



City of Abilene City Council Agenda

Shane Price, Mayor Pro-tem
Weldon Hurt, Council Member
Jack Rentz, Council Member
Robert Hanna, City Manager

Anthony Williams, Mayor

Donna Albus, Council Member
Kyle McAlister, Council Member
Travis Craver, Council Member
Stanley Smith, City Attorney
Shawna Atkinson, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on March 25, 2021, at 4:30 p.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

1. **Executive Session** - City Council will convene into Executive Session at 4:30 p.m.
Reconvene - City Council will reconvene into open session at 5:30 p.m.

INVOCATION

2. Mayor Anthony Williams

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

3. **Proclamation:** World Down Syndrome Day

CONSENT AGENDA

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or Citizen so requests, in which event the item will be removed from the Consent Agenda and considered separately.

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

4. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on March 11, 2021 (**Shawna Atkinson**)
5. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the purchase of six Front Loaders from Chastang Autocar for Solid Waste (**Tim Cass**)

6. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Award of a Contract for Emergency Street Repairs Related to the February 2021 Winter Storm Event **(Greg McCaffery)**
7. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Contract for Emergency Water Main Leak Repairs Related to the February 2021 Winter Storm Event **(Rodney Taylor)**

EXECUTIVE SESSION

8. **The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:**
 - A. 551.071 (Consultation with Attorney)**
 1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
 2. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
 3. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
 4. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
 5. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
 6. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
 7. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
 8. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
 9. Rosie Tonche v. City of Abilene, Texas; Cause No. 50955-A, In the 42nd Judicial District Court, Taylor County, Texas; filed December 31, 2020
 10. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
 11. Patrick Sumrall v. City of Abilene, Texas; Cause No. 28,269-B, In the 104th Judicial District Court, Taylor County, Texas; filed February 18, 2021
 12. Governor's Executive Orders COVID-19
 13. Frontier Texas! Discussion of Bylaws
 - B. 551.072 (Deliberations about Real Property)**
 1. Clyde Water
 - C. 551.073 (Deliberations about Gifts and Donations)**

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards & Commissions May be Discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. Abilene Convention Center Hotel Project

RECONVENE

REGULAR AGENDA

9. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending, Restating, and Approving the City of Abilene City Manager Employment Agreement.
10. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
 - Keep Abilene Beautiful
 - Street Maintenance Advisory & Appeals Board

PUBLIC COMMENTS

There will be no votes or any formal actions taken on subjects presented during public comment. The public comment period will only allow members of the public to present ideas and information to city officials and staff.

ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please call 325-676-6208.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 19th day of March, 2021, at 3:10 p.m.

Shawna Atkinson, TRMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on March 11, 2021 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting held on February 11, 2021

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 03-11-2021 Minutes - Regular - Morning

CITY COUNCIL MEETING
March 11, 2021 at 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Regular Session on March 11, 2021, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Pro-tem Shane Price was present and presiding with Deputy Mayor Pro-tem Jack Rentz, and Councilmembers Donna Albus, Weldon Hurt, Kyle McAlister, and Travis Craver. Mayor Anthony Williams was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Councilmember Weldon Hurt delivered the invocation.

From Dyess Elementary, Walker Manning, first grader, and Madelyn Manning, third grader, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

CONSENT AGENDA

The Consent Agenda consisted of items 2-9. Item 6 was pulled for individual consideration. Item 7 was pulled from consideration prior to the meeting.

Item pulled for individual consideration were as follows:

- David Swart, citizen – Item #6

Item pulled from consideration:

- Item #7

Councilmember Hurt moved to approve the consent agenda, now consisting of items 2-5 & 8-9. Deputy Mayor Pro-tem Rentz seconded the motion; motion carried.

AYES (6): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

ABSENT (1): Mayor Williams

2. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Special Emergency Meeting Held on February 19, 2021, and the Regular Meeting Held on February 25, 2021
3. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Accepting the FY 2020 Comprehensive Annual Financial Report (CAFR)
[ASSIGNED RESOLUTION NO. 25-2021]
4. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approval of Expenditure of Funds in Excess of the General Fund Three Month Operating Reserve
[ASSIGNED RESOLUTION NO. 26-2021]
5. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approval of the Investment Policy
[ASSIGNED RESOLUTION NO. 27-2021]

8. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Five Points Business Park Roadway / Driveway Engineering Services Contract
[ASSIGNED RESOLUTION NO. 30-2021]
9. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Water Main Participation Interlocal Agreement between the City of Abilene, Texas and Wylie Independent School District
[ASSIGNED RESOLUTION NO. 31-2021]

ITEM PULLED FOR INDIVIDUAL CONSIDERATION

6. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Modifying and Extending the Declaration of Local Disaster (COVID-19) Issued February 11, 2021
[ASSIGNED RESOLUTION NO. 28-2021]

The item was pulled by David Swart, citizen.

Having pulled the item, David Swart stated that it is the one year anniversary of COVID. Originally officials stated that it would take two weeks to flatten the curve, but last year when students were let out for Spring Break they never went back. He stated that a lot businesses have suffered and it is hard to survive at limited capacity. Mr. Swart is starting to see a positive situation now that the Governor has lifted restrictions.

With no other speakers coming forward, the public comment period was closed.

Councilmember McAlister moved to approve the item as presented. Councilmember Craver seconded the motion; motion carried.

AYES (6): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

ABSENT (1): Mayor Williams

ITEM PULLED FROM CONSIDERATION

7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action Extending the Declaration of Local Disaster (Winter Weather) Issued February 19, 2021
[NOT CONSIDERED]

REGULAR AGENDA

10. Discussion: Receive a Report, Hold a Discussion and Public Hearing on the Consideration of Creating an Entertainment District and Directing Staff to Bring Forth an Ordinance Authorizing the Consumption of Alcohol and Open Containers in Said Entertainment District

Robert Hanna, City Manager, presented the item. This was a request from Councilmember Hurt. The idea behind this is to create a task force and partner with the Chamber of Commerce to look at creating an entertainment district downtown and in the SODA district. This would allow someone to walk from business to business with alcohol, similar to what is done in Fredricksburg. Council discussed their different views on this item and the possibility of putting this task force together to ensure all pros and cons are weighed.

Mayor Pro-tem Price opened the public hearing. The following addressed the Council:

- David Swart – stated that this is probably a positive thing to grow the downtown area. The Governor recently authorized drinks to go, so maybe there is some flexibility because of this authorization. On the Las Vegas Strip they prohibited glass containers so that would be something for staff to look into. Mr. Swart stated that if we are going to designate an area downtown he would suggest N 8th to S 7th, east of Treadaway and west of Hickory and Butternut. This captures the whole downtown area and some room for expansion. Mr. Swart likes the idea in creating a task force.
- Cindy Frazier – works for the Recovery Council Research Center. Ms. Frazier presented information regarding safety of the community in relation to alcohol accessibility. Ms. Frazier is requesting Council to deny this item. Ms. Frazier gave crime statistics, and information on underage drinking for Taylor County, which could be undone by this ordinance. There is a family friendly environment downtown and she doesn't want to ruin that.
- Tim Smith – stated that he sees nothing wrong with exploring the pros and cons of an open container in small areas. Council discussed the SODA district, because there will be so many things in a small walkable area, one of them being a vendor market. They have had so many inquiries for vendors who want to participate that he has created a full time job for his mother handling this. Mr. Smith stated that people will be doing other things than drinking and it comes down to personal responsibility. If you behave poorly there are consequences for your actions.
- Mandy Schuman – works for the Taylor Alliance for Prevention and stated they are aiming to reduce substance abuse and underage drinking. Ms. Schuman gave data on drinking, arrests and DWI's. By allowing alcohol to be consumed outside of establishments this will add to the statistics. Ms. Schuman urges Council to not do this but if they do look at things for removing intoxicated people and ensuring underage people won't have access to alcohol in the entertainment district.
- Samuel Garcia – stated he is against this at this point. He is glad that the previous ladies came to speak about the real issues with open containers. Mr. Garcia stated when you spend your life dealing with alcoholism, it makes you think this is not a good idea. He also questioned why this would even be considered before the new hotel, which will be the "anchor" piece of the downtown, area is built.

With no other speakers coming forward, the public hearing was closed.

This item was for discussion only. No votes or action were taken at this time.

It was the consensus of Council for staff to look into putting together this task force, and they will need to contact the community and receive feedback before making any approvals.

11. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on authorizing a one-time adjustment to Municipal Services Water Accounts in response to the February 2021 Winter Storm Event
[ASSIGNED RESOLUTION NO. 32-2021]

Rodney Taylor, Director of Water Utilities, presented the item. Adoption of the item would authorize a one-time adjustment to Municipal Services Water Accounts in response to the February 2021 Winter Storm Event, with a credit value of \$11.10 per account.

Mayor Pro-tem Price opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion failed.

AYES (1): Mayor Pro-tem Price

NAYS (5): Deputy Mayor Pro-tem Rentz and Councilmembers Albus, Hurt, McAlister and Craver

ABSENT (1): Mayor Williams

12. Ordinance (Final Reading) Z-2021-03: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Abi Harvest, LLC to rezone property from Agricultural Open Space (AO) to a mixture of both General Commercial (GC) and Residential Single Family (RS-6) District and located on approximately 172.98 acres near the northwest corner of FM 707 & FM 89
[ASSIGNED ORDINANCE NO. 11-2021]

Mayor Pro-tem Price had a conflict of interest on this item. Deputy Mayor Pro-tem Rentz presided over this item alone.

Mike Warrix, Director of Planning and Development Services, presented the item. Adoption of the item would rezone 6.9 acres of land of the above referenced property from Agricultural Open Space (AO) to General Commercial (GC), and the adjacent 169.4 acres of vacant land from AO to Residential Single-Family (RS-6).

Deputy Mayor Pro-tem Rentz opened the public hearing. The following addressed the Council:

- Clayton Farrow –stated that this is to support a mostly single family residential master planned community. There is a General Commercial proposed up front but since it's on an expressway, it wouldn't be appropriate to have housing there. Mr. Farrow stated that he is not familiar with a 99 year agreement to not build on that land. A title would be required to be provided when it's subdivided that would clear that confusion.
- Tim Smith – stated he used to live on Wagon Wheel and he does remember asking about the land being developed when he bought the home, and that and they said yes it would be developed, but it would be residential.

With no other speakers coming forward, the public hearing is closed.

Councilmember Hurt moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (5): Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

ABSTAIN (1): Mayor Pro-tem Price

ABSENT (1): Mayor Williams

13. Ordinance (Final Reading) Z-2021-04: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Kickapoo Land Company and 5KLM Properties, LP to rezone property from Agricultural Open Space (AO) to General Commercial (GC) and located on approximately 82.3 acres near the northwest corner of FM 707 & FM 89
[ASSIGNED ORDINANCE NO. 12-2021]

Mike Warrix, Director of Planning and Development Services, presented the item. Adoption of the item would rezone the above referenced property from Agricultural Open Space (AO) to General Commercial (GC).

Mayor Pro-tem Price opened the public hearing. The following addressed the Council:

- David Todd – represents the applicants. They have sold the preceding land to the developer to develop this land. He stated that 707 is an expressway, which is consistent with commercial endeavors.

With no other speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Deputy Mayor Pro-tem Rentz seconded the motion; motion carried.

AYES (6): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

ABSENT (1): Mayor Williams

14. Ordinance (Final Reading) Z-2021-05: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hardin-Simmons University to rezone property from Residential Single Family (RS-6) District to General Retail (GR) and located on approximately 1.203 acres at the 1500 and 1600 blocks (north side) of Ambler Avenue in north Abilene
[ASSIGNED ORDINANCE NO. 13-2021]

Mike Warrix, Director of Planning and Development Services, presented the item. Adoption of the item would rezone the above referenced property from Single Family Residential (RS-6/COR) to General Retail (GR/COR).

Mayor Pro-tem Price opened the public hearing. The following addressed the Council:

- David Todd – represents the applicants, Hardin Simmons University. This will be for a Braum's location. Stated that this is consistent zoning with the area, especially with Wal-Mart across the street.

With no other speakers coming forward, the public hearing was closed.

Councilmember Hurt moved to approve the item as presented. Councilmember Albus seconded the motion; motion carried.

AYES (5): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, and McAlister

NAYS (0): None

ABSTAIN (1): Councilmember Craver

ABSENT (1): Mayor Williams

15. Ordinance (Final Reading) TC-2021-03: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Hardin-Simmons University to abandon an approximately 60-foot-width of public right-of-way available for Beech Street wedged between the westernmost boundary of Block C in Darby of North Park Subdivision and the easternmost boundary of Block B in Darby of North Park Subdivision. Extending approximately 150-feet north from northernmost right-of-way boundary for Ambler Avenue. Additionally the request is to abandon the 20-foot-wide alley north of lots 5 & 6 of Block C in Darby of North Park Subdivision extending approximately 98-feet from the easternmost right-of-way boundary of Beech Street in Abilene, Taylor County, Texas
[ASSIGNED ORDINANCE NO. 14-2021]

Mike Warrix, Director of Planning and Development Services, presented the item. Adoption of the item would abandon the above referenced property.

Mayor Pro-tem Price opened the public hearing. The following addressed the Council:

- David Todd – represents the applicant. Stated that they agree with the conditions placed on this and will go over those in the platting and engineering.

With no other speakers coming forward, the public hearing was closed.

Councilmember Hurt moved to approve the item as presented. Councilmember Albus seconded the motion; motion carried.

AYES (5): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, and McAlister

NAYS (0): None

ABSTAIN (1): Councilmember Craver

ABSENT (1): Mayor Williams

PUBLIC COMMENTS

Mayor Pro-tem Price opened the public comment period. The following addressed the city council:

- David Swart – stated that there used to be a Railroad Days event downtown, that Monday will be the 140th birthday of Abilene and that there used to be a big Saint Patrick's Day event with a shamrock painted on the road. Mr. Swart stated he wishes we could go back to doing something like those celebrations. Mr. Swart also stated that when his power went out he went to a restaurant to eat and didn't know that they were running out of water because he doesn't get the messages the city sent out.
- Samuel Hatton – spoke about the DCOA and disturbing spending trends, in regards to the DCOA's 30th Anniversary party and the usage of public funds to purchase alcohol. The DCOA was under the oversight of the City at that time, and asked where the oversight is here since it is public money. He also stated that in December of 2019 Julie Johncox, a friend of the CEO, was hired as a consultant and paid \$20,000, and was then hired the next month at a \$34,000 salary increase from the previous person in that position. He stated that there were no moving expenses in her contract, however, she received \$12,600 on top of her salary for her moving and rent for several months.
- Samuel Garcia – stated he emailed Council all of the information he has received in regards to the DCOA and would like questions answered on moving expenses paid to the DCOA CEO. The CEO's contract in 2019 stated that only \$3,000 would cover her moving expenses, however, she was given \$5,784. In 2020 her credit card showed an expenditure of moving expenses to the same company – so we have essentially paid her over \$10,000 in moving expenses. Mr. Garcia stated he could not find any approval in their board minutes approving the overage. Also, the CEO received a \$15,000 raise several months after she was hired. She can only establish compensation for other positions, not hers, so he is questioning who is authorizing hers.

With no other speakers coming forward, the public comment period was closed.

EXECUTIVE SESSION

Mayor Pro-tem Price recessed into Executive Session at 9:49 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 16. A. 551.071 (Consultation with Attorney)
 - 1. Natasha Jones v. City of Abilene; EEOC Charge of Discrimination
- 16. B. 551.072 (Deliberations about Real Property)
 - 1. Clyde Water
- 16. B. 551.074 (Personnel Matters)
 - 1. City Manager
 - 2. DCOA CEO
- 16. F. 551.087 (Business Prospect/Economic Development)
 - 1. Abilene Convention Center Hotel Project
 - 2. Economic Development Agreement with Cimarron Meadows Addition

The Executive Session ended at 10:23 a.m. and reconvened to Open Session. Mayor Pro-tem Price reported no votes or action were taken in Executive Session.

REGULAR AGENDA

- 17. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter.
[ASSIGNED RESOLUTION NO. 33-2021]

Mayor Pro-tem Price opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember Hurt moved to (re)appoint the following:

Board	Term End Date
Board of Adjustments	
Jon Loudermilk [Regular]	November 2023
Board of Building Standards	
Wayland Schroeder [Reappointment]	November 2022
David Brosig [Alternate] [Reappointment]	November 2022
Johnathan Schmutz [Alternate] [Reappointment]	November 2022
Library Advisory Board	
Jason Hernandez [New]	November 2022 [unexpired term]
Street Maintenance Advisory & Appeals Board	
Kenneth Martin [Reappointment]	March 2023
Joey Devora [Reappointment]	March 2023
Tax Increment Reinvestment Zone (TIRZ)	
Ricardo Gutierrez [New]	August 2022 [unexpired term]

Councilmember Craver seconded the motion; motion carried

AYES (6): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver
 NAYS (0): None
 ABSENT (1): Mayor Williams

18. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Employee Appreciation Dinner
[ASSIGNED RESOLUTION NO. 34-2021]

Robert Hanna, City Manager, presented the item. Adoption of the item would approve an employee appreciation dinner for City of Abilene employees and their families, for their dedication and hard work during the Winter Storm Event.

Mayor Pro-tem Price opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember Albus moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (6): Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

ABSENT (1): Mayor Williams

ADJOURNMENT

There being no further business, the meeting adjourned at 10:29 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO: Robert Hanna, City Manager

FROM: Tim Cass

SUBJECT: **5. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the purchase of six Front Loaders from Chastang Autocar for Solid Waste *(Tim Cass)***

GENERAL INFORMATION

Fleet Management seeks approval to purchase six Front Loader Refuse Trucks for Solid Waste to replace existing units that meet the criteria established in the Fleet Replacement Policy (revised January 14, 2021). Units are to be 2022 Autocar ACX64 cab and chassis with Heil CP RR-30 Front Loader Refuse Body.

This item includes the general quote under Chastang Autocar's contract to quote under Texas Local Government Purchasing Cooperative (Buyboard Proposal #601-19) which includes the chassis and the Heil hopper body. However, to give greater transparency on unique pricing that staff requested, and also encountered for this purchase, Heil's quote (Q-22421HHP) is included.

Fleet staff requested an alternate quote from Heil for a fire suppression system that would be located between the cab and hopper body. This area has been the location of several fires in similar trucks the past several years. The cost is \$9,000 per unit and can be rejected without disrupting the rest of the quote, except to reduce the total cost by \$9,000 per unit. Staff also wants to point out that Heil is charging a Steel Surcharge of 9.3% (\$11,692.00) due to the increasing cost of steel. The quote shows an expiration of March 20, 2021 for the surcharge, but that is only for current surcharge pricing; it won't be any less in quotes after March 20th.

Staff has been assured that the Buyboard pricing will be valid for this Council meeting.

SPECIAL CONSIDERATIONS

Texas law allows a municipality to purchase goods through a state or local cooperative purchasing program. BuyBoard is such a program, and the purchase meets the competitive bidding requirements.

FUNDING/FISCAL IMPACT

Funds for the purchase are to be provided by the Fleet Replacement Fund and total \$2,204,794.00.

If the Fire Suppression System is not approved, the total price will be reduced to \$2,150,794.00.

STAFF RECOMMENDATION

Staff recommends the purchase of these Front Loader Refuse Trucks

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Front Loaders Resolution (1)
2. Front Loader Pricing Worksheet
3. CO-OP Front Loader Budget vs Actual
4. Abilene 2021 Buyboard Quote HHP 40yd 22421 itemized
5. Co-Op Front Loader Addtl Info (7)
6. CO-OP Front Loader Refuse Truck Presentation

RESOLUTION NO _____

**A RESOLUTION OF THE CITY OF ABILENE, TEXAS
TO PURCHASE SIX REPLACEMENT FRONT LOADER REFUSE TRUCKS FOR SOLID WASTE FROM
CHASTANG AUTOCAR, THROUGH
BUYBOARD COOPERATIVE CONTRACT 601-19**

WHEREAS, City of Abilene's Solid Waste Division has a need for six replacement Front Loader Refuse Trucks; and

WHEREAS, City of Abilene budgeted this purchase for Fiscal Year 2021; and

WHEREAS, City of Abilene received pricing to purchase six Front Loader Refuse Trucks through BuyBoard Co-Op Contract 601-19; and

WHEREAS, Each unit is to be a 2022 Autocar ACX64 cab and chassis with a Heil CP RR-30 Front Loader Refuse body; and

WHEREAS, Chastang Autocar is the BuyBoard approved vendor for the cab and chassis and is using BuyBoard vendor Heil of Texas to supply the refuse body and system components.

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

PART 1: That the City Council approves this purchase from Chastang Autocar in the amount of Two Million Two Hundred Four Thousand Seven Hundred Ninety Four Dollars and No Cents (\$2,204,794.00) for six complete Front Loader Refuse Trucks through BuyBoard Co-Op Contract 601-19

PART 2: That this resolution shall take effect immediately from and after passage

ADOPTED this 25th day March, 2021

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



Chastang Enterprises, Inc.
6200 N. Loop East
Houston, TX 77026
713.678.5000



TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE



CUSTOMER:	City of Abilene	QUOTE DATE:	2/18/2021
CONTACT:	Cassandra Lambert	QUOTED BY:	John Chastang
PHONE:	325-437-4525	PHONE:	713-678-5042 281-460-7518
EMAIL:	Cassandra.Lambert@abilenetx.gov	EMAIL:	jchastang@chastangford.com

ITEM DESCRIPTION:	2022 Autocar ACX64 with a Heil 40yd Front load refuse body						
CONTRACT:	BuyBoard	PROPOSAL NO.	601-19	ITEM NO.	3	ITEM PRICE:	51782

CHASSIS EQUIPMENT

STANDARD EQUIPMENT		STANDARD EQUIPMENT	
62" BBC Steel Cabover		Technician Training	
Numbered wiring harnesses		Service Manuals, Electrical & Air Schematics	
Integrated Air Conditioning		Autocar Solutions 24/7 Tech Support	
5 Min Idle Shutdown		Tilt/Telescoping Column	
OPTIONAL EQUIPMENT INCLUDED		OPTIONAL EQUIPMENT INCLUDED	
Cummins X12 350Hp 12L 1350# ft. torque diesel engine	\$22028	2 Speed Engine Fan	\$702
Allison 4500 Series 6-Speed Transmission	\$22551	Davco heated Fuel/Water Separator	\$541
Double Frame	\$7420	Trans Refuse Optimal Programming	\$27903
46,000 Rear Axle with 5.38 ratio	\$15215	AM/FM Stereo with weather band	\$650
Autocar Diagnostic Display with schematics	\$8882	Dual Cab mounted Fire Extinguishers (1 under each seat)	\$659
4 Wheel locking differential		46,000 Rear Suspension	\$17383
20,000 # Front Axle, 22,000 # Springs & aux. load cushions	\$7633	Front cab guard	
16" Two-Stage Air Cleaner	\$1315	High mount auxiliary Mirrors	
Refuse Front Brakes	\$1765	Hydraulic tilt cab with air assist	
Allison transmission retarder	\$19192	Alcoa Aluminum front wheels	\$4426
Refuse Rear Brakes	\$2040	315/80R22.5 20 ply front & rear tires	
High capacity 1300 sq in aluminum radiator		Heated Air Dryer	
200 amp Alternator (Delco 28SI pad mounted)		Engine Oil Pan Guard	\$1004
Central air drain manifold w/ emergency air system charging	\$3261	5 Year Cummins Engine Warranty	\$8315
Sears high back air ride driver's seat	\$1819	5 Year Cummins Aftertreatment Warranty	\$7150
Dual front tow pins with 5' steel tow cable(7/8) diameter)		Keyed alike with 4 keys	
5 Year transmission warranty	\$8580	Dual evaporator A/C with radiator mounted condenser	\$7939
		CHASSIS OPTIONS	198373
		3.2% Option Discount per contract	-6348
		Good Fleet Customer discount	-51108
		CHASSIS TOTAL	192699

BODY EQUIPMENT

BODY VENDOR:	Heil of Texas	PROPOSAL NO.	599-19	ITEM NO.		ITEM PRICE:	174700
BODY MFG:	Heil	MODEL:	CP RR-30	TYPE:	Automated	CAPACITY:	30yd
OPTIONAL EQUIPMENT		COST		Optional EARLY PAY DISCOUNT of \$2500. EA.		COST	
				Pay for chassis after factory visit to verify specs,			
				before body built, pay balance after delivery			
				with body. Note: Manufacturer (Autocar) will			
				will cover travel expenses with city's approval			
				BODY OPTIONS		0	
				BODY TOTAL		174700	

Submit Approved Quote to BuyBoard:

Fax: 800-211-5454 Email: info@buyboard.com

ESTIMATED DELIVERY	Approx. 210-240 Days
---------------------------	----------------------

UNIT PRICE	367399
QUANTITY	6
CONTRACT FEE (per PO)	400
TOTAL PURCHASE	2204794

**ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM
FRONT LOADER REFUSE TRUCKS**

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance	Disposal Method	Points	Replacement Reasoning
							Costs			
4135	Solid Waste	2010	Peterbilt/Heil	320/Half Pack	91,427	9,735	\$481,065.48	Auction	3	3 out of 4
4136	Solid Waste	2010	Peterbilt/Heil	320/Half Pack	115,567	10,600	\$619,758.21	Auction	3	3 out of 4
4384	Solid Waste	2011	Peterbilt/Wittke	320/Super Duty	90,406	9,083	\$218,490.98	Auction	3	3 out of 4
4461	Solid Waste	2014	Autocar/Heil	ACX64/Half Pack	119,262	10,474	\$259,916.39	Auction	3	3 out of 4
4484	Solid Waste	2014	Autocar/Heil	ACX64/Half Pack	121,165	11,413	\$166,764.53	Auction	3	3 out of 4
4385	Solid Waste	2013	Peterbilt/Wittke	320/Super Duty	103,338	8,051	\$158,769.69	Auction	3	3 out of 4

Heil of Texas

1440 South Loop 12 Irving, Texas 75060
Phone: (972) 670-9874 Fax: (972) 438-5564
Email: reiddonaldson@heiloftexas.com



Quotation

Quote #: Q-22421HHP
Date: 2/24/21
Expires On: 3 / 2 0 / 2 1



To: **John Chastang- Chastang AutoCar**
C/O- City of Abilene
PO Box 21127
Houston, Texas 77226-1127

SALESPERSON	EXT	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Reid Donaldson	x	reiddonaldson@heiloftexas.com		Upon delivery



BuyBoard Contract #599-19

QTY	COST	PRODUCT NAME	DESCRIPTION
1	\$128,436	HHP Com Frontloader	Heil HHP-40 yd Commercial Frontloader mounted at Heil in Fort Payne, Al
1	\$1,300	Hydraulic Tank Heater	Hydraulic Tank Heater- 500 watt
1	\$4,795	Service Hoist	Full Eject w/ Service Hoist Kit
1	\$4,100	PTO / Pump	Operate at Idle front mount vane pump
1	\$1,294	Hopper Lights	LED Windscreen Mounted Container Light and Hopper light
1	\$1,469	Ladder	Tailgate Mounted Roof Access Ladder
1	\$541	Dual Cab Guard Lights	Dual Cab Guard Mounted LED lights
1	\$668	Smart Lights	LED Type Body Lights- Petersen Multi-Function Smart Light
1	Incl	Backing Lights	LED Body Side Backing Assist Lights
1	\$1,719	High Pressure Filter	High Pressure Filter Kit and Monitor
1	\$1,600	Cab Protector	Cab /Canopy Protector Extension Lift Cylinder / Air Switch
1	\$3,301	Camera System- AWT	3 rd Eye 3 cam system (Tailgate, Right Side, Hopper), 7" Monitor
1	\$1,038	Mud-flaps & Fender Ext	Mud-flaps behind and in front of rear tandems, Bolt on Fender Extensions
1	\$3,342	Infinity Series	Infinity Series Packer / Eject Cylinders w/ Scrapers & hardened Rods-5yr war
1	\$2,200	Freight / Delivery	Freight / Delivery from Ft. Payne Al. thru to Irving, Tx.
1	\$825	Shut Off Valves	Custom dual shutoff valves on hydraulic tank
1	\$313	Caution Decal	Caution Decal across tailgate for safety
1	\$9,000	Fire Suppression System	Fog Maker Fire Suppression System- incl quarterly inspections for 1 st year
1	incl	Warranty	Standard One (1) Year Hydraulic / Body Warranty
1	\$1,963	Hopper Floor Liner	Hopper Floor Liner (3/16"-AR400)
1	\$1,140	Retainer Teeth	Body roof Retainer Teeth- 2 rows at front of body- minimizes springback
1	\$11,692	Steel Surcharge	Steel Surcharge- 9.3% in affect Feb 19 th 2021- expires Mar 20 th , 2021
1	\$764	Body Sumps	Body Sumps added- no longer standard

1	\$1,500	Arm Cradles	Arm Cradles added on Bumper (AutoCar option- HOT Dealer installed)
			TOTAL PRICE: \$174,700 ea incl Discount of \$8,300- 6 units \$1,048,200

Heil and Heil of Texas Dealer Provided Services included in this Quote

- Quarterly Fleet Audits- Travel and time to audit and inspect Heil equipment in fleet is included- Any parts or repair time would be additional cost
- Annual Maintenance Technician and Operator training conducted at city designated facility- Heil factory trained representative along with Heil of Texas Service Manager will perform training
- Heil parts inventory available at Heil of Texas in Irving, Texas plus additional inventory at 3 other locations in Texas (El Paso, Houston, and San Antonio) available in 24 hours. Heil Parts Central parts inventory shipped within 48 hours
- Heil of Texas mobile service truck and parts delivery upon demand- Cost could exist depending on needed services

TERMS AND CONDITIONS

1. General

No terms or conditions of Buyer's purchase order which is different from or in additions to Seller's terms and conditions set forth herein shall bind Seller unless expressly agreed to in writing by Seller's duly authorized representative. Buyer's acceptance of any offer made by Seller is expressly limited to the terms and conditions provided herein. Unless otherwise stated, Seller's quotation may be modified or withdrawn prior to acceptance, and in any event, shall expire after 30 days from its date. This order is not binding on TEXAN WASTE EQUIPMENT INC. dba HEIL OF TEXAS unit officially approved. The said machinery, equipment and/or parts are ordered and will be purchased subject to written contract only, and are not affected by any verbal representations of agreements, nor is this order subject to cancellation by the Purchaser without the Seller's consent.

2. Price and Payment

a) Price quoted herein are exclusive of all taxes. Any taxes levied or which ma become due, and other charges or assessments made by any taxing authority in connection with this contract or the sale, except those measured by Seller's net income, shall be expense of the Buyer and shall be payable to Seller at or before such tax or other amount is due. When Buyer is entitled to exemption from any tax, Buyer shall furnish Seller with a tax exemption certificate acceptable to the taxing authorities.

b) Interest at the rate of one and one-half per cent (1.5%) per month (18% per annum), or the maximum lawful rate allowable, will be charged, whichever is less, on all past due invoices. The undersigned agrees to pay all expenses, charges, costs and fees, including , without limitation, attorney's fees and expenses, of any nature whatsoever paid or incurred by, or on behalf of TEXAN WASTE EQUIPMENT INC. dba HEIL OF TEXS, in connection with any collection action brought hereunder. The invalidity of all or any part of any provision of this Agreement shall not render invalid the remainder of such provision or any other part of this Agreement.

c) TEXAN WASTE EQUIPMENT dba HEIL OF TEXAS, shall retain ownership of and title to the above machinery, equipment and parts covered by this order until fully paid for in cash and until any note given in evidence of indebtedness, and any renewals thereof, have been fully paid. If any such note is not paid in full at its maturity, all other notes and obligations given in evidence of indebtedness hereof shall at once become due, and the said TEXAN WASTE EQUIPMENT dba HEIL OF TEXAS, shall have the right to take possession of said machinery wheresoever it may be situated and sell the same pursuant to the conditional sales statutes of the State of Texas.

3. Delivery

a) If within 5 days after receipt of the goods, Buyer fails to notify the Seller in writing of any non-conforming goods, Buyer shall be deemed to have accepted the goods delivered.

b) Deliveries dates are estimated and not guaranteed by Seller and, in any event are conditioned upon receipt of all specifications and other data required to be furnished by the Buyer.

c) If shipment or delivery is delayed because of an act or omission of the Buyer, payment shall be due upon notification by Seller that goods are ready for shipment. Buyer shall pay any additional charges including, but not limited to, cost of storage, handling, and insurance.

4. WARRANTY AND LIMITATIONS OF LIABILITY

ANY EXPRESS WRITTEN WARRANTY PROVIDED BY THE MANUFACTURER OF THE EQUIPMENT DESCRIBED IN THIS QUOTATIONS IS GIVEN IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM DEFECTIVE GOODS, SELLER'S NEGLIGENCE, BREACH OF WARRANTY OR CONTRACT, OR CLAIMS BASED UPON STRICT LIABILITY. IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL DAMAGES COMMERCIAL IN NATURE.

5. Delays

Sellers shall not be liable for the failure or delay in performance of any term, condition, or obligation hereunder due to any cause beyond the Seller's control, including but not limited to Acts of God, acts of the Buyer, war, insurrections or riots, fires, floods, accidents, acts, order or regulations of any government, inability to obtain necessary materials, services or facilities, strikes or other labor troubles.

6. Development Changes

Changes in design, specifications, construction or materials, may be made at Seller's discretion, and without Buyer's consent, where such changes do not materially affect price, delivery or guaranteed performance (if any) of the goods, or make unusable any other item of goods furnished hereunder.

7. Termination

No order may be terminated without Seller's written consent. Upon any termination Buyer shall pay reasonable termination charges, including but not limited to, manufacturing and sales costs, overhead, cost or goods and profit.

8. Miscellaneous

This agreement shall be binding upon the successors and assigns of the parties. If any provision herein is found to be invalid as a matter of law or by public policy, it shall be considered severed from the remainder of the provisions which shall remain in full force and effect. This agreement shall be governed by the law of the State of Texas.

ALL PRICES SUBJECT TO ANY APPLICABLE FEDERAL OR STATE TAXES AND TITLING FEES. QUOTE SUBJECT TO REVISION AFTER 15 DAYS.

NOTE: Please read carefully. This quote becomes a sales order if signed by customer. Your order will be processed as written! Notify of any changes needed within five (5) days of signing. Financing available, subject to credit approval. I have read and understand the terms and conditions on this Order.

X

Date _____

Customer Approval to Process Order Date

Thank you for the opportunity to earn your business!

**ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM
FRONT LOADER REFUSE TRUCKS**

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance Costs	Disposal Method	Points	Replacement Reasoning
4135	Solid Waste	2010	Peterbilt/Heil	320/Half Pack	91,427	9,735	\$481,065.48	Auction	3	Scored 3 of 4 Points. Meets criteria
4136	Solid Waste	2010	Peterbilt/Heil	320/Half Pack	115,567	10,600	\$619,758.21	Auction	3	Scored 3 of 4 Points. Meets criteria
4384	Solid Waste	2011	Peterbilt/Wittke	320/Super Duty	90,406	9,083	\$218,490.98	Auction	3	Scored 3 of 4 Points. Meets criteria
4461	Solid Waste	2014	Autocar/Heil	ACX64/Half Pack	119,262	10,474	\$259,916.39	Auction	3	Scored 3 of 4 Points. Meets criteria
4484	Solid Waste	2014	Autocar/Heil	ACX64/Half Pack	121,165	11,413	\$166,764.53	Auction	3	Scored 3 of 4 Points. Meets criteria
4385	Solid Waste	2013	Peterbilt/Wittke	320/Super Duty	103,338	8,051	\$158,769.69	Auction	3	Scored 3 of 4 Points. Meets criteria

Front Loader Refuse Trucks

Fleet Management



Front Loader Refuse Trucks

- CO-OP Purchase for Six Front Loader Refuse Trucks assigned to Solid Waste.
- Units to be replacements for existing end of life units.
- Units to be 2022 Autocar ACX64 chassis with a Heil CP RR-30 Front Loader Refuse Body
- BuyBoard Cooperative purchase to coordinate the build and delivery process contract 601-19.







**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Award of a Contract for Emergency Street Repairs Related to the February 2021 Winter Storm Event (Greg McCaffery)

GENERAL INFORMATION

As a result of the recent Winter Snow Event February 10-20, 2021, the City of Abilene experience some excessive damages to various roadway segments throughout the City.

These damages resulted from a sub-zero freeze and then a thaw of various street sub-base on old roadways, that resulted in the complete failure of several asphalt roadways. These roadways deteriorated to the point they were no longer stable and in need of immediate major repairs.

City staff requested quotes from various contractors that had either completed or were working on similar street improvements in the past within the City. Only one quote was obtained from Bontke Brothers Construction; given type of work and the tight time frame for completion of the necessary work.

SPECIAL CONSIDERATIONS

Texas Local Government Code, Section 252.022 allows for the procurement of services without using competitive bidding in the following circumstances:

- a. a procurement necessary to preserve or protect the public health or safety of the municipality's residents; and

b. a procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

The procurement of emergency repairs to damage of public streets due to the unforeseen winter storm event meets the two exceptions to competitive bidding.

FUNDING/FISCAL IMPACT

Funding will be obtained through the Street Maintenance Fund.

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2021 Resolution_Award_Emergency_Repairs_Streets
2. Signed_Contract_Only
3. EMERGENCY REPAIRS MAP
4. Backup_Pavement_Damage_Summary (5)
5. PP_Emergency_Street_Repairs

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDING
A CONTRACT TO BONTKE BROTHERS CO., INC., ABILENE, TEXAS**

WHEREAS, the City of Abilene, through a winter snow event, February 10-20, 2021, sustained unforeseen damages to various streets, that necessitated emergency repairs to be under taken; and

WHEREAS, the unforeseen damage to the various streets caused an immediate public safety issue for the City's residents; and

WHEREAS, the City of Abilene direct solicited quotes from various local contractors for the completion of these emergency street repairs; and

WHEREAS, only one quote was received of the three contractors requesting of quotes; from Bontke Brothers Construction, Inc., Abilene, Texas, in the amount of \$372,780.00.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS**

PART 1: That the City Council approves this emergency contract in the amount of \$372,780.00 to Bontke Brothers, Co., Inc.

PART 2: That procurement of emergency repairs to the damaged city streets is necessary to preserve or protect the public health or safety of the municipality's residents, and is necessary because of unforeseen damage to public property.

PART 3: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 25th day of March, 2021.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made on the 4th day of March, 2021 is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Bontke Brothers Construction Company, Inc. of the City of Abilene, State of Texas. ("Contractor").

The City recognizes a need for high quality construction work; the Contractor agrees to complete the project in return for payment.

THE AGREEMENT

1. **Work and Consideration.** hereby agrees to commence and complete the construction of Work required in the Contract Documents — incorporated herein by reference —

EMERGENCY REPAIR CONTRACT

All work to be performed will be completed in conformance with (1) Part I and II of the City of Abilene's Standard Specifications for Construction adopted September, 2006 with the attached amendments in these Contract Documents, and (2) the Technical Specifications and Plans attached to these Contract Documents. Technical Specifications and Plans attached to these Contract Documents control in the event of a conflict.

In consideration of this Work, the City will pay the Contractor the sum of \$372,780.00 (Three hundred seventy-two thousand seven hundred eighty dollars and zero cents).

2. **Timely Work.** The Contractor must begin and fully complete Work in the days stated in the Notice to Proceed. The time allows for normal delays associated with weather conditions, crew coordination, etc. Time is of the essence, and liquidated damages as set forth in the General Conditions (Paragraph 16) apply for late Work.

3. **Payment.** If Performance and Payment Bonds are required, the City will pay Contractor according to the General Conditions (Paragraph 20). If Performance and Payment Bonds are not required, the City will pay Contractor according to the Instructions to Bidders.

4. **No liens.** No mechanic, contractor, subcontractor, supplier, or other person can or will contract for, or in any other manner have or acquire any lien upon the work of this Contract, or the land upon which it is situated. The laws of the State of Texas govern this Contract.

5. **Venue.** Venue for any legal proceeding is Taylor County, Texas.

6. **Indemnity.**

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

"Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

"Contractor" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

"Contractor's employees" shall mean any employees, officers, agents, subcontractors, licensee and invitees of Contractor.

"Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

"Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

"Proven" shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

"Sole negligence" shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Contractor must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

7. **Insurance.** The Special Conditions found the City of Abilene's Standard Specifications for Construction adopted September, 2006, Part I, Division I, Item 3, contain the insurance requirements of this Contract.

8. **Overcharges.** The Contractor assigns to City any claims for overcharges related to this Contract which arise under antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq., as amended.

9. **Contract Interpretation.** Any dispute about the Contract's meaning or application will be interpreted fairly and reasonably, and neither more strongly for or against either party.

10. **Indebtedness to City.** Contractor agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any Bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty or interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty or interest.

11. **Boycott of Israel.** In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

12. **Contract Execution.** The Contractor must sign the Contract first, with any necessary attestation and seal. The City Attorney or designee must review the Contract, and approve or disapprove it. If approved, the City's authorized agent will then sign. The City Secretary must keep a signed original in the City Secretary's Office.

13. **Contract Copies.** Each of the two executed copies is an original.

IN WITNESS WHERE OF, the parties hereto have executed this contract:

CONTRACTOR

Name of Contractor:

Bontke Brothers Construction Co.

Business Address:

102 College Drive
Abilene TX 79601

Signature



Kenneth Bontke

Name - Typed or Printed

President

Title - Typed or Printed

325 677 6276

Business Phone No.

751331325

Federal Tax I.D.#

ATTEST: (If Corporation)

Michael Bontke
Corporate Secretary's Signature

Corporate Seal

(if none, write "None")

CITY OF ABILENE

Mindy Paxton
Authorized Signature

ATTEST:

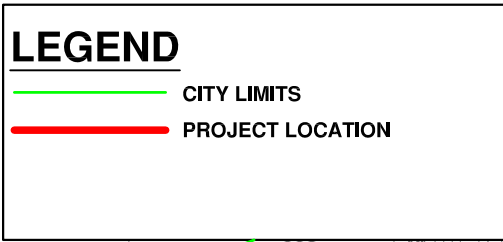
[Signature]
City Secretary

APPROVED:

[Signature]
City Attorney

Seal: |





City of Abilene
Department of Public Works
Street Services Division
Street Damage Summary

Feb-21

	Locations By Priority	Length (ft.)	Width (ft.)	Area (sq. yd.)
1	Marlboro Dr. (Near Buffalo Gap)	256	33	939
2	Wagon Wheel	100	20	222
3	Chimney Rock Road	30	18	60
4	Chimney Rock Road	64	18	128
5	Sherbrooke Lane	385	33	1412
6	Portland St (Near S. 14th St.)	14	100	156
7	Avenue D (N. 18th to N. 19th)	310	28	964.44
8	Trailway Drive (200 Blk)	32	150	533

Agenda Item: Emergency Street Repairs Project

Resolution: Award of Contract
Emergency Street Repairs Project

(McCaffery)

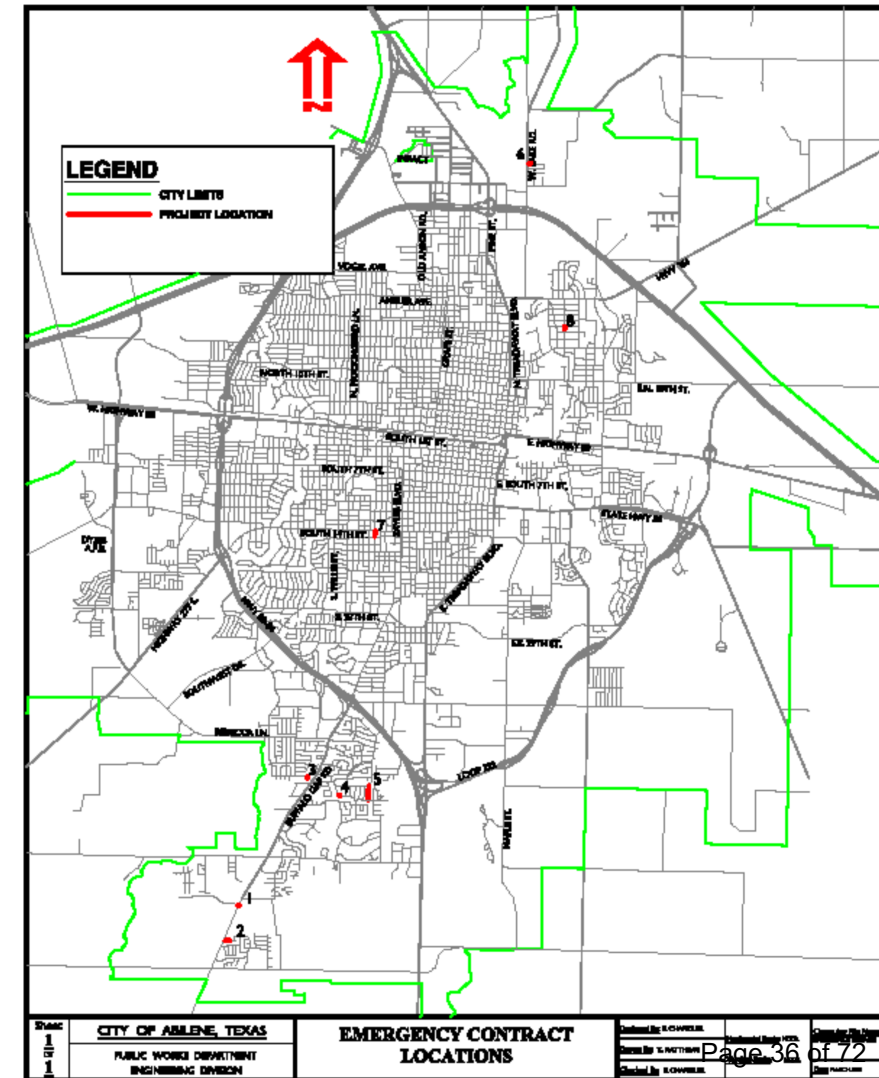


Emergency Street Repairs Contract Location Map

City of Abilene
Department of Public Works
Street Services Division
Street Damage Summary

Feb-21

	Locations By Priority	Length (ft.)	Width (ft.)	Area (sq. yd.)
1	Marlboro Dr. (Near Buffalo Gap)	256	33	939
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5	Sherbrooke Lane	385	33	1412
6	Portland St (Near S. 14th St.)	14	100	156
7	Avenue D (N. 18th to N. 19th)	310	28	964.44
8	Trailway Drive (200 Blk)	32	150	533



Agenda Item:

Emergency Street Repairs Contract

- Eight street locations were identified with complete failure as a result of the February 10-20, 2021 Winter Event; Resulting in major freeze and thaw cycle
- Direct solicited quotes from 3 local pavement contractors familiar with the type of street repair work necessary
- Only one quote was submitted that was able to meet the bid specifications and time frame required; Bontke Brothers Co., Inc. in the amount of \$372,780.00
- It is anticipated the work will take 3 weeks to complete, subject to the weather.
- Staff recommends award of contract to Bontke Brothers, Inc. in the amount of \$372,780.00



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Contract for Emergency Water Main Leak Repairs Related to the February 2021 Winter Storm Event (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is recommending that the Abilene City Council approve a resolution Awarding Contract for Emergency Water Main Leak Repairs Related to the February 2021 Winter Storm Event . The City of Abilene is contracting with Starks Construction Company, Inc. (Starks) for emergency repairs of water mains. The total cost of labor and equipment by Starks is \$58,598.37. That value exceeds \$50,000 and therefore requires that the Abilene City Council approve of the contract.

SPECIAL CONSIDERATIONS

The February 2021 Winter Storm Event significantly impacted the City's water utility infrastructure including causing an exceptionally high number of water main breaks. The demand for water main break repairs exceeded the capacity of the City's staff to make timely repairs. In order to reduce water loss, minimize water outages, and reduce stress on City staff the Abilene City Manager authorized the solicitation for a capable water utility contractor to assist in making emergency water main repairs. Over a 13-day period approximately 124 emergency water main breaks were repaired. The City is contracting with Starks Construction Company Inc. to make 19 emergency water main repairs over a 6-day period with labor and equipment costs totaling \$58,598.37.

The Texas Local Government Code, Section 252.022, provides that competitive bidding is not required in the following circumstances:

- a. a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

and

b. a procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

The procurement of services to repair the numerous unforeseen water main breaks which resulted from the winter storm event meets the above exemptions to the competitive bidding requirement.

FUNDING/FISCAL IMPACT

The expenditure of \$58,598.37 will be paid from the annual operating budget of the Water Utilities Department.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve of the contract as described herein.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-Emergency Water Leak Repairs-3-25-2021
2. Contract-Emergency Water Leak Repairs-Feb 2021-3-25-2021
3. Presentation-Resolution-Ratifying Expenditures for Emergency Water Leak Repairs-3-25-2021

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING AWARD TO STARKS CONSTRUCTION COMPANY FOR EMERGENCY WATER MAIN LEAK REPAIRS RELATED TO THE FEBRUARY 2021 WINTER STORM EVENT.

WHEREAS, the City of Abilene (City) owns and operates a Public Water System that includes water treatment, pumping, storage, and distribution facilities; and

WHEREAS, the City's Water Distribution Division is adequately staffed for the repair of both routine and emergency water main repairs that typically occur throughout the year; and

WHEREAS, the February 2021 Winter Storm Event resulted in approximately 124 unforeseen water main leaks requiring emergency repairs over a thirteen day period which exceeded the emergency repair capacity of existing staff; and

WHEREAS, in order to reduce water loss, minimize water outages, and reduce stress on City staff the Abilene City Manager authorized the solicitation of a capable water utility contractor to assist in making emergency water main repairs until the number of water main leaks became manageable for City staff; and

WHEREAS, in response to the unprecedented winter storm event and the resulting high number of water main breaks the Water Utilities Department contracted with Starks Construction Company, Inc. (Starks) to provide its crews for the emergency repair of water main breaks, and Starks' crews made nineteen water main break repairs over the span of six days, and the Abilene City Council is ratifying this expense for labor and equipment for emergency repairs paid to Starks in the amount of \$58,598.37; and

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

PART 1: That the award of the emergency repair contract to Starks Construction Company for emergency repairs to water mains in the amount of \$58,598.37.

PART 2: That the procurement of the emergency repairs to the numerous water mains due the winter storm event is necessary to preserve or protect the public health or safety of the municipality's resident, and is necessary because of unforeseen damage to public equipment or other property.

ADOPTED this 25th day of March, 2021.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney



CONTRACT

This contract, dated the 19th day of February, 2021, is between the City of Abilene ("City"), a home rule municipal corporation of the State of Texas and Starks Construction Co ("Contractor"), a Corporation organized under the laws of the State of Texas.

I. TERMS

In consideration of \$Not to Exceed \$60,000.00, the Contractor must provide the services described in Attachment A, which is incorporated by reference, according to all its provisions.

After the CONTRACTOR has fully performed the terms of this AGREEMENT and the CITY'S agent is satisfied that the work has been completed with the terms of this Agreement, the CITY'S agent shall pay the contractor in one lump sum the money specified.

The CITY reserves the right to prorate or to withhold payment from the CONTRACTOR if the CITY'S agent determines that the CONTRACTOR fails to fully perform the work in accordance with the terms of this Agreement, in which case the CONTRACTOR shall bear all costs, including the cost of hiring someone else, due to the CONTRACTOR'S neglect, delay, or refusal to fulfill the terms of this Agreement.

The CITY reserves the right to have its agent inspect the premises to determine whether or not the CONTRACTOR has fully complied with the terms of this Agreement.

II. PAYMENT

Payment shall be made under the terms of Attachment B, which is incorporated by reference, according to all its provisions.

III. DURATION

Contractor must complete all required work within 45 calendar days after the effective date of this Contract.

IV. ASSIGNMENT

Contractor may not assign any interest under this contract without the City's prior written consent. All of the terms and provisions of this Contract are binding on Contractors successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONTRACTOR

The Contractor is an Independent Contractor. Contractor and Contractor's employees are not the agents, servants or employees of the City.

VI. AMENDMENT OR MODIFICATION

This contract, including any attachments, constitutes the parties' entire agreement. This agreement may not be modified or replaced except by another signed written agreement.

VII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

"Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

"Contractor" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

"Contractor's employees" shall mean any employees, officers, agents, subcontractors, licensee and invitees of Contractor.

"Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

"Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

“Proven” shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

“Sole negligence” shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Contractor must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

VIII. INSURANCE

A. GENERAL REQUIREMENTS

The Contractor agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Contractor is solely responsible for providing the

required certificates of insurance. The City may terminate this agreement if the Contractor fails to timely comply with the insurance requirements.

The required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to examination and approval by the City for their adequacy as to content, form of protection, and providing company.

The required insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Before the City executes the notice to proceed with any work under this agreement, the Contractor must provide the City Secretary with either an original certificate of insurance or a certified copy of the insurance policy evidencing the required insurance. Thereafter, the Contractor must furnish new certificates or copies of the policy before the expiration date.

Texas Labor Code Section 406.096 requires a city to ensure that contractors carry workers' compensation for each employee when the city is a party to any "building or construction contract." The code enumerates that "building and construction" includes:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured for operations under this contract.
2. Provide for 30 days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

The following insurance is required under this contract:

<u>Type</u>	<u>Amount</u>
<u>X</u> _1. Workers' Compensation	Statutory
Employer's Liability	\$100,000 per occurrence

- | | |
|---|--|
| <p>☒ 2. Commercial (Public) Liability
 including, but not limited to:</p> <ul style="list-style-type: none"> • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability
 (insuring above indemnity) <p>and where the exposures exist</p> <ul style="list-style-type: none"> • Explosion Collapse and Underground | <p>\$500,000 combined single
 limit for bodily injury
 and property damage
 (per occurrence)</p> |
| <p>☒ 3. Business Automobile Liability
 to include coverage for:</p> <ul style="list-style-type: none"> • Owned/Leased Autos • Non-Owned Autos • Hired Cars | <p>\$500,000 combined single
 limit for bodily injury
 and property damage
 (per occurrence)</p> |
| <p>☐ 4. Professional Liability</p> | <p>\$500,000 combined single limit
 (per occurrence)</p> |
| <p>☐ 5. See Addendum for Special
 Coverages and/or revisions</p> | |
| <p>☐ 6. No Insurance Required</p> | |

IX. VENUE, CHOICE OF LAW AND INTERPRETATION

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

X. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Contractor must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Contractor -- not City -- must verify eligibility for employment as required by IRCA.

XI. INDEBTEDNESS TO CITY

Contractor agrees that no payments owed by him, of any nature whatsoever, to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest.

XII. EQUAL EMPLOYMENT OPPORTUNITY

It is the City's policy to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of bonafide occupational qualifications. The City shall continually review its employment practices and personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

XIII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XIV. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the Tax Act), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Contractor. The Contractor must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Contractor is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Contractor, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Contractor must obtain all necessary permits and licenses that are required in completing the work contracted for in this agreement.

XVI. PAYMENT AND PERFORMANCE BONDS

If the value of this Bid is below \$50,000, Performance and Payment Bonds are not required; however, the City will not pay the Contractor until the work is accepted and the Contractor furnishes an acceptable Release of Lien and Affidavit of Bills Paid to the City.

If the value of this Bid exceeds \$50,000, the Contractor must also furnish a payment bond. If the value of this Bid exceeds \$100,000, the Contractor must furnish a performance bond when the Contract is executed and delivered to the City. The Bonds, for the full amount of the contract, must be executed by a corporate surety company authorized to do business in the State of Texas and acceptable to the City. Bonds for projects using federal dollars must be underwritten by a surety name in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

The City may require additional security if the initial surety becomes insolvent, bankrupt, or otherwise financially unable to protect the City under the terms of the contract. The City's requiring new or additional security relieves neither the original surety nor the Contractor of their obligations under the contract. City may, without incurring any liability, stop work under the contract until Contractor furnishes additional security.

XVII. SEVERABILITY AND WAIVER

The partial or complete invalidity of one or more provisions of the Contract shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Contract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

XVII. NOTICES

Any notices or other communications required or permitted under this agreement are sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, addressed to City at:

ATTN: Rodney Taylor
P.O. Box 60
Abilene, Texas 79604-0060

or to Contractor at:

ATTN: Blake Starks
7449 Lantana Ave
Abilene, TX 79606

or to such other address furnished in writing by any party to the others. Notice will be deemed given as of the date so delivered or on the date of deposit in the United States mail, as the case may be.

XVII. COUNTERPARTS

This Contract may be executed in two or more counterparts (including fax, email, or electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

XVIII. BOYCOTT OF ISRAEL

In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, "company" does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

XIX. SECTIONS AND OTHER HEADINGS

Section, paragraph, and other headings contained in this Contract are for reference purposes only and do not affect in any way the meaning or interpretation of this Contract.

{Remainder of Page Intentionally Left Blank—Signature Page Follows}

IN WITNESS HEREOF, the parties hereto have executed this contract effective as of the date written above:

CITY OF ABILENE

By:

Name:

Title:

CONTRACTOR

By:

Name: Blake Starks

Title: General Manager - Starks Construction



ATTEST:

City Secretary

Federal Tax ID#:

APPROVED:

By: _____

City Attorney

Corporate Seal if applicable

ATTACHMENT A

Scope of Work

City of Abilene Responsibilities

1. City representative (Kent Hackworth, 325-725-3589) will contact Contractor at (phone number) during normal business hours. In most cases this will be between 8 to 10 am on weekdays or weekends.
2. City representative will provide leak location, Digtess number, and any other relevant information needed to perform the job
3. City of Abilene will provide pipe repair parts, clamps, etc. from their facility at 701 E Hwy 80
4. City will reimburse contractor for time and materiel

Contractor Responsibilities

1. Contractor will respond to request for services from the City within 1 hour of notification
- 1.1. Contractor will provide estimated time a crew will be at the work site and starting work
- 1.2. Contractor will provide any additional information requested by the City representative
2. Contractor will proceed to 701 E Hwy 80 to pick up any needed materials from the City prior to arriving on site
3. Contractor will operate required valves to de-water the mains for repair
4. Contractor will provide and use pipe bedding and backfill that meets City of Abilene specifications
5. Contractor is responsible for disposing of their own spoils
6. Contractor will be responsible for any damages caused by Contractor while performing work
- 6.1. Contractor will replace damaged City infrastructure with materiel of equal or better quality than that being replaced, and that meet City of Abilene specifications
- 6.2. Contractor will notify responsible parties for any non-City infrastructure Contractor damages
7. Contractor will be responsible for cleaning up the worksite and returning the worksite to the original condition (if alley, returned to original condition/if street, prepared for paving)
8. Contractor will notify the City of Abilene when job is complete and await further instructions prior to departing the worksite
9. Contractor is responsible for flushing the repaired water main
10. Contractor will notify the Water Service center @ 676-6000 or Kent Hackworth 325-725-3589 prior to activating valves
11. Contractor will bill the City at the crew rate of \$350/hour

ATTACHMENT B
PAYMENT SCHEDULE

OPTION 1 X

Compensation is based on actual hours of work/time devoted to providing the described professional services and will be paid at a rate of \$350 per hour not to exceed \$60,000.00.

Contractor must submit monthly invoices to City accompanied by an explanation of charges, professional fees, and services. City will pay invoices according to its normal payment procedures.

OPTION 2

Payment is in a lump sum amount of \$Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Contractor must execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Contractor has been notified.

OPTION 3

Payment is a fixed fee amount of \$Click or tap here to enter text. payable per Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Contractor shall execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Contractor has been notified.

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

THIS ATTACHMENT IS ONLY APPLICABLE IF WORKERS' COMPENSATION COVERAGE IS PROVIDED

a. Definitions

Certificate of coverage ("certificate") - a copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractors/person's work on the project has been completed and accepted by the City.

Persons providing services on the project ("subcontractors" in 406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitations, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- c. The Contractor must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- e. Contractor shall obtain from each person providing services on a project and provide to City:
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven (7) days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

- f. The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- g. The Contractor shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
 - (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 - (6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

- j. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the City that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the City to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the City.

(End of Document)

**Resolution Awarding the Contract for
Emergency Water Main Leak Repairs Related to
the February 2021 Winter Storm Event.**



- **The February 2021 Winter Storm Event significantly impacted the City's water utility infrastructure including causing an exceptionally high number of water main breaks.**
- **The demand for water main break repairs exceeded the capacity of the City's staff to make timely repairs.**
- **In order to reduce water loss, minimize water outages, and reduce stress on City staff the Abilene City Manager authorized the solicitation for a capable water utility contractor to assist in making emergency water main repairs.**



- Over a 13-day period approximately 124 emergency water main breaks were repaired.
- The City is contracting with Starks Construction Company Inc. to make emergency water main repairs, and over a 6-day period it made 19 repairs with labor and equipment costs totaling \$58,598.37.
- That expense exceeds \$50,000 and thus requires that the Abilene City Council approve of the contract expenditure of \$58,598.37 to be paid to Starks.



**Resolution Awarding the Contract for Emergency
Water Main Leak Repairs Related to the
February 2021 Winter Storm Event.**

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 8. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
3. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
4. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
5. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
6. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
7. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
8. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-

GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020

9. Rosie Tonche v. City of Abilene, Texas; Cause No. 50955-A, In the 42nd Judicial District Court, Taylor County, Texas; filed December 31, 2020
10. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
11. Patrick Sumrall v. City of Abilene, Texas; Cause No. 28,269-B, In the 104th Judicial District Court, Taylor County, Texas; filed February 18, 2021
12. Governor's Executive Orders COVID-19
13. Frontier Texas! Discussion of Bylaws

B. 551.072 (Deliberations about Real Property)

1. Clyde Water

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards and Commissions may be discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

1. Abilene Convention Center Hotel Project

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO:

FROM:

SUBJECT: **9. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and
Take Action on Amending, Restating, and Approving the City of Abilene City
Manager Employment Agreement.**

GENERAL INFORMATION

Information will be provided during the Meeting.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. City Manager Employment Agreement PPT

Resolution:
**Amending, Restating &
Approving the City Manager's
Employment Agreement**



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 3/25/2021

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 10.

Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter *(Shawna Atkinson)*

- **Keep Abilene Beautiful**
- **Street Maintenance Advisory & Appeals Board**

GENERAL INFORMATION

The item provides for reappointment of new members as well as new members to certain boards and commissions.

SPECIAL CONSIDERATIONS

Member terms vary per board and commission and are outlined in Exhibit A of the resolution.

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. B&C Resolution
2. Exhibit A
3. B&C Presentation Slide

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUTES OF THE STATE OF TEXAS

WHEREAS, the Charter of the City of Abilene and the Statutes of the State of Texas require that certain Boards and Commissions be established with a portion of the memberships thereof to be filled by appointment each year; and

WHEREAS, the City Council is of the opinion that the following members should be appointed to the designated Boards and Commissions, and has requested the Mayor to appoint same with the approval of the Council.

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

PART 1: That the list of Members is attached hereto as Exhibit A, shall be in all things, approved.

PART 2: That this resolution shall take effect immediately from and after its passage.

PASSED this 25th day of March, 2021.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____

Board	Term End Date
Keep Abilene Beautiful	
Crystal Saling [New]	September 2024
<i>Street Maintenance Advisory & Appeals Board</i>	
Wayne Lanham [Reappointment]	March 2023

***Resolution:* Appointing Member(s) to various Boards and Commissions per the City Charter**

- Keep Abilene Beautiful
- Street Maintenance Advisory & Appeals Board

