 CFR Part 450, the MPO must annually or bi-annually develop a UPWP that meets federal requirements.
- B. Prepare and submit to the Department an annual performance and expenditure report of progress no later than December 31 of each year. A uniform format for the annual report will be established by the Department, in consultation with the MPOs.
- C. Use funds provided in accordance with 43 Texas Administrative Code (TAC) §16.52 and Article 2 (Responsibilities of the Department) of this agreement to develop and maintain a comprehensive regional transportation planning program in conformity with the requirements of 23 USC §134, 49 USC §5303, and the Texas Comptroller of Public Accounts Uniform Grant Management Standards (UGMS).
- D. Develop a Metropolitan Transportation Plan (MTP), a Transportation Improvement Program (TIP), and a UPWP for the Metropolitan Planning Area (MPA), all of which are consistent with the Statewide Long-Range Transportation Plan (SLRTP), as required by the state and federal law. At a minimum, the MPO shall consider in their planning process the applicable factors outlined in 23 USC §134.
- E. Assemble and maintain an adequate, competent staff with the knowledge and experience that will enable them to perform all appropriate MPO activities required by law.
- F. Forecast, collect, and maintain appropriate socio-economic, roadway, and travel data on a timely basis, in cooperation with the Department.
- G. Prepare all required plans, programs, reports, data, and obtain required certifications in a timely manner.
- H. Share information with the Department and information sources concerning transportation planning issues.

Article 4. Responsibilities of the MPO Policy Committee

The MPO Policy Committee is the policy body that is the forum designated under 23 USC §134 with the responsibility for establishing overall transportation policy for the MPO and for making required approvals. The MPO Policy Committee is comprised of those governmental agencies

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identified in the original designation agreement and those agencies or organizations subsequently added to the membership of the committee. The responsibilities of the MPO, acting through its Policy Committee, are as follows:

- A. Ensure that requirements of 23 USC §§134 and 135 and 49 USC, Chapter 53, are carried out.
- B. Use funds provided in accordance with Article 2 (Responsibilities of the Department) of this agreement to develop and maintain a comprehensive regional transportation planning program in accordance with requirements of 23 USC §134 and 49 USC §5303.
- C. Develop and adopt an MTP for the MPA that is consistent with the SLRTP required by state and federal laws; a TIP and a UPWP; and other planning documents and reports that may be required by state or federal laws or regulations.
- D. Exercise sole responsibility to hire, supervise, evaluate, and terminate the MPO Transportation Planning Director.
- E. Provide planning policy direction to the MPO Transportation Planning Director.

Article 5. Responsibilities of the Fiscal Agent

The Fiscal Agent for the MPO is the entity responsible for providing fiscal, human resource, and staff support services to the MPO. The responsibilities of the Fiscal Agent are as follows:

- A. Maintain required accounting records for state and federal funds consistent with current federal and state requirements.
- B. Provide all appropriate funding, as identified by fiscal year in the UPWP, to allow the MPO staff to effectively and efficiently operate the program.
- C. Provide human resource services to the MPO.
- D. Provide benefits for the MPO staff that shall be the same as the Fiscal Agent normally provides its own employees; or as determined through an agreement between the MPO and the Fiscal Agent. Costs incurred by the Fiscal Agent for these benefits may be reimbursed by the MPO.
- E. Establish procedures and policies for procurement and purchasing, when necessary, in cooperation with the MPO.

Article 6. Responsibilities of the MPO Transportation Planning Director

The responsibilities of the MPO Transportation Planning Director are as follows:

- A. Administer the MPO’s UPWP. The Director shall serve in a full-time capacity and shall take planning policy direction from and be responsible to the designated MPO Policy Committee.
- B. Act as a liaison to the Department, relevant to the Department’s transportation planning activities.
- C. Oversee and direct all MPO transportation planning staff work performed using MPO funds.
- D. Prepare and submit all required plans, programs, reports, data, and certifications in a timely manner.
- E. Develop and present to the MPO Policy Committee an MTP for the MPA that is consistent with the SLRTP required by state and federal laws; a TIP and a UPWP; and other planning documents and reports that may be required by state or federal laws or regulations.
- F. Share with the Department information and information resources concerning transportation planning issues.

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Article 7. Unified Planning Work Program

- A. Each year the MPO shall submit to the Department a program of work that includes goals, objectives, and tasks required by each of the several agencies involved in the metropolitan transportation planning process. This program of work is to be called the Unified Planning Work Program (UPWP), or any successor name. The UPWP shall be approved by the MPO Policy Committee, in accordance with 23 CFR §450.314.
- B. The UPWP will be prepared for a period of one (1) year or two (2) years unless otherwise agreed to by the Department and the MPO. The UPWP shall reflect only that work that can be accomplished during the time period of the UPWP, in accordance with TAC §16.52.
- C. The UPWP shall reflect transportation planning work tasks to be funded by federal, state, or local transportation, or transportation related (e.g. air quality) planning funds. The budget and statement of work will be included in the UPWP. The MPO may not incur costs until final approval of the UPWP is granted. The maximum amount payable will not exceed the budget included in the UPWP.
- D. The effective date of each UPWP will be October 1st of each year or the date of approval from the appropriate oversight agency, whichever occurs later. On that date, the UPWP shall constitute a new federal project and shall supersede the previous UPWP.
- E. The UPWP shall comply with all applicable federal and state requirements and will describe metropolitan transportation and transportation-related planning activities anticipated in the area.
- F. The use of federal metropolitan transportation planning funds shall be limited to transportation planning activities affecting the transportation system within the boundaries of a designated metropolitan planning area. If an MPO determines that data collection and analysis activities relating to land use, demographics, or traffic or travel information, conducted outside its boundaries, affects the transportation system within its boundaries, then those activities may be undertaken using federal planning funds, if the activities are specifically identified in an approved UPWP. Any other costs incurred for transportation planning activities outside the boundaries of a designated metropolitan planning area are not eligible for reimbursement.
- G. Travel outside the State of Texas by MPO staff and other agencies participating in the MPO planning process must be approved by the Department if funded with federal transportation planning funds. The MPO must receive approval prior to incurring any costs associated with the actual travel (e.g., registration fee). This provision will not apply if the travel is at the request of the Department. Travel to the State of Arkansas by the Texarkana MPO staff and travel to the State of New Mexico by the El Paso MPO staff shall be considered in-state travel.
- H. The cost of travel incurred by elected officials serving on the MPO Policy Committee is eligible for reimbursement with federal transportation planning funds in accordance with 43 TAC §16.52.
- I. The use of federal transportation planning funds is limited to corridor/subarea level planning or multimodal or system-wide transit planning studies. Major investment studies and environmental studies are considered corridor level planning. Unless otherwise authorized by federal law or regulation, the use of such funds beyond environmental document preparation or for specific project level planning and engineering (efforts directly related to a specific project instead of a corridor) is not allowed.
- J. Failure to adhere to the time line developed by the Department may result in a delay in the authorization to the MPOs to proceed in incurring costs.

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- K. A UPWP will not be approved if it is submitted in a format other than the standard format developed by the Department. The UPWP and subsequent amendments may be submitted electronically.
- L. The MPO shall not incur any costs for work outlined in the UPWP or any subsequent amendments (i.e., adding new work tasks or changing the scope of existing work tasks) prior to receiving approval from the Department. Any costs incurred prior to receiving Department approval are not eligible for reimbursement from federal transportation planning funds.
- M. Costs incurred by the MPO shall not exceed the total budgeted amount of the UPWP without prior approval of the MPO Policy Committee and the Department. Costs incurred on individual work tasks shall not exceed that task budget by 25 percent without prior approval of the MPO Policy Committee and the Department. If the costs exceed 25 percent of the task budget, the UPWP shall be revised, approved by the MPO Policy Committee, and submitted to the Department for approval.
- N. The MPO Policy Committee must approve the UPWP and any subsequent revisions, and shall not delegate the approval authority, except for corrective actions. Corrective actions do not change the scope of work, result in an increase or decrease in the amount of task funding, or affect the overall budget. Examples include typographical, grammatical, or syntax corrections.
- O. Should any conflict be discovered between the terms of this agreement and the UPWP, the terms of this agreement shall prevail.
- P. The MPO is not authorized to request payment for any work it may perform that is not included in the current UPWP.

Article 8. Compensation

The Department’s payment of any cost incurred under this agreement is contingent upon all of the following:

- A. Federal funds are available to the Department in a sufficient amount for making payments.
- B. The incurred cost is authorized in the UPWP. The maximum amount payable under this agreement shall not exceed the total budgeted amount outlined in the UPWP in accordance with 43 TAC §16.52.
- C. The cost has actually been incurred by the MPO and meets the following criteria:
 - 1. Is verifiable from MPO records;
 - 2. Is not included as match funds for any other federally-assisted program;
 - 3. Is necessary and reasonable for the proper and efficient accomplishment of program objectives;
 - 4. Is the type of charge that would be allowable under 2 CFR 200 Revised, “Cost Principles for State, Local, and Indian Tribal Governments” and the state’s UGMS; and
 - 5. Is not paid by the Department or federal government under another assistance program unless authorized to be used as match under the other federal or state agreement and the laws and regulations to which it is subject.
- D. After October 1st of each year, the Department will issue a work order to the MPO establishing the effective date of work and the total funds authorized. If the UPWP is subsequently revised, necessitating a revision to the original work order, or the Department deems a revision necessary, a revised work order may be issued at any time throughout the fiscal year. If the amount in the UPWP differs from the amount in the work order, the amount in the work order prevails.
- E. The MPO is authorized to submit requests for payment of authorized costs incurred under this agreement on a semi-monthly basis, but no more than twenty four (24) times a year and

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no less than monthly as expenses occur. Each request for payment shall be submitted in a manner acceptable to the Department, which includes, at a minimum, the following information:

- 1. UPWP budget category or line item;
 - 2. Description of the cost;
 - 3. Quantity;
 - 4. Price;
 - 5. Cost extension; and
 - 6. Total costs
- F. The MPO shall submit the final bill from the previous fiscal year to the Department no later than December 31st of the calendar year in which that fiscal year ended. Any bills submitted after December 31 for a fiscal year in which the funds have been de-obligated will be processed against the current year's UPWP.
- G. Payment of costs is contingent upon compliance with the terms of Article 3 (Responsibilities of the MPO) of this agreement. Noncompliance may result in cancellation of authorized work and suspension of payments after a thirty (30) day notification by the Department to the MPO.

Article 9. Reporting

To permit program monitoring and reporting, the MPO shall submit reports as required in Article 3 (Responsibilities of the MPO) of this agreement. If task expenditures overrun or underrun a budgeted task amount by twenty-five percent (25%) or more, the annual performance and expenditure report must include an explanation for the overrun or underrun.

Article 10. Indemnification

- A. The MPO shall save harmless the Department and its officers and employees from all claims and liability that are due to activities of the MPO, its agents, or its employees performed under this agreement and that are caused by or result from error, omission, or negligent act of the MPO or of any person employed by the MPO.
- B. To the extent possible under state law, the MPO shall also save harmless the Department from any and all expense, including but not limited to, attorney fees that may be incurred by the Department in litigation or otherwise resisting claims or liabilities that may be imposed on the Department as a result of the activities of the MPO, its agents, or its employees.

Article 11. Inspection of Work and Retention of Documents

- A. The Department and, when federal funds are involved, the U. S. Department of Transportation (USDOT), and their authorized representatives shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this agreement and the premises on which it is being performed.
- B. If any inspection or evaluation is made on the premises of the MPO or a subcontractor, the MPO shall provide or require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in a manner that will not unduly delay the work.
- C. The MPO agrees to maintain all books, documents, papers, computer generated files, accounting records, and other evidence pertaining to costs incurred and work performed under this agreement, and shall make those materials available at its office during the time period covered and for seven (7) years from the date of final payment under the UPWP.

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Those materials shall be made available during the specified period for inspection by the Department, the USDOT, and the Office of the Inspector General of the USDOT and any of their authorized representatives for the purpose of making audits, examinations, excerpts, and transcriptions.

- D. The state auditor may conduct an audit or investigation of any entity receiving funds from the Department directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit under the state's UGMS.

Article 12. Work Performance

All work performed under this agreement shall be carried out in a professional and orderly manner, and the products authorized in the UPWP shall be accurate and exhibit high standards of workmanship.

Article 13. Disputes

The MPO shall be responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of work under this agreement. In the event of a dispute between the Department and the MPO concerning the work performed under this agreement in support of the urban transportation planning process, the dispute shall be resolved through binding arbitration. Furthermore, the arbiter shall be mutually acceptable to the Department and the MPO.

Article 14. Non-Collusion

The MPO shall warrant that it has not employed or retained any company or person, other than a bona fide employee working for the MPO, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the MPO breaches or violates this warranty, the Department shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of the fee, commission, brokerage fee, gift, or contingent fee.

Article 15. Subcontracts

- A. Any subcontract for services rendered by individuals or organizations not a part of the MPO's organization shall not be executed without prior authorization and approval of the subcontract by the Department and, when federal funds are involved, the USDOT. All work in the subcontract is subject to the state's UGMS. If the work for the subcontract is authorized in the current approved UPWP, and if the MPO's procurement procedures for negotiated contracts have been approved by the Department either directly or through self-certification by the MPO, the subcontract shall be deemed to be authorized and approved, provided that the subcontract includes all provisions required by the Department and the USDOT.
- B. Subcontracts in excess of \$25,000 shall contain all required provisions of this agreement.
- C. No subcontract will relieve the MPO of its responsibility under this agreement.

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Article 16. Termination

- A. The Department may terminate this agreement at any time before the date of completion if the Governor withdraws his designation of the MPO. The Department or the MPO may seek termination of this agreement pursuant to Article 13 (Disputes) if either party fails to comply with the conditions of the agreement. The Department or the MPO shall give written notice to all parties at least ninety (90) days prior to the effective date of termination and specify the effective date of termination.
- B. The Department may terminate this agreement for reasons of its own, subject to agreement by the MPO.
- C. The parties to this agreement may terminate this agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the parties shall agree upon the termination conditions.
- D. Upon termination of this agreement, whether for cause or at the convenience of the parties, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc., prepared by the MPO shall, at the option of the Department, be delivered to the Department.
- E. The Department shall reimburse the MPO for those eligible expenses incurred during the agreement period that are directly attributable to the completed portion of the work covered by this agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The MPO shall not incur new obligations for the terminated portion after the effective date of termination.

Article 17. Force Majeure

Except with respect to defaults of subcontractors, the MPO shall not be in default by reason of failure in performance of this agreement in accordance with its terms (including any failure by the MPO to progress in the performance of the work) if that failure arises out of causes beyond the control and without the default or negligence of the MPO. Those causes may include but are not limited to acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In every case, however, the failure to perform must be beyond the control and without the fault or negligence of the MPO.

Article 18. Remedies

- A. Violation or breach of agreement terms by the MPO shall be grounds for termination of the agreement. Any costs incurred by the Department arising from the termination of this agreement shall be paid by the MPO.
- B. This agreement shall not be considered as specifying the exclusive remedy for any dispute, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

Article 19. Gratuities

- A. Employees of the Department or the MPO shall not accept any benefits, gifts, or favors from any person doing business with, or who may do business with the Department or the MPO under this agreement.
- B. Any person doing business with, or who may do business with the Department or the MPO under this agreement, may not make any offer of benefits, gifts, or favors to Department or

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the MPO employees. Failure on the part of the Department or the MPO to adhere to this policy may result in termination of this agreement.

Article 20. Compliance with Laws

The parties to this agreement shall comply with all federal and state laws, statutes, rules, and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, including without limitation, workers’ compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the MPO shall furnish the Department with satisfactory proof of its compliance.

Article 21. Successors and Assigns

No party shall assign or transfer its interest in this agreement without written consent of the other parties.

Article 22. Debarment Certifications

The MPO is prohibited from making any award or permitting any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. By executing this agreement, the MPO certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The MPO shall require any party to a subcontract or purchase order awarded under this agreement as specified in 49 CFR Part 29 (Debarment and Suspension) to certify its eligibility to receive federal funds and, when requested by the Department, to furnish a copy of the certification.

Article 23. Equal Employment Opportunity

The parties to this agreement agree to comply with Executive Order 11246 entitled “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor Regulations (41 CFR §60).

Article 24. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).

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- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

Article 25. Nondiscrimination on the Basis of Disability

The MPO agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under this agreement. The MPO shall ensure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR Part 27, and any amendments to it.

Article 26. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The MPO shall adopt, in its totality, the State’s federally approved DBE program.
- C. The MPO shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State’s DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The MPO shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each MPO contract with a subprovider. The MPO shall be responsible for documenting its actions.

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- D. The MPO shall follow all other parts of the State’s DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation’s Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The MPO shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The MPO shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State’s DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the MPO of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the MPO signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

Article 27. Procurement and Property Management Standards

- A. The parties to this Agreement shall adhere to the procurement standards established in Title 49 CFR §18.36, to the property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the MPO’s procurement procedures for purchases to be eligible for state or federal funds.
- B. The MPO agrees to comply with applicable Buy America requirements set forth in the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599) §401 and the FTA’s Buy America regulations in 49 CFR Part 661.
- C. The MPO agrees to comply with the cargo preference requirements set forth in 46 USC §55305 and Maritime Administration regulations set forth in 46 CFR Part 381.

Article 28. Environmental Protection and Energy Efficiency

- A. The MPO agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, 42 USC §7602; Section 508 of the Clean Water Act 33 USC §1368; Executive Order 11738 and Title 40 CFR, “Protection of Environment.” The MPO further agrees to report violations to the Department.
- B. The MPO agrees to recognize standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

Article 29. Federal Reimbursement

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The MPO shall be responsible for any funds determined to be ineligible for federal reimbursement, and shall reimburse the Department the amount of those funds previously provided to it by the Department.

Article 30. Control of Drug Use

The MPO agrees to comply with the terms of the FTA regulation, "Prevention of Alcohol Misuse and Prohibited Drug Use in Mass Transit Operations," set forth in 49 CFR Part 655.

Article 31. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the MPO shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article 32. Amendments

Any change to one or more of the terms and conditions of this agreement shall not be valid unless made in writing and agreed to by the parties before the change is implemented.

Article 33. Distribution of Products

- A. The MPO shall provide a number of copies to be specified by the Department of all information, reports, proposals, brochures, summaries, written conclusions, graphic presentations, and similar materials developed by the MPO and financed, in whole or in part, as provided in this agreement. All reports published by the MPO shall contain the following prominent credit reference to the Department, USDOT, FHWA, and FTA:
Prepared in cooperation with the Texas Department of Transportation and the U.S. Department of Transportation, Federal Highway Administration, and Federal Transit Administration.
- B. Upon termination of this agreement, all documents prepared by the MPO or furnished to the MPO by the Department, shall be delivered to the Department. All documents,

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photographs, calculations, programs, and other data prepared or used under this agreement may be used by the Department without restriction or limitation of further use.

Article 34. Legal Construction

In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

Article 35. Sole Agreement

This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

Article 36. Copyrights

The Department and the USDOT shall, with regard to any reports or other products produced under this agreement, reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for government purposes.

Article 37. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>
- B. The MPO agrees that it shall:
 - 1. Obtain and provide to the Department a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site at <https://www.sam.gov/portal/public/SAM/>;
 - 2. Obtain and provide to the Department a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website at <http://fedgov.dnb.com/webform>; and
 - 3. Report the total compensation and names of its top five (5) executives to the Department if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

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CFDA No.:	
Not Research and Development	

Article 38. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the MPO must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the MPO's fiscal year, the MPO must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the MPO will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

Article 39. Notices

All notices to any party by the other parties required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to the party at the following addresses:

MPO:	Chairperson Amarillo MPO PO Box 1971 Amarillo TX 79105-1971
Fiscal Agent:	City Manager City of Amarillo PO Box 1971 Amarillo TX 79105-1971
Department:	Director, Transportation Planning & Programming Division Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date delivered or deposited in the mail, unless otherwise provided in this agreement. Any party may change the above address by sending written notice of the change to the other parties. Any party may request in writing that notices shall be delivered personally or by certified U.S. mail and that request shall be honored and carried out by the other parties.

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Federal Highway Administration:	
CFDA Title:	
CFDA No.:	
Not Research and Development	

Article 40. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the Department, the MPO, and the Fiscal Agent in triplicate.

THE MPO

Signature

Ginger Nelson

Typed or Printed Name

Chairman

Title

Date

7-19-18

THE FISCAL AGENT

Signature

Jared Miller

Typed or Printed Name

City Manager

Title

Date

THE DEPARTMENT

Signature

Typed or Printed Name

Director, Transportation Planning and
Programming Division, Texas Department of
Transportation

Title

Date



Amarillo City Council

Agenda Transmittal Memo



Meeting Date	August 7, 2018	Council Priority	Economic Development and Redevelopment
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Department Contact	Planning Sherry Bailey, Senior Planner
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Agenda Caption

Ordinance No. _____

This is a public hearing and first reading of an ordinance to rezone a 5 acre portion of Lot 1, Block 24, Westcliff Park Unit No 51, in Section 25, Block 9, BS&F Survey, Potter County, Texas, plus one half of all bounding streets, alleys, and public ways to change from Planned Development - 55 (PD-55) to Planned Development - 55 Amended (PD-55A)

Agenda Item Summary

Area Characteristics

The adjacent zoning consists of Planned Development – 55 (PD-55) to the north, east and west with Residential District – 1 (R-1) to the south.

The land use to the west, east and south is a mixture of commercial offices and churches with single family residential to the west.

Proposal

The applicant is wanting to rezone the property by amending the planned development master plan to allow a light commercial farm and home supply with outdoor storage (Tractor Supply) The original Master Plan shows this area as multiple family. However, the master plan for this Planned Development has been amended over 25 times since its creation in 1981.

Analysis

When a rezoning request is received staff immediately turns to the 2010 City of Amarillo adopted Comprehensive Plan. The area in question is identified as a Business Park development area. That would include office, medical and technology/research uses. There is also room for limited light industrial uses, i.e. warehousing/distribution, but they must be well screened and in buildings with enhanced architectural design. There is also room for limited retail commercial to serve the local business park workers and visitors. Given the nature of Tractor Supply a case could be made for using the light industrial use designation and the screening and landscape requirements. When staff talked with the applicant’s representatives they agreed to move the front exterior sales display area to the side of the business and to place it in front of the enclosed merchandise area. If the Council reviews the site plan and landscape plan you will see where the applicant has included a landscape plan that screens the industrial look of the building and provides a pleasing green buffer area to the road. This proposal will effectively soften the more utilitarian look of the store and present a neighborhood

Amarillo City Council

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pleasing approach to the facility.

Directly to the southwest of this lot the Future Land Use Map has the corner between Plum Creek Dr. and Tascosa Rd. as a General Commercial use. That accommodates a wide range of commercial, retail and service uses at varying levels of intensity and scale. The proposed Tractor Supply request being directly next door becomes a logical extension of the commercial and light industrial uses that can reasonably fit within this area with accommodations for the Outdoor sales area being moved to the side and the landscape buffer.

With the Planned Development-55 zoning amendment request process it allows the City Council to approve the request based on the accommodations the applicant is willing to make to meet the intent of the City's Comprehensive Plan.

Requested Action

After review by city staff and considering the accommodations made by the applicant, and with the Planning Commission's unanimous recommendation for approval, Planning staff believes the applicant's request is appropriate and recommends approval as proposed.

Planning & Zoning Commission July 22, 2018 Meeting Draft Minutes

Sherry Bailey, Senior Planner, presented this item, and advised that the applicant is requesting a zone change from Planned Development 55 (PD-55) to Planned Development 55 Amended (PD-55A) to allow a heavy commercial farm and home supply with outdoor storage (Tractor Supply). Ms. Bailey ended the presentation with a staff recommendation of approval.

Chairman Parker asked if anyone wanted to speak in favor or against this item. No comments were made.

A motion to approve Z-18-15 was made by Commissioner Ford, seconded by Commissioner Thomason, and carried unanimously.

Community Engagement Summary

Notices have been sent out to 11 property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has not received any comments regarding this request, either in favor of or in opposition to the request.

A public hearing was held by the Planning & Zoning Commission on July 30, 2018. Only the applicant appeared on this application.

Amarillo City Council

Agenda Transmittal Memo



Items Attached
Ordinance
Map exhibits
Site exhibit
Pictures

ORDINANCE NO. 7748

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR A CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF PLUM CREEK DR. & TASCOSA RD., POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the area characteristics for Planned Development – 55 (PD-55) includes being adjacent to General Commercial use with the area transitioning into a development of a Business Park in accordance with the City's Future Land Use plan; and

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

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

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

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

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

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

Rezoning of a 5 acre portion of Lot 1, Block 24, Westcliff Park, Unit No 51, in Section 25, Block 9, BS&F Survey, Potter County, Texas, plus one half of all bounding streets, alleys, and public ways to change from Planned Development - 55 (PD-55) to Planned Development - 55 Amended (PD-55A).

SECTION 3. In the event this ordinance or any part hereof is found to be invalid, such invalidity shall not affect the remaining portions of the ordinance, and such remaining portions shall continue to be in full force and effect. The Director of Planning is authorized to make corrections and minor changes to the site plan or development documents to the extent that

such does not materially alter the nature, scope, or intent of the approval granted by this ordinance.

SECTION 4. All ordinances and resolutions or parts thereof that conflict with this Ordinance are hereby repealed, to the extent of such conflict.

SECTION 5. This ordinance shall become effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the 7th day of August, 2018 and **PASSED** on Second and Final Reading on this the 14th day of August, 2018.

Ginger Nelson, Mayor

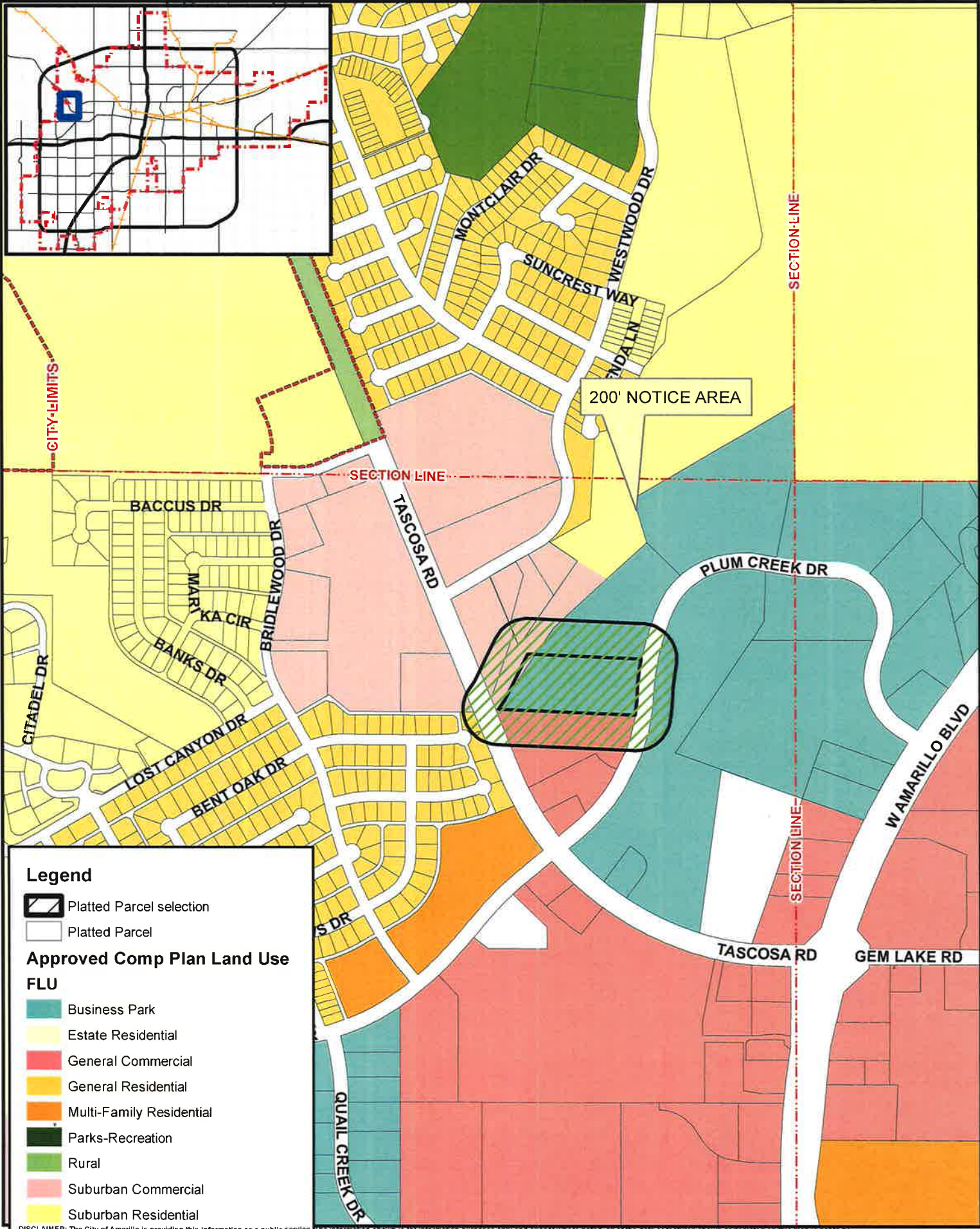
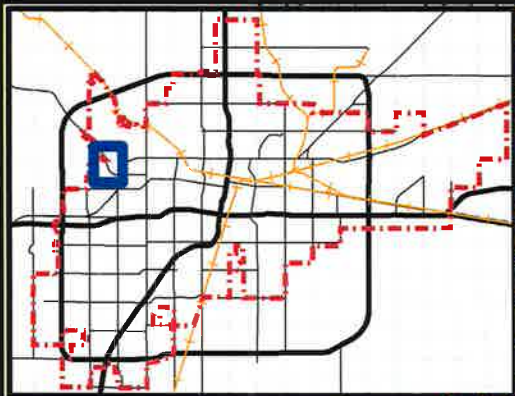
ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams,
Interim City Attorney

Z-18-15
FUTURE LAND USE



Legend

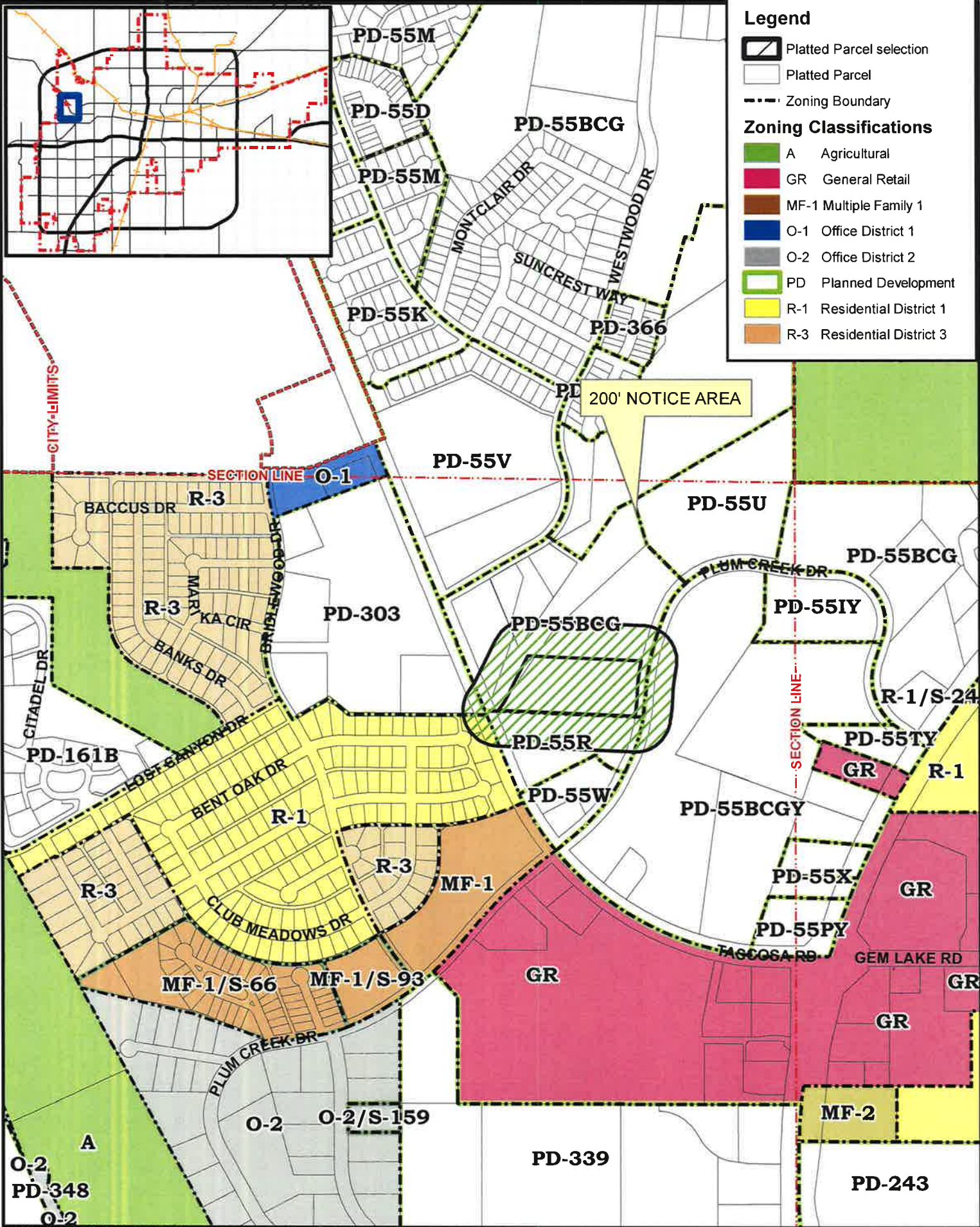
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Approved Comp Plan Land Use
FLU

- Business Park
- Estate Residential
- General Commercial
- General Residential
- Multi-Family Residential
- Parks-Recreation
- Rural
- Suburban Commercial
- Suburban Residential

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

Z-18-15
AREA ZONING



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

PREPARED FOR

JW AMARILLO I, LTD
806 AVENUE U
MARBLE FALLS, TX 78654
(830) 693-8944

PROJECT NOTES

A 5.04+/- acre tract of land lying a portion of lot 1, Block 24, Westcreek Park Unit No. 52, an addition to the City of Amosillo, Potter County, Texas, according to the map or plat thereof recorded in the Clerk's File No. 201809080066472 of the Official Public Record of Potter County, Texas.

REFERENCE FILES
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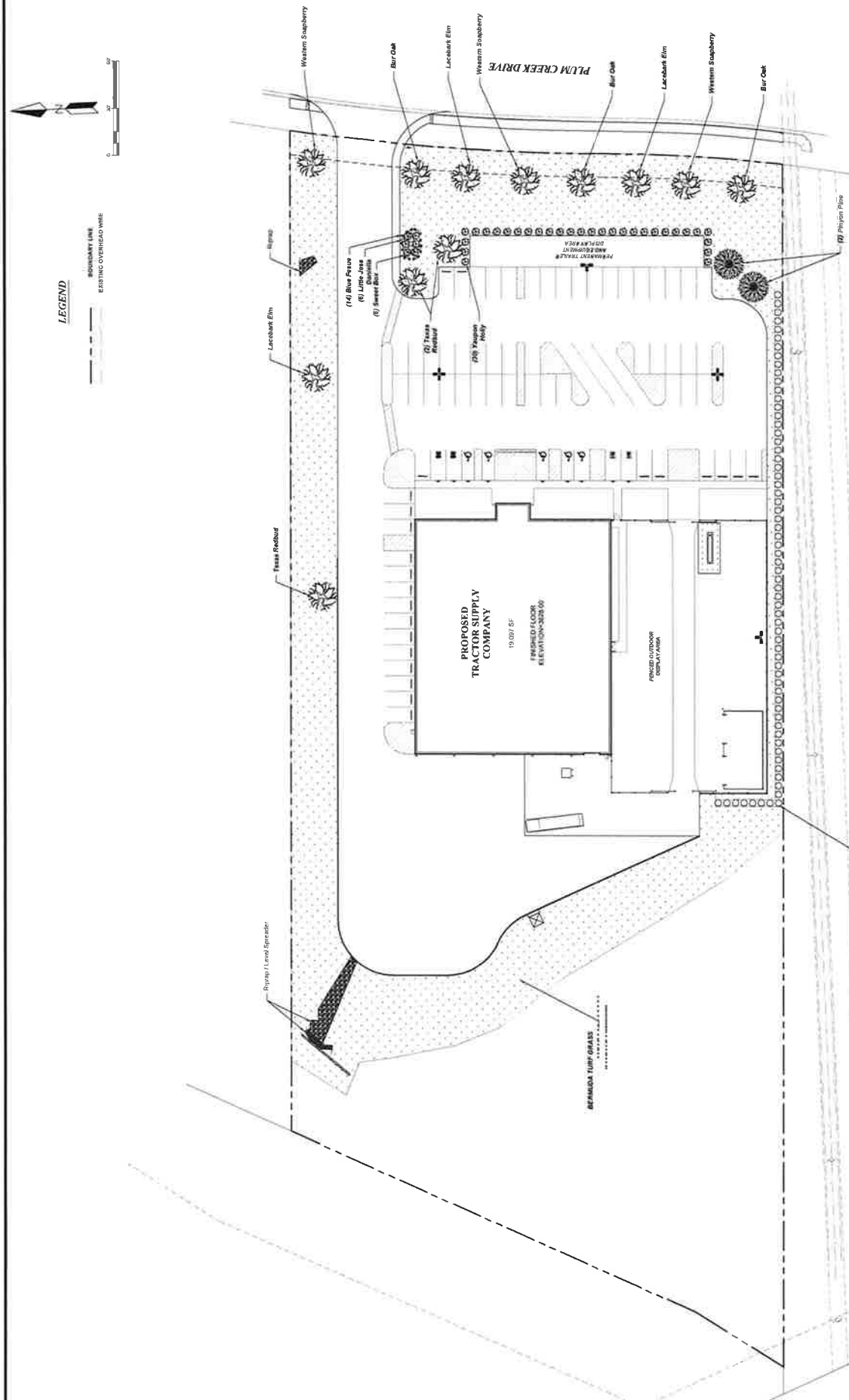
REVISIONS / ISSUANCES

**TRACTOR SUPPLY
COMPANY**

AMARILLO TEXAS

LANDSCAPING PLAN

PROJECT NUMBER: 22-206-002	SCALE: 1"=30'	SHEET NO.	C-10	OF 11 SHEETS
DATE: 5/22/2018	DESIGNED BY: DOW	DESIGNED BY: DOW	CHECKED BY:	



COMMON NAME	SCIENTIFIC NAME	SIZE	QUANTITY
Bamboo	<i>Excoecaria agalloch</i>	10"	40
Bur Oak	<i>Quercus macrocarpa</i>	2"	3
Loblack Elm	<i>Ulmus parviflorus</i>	2"	3
Tree Redbud	<i>Cercis florosa</i>	2"	3
Walden Sycamore	<i>Spondias dimorpha</i>	2	3
Prayer Pine	<i>Pinus carolinensis</i>	6	2
Valley Holly	<i>Ilex cornuta</i>	16"	30
Swift Box	<i>Sorbus domestica</i>	16"	6
Little Live Dendrobium	<i>Dendrobium speciosum</i>	12"	6
Red Flower	<i>Fuchsia palmeri</i>	12"	14

POINTS ARE AWARDED FOR THE FOLLOWING ITEMS:	
(1) SELECTED (OR SPECIFIC) OF ALL PLANT MATERIALS RECOMMENDED BY THE STATE AGRICULTURAL RECOMMENDED PLANT LIST	15 POINTS
(2) GROW REGISTRATION SYSTEM AND USED MATERIAL IN PLANTING BEDS	5 POINTS
(3) FARMABLE COVERED BARRIERS INSTALLED IN ALL PLANTING BEDS	2 POINTS
(4) LANDSCAPE ARE PROVIDED EXCEEDS REQUIREMENT BY AN ADDITIONAL TEN (10) PERCENT	2 POINTS
TOTAL POINTS REQUIRED BY PLAN	
24	
TOTAL POINTS PROVIDED BY CODE	
20	

LANDSCAPING REQUIREMENTS	
TOTAL LOT AREA	0.00
TOTAL BUILDING FOOTPRINT	10.00 SF
TOTAL LOT COVERED	10.00 SF
TOTAL AREA OF LANDSCAPE REQUIRED	0.00 SF
TOTAL AREA OF LANDSCAPE PROVIDED	0.00
STREET TREE REQUIREMENTS:	
TOTAL LENGTH OF STREET FRONTAGE	0.00
TOTAL NUMBER OF TREES REQUIRED PER STREET FRONTAGE	0
TOTAL NUMBER OF TREES PROVIDED PER STREET FRONTAGE	0
PARKING SPACE REQUIREMENTS:	
TOTAL NUMBER OF PARKING SPACES REQUIRED	70
TOTAL NUMBER OF TREES REQUIRED PER PARKING SPACE	0
TOTAL NUMBER OF TREES PROVIDED PER PARKING SPACE	0

LANDSCAPING NOTES

1. LANDSCAPING MATERIALS SHALL COMPLY WITH THE CITY OF MARIETTA POLICE ORDINANCE M.C. 4-12-24, MAINTENANCE STANDARDS.
2. A MINIMUM OF 4 INCHES OF TOPSOIL IS TO BE PLACED IN ALL DISTURBED AREAS. SEED WITH PENNUNG TUFF GRASS. HYDRATEL OR GRASS AS NECESSARY.
3. IRRIGATION TO BE PROVIDED BY A CONTRACTOR, PERMANENTLY, IRRIGATION SYSTEM TO BE DESIGNED FOR TURF, PERMEABLE VALED BARRIERS AND MULCH ON 4" DEPTH AND ON THE SUBGRADE.

Amarillo City Council

Agenda Transmittal Memo



4

Meeting Date	August 7, 2018	Council Priority	Customer Service Fiscal Responsibility Economic Development and Redevelopment
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Department	City Manager's Office	Contact Person	Floyd Hartman, Assistant City Manager
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Agenda Caption

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: TO REORGANIZE THE CITY GOVERNMENT ORGANIZATIONAL STRUCTURE TO PROVIDE FOR MORE ECONOMICAL AND EFFICIENT GOVERNMENT SERVICES; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

This item approves an update to the City's Organizational Structure, last updated in November 2016, to reflect current reporting responsibilities, discontinuation of two offices (Strategic Initiatives and Economic Development), and combining planning and economic development into a new department to be titled Planning and Development Services.

Agenda Item Summary

City Management staff is recommending approval of the attached organization chart. Some of the minor changes include moving Facilities and Human Resources to reflect current practices of Human Resources reporting to the Deputy City Manager – Public Safety & Organizational Services, and Facilities reporting directly to the City Manager. Community Health has also been divided back into three departments – Environmental Health, Public Health, and Women, Infants, and Children since that consolidated department was not implemented during the November 2016 changes. Other changes include discontinuing the Office of Strategic Initiatives, which has no funding in the current and proposed 2018-2019 annual budget.

The most significant change from the current structure will be consolidating the Office of Economic Development and the Planning Department into a new Planning and Development Services Department. A long-term goal of the newly structured department would be to ensure a higher-performing coordinated effort with a larger staff to the benefit of the Amarillo community. The new Department will house divisions of Planning, Metropolitan Planning Organization, and Economic Development, for 15 full-time employees when current vacancies are filled. This change will reclassify the Director of Economic Development and Intergovernmental Affairs position into the new Director of Planning and Development Services position. It will also reclassify the Economic Development Specialist position to Assistant Director – Planning.

Requested Action

Approve as presented. The Amarillo City Charter Art. V., Sec. 23 requires City Council approval of the City's organization structure.

Funding Summary

This change will benefit the 2018-2019 annual budget through the consolidation of planning and economic development staff that allows departmental salary reallocations for other citywide priorities.

Community Engagement Summary

n/a

Staff Recommendation

Staff recommends approval as presented.

RESOLUTION NO. _____
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AMARILLO, TEXAS: TO REORGANIZE THE CITY
GOVERNMENT ORGANIZATIONAL STRUCTURE TO
PROVIDE FOR MORE ECONOMICAL AND EFFICIENT
GOVERNMENT SERVICES; PROVIDING FOR
SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS
CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council finds that implementing a reorganization and consolidation of all CITY departments and personnel will enhance economy and efficiency of operations; and,

WHEREAS, such reorganization will discontinue the Office of Economic Development and the Office of Strategic Initiatives and provide for the consolidation of planning and economic development services into one department; and,

WHEREAS, such reorganization will amend the reporting responsibilities of the Facilities Department and the Human Resources Department; and,

WHEREAS, the City Council desires to specifically delineate the departments within Community Health to reflect actual functionality; and

WHEREAS, the City Council finds that the structure as set forth in the Organizational Chart attached to this Resolution will achieve the intended purposes for reorganization of the City of Amarillo municipal government;

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

SECTION 1. That the Organization Chart attached hereto is hereby adopted by the City Council as the Organization Chart for the City of Amarillo.

SECTION 2. Severability. If any word, phrase, or part for any reason is held to be unconstitutional, void or invalid, the validity of the remaining portions of this Resolution shall remain in effect.

SECTION 3. Savings. All resolutions and parts of resolutions in conflict with this Resolution are hereby repealed to the extent of conflict with this Resolution.

SECTION 4. Effective Date. This Resolution shall be effective on and after its adoption INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas this 7th day of August, 2018.

Ginger Nelson, Mayor

ATTEST:

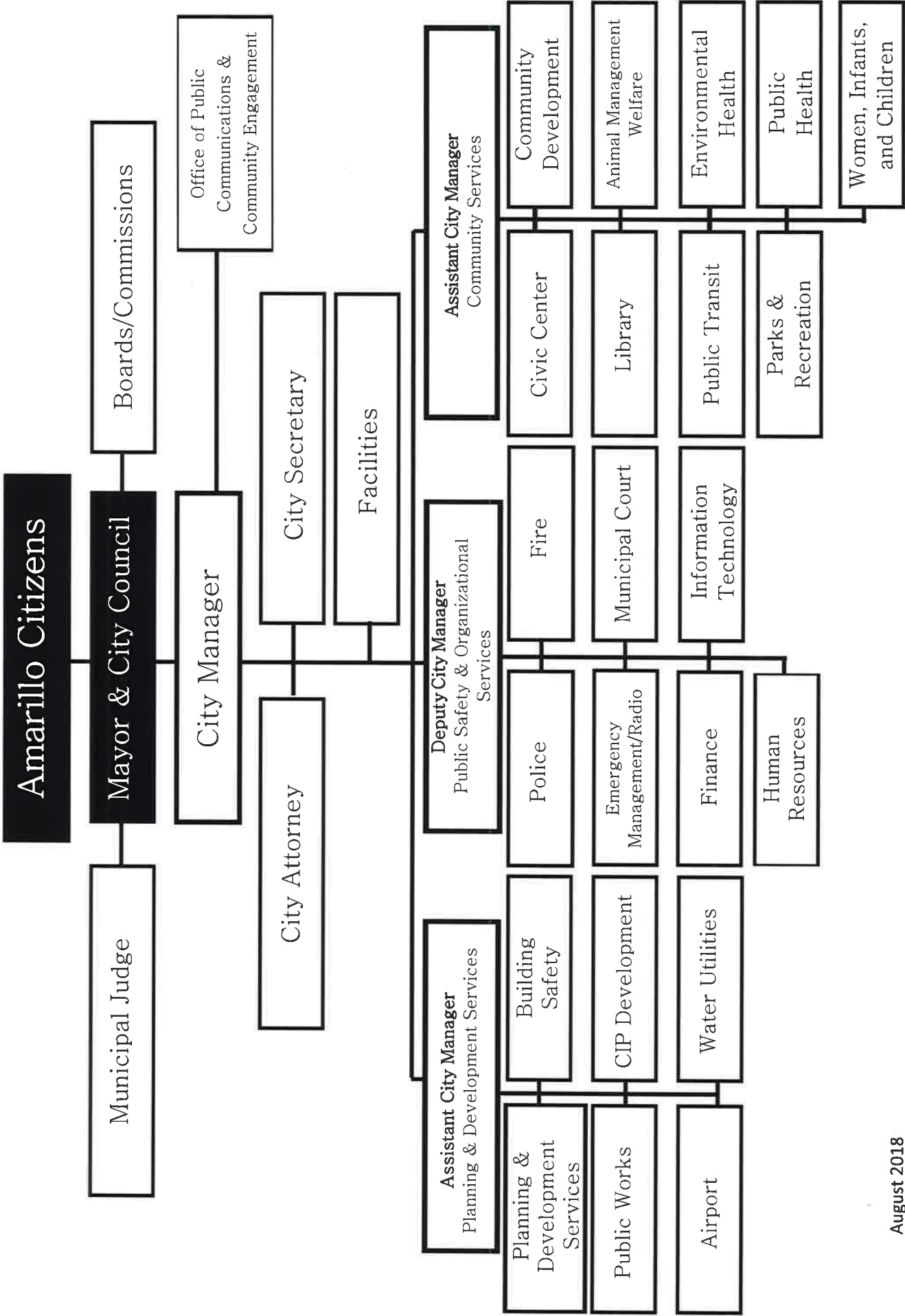
Frances Hibbs, City Secretary

APPROVED AS TO FORM:

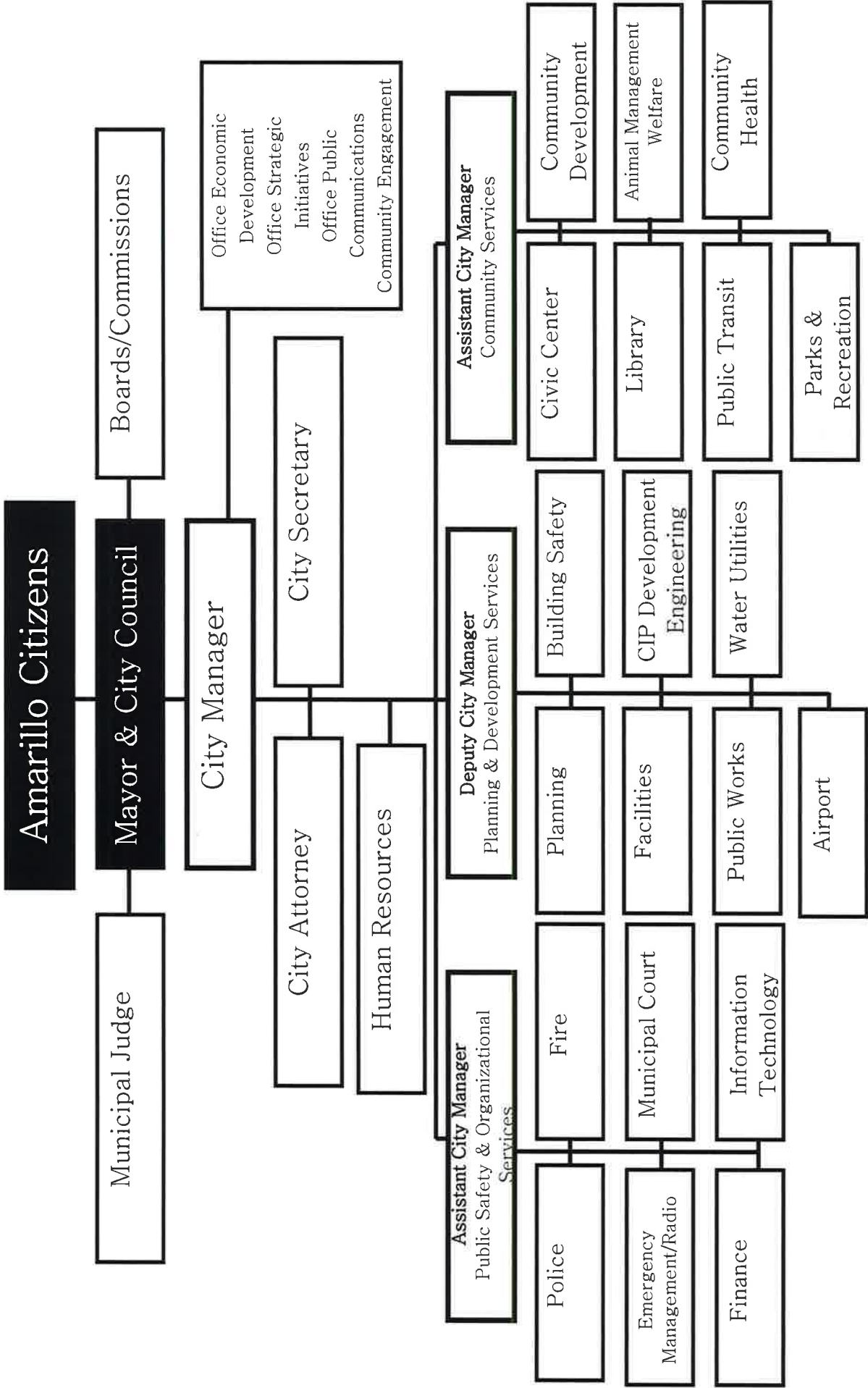
Bryan McWilliams, Interim City Attorney

PROPOSED

City of Amarillo, Texas Organization Chart



City of Amarillo, Texas Organization Chart





Amarillo City Council

Agenda Transmittal Memo



Meeting Date	August 7, 2018	Council Pillar	
Department	City Manager		
Contact	Michelle Bonner, Deputy City Manager		

Agenda Caption

RESOLUTION – APPROVING A SETTLEMENT AGREEMENT WITH SOUTHWESTERN PUBLIC SERVICE COMPANY:
(Contact: Michelle Bonner, Deputy City Manager)

This resolution authorizes a settlement agreement between the Alliance of XCEL Municipalities (AXM) and Southwestern Public Service (SPS) regarding the company’s intent to change electric.

Agenda Item Summary

In August 2017 SPS filed a Statement of Intent to increase annual revenue in the form of a rate increase. The City of Amarillo participated with the Alliance of Xcel Municipalities to negotiate the settlement agreement. The proposed settlement agreement significantly lowers the increase from the original statement of intent filed in August 2017 with a proposed increase of \$0 in SPS’ base-rate revenue as compared to the SPS’ original requested net increase of \$66.3 million. The settlement includes no increase to revenues for SPS and no change in the specific rates charged customers.

Requested Action

Council consideration and approval of the resolution.

Funding Summary

N/A

Community Engagement Summary

N/A

Staff Recommendation

Staff recommendation is to approve the resolution authorizes a settlement agreement between the Alliance of XCEL Municipalities (AXM) and Southwestern Public Service (SPS) regarding the company’s intent to change electric

07/30/2018_____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF AMARILLO APPROVING A SETTLEMENT AGREEMENT BETWEEN THE ALLIANCE OF XCEL MUNICIPALITIES (“AXM”) AND SOUTHWESTERN PUBLIC SERVICE COMPANY (“SPS” OR “COMPANY”) REGARDING THE COMPANY’S STATEMENT OF INTENT TO CHANGE ELECTRIC RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; REQUIRING REIMBURSEMENT OF THE CITY’S RATE CASE EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETING ACT; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL

WHEREAS, the City of Amarillo, Texas (“City”) has exclusive original jurisdiction as a regulatory authority over Southwestern Public Service Company (“SPS” or “Company”) rates, operations, and services within the City; and

WHEREAS, the City is also an electric utility customer of SPS, and has an interest in SPS’s rates and charges; and

WHEREAS, SPS filed a Statement of Intent with the City on or about August 21, 2017 to increase its base revenue requirement by approximately \$80.9 million on a Texas retail jurisdictional basis, which includes \$14.6 million currently being recovered through SPS’s Transmission Cost Recovery Factor (“TCRF”), for a net base rate increase of \$66.3 million, which equates to a 12.3% increase in revenues; and

WHEREAS, SPS filed rebuttal testimony in the pending proceeding at the Public Utility Commission of Texas revising its requested revenue increase to a \$32 million increase with a net increase of \$17.4 million after accounting for the inclusion of \$14.6 million in revenues currently being collected through SPS’s TCRF; and

WHEREAS, the City took action to suspend the effective date and to coordinate a response to SPS’ filing with other similarly situated municipalities (such participating cities are referred to herein as the Alliance of Xcel Municipalities (“AXM”)); and

WHEREAS, the City took action on or before September 25, 2017 to suspend the effective date; and

WHEREAS, one of AXM's goals is to minimize rate-case expenses to the extent reasonable, that otherwise would result from lengthy, contested rate-case proceedings before the Public Utility Commission of Texas ("PUCT") and through the appellate process in the courts for the pending rate case; and

WHEREAS, AXM authorized its attorneys and experts to formulate and review reasonable settlement positions to resolve SPS' pending request to increase rates; and

WHEREAS, AXM's attorneys met numerous times with the Company to negotiate a Settlement Agreement resolving the issues raised by the Company's Statement of Intent filing; and

WHEREAS, AXM's attorneys and experts have evaluated what a likely outcome from a fully-litigated proceeding would be and are of the opinion that the parties' agreement for no increase in revenues as noted in the negotiated Settlement Agreement attached as "Exhibit A," compares favorably with a likely outcome from a fully-litigated proceeding; and

WHEREAS, after extensive review and analysis, AXM's attorneys and experts found that no increase in revenues instead of the \$66.3 million net base revenue increase initially proposed, and later revised to a net \$17.4 million increase, by SPS is reasonable; and

WHEREAS, AXM's attorneys and experts and AXM's Steering Committee, based on the advice of its attorneys and experts, recommend that AXM's members approve the negotiated Settlement Agreement; and

WHEREAS, under the Public Utility Regulatory Act, the City has a right to reimbursement of its reasonable rate-case expenses and SPS has an obligation to reimburse the City's reasonable rate-case expenses; and

WHEREAS, the Settlement Agreement is in the public interest;

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

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City Council finds that the Settlement Agreement, which is attached hereto as **EXHIBIT A** and incorporated herein, is in the public interest and is hereby endorsed in all respects, including requiring SPS to reimburse the AXM cities' rate case expenses.

Section 3: The City Council hereby directs SPS to reimburse the AXM cities the rate case expenses incurred directly or indirectly related to SPS' statement of intent to increase rates.

Section 3. SPS' existing rates, which will not change as a result of the Settlement Agreement, and are just and reasonable.

Section 4. To the extent any resolution or parts thereof previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

Section 5. The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. If any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provision of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 7. This Resolution shall become effective from and after its passage.

Section 8. The City Secretary or other appropriate city official as a courtesy, shall provide SPS a copy of this Resolution by **sending a copy of the Resolution to William A. Grant, Regional Vice-President, Regulatory and Strategic Planning, Southwestern Public Service Company, 790 S. Buchanan Street, Amarillo, Texas 79101** and AXM shall be notified by **sending a copy of this Resolution to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701.**

INTRODUCED AND PASSED this _____ day of _____, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

Bryan McWilliams, Interim City Attorney

SOAH DOCKET NO. 473-17-5771
PUC DOCKET NO. 47527

APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
PUBLIC SERVICE COMPANY FOR § OF
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

UNOPPOSED STIPULATION
(Filename: 47527 Unopposed Stipulation.docx; Total Pages: 26)

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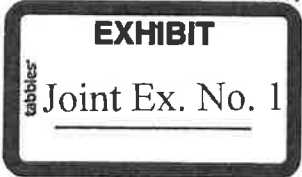
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**SOAH DOCKET NO. 473-17-5771
PUC DOCKET NO. 47527**

APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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UNOPPOSED STIPULATION

The Signatories to this Unopposed Stipulation (“Stipulation”), which is dated as of June 29, 2018, are the following:

- Staff (“Staff”) of the Public Utility Commission of Texas (“Commission”);
- Southwestern Public Service Company (“SPS”);
- International Brotherhood of Electrical Workers Local Union 602 (“IBEW”);
- Texas Industrial Energy Consumers (“TIEC”);
- Texas Cotton Ginner’s Association (“TCGA”);
- Alliance of Xcel Municipalities (“AXM”);
- Office of Public Utility Counsel (“OPUC”);
- United States Department of Energy (“DOE”);
- Amarillo Recycling Co., Inc.;
- Wal-Mart Stores Texas, LLC, and Sam’s East, Inc. (“Wal-Mart”);
- Sierra Club; and
- Canadian River Municipal Water Authority (“CRMWA”).

Golden Spread Electric Cooperative (“GSEC”) does not join this Stipulation but does not oppose it.¹

The parties to this Stipulation shall be referred to individually either as a Signatory or by the acronym assigned above, and collectively as the Signatories. The Signatories submit this

¹ In addition to the parties listed above, there is one additional intervenor, Mr. Nathan Porterfield, an individual residential customer. SPS has attempted to contact Mr. Porterfield, and has provided him drafts of the Stipulation, but has been unable to confer with him regarding this Stipulation.

Stipulation to the Commission as representing a just and reasonable disposition of the issues related to this docket consistent with the public interest. The Signatories request approval of this Stipulation and entry of findings of fact and conclusions of law consistent with that approval.

On August 21, 2017, in accordance with Chapter 36 of the Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), 59.101-66.017 (West 2007 & Supp. 2016) (“PURA”), SPS filed its application with the Commission seeking authority to revise its base rates. SPS’s application used a test year of April 1, 2016 through March 31, 2017 (“Test Year”), with an update period of April 1, 2017 through June 30, 2017 (“Update Period”), as authorized by PURA § 36.112 and 16 Tex. Admin. Code (“TAC”) § 25.246. SPS filed its case update on October 5, 2017, including the actual information for the Update Period. SPS’s application, as later modified by update, supplemental, and rebuttal testimony, requested, among other things, that the Commission authorize a \$32,009,475 increase in SPS’s Texas retail jurisdictional base rate revenues. In conjunction with the base rate increase, SPS’s transmission cost recovery factor approved in Docket No. 46877² (\$14,373,803) would be set to zero. The final base rates set in this proceeding relate back to January 23, 2018 in accordance with PURA § 36.211. Under State Office of Administrative Hearings Order No. 6, the current statutory deadline is November 2, 2018.

By this Stipulation, the Signatories resolve all of the issues among them related to SPS’s application in this docket, and agree as follows:³

1. Revenue Requirement – No Change to Current Base Rates and the TCRF is Not Set to Zero

- (A) There is a change of zero dollars in SPS’s net revenues by maintaining the base rates set in Docket No. 45524⁴ and the TCRF approved in Docket No. 46877. The

² *Application of Southwestern Public Service Company for Approval of Transmission Cost Recovery Factor*, Docket No. 46877 Order (Jun. 29, 2017).

³ The issue of rate case expenses was severed into Docket No. 47588. The DOE Pantex billing dispute issues were severed into Docket No. 48440.

⁴ *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 45524, Order (Jan. 26, 2017).

rate tariffs will remain the same as those currently on file and approved by the Commission, or the local regulatory authorities, as the case may be.

- (B) (i) SPS is allowed to recoup the TCRF rider revenue it would have billed (“revenue to be recouped”) had it not ceased billing the TCRF rider for usage during the period January 23, 2018 through June 10, 2018 (“recoupment period”). SPS will determine the revenue to be recouped by rebilling customer usage for the recoupment period. By November 30, 2018, SPS will file an application requesting approval of the specific TCRF recoupment rider charges.
- (ii) In calculating the revenue to be recouped, SPS will include the revenue that would have been billed to all service schedules subject to the TCRF established in Docket No. 46877, but the TCRF recoupment rider will be designed so that certain service schedules (“exempt service schedules”) will be charged zero dollars under the TCRF recoupment rider and the revenue that would have been recouped from the exempt service schedules will instead be collected from the other service schedules that are subject to the TCRF established in Docket No. 46877 (“paying service schedules”). The paying service schedules will be responsible for the revenue that otherwise would be recouped from the exempt service schedules on an equal percentage base rate (including TCRF) basis using Updated Test Year billing determinants. The exempt service schedules are: Secondary General Service; Primary General Service; Large School; and Small Municipal and School Service.

2. Resolution of Revenue Requirement Issues

This Stipulation is a black box settlement for all revenue requirement issues concerning Texas retail rates except for the following specifications:

- (A) Depreciation Expense.

- (i) There will be no change in SPS's existing Commission-approved depreciation rates, except as provided in Section 2(A)(ii).
- (ii) The Signatories agree that the Commission should approve 50% of SPS's proposed change in depreciation rates for the Tolk Generating Station Units 1 and 2 based upon a retirement date of 2032. The resulting Tolk depreciation rates are provided in Attachment A to this Stipulation. All Signatories reserve their rights regarding Tolk retirement dates in all future proceedings. SPS agrees to update its Tolk Station economic life analysis and include it in SPS's next Texas retail base rate case application.

(B) Financial Items.

- (i) The Signatories acknowledge that SPS has explained that in light of the treatment of Tolk depreciation rates in Section 2(A)(ii) and SPS's concerns with the impact of the Tax Cuts and Jobs Act, SPS intends to manage its Texas retail financing operations to a 57% equity capitalization ratio.
- (ii) The Signatories acknowledge that SPS has stated its concerns that in light of the credit quality, cash flow, and financial metrics concerns it has raised, SPS asserts that an equity capitalization ratio of less than 57% (in light of Section 2(A)(ii)) likely would have adverse cost consequences for SPS and its customers.
- (iii) SPS acknowledges that the Signatories disagree with SPS's concerns and assertions that are described in Section 2(B)(ii).
- (iv) SPS agrees that the capital structure for ratemaking purposes will be an issue in its next base rate case and that this Stipulation creates no presumption about the appropriate capital structure for ratemaking purposes in future proceedings. All Signatories reserve their rights regarding an appropriate equity capitalization ratio in SPS's next base rate case.

- (v) For Allowance for Funds Used During Construction purposes only, SPS will use a 9.5% ROE in conjunction with using its actual capital structure per the instructions in the Uniform System of Accounts.
- (C) Tax Cuts and Jobs Act ("TCJA").
- (i) This Stipulation incorporates the full effects of the TCJA. The relate-back date in this rate case is January 23, 2018, which is two days before the Commission issued its order in Project No. 47945.
 - (a) With regard to the reduction in the corporate federal income tax rate from 35% to 21% and the corresponding change to SPS's income tax expense, both SPS's rebuttal cost of service and Staff's cost of service in its direct case calculated SPS's federal income tax expense using the 21% tax rate. Thus, the disposition of the regulatory liability the Commission directed SPS to establish in Project No. 47945 regarding the reduction in the corporate tax rate is resolved through the base rates established under this settlement, and SPS has no refund or bill credit obligation regarding that regulatory liability.
 - (b) With regard to the excess Accumulated Deferred Federal Income Taxes ("ADFIT") and Net Operating Loss ("NOL")-related balances resulting from the TCJA, both SPS's rebuttal cost of service and Staff's cost of service in its direct case reflected amortizations of excess ADFIT balances for protected and unprotected plant items, excess ADFIT balances for non-plant items, and excess NOL-related balances resulting from the TCJA as restated for the June 30, 2017 Updated Test Year. SPS acknowledges that it is obligated to continue to unwind its excess ADFIT and NOL-related balances resulting from the change in tax rates under the TCJA, and that continued unwinding will be reflected in the calculation of SPS's cost of service in future base rate cases along with the calculation of all other components of the

cost of service. Thus, for the Updated Test Year ending June 30, 2017, the disposition of the regulatory liability the Commission directed SPS to establish in Project No. 47945 regarding the excess ADFIT and NOL-related balances is resolved through the base rates established under this settlement and SPS's obligation to continue unwinding those balances in future rate cases.

- (1) In future rate cases, SPS will continue to unwind the excess ADFIT balances associated with protected plant items based on the Average Rate Assumption Method ("ARAM"), which is the amortization period SPS used to calculate the unwinding of this category of excess ADFIT in its rebuttal cost of service, and which Staff also used in its cost of service.
- (2) In the current rate case, SPS will unwind the excess ADFIT balances associated with unprotected plant items based on the ARAM. Signatories reserve the right to address the appropriate amortization of the remaining balances of ADFIT for unprotected plant items in SPS's next rate case.
- (3) In future rate cases, SPS will continue to unwind the excess ADFIT balances associated with non-plant items using a five-year amortization period, which is the amortization period SPS used to calculate the unwinding of this category of excess ADFIT in its rebuttal cost of service, and which Staff also used in its cost of service.
- (4) In future rate cases, SPS will continue to unwind the excess NOL-related balances over a 44-year period, the average ARAM period, which is the amortization period SPS used to calculate the unwinding of the excess NOL-related balances in its rebuttal cost of service, and which Staff also used in its cost of service.

- (5) In future rate cases, SPS will address its excess ADFIT balances, and the unwinding of those balances, associated with protected and unprotected plant items, non-plant items, and NOL-related balances that may have accrued from the end of the Updated Test Year in this case through December 31, 2017.
- (D) Capital Additions. The capital additions that SPS closed to plant in service during the period of January 1, 2016 through June 30, 2017 that are included in SPS's Updated Test Year rate base are reasonable and necessary.
- (E) Pension and Other Post-Employment Benefit ("OPEB") Expense Tracker.
- (i) The pension and OPEB expense tracker balance as of June 30, 2017 is set forth in Attachment B to this Stipulation. This balance will be amortized over a 24-month period starting February 1, 2018. Any remaining unamortized amounts can be included in a subsequent base rate case filing and are deemed reasonable and necessary.
- (ii) The baseline for the pension and OPEB expense tracker as of July 1, 2017 is set forth in Attachment B to this Stipulation.
- (F) Margins on Off-System Energy Sales. For calculating eligible fuel expense from the date of the final order in this case going forward until the earlier of the date of the final order in SPS's next fuel reconciliation date or the relate-back date in SPS's next base rate case, SPS will credit Texas retail customers with 100% of the Texas retail margins on generation book off-system energy sales.
- (G) Demand and Energy Loss Factors. The Signatories agree that SPS's line loss study presented in this case is approved and the resulting demand and energy loss factors are approved. The Signatories agree that the effective date of the new demand and energy loss factors is February 1, 2018.

3. Rate Case Expenses

The rate case expenses incurred for this docket will remain the subject of Docket No. 47588, but SPS agrees that in Docket No. 47588 it will cap its request for rate case expenses associated with Docket No. 47527 to \$1.45 million related to SPS's rate case expenses and AXM's rate case expenses and will nonetheless reimburse AXM's rate case expenses. The cap in Docket No. 47588 applies only to rate case expenses associated with Docket No. 47527 and does not apply to SPS's request for the rate case expenses, including AXM's, for Docket Nos. 46025 (fuel reconciliation) and 46877 (TCRF).

4. Timing of SPS's Next Base Rate Case

SPS confirms that it will file its next base rate case no later than December 31, 2019.

5. TCRF, Distribution Cost Recovery Factor ("DCRF"), and Purchased Power Cost Recovery Factor ("PCRF") Filings

SPS agrees it will not file for a TCRF, DCRF, or PCRF until after the Commission issues its final order in the next SPS rate case.

6. Renewable Energy Credits ("RECs")

- (A) Bundled Texas-generated RECs will be priced at \$0.27 starting on June 1, 2018; and
- (B) The Texas Commission will establish the value for Texas-generated bundled RECs and the New Mexico Public Regulation Commission will establish the value for New Mexico-generated bundled RECs.

7. Schedule S Waiver

For SPS's next base rate case, consistent with Section D of the Unanimous Stipulation in Docket No. 46328 (the rate case expenses case for Docket No. 45524), the Signatories agree to support or not oppose a request by SPS to waive the requirement to file Schedule S of the current rate filing package, provided that the test year (or update period) for the next base rate case ends on the last day of a fiscal quarter.

8. Transition Plan to Eliminate the Residential Space Heating (“RSH”) Rate

- (A) SPS will propose a Residential Service (“RS”) rate design in its next base rate case that eliminates the RSH Rider consistent with the RS rate design proposed in this rate case. The new rate design for the Residential class will be designed to moderate the effect on RSH customers of eliminating the RSH option. The new rate design is intended to be revised or eliminated in future rate proceedings as the need to moderate the effect of the elimination of the RSH Rider on RSH customers diminishes. SPS agrees to make available upon request cost and billing determinant information necessary to calculate RS rates based on initial consumption band alternatives of 400 kilowatt-hours (“kWh”), 500 kWh, 600 kWh, 700 kWh, 800 kWh, 900 kWh, 1,000 kWh, 1,100 kWh, and 1,200 kWh.
- (B) If, as in Docket No. 45524, further mitigation of rate impacts for RSH customers is deemed necessary, SPS may propose a temporary rider designed to provide a credit per kWh to all Residential customers for above-average residential consumption during the winter months as defined in the current RS rate tariff (billing months of October through May), to be phased out over a period of time. The cost of the credit will be recovered through an increase to the RS energy charge throughout the year, with the increase to be phased out concurrent with the phase-out of the credit and the phase-out of the RSH rider, in a manner designed to be revenue-neutral for SPS. The temporary rider will end at the conclusion of the summer months as defined in the current RS rate tariff (billing months of June through September) in the year after the effective date of the new rates set in SPS’s next base rate case, unless SPS, Staff, and OPUC jointly recommend a different ending date and the Commission approves that date. Rate changes under the temporary rider and the elimination of the rider are not to occur during the winter months (as defined in the current RS rate tariff). The target end date for the temporary rider is the end of the summer period concluding September 30, 2020.

- (C) SPS agrees to continue to implement the plan developed in cooperation with Staff and OPUC to: (1) develop a plan to inform RSH customers that the RSH option is ending and to communicate to RSH customers the value of the Residential Time of Use Rider; and (2) to market the Residential Time of Use Rider in general. SPS agrees to implement the plans prior to the conclusion of its next base rate case.
- (D) Beginning with SPS's next base rate case, any cap on the number of customers joining the residential time-of-use ("TOU") rate plans will not include a limit on RSH customers seeking to participate in the TOU rate plans.

9. Abandonment of Docket No. 43695 Appeal

SPS agrees to abandon its appeal from Docket No. 43695.

10. Cash Working Capital for Earnings Monitoring Reports

For preparation of SPS's Earnings Monitoring Reports for reporting years 2018 and 2019, SPS's total company Cash Working Capital is \$-16,753,708 and SPS's Texas retail amount is \$-9,134,277.

11. Classes for SPS Energy Efficiency Cost Recovery Factor ("EECRF") Filings

For all SPS EECRF cases filed before the final order in SPS's next base rate case becomes final, as defined under Tex. Govt. Code § 2001.144, the classes approved in Docket No. 45916⁵ will: (a) continue to be the classes for purposes of SPS's EECRF cases; and (b) be considered the rate classes in SPS's "most recent base-rate proceeding" under 16 Tex. Admin. Code § 25.181(c)(49). Those classes are:

Residential Service;
Small General Service;
Secondary General Service;

⁵ *Application of Southwestern Public Service Company to Adjust Its Energy Efficiency Cost Recovery Factor*, Docket No. 45916, Order at Finding of Fact No. 23 (Sept. 23, 2016).

Primary General Service;
Small Municipal and School Service;
Large Municipal Service; and
Large School Service.

12. Solar PPAs

The Signatories agree that SPS's request for a finding that it acted prudently in entering into the purchased power agreements with NextEra Energy Resources Acquisition, LLC for the Roswell Solar and Chaves County Solar facilities (collectively, "Solar PPAs") should be deferred until SPS's next fuel reconciliation proceeding. The Signatories support applying the prudence or imprudence determination in the next fuel reconciliation proceeding to the entire period in which the Solar PPAs are in effect. A finding of the prudence of entering into the Solar PPAs would not be dispositive as to the prudence of SPS's day-to-day operations or administration under the contracts. The Signatories reserve all rights related to the Solar PPAs in that proceeding, including whether SPS has met its burden of proof to demonstrate that it was prudent to enter into the Solar PPAs.

13. Proposed Order

The Signatories agree to request entry of the proposed order shown on Attachment C to this Stipulation.

14. Obligation to Support this Stipulation

The Signatories agree that they will support this Stipulation before the Commission.

15. Effect of Stipulation in this Proceeding

- (A) There are no third-party beneficiaries of this Stipulation. This Stipulation resolves issues only with respect to the Texas retail jurisdiction and shall not be binding on or have any effect on proceedings in other jurisdictions. Signatories are not agreeing to any methodology or theory that may support or underlie any of the dollar amounts, rates in tariffs, depreciation rates, dollar balances, or other monetary or numerical values set out in, or attached to, this Stipulation.

- (B) This Stipulation has been drafted by all the Signatories and is the result of negotiation, compromise, settlement, and accommodation. The Signatories agree that this settlement is in the public interest. The terms and conditions in this Stipulation are intended to work in concert with each other as an integrated whole for the purposes of an outcome in this docket that is in the public interest and that will result in just and reasonable rates. Thus, the various provisions of this Stipulation are not severable. None of the provisions of this Stipulation shall become fully operative unless the Commission shall have entered a final order consistent with this Stipulation. If the Commission does not issue a final order consistent with the terms of this Stipulation, each Signatory has the right to withdraw from this Stipulation, to submit testimony, and to obtain a hearing and advocate any position it deems appropriate with respect to any issue in this Stipulation.

16. Effect of Stipulation in Other Regulatory Proceedings

- (A) This Stipulation is binding on each of the Signatories only for the purpose of settling the issues as set forth herein in this jurisdiction only and for no other purposes. The matters resolved herein are resolved on the basis of a compromise and settlement. Except to the extent that this Stipulation expressly governs a Signatory's rights and obligations for future periods, this Stipulation shall not be binding or precedential on a Signatory outside of this proceeding or a proceeding to enforce the terms of this Stipulation. Each Signatory acknowledges that a Signatory's support of the matters contained in this Stipulation may differ from the position taken or testimony presented by it in other dockets or other jurisdictions. To the extent that there is a difference, a Signatory does not waive its position in any of those other dockets or jurisdictions. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Stipulation in other dockets or jurisdictions, regardless of whether other dockets present the same or a different set of circumstances, except as otherwise may be explicitly provided by this Stipulation. Agreement by

the Signatories to any provision in this Stipulation will not be used against any Signatory in any future proceeding with respect to different positions that may be taken by that Signatory. The Signatories agree that in the event of a violation of the immediately preceding sentence, a violating Signatory will be given notice of violation in writing, which notice can be provided by e-mail, and a reasonable opportunity to cure.

- (B) The provisions of this Stipulation are intended to relate to only the specific matters referred to herein. By agreeing to this Stipulation, no Signatory waives any claim it may otherwise have with respect to issues not expressly provided for herein. The Signatories further understand and agree that this Stipulation represents a negotiated settlement of all remaining issues in this proceeding.
- (C) This Stipulation resolves the stated issues in the Texas retail jurisdiction only, and this Stipulation does not resolve any claims, issues or proceedings pending in or pertaining to other jurisdictions.

17. Entire Agreement

This Stipulation contains the entire understanding and agreement of the Signatories, and it supersedes all other written and oral exchanges and negotiations among them or their representatives with respect to the subjects contained in the Stipulation.

18. Multiple Counterparts

Each copy of this Stipulation may not bear the signatures of all the Signatories but will be deemed fully executed if all copies together bear the signatures of all Signatories.

Fully and duly authorized representatives of the Signatories have signed this Stipulation as of the date first set forth above.

[signature pages follow]

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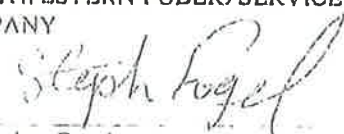
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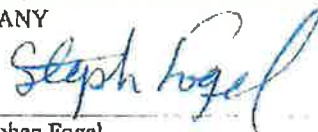
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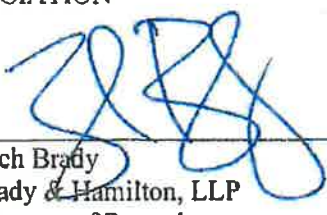
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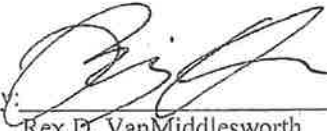
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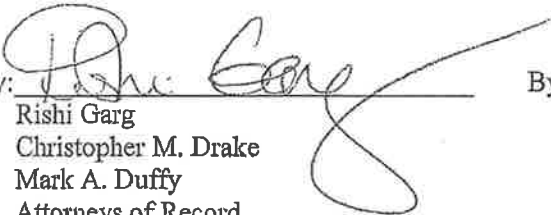
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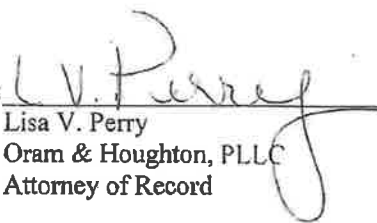
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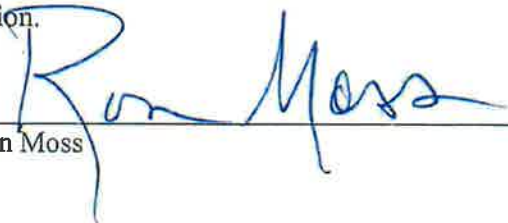
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CERTIFICATE OF SERVICE

I certify that on June 29, 2018, a true and correct copy of the foregoing instrument was served on all parties of record by electronic service, hand delivery, Federal Express, regular first class mail, certified mail, or facsimile transmission.



Ron Moss

Southwestern Public Service Company

Computation of Depreciation Accrual Rates
At June 30, 2017

Production Unit	FERC Account	Description	Plant Balance 6/30/2017 (1)	Book Reserve 6/30/2017 (2)	Net Salvage % (3)	Net Salvage Amount (4) = (1) x (3)	Unaccrued Balance (5) = (1) - (2) - (4)	Remaining Life (6)	Annual Accrual (7) = (5)/(6)	Annual Accrual Rate (8) = (7)/(1)
Steam Production Tolk										
Tolk Common Facilities	310	Water Rights	10,199,108	1,630,344	0%	-	8,568,764	20.50	417,988	4.0963%
	311	Structures and Improvements	34,707,776	6,023,801	-2%	(694,156)	29,378,131	20.50	1,433,080	4.1290%
	312	Boiler Plant Equipment	16,357,636	4,600,908	-2%	(327,153)	11,863,881	20.50	579,701	3.5439%
	314	Turbogenerators	13,377,761	3,391,147	-2%	(267,555)	10,254,169	20.50	500,203	3.7391%
	315	Accessory Electric Equipment	22,551	(2,968)	-2%	(451)	25,970	20.50	1,267	5.6176%
	316	Miscellaneous Power Plant Equipment	7,142,523	3,620,761	-2%	(142,850)	3,664,612	20.50	178,762	2.5028%
Tolk Common Facilities - Total/Composite			81,807,355	19,463,993		(1,432,165)	63,775,527		3,111,001	3.8028%
Tolk 1	310	Land Rights	19,917	13,036	0%	-	6,881	20.50	336	1.6853%
	311	Structures and Improvements	32,251,575	18,846,474	-2%	(645,032)	14,050,133	20.50	685,372	2.1251%
	312	Boiler Plant Equipment	192,823,981	94,499,707	-2%	(3,856,480)	102,180,753	20.50	4,984,427	2.5850%
	314	Turbogenerators	76,180,490	43,415,905	-2%	(1,523,610)	34,268,196	20.50	1,672,595	2.1956%
	315	Accessory Electric Equipment	15,344,204	8,864,371	-2%	(308,884)	6,686,717	20.50	326,181	2.1258%
	316	Miscellaneous Power Plant Equipment	721,430	404,380	-2%	(14,429)	331,479	20.50	16,170	2.2413%
Tolk 1- Total/Composite			317,341,598	166,143,672		(6,346,434)	157,544,159		7,685,081	2.4217%
Tolk 2	310	Land Rights	277,377	173,648	0%	-	103,729	20.50	5,060	1.8242%
	311	Structures and Improvements	18,359,026.11	10,008,413	-2%	(367,181)	8,717,796	20.50	425,268	2.3163%
	312	Boiler Plant Equipment	220,936,758	96,841,079	-2%	(4,416,735)	128,514,415	20.50	6,268,986	2.8375%
	314	Turbogenerators	105,153,927	52,092,221	-2%	(2,103,079)	55,164,785	20.50	2,690,965	2.5591%
	315	Accessory Electric Equipment	10,423,974	5,189,178	-2%	(208,479)	5,443,275	20.50	265,526	2.5473%
	316	Miscellaneous Power Plant Equipment	3,513,536	2,005,977	-2%	(70,271)	1,577,829	20.50	76,867	2.1906%
Tolk 2- Total/Composite			358,664,600	166,310,516		(7,167,744)	199,521,829		9,732,772	2.7136%
Total Steam Production Tolk			757,813,553	351,918,381		(14,946,343)	420,841,515		20,528,854	2.7090%

Note: This version updated to reflect a retirement date that results in half the annual impact than the originally proposed date of 2032. This is within \$100k of half of the originally proposed annual impact of \$13M.

Southwestern Public Service Company
Comparison of Approved vs Proposed
Depreciation Accrual Rates
At June 30, 2017

Production Unit	FERC Account	Description	Plant Balance 6/30/2017 (1)	Approved		Depreciation Expense At Approved Rates (3)=(1) x (2)	Proposed Depreciation Rate (4)	Proposed Depreciation Expense (5)= (4) x (1)	Difference (6)= (5)-(3)
				Total Depr Rate (A) (2)	Notes				
Steam Production Tolk									
Tolk Common Facilities	310	Water Rights	10,199,108	2.4717%		252,091	4.0983%	417,988	165,897
	311	Structures and Improvements	34,707,776	2.6663%		925,413	4.1290%	1,433,080	507,666
	312	Boiler Plant Equipment	16,367,636	1.9722%		322,605	3.5439%	579,701	257,096
	314	Turbogenerators	13,377,761	2.5984%		347,608	3.7391%	500,203	152,596
	315	Accessory Electric Equipment	22,551	2.4044%	(B)	542	5.6176%	1,267	725
	316	Miscellaneous Power Plant Equipment	7,142,523	1.7779%		126,987	2.5028%	178,762	51,775
Tolk Common Facilities - Total/Composite			81,807,355	2.4145%		1,975,247	3.8028%	3,111,001	1,135,754
Tolk 1	310	Land Rights	19,917	1.4797%		295	1.6853%	336	41
	311	Structures and Improvements	32,251,575	1.6639%		536,634	2.1251%	685,372	148,738
	312	Boiler Plant Equipment	192,823,981	1.8736%		3,612,750	2.5850%	4,984,427	1,371,677
	314	Turbogenerators	76,180,490	1.6242%		1,237,324	2.1956%	1,672,595	435,271
	315	Accessory Electric Equipment	15,344,204	1.6337%		250,678	2.1258%	326,181	75,503
	316	Miscellaneous Power Plant Equipment	721,430	1.7720%		12,784	2.2413%	16,170	3,386
Tolk 1- Total/Composite			317,341,598	1.7606%		5,650,464	2.4217%	7,685,081	2,034,617
Tolk 2	310	Land Rights	277,377	1.4255%		3,954	1.8242%	5,060	1,106
	311	Structures and Improvements	18,359,028	1.6257%		298,463	2.3163%	426,258	126,796
	312	Boiler Plant Equipment	220,936,768	1.8845%		4,163,553	2.8375%	6,288,996	2,105,443
	314	Turbogenerators	105,153,927	1.7318%		1,821,056	2.5591%	2,690,965	869,909
	315	Accessory Electric Equipment	10,423,974	1.6406%		171,016	2.5473%	285,526	94,510
	316	Miscellaneous Power Plant Equipment	3,513,536	1.5515%		54,513	2.1906%	76,967	22,455
Tolk 2- Total/Composite			358,664,600	1.8158%		6,512,564	2.7136%	9,732,772	3,220,218
Total Steam Production Tolk			757,813,553	1.8657%		14,138,265	2.7090%	20,528,854	6,390,589

(A) Approved depreciation rates are from Docket No. 43695.

(B) Composite rate for Tolk Common Steam Production

Southwestern Public Service Company
Texas
Comparison of Depreciation Parameters and Terminal Retirement Date
at June 30, 2017

Unit Name	Net Dependable Capacity (MW)	Location	In-service Date	Current (1)			Proposed			Change in Life From Current Approved
				Service Life	Net Salvage %	Depreciation Retirement Date	Service Life	Net Salvage %	Remaining Life as of June 30, 2017	
Steam Production - Coal										
Tolk Unit 1	540	Muleshoe, TX	1982	60	-2%	2042	55	-2%	20.50	(5)
Tolk Unit 2	540	Muleshoe, TX	1985	60	-2%	2045	52	-2%	20.50	(8)

(1) Current retirement dates and net salvage percentages were used in depreciation rates approved in Docket No. 43695.

**DOCKET NO. 47527 STIPULATION
ATTACHMENT B
PENSION AND OPEB EXPENSE TRACKER BASELINE AND AMORTIZATION**

GOING-FORWARD PENSION AND OPEB BASELINES

As of January 23, 2018, the Texas retail pension and OPEB baselines were \$7,830,475 for qualified pension and \$(206,017) for OPEB. Those amounts were calculated as follows:

	12 Months Ending 6/30/17 Expense ¹	Jurisdictional Allocation Factor ²	Texas Retail Amount
Pension	\$13,378,566	58.53%	\$7,830,475
OPEB	\$(351,985)	58.53%	\$(206,017)

Those baseline amounts, which are assumed to be included in the Docket No. 47527 Stipulation revenue requirement, will be compared to the actual amounts that SPS incurs for pension and OPEB expense beginning January 23, 2018.

CURRENT PENSION AND OPEB TRACKER BALANCE

In Docket No. 47527, SPS requested that the total net pension and OPEB deferral amount of (\$1,166,775) be amortized over a one year period.³ The (\$1,166,775) was made up of two parts, which are shown in the table below. The unamortized amount of \$415,879 assumed the \$76,730 monthly amortization agreed to in Docket No. 45524 would continue through January 17, 2018.

Pension and OPEB Deferrals	Direct Testimony
Unamortized Amount: Pension and OPEB expense deferred from prior cases	\$415,879
Pension and OPEB expense deferred from January 1, 2016 to June 30, 2017	(1,582,654)
Total Net Pension and OPEB Deferrals	(\$1,166,775)

Assumed Docket No. 45524 amortization would continue through January 17, 2018.

Under Section 2(E) of the Docket No. 47527 Stipulation, the unamortized amount will be set as of June 30, 2017 and will be amortized over a 24-month period starting February 1, 2018. The

¹ Source: SPS Ex. 39A, Update Testimony of Richard R. Schrubbe at 6.
² Source: SPS Ex. 44A, Update Testimony of Arthur P. Freitas, Attachment APF-RR-U2 at 8, line 236.
³ Source: SPS Ex. 39, Direct Testimony of Richard R. Schrubbe at 42 and 43.

change from January 17, 2018 to June 30, 2017 increases the unamortized balance by \$502,459, which is calculated as follows:

$\$460,380$ ($\$76,730 \times 6$ months)
 $\$ 42,079$ ($\$76,730 \times 54.84\%$); 17 of 31 days or $17/31=54.84\%$
 $\$502,459$

As a result of this change, the total net pension and OPEB deferral amount is now (\$664,316) and is shown in the table below.

Pension and OPEB Deferrals	Stipulation
Unamortized Amount: Pension and OPEB expense deferred from prior cases	\$918,338
Pension and OPEB expense deferred from January 1, 2016 to June 30, 2017	(1,582,654)
Total Net Pension and OPEB Deferrals	(\$664,316)

Assumes Docket No. 47527 amortization continues through June 30, 2017.

The (\$664,316) is the amount that will be amortized over a 24-month period starting February 1, 2018. The amortization expense is assumed to be included in the Docket No. 47527 Stipulation revenue requirement. If the entire amount has not been amortized at the time the rates set in SPS’s next base rate go into effect, the Docket No. 47527 Stipulation [Section 2(E)(i)] provides that the remaining unamortized amount can be included in a subsequent base rate case and is deemed reasonable and necessary.

**SOAH DOCKET NO. 473-17-5771
PUC DOCKET NO. 47527**

APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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PROPOSED ORDER

This order addresses the application of Southwestern Public Service Company (SPS) for authority to change rates. An Unopposed Stipulation (agreement) resolves all of the issues among the parties in this proceeding. The application, as modified by the agreement and this Order, is granted for the reasons discussed in this Order.

I. Discussion

A. SPS's Application

On August 21, 2017, SPS filed an application requesting authority to revise its base rates. SPS's application was filed pursuant to PURA¹ § 36.112, which allows for the utility's revenue requirement to be based on information submitted for a test year, updated to include information that reflects the most current actual or estimated information regarding increases or decreases to the utility's cost of service.² In short, this provision allows for the use of an updated test year in establishing a utility's revenue requirement. Based on the use of an updated test year,³ SPS requested Commission approval of a Texas retail base rate revenue requirement of \$608,816,223, representing an increase of \$69,176,106 over SPS's current rates on a Texas retail basis.

After SPS filed its application in this case, the Tax Cuts and Jobs Act (TCJA) was enacted into law, which raised questions regarding how the TCJA should be reflected in the rates approved in this proceeding. Consequently, SPS filed supplemental testimony addressing the effects of the TCJA on SPS's cost of service and modified certain aspects of its requested relief.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001 – 58.032 (West 2016 & Supp. 2017), §§ 59.001 – 66.016 (West 2007 & Supp. 2017) (PURA).

² PURA § 36.112(b).

³ SPS elected to provide information submitted for a test year but updated to include estimated information for an update period, which was the three-month period from April 1, 2017 through June 30, 2017. This effectively created an updated test year consisting of the twelve-month period from July 1, 2016 through June 30, 2017.

As modified by supplemental testimony and subsequent rebuttal testimony, SPS's requested relief in this proceeding is approval of a Texas retail base rate revenue requirement of \$573,198,459, would be an increase of \$32,009,475 over SPS's current level of Texas retail base rates, a 5.9% base rate increase. In conjunction with the proposed base rate increase, SPS's transmission cost recovery factor approved in Docket No. 46877⁴ (\$14,373,803) would be set to zero.

B. The Settlement Agreement

A settlement agreement was filed on June 26, 2018, and was signed by: Commission Staff (Staff); SPS; International Brotherhood of Electrical Workers Local Union 602 (IBEW); Texas Industrial Energy Consumers (TIEC); Texas Cotton Ginners' Association (TCGA); Alliance of Xcel Municipalities (AXM); Office of Public Utility Counsel (OPUC); United States Department of Energy (DOE); Amarillo Recycling Co., Inc.; Wal-Mart Stores Texas, LLC, and Sam's East, Inc. (Wal-Mart); Sierra Club; and Canadian River Municipal Water Authority (CRMWA). Golden Spread Electric Cooperative, Inc. (GSEC) does not join the Stipulation but does not oppose it.

The settlement resolves all of the issues related to SPS's application in this docket.⁵ The settlement agreement results in a change of zero dollars in SPS's net revenues by maintaining the base rates set in Docket No. 45524⁶ and the Transmission Cost Recovery Factor (TCRF) approved in Docket No. 46877.⁷

The Commission concludes that SPS's application, as modified by the settlement agreement and this Order, should be granted.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

⁴ *Application of Southwestern Public Service Company for Approval of Transmission Cost Recovery Factor*, Docket No. 46877 Order (Jun. 29, 2017).

⁵ The issue of rate case expenses was severed into Docket No. 47588. The DOE's billing dispute with SPS relating to the Pantex facility was severed into Docket No. 48440.

⁶ *Application of Southwestern Public Service Company for Authority to Change Rate*, Docket No. 45524, Order (Jan. 26, 2017).

⁷ *Application of Southwestern Public Service Company for Approval of Transmission Cost Recovery Factor*, Docket No. 46877 Order (Jun. 29, 2017).

Procedural History

1. SPS is an investor-owned electric utility with a retail service area located in Texas.
2. SPS serves retail and wholesale electric customers in Texas and New Mexico. The New Mexico Public Regulation Commission regulates SPS's New Mexico retail operations. The Federal Energy Regulatory Commission regulates SPS's wholesale electric operations.
3. On August 21, 2017, SPS filed an application requesting authority to change its Texas retail rates. SPS requested an overall increase in base rate revenues for the Texas retail jurisdiction of \$80,949,614 per year. In conjunction with the proposed base rate increase, SPS's transmission cost recovery factor approved in Docket No. 46877 (\$14,373,803) would be set to zero. SPS also requested approval of a set of proposed tariff schedules reflecting the increased rates and other revised terms.
4. SPS's requested an effective date for the new rates and tariff schedules of September 25, 2017. SPS's application stated that, under PURA⁸ § 36.211, if the Commission suspends the proposed rates, the final rates set in this case would relate back to January 23, 2018.
5. SPS filed its application with the Commission seeking authority to revise its base rates based upon an "Updated Test Year" of July 1, 2016 through June 30, 2017, which by the end of the case would be the product of a historical test year of April 1, 2016 through March 31, 2017 (Test Year), updated to include actual information for the period from April 1, 2017 through June 30, 2017 (Update Period), as authorized by PURA § 36.112 and 16 Tex. Admin. Code (TAC) § 25.246.
6. SPS provided notice by publication for four consecutive weeks before the effective date of the proposed rate change in newspapers having general circulation in each county of SPS's Texas service territory. SPS also mailed notice of its proposed rate change to all of its customers. Additionally, SPS timely served notice of its statement of intent to change rates on all municipalities retaining original jurisdiction over its rates and services.
7. The following parties were granted intervenor status in this docket: Amarillo Recycling Co., Inc.; AXM; CRMWA; GSEC; IBEW; Nathan Porterfield; OPUC; Sierra Club;

⁸ PURA is codified at Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), 59.101-66.017 (West 2007 & Supp. 2016).

Texas Cotton Ginners' Association; TIEC; DOE; and Wal-Mart. Staff became a party as a matter of right.

8. All of SPS's timely filed petitions for review of the rate ordinances of the municipalities exercising original jurisdiction with SPS's service territory were consolidated for determination in this proceeding.
9. On August 23, 2017, the Commission referred this case to the State Office of Administrative Hearings (SOAH).
10. On August 24, 2017, the SOAH Administrative Law Judges (ALJs) issued SOAH Order No. 1, description of application and jurisdiction, suspension of effective date, protective order, notice of prehearing conference, notice and other procedures.
11. On September 8, 2017, the SOAH ALJs issued SOAH Order No. 2, which set a procedural schedule for this docket in addition to memorializing the prehearing conference, granting motions to intervene, severing the rate case expense issues, addressing notice and sufficiency of application, and revising the effective date. Docket No. 47588, *Review of the Rate Case Expenses Incurred in Docket No. 47527*, was established for the severed rate case expense issues.
12. On September 29, 2017, the Commission issued its preliminary order, identifying a non-exhaustive list of 53 issues to be addressed in this proceeding.
13. On October 5, 2017, SPS filed its case update, including updated testimony to replace its estimated information for the Update Period with actual information. SPS's filing also included its 45-day case update as required by the Commission's RFP, and reflected that rate case expenses had been severed from this docket. With this case update, SPS's requested base rate increase became \$69,176,106.
14. On February 2, 2018, SPS filed a request for leave to file supplemental direct testimony addressing the effects of the TCJA and moved to adopt a proposed revised procedural schedule.
15. On February 6, 2018, the ALJs held a telephonic prehearing regarding SPS's February 2nd motion.
16. On February 8, 2018, SOAH issued Order No. 6, granting the request for leave to file supplemental direct testimony, revising the procedural schedule and extending the record

- close date and the jurisdictional deadline. Under the order, the record close date became July 19, 2018.
17. On February 16, 2018, SPS filed Supplemental Testimony and RFP Schedules, addressing the effects of the TCJA. With this supplemental filing, SPS's requested base rate increase became \$37,495,033 million, reflecting a reduction of \$31,681,073 to SPS's requested updated test year revenue requirement increase due to the effects of the TCJA.
 18. On April 25, 2018, Intervenors filed direct testimony.
 19. On May 2, 2018, Commission Staff filed direct testimony.
 20. On May 22, 2018, Intervenors and Commission Staff filed Cross-Rebuttal Testimony.
 21. On May 23, 2018, SPS filed rebuttal testimony. In that testimony, SPS reduced its requested rate increase to \$32,009,475 million to incorporate the effects of the TCJA and to reflect certain corrections, adjustments, and concessions.
 22. On May 30, 2018, a prehearing conference was held at which evidence for this docket was admitted.
 23. On June 4, 2018, the prehearing conference and the hearing in this case were postponed until June 5, 2018 so that the parties could engage in settlement discussions.
 24. On June 5, 2018, a prehearing conference was held at which parties announced an agreement in principle with regard to all remaining issues in the matter with the exception of the DOE Pantex billing dispute issues. The ALJs admitted additional evidence for this docket. The parties requested that issues relating to the DOE's Pantex billing dispute be severed from this case.
 25. On June 7, 2018, the ALJs issued Order No. 12, memorializing prehearing conference, admitting evidence, severing certain DOE issues and establishing a new docket, and setting deadline to file settlement materials or a status report. Docket No. 48440, *Dispute Between the US Department of Energy and Southwestern Public Service Company Concerning the Pantex Facility and Pantex Wind Farms (Severed From Docket 47527)* was established for the severed DOE issues.
 26. On June 29, 2018, SPS filed the agreement, which resolved all remaining issues in this proceeding. All but two parties joined the agreement. GSEC did not sign, but does not oppose the agreement. Mr. Nathan Porterfield's position on the agreement is unknown.
 27. On July __, 2018 SPS and Staff presented testimony in support of the agreement.

28. On July __, 2018, SPS filed an unopposed motion to admit evidence to support the agreement and to remand the case to the Commission.
29. On July __, 2018, the ALJs issued SOAH Order No. 13 admitting evidence to support the agreement, remanding the case to the Commission, and dismissing the SOAH docket.

Description of the Agreement

30. The Signatories submitted the agreement to the Commission as representing a just and reasonable disposition of the issues related to this docket consistent with the public interest. The agreement is a black box settlement for all revenue requirements issues concerning Texas retail rates except for specifications detailed in the agreement concerning: Depreciation Expense; Financial Items; the TCJA; Capital Additions; the Pension and Other Post-Employment Benefit (OPEB) Expense Tracker; and Margins on Off-System Energy Sales.

Revenue Requirement, Base Rates and the TCRF

31. There is a change of zero dollars in SPS's net revenues by maintaining the base rates set in Docket No. 45524⁹ and the TCRF approved in Docket No. 46877.¹⁰
32. SPS is allowed to recoup the TCRF rider revenue it would have billed (revenue to be recouped) had it not ceased billing the TCRF rider for usage during the period January 23, 2018 through June 10, 2018 (recoupment period). SPS will determine the revenue to be recouped by rebilling customer usage for the recoupment period. By November 30, 2018, SPS will file an application requesting approval of the specific TCRF recoupment rider charges.
33. In calculating the revenue to be recouped, SPS will include the revenue that would have been billed to all service schedules subject to the TCRF established in Docket No. 46877, but the TCRF recoupment rider will be designed so that certain service schedules (exempt service schedules) will be charged zero dollars under the TCRF recoupment rider and the revenue that would have been recouped from the exempt service schedules

⁹ *Application of Southwestern Public Service Company for Authority to Change Rate*, Docket No. 45524, Order (Jan. 26, 2017).

¹⁰ *Application of Southwestern Public Service Company for Approval of Transmission Cost Recovery Factor*, Docket No. 46877, Order (Jun. 29, 2017).

will instead be collected from the other service schedules that are subject to the TCRF established in Docket No. 46877 (paying service schedules). The paying service schedules will be responsible for the revenue that otherwise would be recouped from the exempt service schedules on an equal percentage base rate (including TCRF) basis using Updated Test Year billing determinants. The exempt service schedules are: Secondary General Service; Primary General Service; Large School; and Small Municipal and School Service.

Depreciation Expense

34. There will be no change in SPS's existing Commission-approved depreciation rates, except in relation to the Tolk Generating Station Units 1 and 2.
35. The depreciation rates for Tolk Generation Station Units 1 and 2 attached to the agreement are effective as of January 23, 2018.
36. SPS agreed to update its Tolk Station economic life analysis and include it in SPS's next Texas retail base rate case application.

Financial Items

37. For Allowance for Funds Used During Construction purposes only, SPS will use a 9.5% Return on Equity in conjunction with using its actual capital structure per the instructions in the Uniform System of Accounts.

Tax Cuts and Jobs Act

38. SPS's Application as modified by the agreement and this Order incorporates the full effects of the TCJA. The relate-back date in this rate case is January 23, 2018, which is two days before the Commission issued its order in Project No. 47945, *Proceeding to Investigate and Address the Effects of the Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*.
 - a. With regard to the reduction in the corporate federal income tax rate from 35% to 21% and the corresponding change to SPS's income tax expense:
 - i. The evidence presented in SPS's rebuttal cost of service and Staff's cost of service in its direct case calculated SPS's federal income tax expense using the 21% tax rate. SPS's and Staff's testimony in support of the agreement further provides evidence of the incorporation of the 21%

reduction in the corporate federal income tax rate and the corresponding change to SPS's income tax expense.

- ii. The disposition of the regulatory liability the Commission directed SPS to establish in Project No. 47945 regarding the reduction in the corporate tax rate is resolved through the base rates established in this case pursuant to the settlement. SPS has no refund or bill credit obligation regarding that regulatory liability.

- b. With regard to the excess Accumulated Deferred Federal Income Taxes (ADFIT) and Net Operating Loss (NOL)-related balances resulting from the TCJA:

- i. The evidence presented in SPS's rebuttal cost of service and Staff's cost of service in its direct case reflected amortizations of excess ADFIT balances for protected and unprotected plant items, excess ADFIT balances for non-plant items, and excess NOL-related balances resulting from the TCJA as restated for the June 30, 2017 Updated Test Year. This is further supported by SPS's testimony in support of stipulation.
- ii. SPS acknowledges that it is obligated to continue to unwind its excess ADFIT and NOL-related balances resulting from the change in tax rates under the TCJA, and that continued unwinding will be reflected in the calculation of SPS's cost of service in future base rate cases along with the calculation of all other components of the cost of service.
- iii. For the Updated Test Year ending June 30, 2017, the disposition of the regulatory liability the Commission directed SPS to establish in Project No. 47945 regarding the excess ADFIT and NOL-related balances is resolved through the rates established under this Order and SPS's obligation to continue unwinding those balances in future rate cases.
- iv. In future rate cases, SPS will continue to unwind the excess ADFIT balances associated with protected plant items based on the Average Rate Assumption Method (ARAM), which is the amortization period SPS used to calculate the unwinding of this category of excess ADFIT in its rebuttal

cost of service, and which Staff also used in its cost of service.

- v. In its rebuttal cost of service, SPS unwound the excess ADFIT balances associated with unprotected plant items based on the ARAM. The parties retain the right to address the appropriate amortization of the remaining balances of ADFIT for unprotected plant items in SPS's next rate case.
- vi. In future rate cases, SPS will continue to unwind the excess ADFIT balances associated with non-plant items using a five-year amortization period, which is the amortization period SPS used to calculate the unwinding of this category of excess ADFIT in its rebuttal cost of service.
- vii. In future rate cases, SPS will continue to unwind the excess NOL-related balances over a 44-year period, the average ARAM period, which is the amortization period SPS used to calculate the unwinding of the excess NOL-related balances in its rebuttal cost of service, and which Staff also used in its cost of service.
- viii. In future rate cases, SPS will address its excess ADFIT balances, and the unwinding of those balances, associated with protected and unprotected plant items, non-plant items, and NOL-related balances that may have accrued from the end of the Updated Test Year in this case (June 30, 2017) through December 31, 2017.

Capital Additions

39. The capital additions that SPS closed to plant in service during the period of January 1, 2016 through June 30, 2017 that are included in SPS's Updated Test Year rate base are reasonable and necessary.

Pension and OPEB Expense Tracker

40. The pension and OPEB expense tracker balance as of June 30, 2017, set forth in Attachment B to the agreement, will be amortized over a 24-month period starting February 1, 2018. Any remaining unamortized amounts can be included in a subsequent base rate case filing and are deemed reasonable and necessary.

41. The baseline for the pension and OPEB expense tracker as of July 1, 2017 is set forth in Attachment B to the agreement.

Margins on Off-System Energy Sales

42. SPS has agreed that for calculating eligible fuel expense from the date of the Order in this case going forward until the earlier of the date of the final order in SPS's next fuel reconciliation date or the relate-back date in SPS's next base rate case, SPS will credit Texas retail customers with 100% of the Texas retail margins on generation book off-system energy sales.

Demand and Energy Loss Factors

43. SPS's line loss study presented in this case is approved and the resulting demand and energy loss factors are approved. The effective date of the new demand and energy loss factors is February 1, 2018.

Rate Case Expenses

44. The base rates approved in this Order do not include rate case expenses, which will be addressed in Commission Docket No. 47588. SPS has agreed to cap its request for rate case expenses associated with Docket No. 47527 to \$1.45 million related to SPS's rate case expenses and AXM's rate case expenses and will nonetheless reimburse AXM's rate case expenses. The cap in Docket No. 47588 applies only to rate case expenses associated with Docket No. 47527 and does not apply to SPS's request for the rate case expenses, including AXM's, for Docket Nos. 46025 (fuel reconciliation) and 46877 (TCRF).

Timing of Next Rate Case

45. SPS has confirmed it will file its next base rate case no later than December 31, 2019.

TCRF, Distribution Cost Recovery Factor (DCRF), and Purchased Power Cost Recovery Factor (PCRF) Filings

46. SPS has agreed to not file for a TCRF, DCRF, or PCRF until after the Commission issues its final order in the next SPS rate case.

Renewable Energy Credits (RECs)

47. Bundled Texas-generated RECs will be priced at \$0.27 starting on June 1, 2018.

48. The Texas Commission will establish the value for Texas-generated bundled RECs and the New Mexico Public Regulation Commission will establish the value for New Mexico-generated bundled RECs.

Transition Plan to Eliminate the Residential Space Heating (RSH) Rate

49. Under the agreement SPS has agreed to propose a Residential Service (RS) rate design in its next base rate case that eliminates the RSH Rider consistent with the RS rate design proposed in this rate case. The new rate design for the Residential class will be designed to moderate the effect on RSH customers of eliminating the RSH option. The new rate design is intended to be revised or eliminated in future rate proceedings as the need to moderate the effect of the elimination of the RSH Rider on RSH customers diminishes. SPS agreed to make available upon request cost and billing determinant information necessary to calculate RS rates based on initial consumption band alternatives of 400 kilowatt-hours (kWh), 500 kWh, 600 kWh, 700 kWh, 800 kWh, 900 kWh, 1,000 kWh, 1,100 kWh, and 1,200 kWh.
50. If, as in Docket No. 45524, further mitigation of rate impacts for RSH customers is deemed necessary, SPS may propose a temporary rider designed to provide a credit per kWh to all Residential customers for above-average residential consumption during the winter months as defined in the current RS rate tariff (billing months of October through May), to be phased out over a period of time. The cost of the credit will be recovered through an increase to the RS energy charge throughout the year, with the increase to be phased out concurrent with the phase-out of the credit and the phase-out of the RSH rider, in a manner designed to be revenue-neutral for SPS. The temporary rider will end at the conclusion of the summer months as defined in the current RS rate tariff (billing months of June through September) in the year after the effective date of the new rates set in SPS's next base rate case, unless SPS, Staff, and OPUC jointly recommend a different ending date and the Commission approves that date. Rate changes under the temporary rider and the elimination of the rider shall not occur during the winter months (as defined in the current RS rate tariff). The target end date for the temporary rider is the end of the summer period concluding September 30, 2020.

51. SPS agrees to continue to implement the plan to eliminate the RSH Rider developed in cooperation with Staff and OPUC. SPS agrees to implement the plans prior to the conclusion of its next base rate case.
52. Beginning with SPS's next base rate case, any cap on the number of customers joining the residential time-of-use (TOU) rate plans will not include a limit on RSH customers seeking to participate in the TOU rate plans.

Abandonment of Appeal of Docket No. 43695

53. SPS has abandoned its appeal from Docket No. 43695.

Cash Working Capital for Earnings Monitoring Reports

54. For preparation of SPS's Earnings Monitoring Reports for reporting years 2018 and 2019, SPS's total company Cash Working Capital is \$-16,753,708 and SPS's Texas retail amount is \$-9,134,277.

Classes for SPS Energy Efficiency Cost Recovery Factor (EECRF) Filings

55. For all SPS EECRF cases filed before the final order in SPS's next base rate case becomes final, as defined under Tex. Govt. Code § 2001.144, the classes approved in Docket No. 45916¹¹ will: (a) continue to be the classes for purposes of SPS's EECRF cases; and (b) be considered the rate classes in SPS's "most recent base-rate proceeding" under 16 TAC § 25.181(c)(49). Those classes are:

Residential Service;
Small General Service;
Secondary General Service;
Primary General Service;
Small Municipal and School Service;
Large Municipal Service; and
Large School Service.

¹¹ *Application of Southwestern Public Service Company to Adjust Its Energy Efficiency Cost Recovery Factor*, Docket No. 45916, Order at Finding of Fact No. 23 (Sept. 23, 2016).

Solar PPAs

54. SPS's request that the Commission find that SPS was prudent to enter into the purchased power agreements with NextEra Energy Resources Acquisition, LLC for the Roswell Solar and Chaves County Solar facilities (collectively, Solar PPAs) should be deferred to SPS's next fuel reconciliation.

III. Conclusions of Law

1. SPS is a public utility as that term is defined in PURA § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission exercises regulatory authority over SPS and over the subject matter of this application under PURA §§ 14.001, 32.001, 36.001–36.112, and 36.211, and under 16 Tex. Admin. Code (TAC) § 25.231.
3. The Commission has jurisdiction over an appeal from municipalities' rate proceedings under PURA § 33.051.
4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Tex. Gov't Ann. § 2003.049.¹²
5. This docket was processed in accordance with the requirements of PURA, the Texas Administrative Procedure Act, and Commission rules.¹³
6. SPS provided adequate notice of its application in compliance with PURA § 36.103 and 16 TAC § 22.51.
7. This docket contains no remaining contested issues of fact or law.
8. The agreement, taken as a whole, is a just and reasonable resolution of all the issues it addresses, results in just and reasonable rates, terms, and conditions, is supported by a preponderance of the credible evidence in the record, is consistent with the relevant provisions of PURA, and is consistent with the public interest.
9. SPS's rates resulting from the agreement are just and reasonable and meet the requirements of PURA § 36.003.
10. This application may be approved without a hearing under the Administrative Procedure Act and Commission rules.

¹² Tex. Gov't Code Ann. § 2003.049 (West 2016).

¹³ Tex. Gov't Code Ann. § 2001.001-.902 (West 2016 & Supp. 2017) (APA).

11. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves SPS's application, as modified by the agreement and this Order.
2. Consistent with the agreement and this Order, the rates, terms and conditions described in this Order are approved.
3. SPS is authorized to file an application to implement the TCRF recoupment rider to recoup the revenue it would have billed for usage during the period January 23, 2018 through June 10, 2018.
4. The depreciation rates for the Tolk Generating Units 1 and 2 that are attached to the agreement are approved and are effective as of January 23, 2018.
5. SPS has no refund or bill credit obligation for the regulatory liability the Commission directed SPS to establish in Project No. 47945 regarding the reduction in the corporate tax rate.
6. SPS shall continue to unwind its excess ADFIT and NOL-related balances resulting from the change in tax rates under the TCJA as set out in finding of fact 38b. Parties retain the right to address the appropriate amortization period of the remaining ADFIT balances for unprotected plant items in SPS's next rate case.
7. SPS's line loss study presented in this case is approved and the resulting demand and energy loss factors are approved. The effective date of the new demand and energy loss factors is February 1, 2018.
8. SPS shall comply with each provision of the agreement.
9. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order consistent with the agreement shall not be regarded as binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.

10. All other motions, and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of _____ 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER