



## City of Abilene City Council Agenda

Kyle McAlister, Mayor Pro-tem  
Weldon Hurt, Council Member  
Lynn Beard, Council Member  
Robert Hanna, City Manager

Anthony Williams, Mayor

Donna Albus, Council Member  
Shane Price, 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 May 13, 2021, at 8:30 a.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**

### **INVOCATION**

1. Mayor Pro-tem Kyle McAlister

### **PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG**

### **PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS**

2. **Proclamations:**

- National Public Works Week
- Ride of Silence

3. **Employee Service Awards:**

- Sheletra Hayes - 20 Years - Legal
- Rodney Goodman - 35 Years - Fire
- Jeffery Jones - 35 Years - Fire
- Joey Kincaid - 35 Years - Fire

## 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.

4. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Special Joint Meeting with the DCOA on April 16, 2021, and the Regular Meeting Held on April 22, 2021 **(Shawna Atkinson)**
5. **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 April 8, 2021 **(Robert Hanna)**
6. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Execute an Agreement with the Abilene Chamber of Commerce, Abilene Cultural Affairs Council, and Abilene Convention and Visitors Bureau for the Management and use of the Hotel Occupancy Taxes. **(Robert Hanna)**
7. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Finding That AEP Texas Inc.'s Application to Amend It's Distribution Cost Recovery Factors to Increase Distribution Rates Within the City Should Be Denied; Authorizing Participation With the Cities Served By AEP Texas; Authorizing Hiring of Legal Counsel; Finding that the City's Reasonable Rate Case Expenses Shall Be Reimbursed by the Company; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of this Resolution to the Company and Legal Counsel **(Mike Rains)**
8. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the Execution of a Purchase Contract with Benchmark Business Solutions, Inc. for the Purchase of (20) Panasonic CF-33 Toughbooks **(Cande Flores)**
9. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Sign a Lease Agreement with Betty Hardwick Center for the Adaptive Recreation Building **(Lesli Andrews)**
10. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Accepting Bid# CB-2128 for the Asbestos Abatement and Demolition of Cesar Chavez Recreation Center **(Lesli Andrews)**
11. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2130 to Flat Line, Inc. on Downtown Pavement Marking Project **(Greg McCaffery)**
12. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2131 to Flat Line, Inc. on Crosswalk Pavement Marking Replacements **(Greg McCaffery)**
13. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Approve an Extended Term Street Use License with ABI 173, Inc. **(Greg McCaffery)**
14. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action for the submittal of an application for the State of Texas Department of Transportation 2021 Alternative (TA) Program call for projects for the South 14th Street Walkability Project (Pioneer Street to Barrow Street) **(Greg McCaffery)**
15. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action for the submittal of an application for the State of Texas Department of Transportation 2021 Alternative (TA) Program call for projects for the Old Anson Road Walkability Project (West Stamford Street to Ambler Avenue) **(Greg McCaffery)**
16. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a



Resolution Authorizing the City Manager to Execute an Agreement with Meals on Wheels Plus, Incorporated for the Disbursement of Community Development Block Grant (CDBG) Funds. (Mike Warrix)

17. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing a Professional Services Contract for Baylor Drive Lift Station RPR Services (Rodney Taylor)
18. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing a Contract for Repair of Ivie Raw Water Intake Pump #3 Using BuyBoard Purchasing Cooperative (Rodney Taylor)
19. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Land Development Code, Chapter 3, Subdivision Regulations, Article 2, Subdivision Standards, Division 7, Roadways, Section 3.2.7.4, Street, Alley Abandonment and Closure Policy (Stanley Smith)

#### **REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS**

20. **Ordinance (Final Reading) Z-2021-06:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Five Owners of the Subject Properties, Represented by Jacob & Martin LLC, to Amend Terms and Conditions of Planned Development District Number 82 (PD 82) Specifically as They Affect Certain Commercial Properties Located Directly North of Lone Star Drive and East of Loop 322, to Allow Use and Development in Compliance with Requirements of General Retail (GR) Zoning, Instead of Specific Uses and Standards Now Required by PD 82. (Mike Warrix)
21. **Ordinance (Final Reading) Z-2021-07:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Heart of Texas Hearing Centers, Represented by Fallen Perrie Busenlehner, to Rezone Property from Neighborhood Office (NO) to Planned Development (PD) District to Permit Retail Sale of Apparel and Related Accessories, In Addition to All Uses Permitted in NO Zoning Districts. (Mike Warrix)
22. **Ordinance (Final Reading) Z-2021-08:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Cimarron Meadows Development Corporation, Represented by Jacob & Martin LLC, to Rezone Property from Residential Medium-Density (MD) to Planned Development (PD) District to Allow Duplex Dwellings as well as Townhomes (with no more nor fewer than two dwellings in any one row of attached buildings) on Approximately 14 acres of Vacant Land Located on the 2000 block (east side) of Maple Street and Directly North from the Abilene State-Supported Living Center in Southeast Abilene. (Mike Warrix)
23. **Presentation:** Receive a Report and Hold a Discussion and Public Hearing on Accessibility Alterations and Renovations to Council Chamber (Mari Cockerell)

#### **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.

#### **EXECUTIVE SESSION**

24. **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. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
10. 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
11. Officer Mark Watson and City of Abilene, Case No. 01-21-0002-5335; Appeal of Indefinite Suspension to Arbitration, filed March 10, 2021
12. Governor's Executive Orders COVID-19
13. City's Liability for the Firefighter's Pension Fund
14. Clyde Water

**B. 551.072 (Deliberations about Real Property)**

1. 4725 Loop 322

**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
2. Civic Plaza Hotel Site

**RECONVENE**

**REGULAR AGENDA**

25.

**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**)

- Frontier Texas! Board of Directors
- Office of Neighborhood Services Advisory Board
- West Central Texas Municipal Water District Board of Directors

26.

**Oral Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Possible Take Action on Changing the Dates of the Budget Hearings

## **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 7th day of May, 2021, at 3:10 p.m.*

---

*Kaitlin Richardson,*  
Deputy City Secretary



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**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 Special Joint Meeting with the DCOA on April 16, 2021, and the Regular Meeting Held on April 22, 2021 (*Shawna Atkinson*)

---

**GENERAL INFORMATION**

Approval of the Minutes from the Special Joint Meeting with the DCOA on April 16, 2021, and the Regular Meeting Held on April 22, 2021

**SPECIAL CONSIDERATIONS**

None.

**FUNDING/FISCAL IMPACT**

None

**STAFF RECOMMENDATION**

Approval of the Minutes

**BOARD OR COMMISSION RECOMMENDATION**

N/A

**ATTACHMENTS:**

1. 04-16-2021 Minutes - Special - Joint DCOA Meeting
2. 04-22-2021 Minutes - Regular - Evening

**SPECIAL CALLED JOINT MEETING**  
**April 16 2021 at 10:00 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 a Joint Special Session with the Development Corporation of Abilene on April 16, 2021, at 10:00 a.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding with Mayor Pro-tem Shane Price and Councilmembers Donna Albus, Weldon Hurt, Kyle McAlister, and Travis Craver. Deputy Mayor Pro-tem Jack Rentz was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Jack Rich, Chair of the Development Corporation of Abilene called the DCOA meeting to order as well.

Mayor Pro-tem Shane Price delivered the invocation and led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

**EXECUTIVE SESSION**

Mayor Williams recessed into Executive Session at 10:02 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:

- 2. F. 551.087 (Business Prospect/Economic Development)
  - 1. DCOA Project Legacy

The Executive Session ended at 10:10 a.m. and reconvened to Open Session. Mayor Williams reported no votes or action were taken in Executive Session.

**AGENDA ITEMS**

- 2. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action Approving DCOA Project Legacy  
**[ASSIGNED RESOLUTION NO. 48-2021]**

Misty Mayo, CEO of the Development Corporation of Abilene, presented the item. Adoption of the item would approve an economic development agreement with Great Lakes Cheese Company for a packaging facility, with a capital investment of \$184,500,000.

Council and staff discussed the deal and gave their input on how great of an opportunity this is for Abilene.

Mayor Williams opened the public hearing. The following addressed the council:

- David Swart – stated that he is for economic development, but thinks that if the DCOA is so great, that capital should be reinvested. There should be a vote of the taxpayers to see if this structure is working too. That money could go toward street maintenance instead of this deal, but he thinks it should be up to voters.

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

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

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

NAYS (0): None

ABSENT (1): Deputy Mayor Pro-tem Jack Rentz

### **ADJOURNMENT**

There being no further business, the meeting adjourned at 10:21 a.m.

\_\_\_\_\_  
Shawna Atkinson  
City Secretary

\_\_\_\_\_  
Anthony Williams  
Mayor

Minutes approved on: \_\_\_\_\_

**CITY COUNCIL MEETING**  
**April 22, 2021 at 4:30 p.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 April 22, 2021, at 4:30 p.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding with Mayor Pro-tem Shane Price, Deputy Mayor Pro-tem Jack Rentz and Councilmembers Donna Albus, Weldon Hurt, Kyle McAlister and Travis Craver. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, City Secretary Shawna Atkinson, and various members of the City staff.

**EXECUTIVE SESSION**

Mayor Williams recessed into Executive Session at 4:30 p.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:

- 17. B. 551.072 (Deliberations about Real Property)
  - 1. Clyde Water
  - 2. 4725 Loop 322
- 17. F. 551.087 (Business Prospect/Economic Development)
  - 1. Abilene Convention Center Hotel Project
  - 2. Agenda Item 14 – Economic Development Agreement with Cimarron Meadows
  - 3. DCOA Project Legacy

The Executive Session ended at 5:08 p.m. and reconvened to Open Session at 5:30 p.m. as noted on the posted agenda. Mayor Williams reported no votes or action were taken in Executive Session.

Deputy Mayor Pro-tem Jack Rentz delivered the invocation.

Sheridan Johnson, Kelsie Burleson, Abbie Bulls, and McKenzie McElyea, representing the Destination Imagination team from Wylie High School, the Metallic Chickens, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

**PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS**

- Proclamations:
  - Children’s Book Week – accepted by Trish Dressen and staff from the NCCIL
  - Mental Health Awareness Month – accepted by William Boyd with the National Alliance for Mental Illness
  - National Work Zone Awareness Week – accepted by City of Abilene Public Works employees

**CONSENT AGENDA**

The Consent Agenda consisted of items 4-13. Items 7 and 11 were pulled for individual consideration.

Councilmember Hurt moved to approve items 4-6 and 8-10. Deputy Mayor Pro-tem Rentz seconded the motion. Motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver  
NAYS (0): None



4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 8, 2021
5. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action Approving the Appointment of Haley Napier as Assistant City Attorney  
**[ASSIGNED RESOLUTION NO. 49-2021]**
6. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the First Amended Bylaws of Abilene Convention Center Hotel Development Corporation  
**[ASSIGNED RESOLUTION NO. 50-2021]**
8. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Child Advocacy Center OVAG Grant  
**[ASSIGNED RESOLUTION NO. 52-2021]**
9. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Execute A Professional Services Contract With OccMedTX To Conduct Annual Medical Physicals For Employees Of The Abilene Fire Department (AFD)  
**[ASSIGNED RESOLUTION NO. 53-2021]**
10. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Signal Repair at the Intersection of S14th & Clack  
**[ASSIGNED RESOLUTION NO. 54-2021]**
12. Ordinance (First Reading) Z-2021-07: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Heart of Texas Hearing Centers, represented by Fallen Perrie Busenlehner, to rezone property from a Neighborhood Office (NO) to a Planned Development (PD) District intended to allow retail sale of apparel and related accessories, in addition to all uses ordinarily allowed in NO Districts
13. Ordinance (First Reading) Z-2021-08: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Cimarron Meadows Development Corporation, represented by Jacob & Martin LLC, to rezone property from a Residential Medium-Density (MD) to a Planned Development (PD) District intended to allow duplex dwellings as well as townhomes (with no more nor fewer than two dwellings in any one row of attached buildings) on approximately 14 acres of now-vacant land located on the 2000 block (east side) of Maple Street and directly north from the Abilene State-Supported Living Center in southeast Abilene

#### **ITEMS PULLED FOR INDIVIDUAL CONSIDERATION**

7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Annual Budget of the Abilene Convention Center Hotel Development Corporation  
**[ASSIGNED RESOLUTION NO. 51-2021]**

*The item was pulled by Bob Thomas, citizen.*

Having pulled the item, Bob Thomas stated that we are giving the City Manager what the media calls “small powers” concerning the hotel, but when talking about \$23 million, it’s not a small amount. It is 27% of the income of Abilene. Mr. Thomas asked what is changing here that was not originally agreed upon.

Robert Hanna, City Manager, addressed Mr. Thomas’s concerns and stated that this is granting him the responsibility only. Council still has final authority.

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

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

11. Ordinance (First Reading) Z-2021-06: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from all five owners of the subject properties, represented by Jacob & Martin LLC, to amend terms and conditions of Planned Development District Number 82 (PD 82) specifically as they affect certain commercial properties located directly north of Lone Star Drive and east of Loop 322, to allow use and development in compliance with requirements of General Retail (GR) zoning, instead of specific uses and standards now required by PD 82

*The item was pulled by Mayor Pro-tem Price*

Having pulled the item, Mayor Pro-tem Price stated that from what he has read we are taking the PD requirements and reducing to a GR, but still within the parameters of a PD. In 5-10 years someone who is looking at this will have to do research to figure this out. Mayor Pro-tem Price asked if we could change it to a straight GR zoning.

Mike Warrix, Director of Planning and Development Services, addressed Mayor Pro-tem Price's concerns stating that this PD consists of 2 tracts. The requester is only proposing this for tract 1. The requester is wanting to eliminate the permitted uses originally adopted as part of the PD, and replace those with basic general retail permitted uses. There is no distinguishing factor between this and GR, but it is still a PD though. The applicant wants to keep the two tracts together in the PD.

Mayor Pro-tem Price has asked staff to reach back out to the applicant to see if they are still wanting to do this before the final hearing.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister and Craver

NAYS (0): None

## **REGULAR AGENDA**

14. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving an Economic Development Agreement with Cimarron Meadows Development Corporation regarding approximately 59 acres of land out of Lot 102, Block A, Parkview Addition, Section 2, Taylor County, Texas, located on Maple Street and Berry Lane  
**[RESOLUTION 55-2021]**

Robert Hanna, City Manager, presented the item. Adoption of the item would approve an Economic Development Agreement with Cimarron Meadows Development Corporation regarding approximately 59 acres of land out of Lot 102, Block A, Parkview Addition, Section 2, Taylor County, Texas, located on Maple Street and Berry Lane.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister, and Craver  
NAYS (0): None

15. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on creation of the Mayor's Entertainment District Task Force  
**[RESOLUTION 56-2021]**

Robert Hanna, City Manager, presented the item. Adoption of the item would create a task force for the Mayor's Entertainment District. This task force will have 7 voting members that will study and review options to create a downtown entertainment district.

Mayor Williams opened the public hearing. The following addressed the Council:

- David Swart – stated that in Las Vegas you can go out onto the strip with open containers, with the exception of glass. Mr. Swart suggested more trash containers and a boundary at North 8<sup>th</sup>, South 7<sup>th</sup>, Treadaway, Hickory and Butternut. This would encompass most businesses that would benefit from this. Mr. Swart stated this is an opportunity to expand our city.

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

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

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister, and Craver  
NAYS (0): None

16. 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. 57-2021]**

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

Councilmember McAlister moved to (re)appoint the following:

| Board                                            | Term End Date |
|--------------------------------------------------|---------------|
| <b>Mayor's Entertainment District Task Force</b> |               |
| Katherine Beeman [New]                           |               |
| Jeff Ronquillo [New]                             |               |
| Cindy Frazier [New]                              |               |
| Mandy Schumann [New]                             |               |
| Steve Davis [New]                                |               |
| Ian Nickerson [New] [Chair]                      |               |
| J.R. Cochran [New]                               |               |
| <b>Parks &amp; Recreation Board</b>              |               |
| David Pittman [Reappointment]                    | May 2024      |
| Gary Grubbs [Reappointment]                      | May 2024      |
| <b>Senior Citizens Advisory Board</b>            |               |
| Joe Lopez [Reappointment]                        | May 2023      |
| Sydnye Moore [Reappointment]                     | May 2023      |
| Debra Williams [New]                             | May 2023      |

Mayor Pro-tem Price seconded the motion; motion carried

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Rentz, and Councilmembers Albus, Hurt, McAlister, and Craver  
 NAYS (0): None

### PUBLIC COMMENTS

Mayor Williams opened the public comment period. The following addressed the city council:

- David Swart – stated that there is nothing on the city calendar for the Convention Center, and that the public would attend more events if they knew about them. Mr. Swart stated that the Abilene Reporter News had an article about the individuals running for Council and one of them mentions a deficit in the City's budget, and as far as he knows, only the feds can have a deficit. Mr. Swart thinks we need to see what can be done about getting Fire Station 9 moving forward, since Station 2's service area is 25 miles and that is too large. The Governor said he would wear a cheese head for the new Great Lakes Cheese Factory ribbon cutting, so Mr. Swart suggested that Council should too.
- Delores Moore – wanted to thank Misty Mayo, City staff, and the State for everyone who had a part in bringing in Great Lakes Cheese to Abilene. She thinks this was an exciting announcement, and likes that they look at organizations that are viable and have longevity. Ms. Moore thinks this company is going to offer something to our citizens and show we have good paying, long range jobs.
- Kelsey Mangra – stated on behalf of the Chamber executive board, that they wanted to show their enthusiasm and support of Great Lakes Cheese locating to Abilene. Misty Mayo and her team at the DCOA have done an incredible job in creating a partnership with them and creating 500 jobs. Ms. Mangra stated that this investment would not only stimulate small businesses but have a huge impact on schools and property values. She thinks we should be proud of a company with a family business culture.
- Gary Grubbs – chairman of the AIF board and wanted to thank the Council and the DCOA for all the hard work with Great Lakes Cheese. AIF and Develop Abilene are working on business retention and expansion to help create, equip and grow businesses. Mr. Grubbs is committed to the future of Abilene and proud to be a part of it.
- John Beckham – stated he wanted to thank Council and the City Manager, and that he is gracious to the business community here. Mr. Beckham stated that the hiring of Misty Mayo was undoubtedly the highlight of his board service on the DCOA. He thinks Abilene is poised for great things and it's time for it to shine.

- Samuel Garcia – stated he got a different take on this announcement and is very disappointed that it was done during a special called meeting, as it was a little surprising to him. He stated that the success will happen when people actually get these jobs and there is longevity. Mr. Garcia stated that it looks like a big portion of the factory will be built in Eula ISD and wants to know what Abilene ISD will get in property taxes. He is wanting to know how many of the jobs are going to be production jobs and what is the median salary.

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

### **ADJOURNMENT**

There being no further business, the meeting adjourned at 6:24 p.m.

---

Shawna Atkinson  
City Secretary

---

Anthony Williams  
Mayor

Minutes approved on: \_\_\_\_\_



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Honorable Mayor & Members of City Council

**FROM:** Robert Hanna, City Manager

**SUBJECT:** **5. 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 April 8, 2021 *(Robert Hanna)*

---

**GENERAL INFORMATION**

On April 8, 2021, the City Council adopted a Further Modification and Extension of Declaration of Local Disaster due to the COVID-19 pandemic. That extension lasts through May 13, 2021.

On March 2, 2021, the Governor of the State of Texas issued his Executive Order GA-34, regarding the opening of Texas, and which is effective state-wide until modified, amended, rescinded, or superseded by the Governor.

On April 5, 2021, the Governor of the State of Texas extended the State of Disaster for all counties in Texas due to the continuing COVID-19 pandemic.

**SPECIAL CONSIDERATIONS**

The Governor's Executive Order GA-34 supersedes any conflicting order issued by local officials in response to the COVID-19 disaster. This includes Mayors and City Councils. A local order may not restrict services allowed by the Governor's Order, and may not allow gatherings prohibited by the Governor's Order.

**FUNDING/FISCAL IMPACT**

**STAFF RECOMMENDATION**

## **BOARD OR COMMISSION RECOMMENDATION**

N/A

## **ATTACHMENTS:**

1. 18th Resolution Extending Declaration of Local Disaster COVID-19 REDLINE draft
2. EO-GA-34-opening-Texas-response-to-COVID-disaster-IMAGE-03-02-2021
3. proc04052021\_COVID
4. Disaster Declaration PPT

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL, CITY OF ABILENE, TEXAS, FURTHER MODIFYING ITS EXTENSION OF DECLARATION OF DISASTER (COVID-19) ISSUED ON APRIL 8~~MARCH 11~~, 2021.**

**WHEREAS**, on March 16, 2020, the Mayor of the City of Abilene, by proclamation, issued a Declaration of Local Disaster regarding COVID-19; and

**WHEREAS**, on March 23, 2020, the City Council issued its Resolution Renewing and Continuing the Mayor's Declaration of Disaster Issued on March 16, 2020, which prohibited the social gathering of more than 10 persons; and

**WHEREAS**, on March 30, 2020, the City Council issued its Resolution Modifying its Extension of Declaration of Disaster, which created a limited shelter in place through 11:59 p.m., April 14, 2020; and

**WHEREAS**, on April 13, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which continued the limited shelter in place through 11:59 p.m., April 30, 2020; and

**WHEREAS**, on April 30, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor's Executive Order GA-18; and

**WHEREAS**, on May 15, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor's Executive Order GA-21; and

**WHEREAS**, on June 1, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor's Executive Order GA-23, which was effective until June 25, 2020; and

**WHEREAS**, on June 25, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor's Executive Order GA-26, which was effective until July 23, 2020; and

**WHEREAS**, on July 23, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor's Executive Order GA-28, as amended, and Executive Order GA-29, which was effective until August 27, 2020; and

**WHEREAS**, on August 27, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which continued to adopt the regulations and restrictions issued in the Governor's Executive Order GA-28, as amended, and Executive Order GA-29, which was effective until September 24, 2020; and



**WHEREAS**, on September 24, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which continued the adopt the regulations and restrictions issued in the Governor’s Executive Order GA-29, and Executive Order GA-30, which was effective until October 22, 2020; and

**WHEREAS**, on October 22, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-29, and Executive Order GA-32, which was effective until November 19, 2020; and

**WHEREAS**, on November 19, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-29, and Executive Order GA-32, which was effective until December 17, 2020; and

**WHEREAS**, on December 17, 2020, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-29, and Executive Order GA-32, which was effective until January 14, 2021; and

**WHEREAS**, on January 14, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-29, and Executive Order GA-32, which was effective until February 11, 2021; and

**WHEREAS**, on February 11, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster, which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-29, and Executive Order GA-32, which was effective until March 11, 2021; and

**WHEREAS**, on March 11, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-34, which was effective until April 8, 2021; and

**WHEREAS**, on April 8, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor’s Executive Order GA-34, and which was effective until May 13, 2021; and

**WHEREAS**, on March 2, 2021, the Governor of the State of Texas issued his Executive Order GA-34, effective until it is modified, amended, rescinded, or superseded by the Governor, and which relates to the opening of Texas; and

**WHEREAS**, on April 5~~March 6~~, 2021, the Governor of the State of Texas renewed his disaster proclamation for all counties in Texas due to COVID-19 continuing a state of disaster; and

**WHEREAS**, because of the continuing risk of the rapid spread of the COVID-19 virus, the need to protect the most vulnerable members of the community, the intent to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services and commerce to continue, and the desire to slow the spread of COVID-19 to maximum extent possible, this Order is required; and

**WHEREAS**, this Order is issued based on evidence of the continuing occurrence of COVID-19 within the City of Abilene and Taylor County, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; and

**WHEREAS**, the City Council has determined that extraordinary and immediate measures must continue to be taken to respond quickly to prevent and slow down community spread of COVID-19 in the City of Abilene; and

**WHEREAS**, the City Council finds that it is in the public interest to authorize additional authority as described herein pursuant to the Texas Disaster Act of 1975, as amended, Texas Government Code, and provide rules to protect the health of persons in the City of Abilene, pursuant to the Texas Government Code and Texas Health and Safety Code.

**NOW THEREFORE, IT IS HEREBY RESOLVED AND DECLARED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

1. The foregoing recitals as incorporated herein and made findings of fact.
2. That the City Council, effective immediately, hereby renews and continues the local state of disaster for the City of Abilene, Texas, pursuant to Section 418.108(b) of the Texas Government Code.
3. Pursuant to Section 418.108(c) of the Government Code, this renewal and continuation of the declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. Pursuant to Section 418.108(d) of the Government Code, this renewal and continuation of the declaration of a local state of disaster continues activation of the emergency management plan for the City of Abilene. The furnishing of aid and assistance under the declaration is hereby authorized. The appropriate preparedness and response aspects of the plan are continued.
5. The use of all available resources of the City of Abilene that are reasonably necessary to cope with this disaster are hereby authorized.
6. To the extent permitted by law, any local ordinance or administrative rule prescribing the procedures for conduct of City business or any local ordinance or administrative rule that

would in any way prevent, hinder, or delay necessary action in coping with this disaster, including any local ordinance or administrative rule regarding contracting or procurement with would impede the City's emergency response necessary to cope with this declared disaster, are hereby suspended, but only for the duration of this declared local disaster and only for that limited purpose.

7. Pursuant to Section 418.108(g) of the Government Code, the City of Abilene may control ingress to and egress from a disaster area within the incorporated limits of the City of Abilene and control the movement of persons and the occupancy of premises in that area.
8. Pursuant to Section 122.006 of the Texas Health and Safety Code, the City of Abilene may adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease.
9. The intent of this Order is to protect the physical health and well-being of City of Abilene residents, to protect the financial health and well-being of City of Abilene residents and businesses, and to slow the spread of COVID-19 to the maximum extent possible while safeguarding the Constitutional liberties of City of Abilene residents by utilizing the least restrictive means possible and encouraging the highest level of personal responsibility.

All persons should follow the CDC recommended guidelines to protect themselves from exposure and to protect the public from further community spread.

10. The City of Abilene hereby adopts and incorporates herein Governor Greg Abbott's Executive Order GA-34, the same as if it were copied and set-forth at length herein. The City of Abilene will follow and enforce the conditions and restrictions as set forth in GA-34, and adopts and incorporates any further Proclamations modifying, amending or superseding GA-34 during the term of Abilene's declaration of local disaster.

The City Manager is authorized without further Council action to enforce these provisions to the fullest extent allowed by law.

11. In the event the Governor of the State of Texas amends or modifies his Executive Order GA-34, this Declaration and Order is automatically amended or modified without further Council action to reflect said amendments or modifications to the Governor's Executive Order. It being the express intent of the City Council and this Declaration and Order to follow the Governor's Executive Order.
12. All public, private and commercial laboratories operating within the City of Abilene and performing COVID-19 testing shall report by 5:00 p.m. each day for the prior 24-hour period to the Abilene-Taylor County Public Health District the following information:

- (a) The number of COVID-19 tests performed;

(b) The number of positive COVID-19 tests; and

(c) The patient names and demographic information of positive COVID-19 tests.

This information will be used solely for public health purposes to monitor the testing conducted in the City of Abilene, and mitigate and contain the spread of COVID-19.

13. That any City ordinance or regulation imposing a time requirement for payment, filing or appealing a decision, may be extended by the Mayor without further confirmation by the City Council.

14. That the Mayor may suspend or modify any other ordinance or regulation of the City of Abilene for a period of not more than seven days from the date of this resolution unless continued or renewed by the City Council.

15. That the City Manager or designee of the City Manager is authorized, without further approval of the City Council, to:

- (a) Make application for local, state and federal assistance as necessary and/or applicable;
- (b) Accept on behalf of the City services, gifts, grants, equipment, supplies, and/or materials whether from private, nonprofit, or governmental sources;
- (c) Enter into Interlocal cooperation agreements or memorandums of understanding with other cities, counties, or jurisdictions to provide for law enforcement assistance or other shared services to assist in this Resolution or the COVID-19 pandemic;
- (d) Contract for expenditures for budgeted items and emergency expenditures in an amount not to exceed \$250,000; and
- (e) Defer any fines or fees imposed by the City.

After cessation of this emergency and state of disaster, the City Manager shall provide the City Council a list of all actions taken under this paragraph.

16. That although not required by law and out of an abundance of caution, the City Manager is authorized to (and any prior acts in response to the COVID-19 pandemic are ratified):

- (a) Close, including closure to the public, of any City offices, facilities, or properties, including parks, playgrounds, or playground equipment; and
- (b) Provide city services by means other than in-person delivery, such as accepting permit applications online or by mail only, and/or to cease any city service that are not required by state or federal law.

17. That any ordinances, rules, or regulations of the City of Abilene, Texas, that conflict with this Resolution are hereby suspended, such suspension to remain in effect until the state of disaster is terminated or until there is a subsequent Resolution of this Council, whichever occurs first.
18. That pursuant to Section 418.020(d) of the Texas Government Code, the City of Abilene is authorized to:
  - (a) Temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims; and
  - (b) Enter into arrangements necessary to prepare or equip the site to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.
19. That failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
20. Pursuant to Section 418.173, Government Code, failure to comply with this Order is an offense punishable by a fine not to exceed \$1,000, except as otherwise provided in the Governor's Executive Order GA-34.
21. That any violation of this Resolution, Declaration and Order can be enjoined by the City of Abilene by a suit filed in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Resolution, Declaration and Order or in the Code of Ordinances, City of Abilene, Texas.
22. That nothing in this Resolution, Declaration and Order shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this Resolution.
23. All provisions of this Resolution, Declaration and Order should be interpreted to effectuate its intent.
24. That this Declaration and Order is effective immediately and continues until 11:59 p.m. June 10~~May 13~~, 2021 unless otherwise modified, terminated or extended.

25. That the terms and provisions of this Resolution, Declaration and Order shall be deemed to be severable and that if any section, subsection, sentence, clause, phrase or word herein shall be declared to be invalid or unconstitutional, the same shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word herein, and the remainder of this Resolution, Declaration and Order shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

ADOPTED this 13~~8~~th day of May~~April~~, 2021.

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

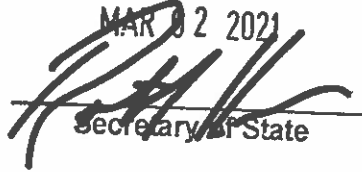


GOVERNOR GREG ABBOTT

March 2, 2021

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
1:15 PM O'CLOCK

MAR 02 2021

  
Secretary of State

The Honorable Ruth R. Hughs  
Secretary of State  
State Capitol Room 1E.8  
Austin, Texas 78701

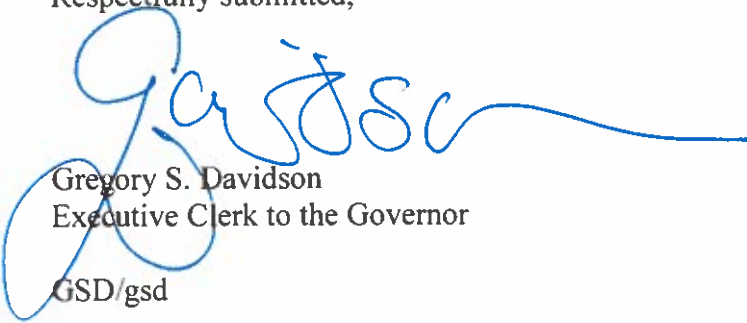
Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-34 relating to the opening of Texas in response to the  
COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

  
Gregory S. Davidson  
Executive Clerk to the Governor

GSD/gsd

Attachment

POST OFFICE BOX 12428 AUSTIN, TEXAS 78711 512-463-2000 (VOICE) DIAL 7-1-1 FOR RELAY SERVICES

# Executive Order

BY THE  
GOVERNOR OF THE STATE OF TEXAS

Executive Department  
Austin, Texas  
March 2, 2021

## EXECUTIVE ORDER GA 34

*Relating to the opening of Texas in response to the COVID-19 disaster.*

---

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, I issued Executive Order GA-08 on March 19, 2020, mandating social-distancing restrictions in accordance with guidelines promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC); and

WHEREAS, I subsequently issued a series of superseding executive orders aiming to achieve the least restrictive means of combatting the evolving threat to public health by adjusting social-distancing restrictions while implementing a safe, strategic plan to reopen Texas; and

WHEREAS, under Executive Order GA-32, in effect since October 14, 2020, most establishments have been able to operate up to at least 75 percent of total occupancy, except in some areas with high hospitalizations as defined in that order, where most establishments have been able to operate up to at least 50 percent of total occupancy; and

WHEREAS, I also issued Executive Order GA-29, regarding the use of face coverings to control the spread of COVID-19, and a series of executive orders, most recently GA-31, limiting certain medical surgeries and procedures; and

WHEREAS, COVID-19 hospitalizations and the rate of new COVID-19 cases have steadily declined due to the millions of Texans who have voluntarily been vaccinated, many more who are otherwise immune, improved medical treatments for COVID-19 patients, abundant supplies of testing and personal protective equipment, and Texans' adherence to safe practices like social distancing, hand sanitizing, and use of face coverings; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting ... the dangers to the state and people presented by

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
1:15pm O'CLOCK

MAR 02 2021



disasters” under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the “governor may issue executive orders ... hav[ing] the force and effect of law;”

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, and in accordance with guidance from medical advisors, do hereby order the following on a statewide basis effective at 12:01 a.m. on March 10, 2021:

1. In all counties not in an area with high hospitalizations as defined below:
  - a. there are no COVID-19-related operating limits for any business or other establishment; and
  - b. individuals are strongly encouraged to wear face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household, but no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering.

“Area with high hospitalizations” means any Trauma Service Area that has had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of total hospital capacity exceeds 15 percent, until such time as the Trauma Service Area has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of total hospital capacity is 15 percent or less. A current list of areas with high hospitalizations will be maintained at [www.dshs.texas.gov/ga3031](http://www.dshs.texas.gov/ga3031).

2. In any county located in an area with high hospitalizations as defined above:
  - a. there are no state-imposed COVID-19-related operating limits for any business or other establishment;
  - b. there is no state-imposed requirement to wear a face covering; and
  - c. the county judge may use COVID-19-related mitigation strategies; provided, however, that:
    - i. business and other establishments may not be required to operate at less than 50 percent of total occupancy, with no operating limits allowed to be imposed for religious services (including those conducted in churches, congregations, and houses of worship), public and private schools and institutions of higher education, and child-care services;
    - ii. no jurisdiction may impose confinement in jail as a penalty for violating any order issued in response to COVID-19; and
    - iii. no jurisdiction may impose a penalty of any kind for failure to wear a face covering or failure to mandate that customers or employees wear face coverings, except that a legally authorized official may act to enforce trespassing laws and remove violators at the request of a business establishment or other property owner.
3. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) is strongly encouraged to use good-faith efforts and available resources to follow the Texas Department of State Health Services (DSHS) health recommendations, found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus).
4. Nothing in this executive order precludes businesses or other establishments from requiring employees or customers to follow additional hygiene measures, including the wearing of a face covering.
5. Nursing homes, state supported living centers, assisted living facilities, and long-

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
1:15 PM O'CLOCK  
MAR 02 2021

term care facilities should follow guidance from the Texas Health and Human Services Commission (HHSC) regarding visitations, and should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible.

6. Public schools may operate as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency. Private schools and institutions of higher education are encouraged to establish similar standards.
7. County and municipal jails should follow guidance from the Texas Commission on Jail Standards regarding visitations.
8. Executive Orders GA-17, GA-25, GA-29, and GA-31 are rescinded in their entirety.
9. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order or allows gatherings restricted by this executive order. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.
10. All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for violating the executive orders. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes Executive Orders GA-17, GA-25, GA-29, GA-31, and GA-32, but does not supersede Executive Orders GA-10 or GA-13. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 2nd  
day of March, 2021.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
1:15pm O'CLOCK

MAR 02 2021

ATTESTED BY:



---

RUTH R. HUGHS  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
1:15pm O'CLOCK

MAR 02 2021



GOVERNOR GREG ABBOTT

April 5, 2021

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10Am O'CLOCK

APR 05 2021  
  
Secretary of State

The Honorable Ruth R. Hughs  
Secretary of State  
State Capitol Room 1E.8  
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation renewing the declaration stating that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in Texas.

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson  
Executive Clerk to the Governor  
GSD/gsd

Attachment

POST OFFICE BOX 12428 AUSTIN, TEXAS 78711 512-463-2000 (VOICE) DIAL 7-1-1 FOR RELAY SERVICES



# PROCLAMATION

BY THE

## Governor of the State of Texas

---

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have issued proclamations renewing the disaster declaration for all Texas counties; and

WHEREAS, the Commissioner of the Texas Department of State Health Services, Dr. John Hellerstedt, has determined that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, a state of disaster continues to exist in all counties due to COVID-19;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for all counties in Texas.

Pursuant to Section 418.017, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 5th day of April, 2021.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10AM O'CLOCK

APR 05 2021

Governor Greg Abbott  
April 5, 2021

Proclamation  
Page 2

ATTESTED BY:



RUTH R. HUGHS  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10 AM O'CLOCK  
APR 05 2021

Resolution:  
**Modifying & Extending the  
Local Disaster Declaration**



# Questions?







**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Honorable Mayor and City Council Members**

**FROM: Robert Hanna, City Manager**

**SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Execute an Agreement with the Abilene Chamber of Commerce, Abilene Cultural Affairs Council, and Abilene Convention and Visitors Bureau for the Management and use of the Hotel Occupancy Taxes. (Robert Hanna)**

---

**GENERAL INFORMATION**

The City seeks to enter into a new agreement for the management and use of Hotel Occupancy Taxes pursuant to Chapter 351.101(c) of the Texas Tax Code. The City of Abilene has operated under an agreement with the Chamber and the Chamber affiliates, the Abilene Convention and Visitor's Bureau, and the Abilene Cultural Affairs Council since 1981. This Agreement shall be effective and binding upon parties beginning October 1, 2021, and shall remain in effect until September 30, 2026 subject to early termination. Hotel occupancy tax revenues shall only be expended in accordance with authorized budget appropriations, and only on those items that are specifically enumerated in the Authorizing Legislation. Hotel occupancy taxes spent for a purpose allowed by the Authorizing Legislation may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a) of the Authorizing Legislation. Hotel occupancy tax revenues payable under this Agreement will be paid on a reimbursement basis.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

### **STAFF RECOMMENDATION**

Authorize City Manager to execute agreement

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. RESOLUTION\_\_ city and chamber hotel occupancy tax
2. Presentation Hotel Occupancy Agreement Chamber
3. FINAL 2021 HOT AGREEMENT

RESOLUTION \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE ABILENE CHAMBER OF COMMERCE, ABILENE CULTURAL AFFAIRS COUNCIL, AND ABILENE CONVENTION AND VISITORS BUREAU FOR THE MANAGEMENT AND USE OF HOTEL OCCUPANCY TAXES.**

**WHEREAS**, the City of Abilene collects Hotel Occupancy Taxes pursuant to Chapter 351.101(c) of the Texas Tax Code.

**WHEREAS**, the City of Abilene has operated under an agreement with the Chamber and the Chamber affiliates, The Abilene Convention and Visitors Bureaus, and the Abilene Cultural Affairs Council since 1981.

**WHEREAS**, the Hotel occupancy tax revenues shall only be expended in accordance with authorized budget appropriations, and only on those items that are specifically enumerated in the Authorizing Legislation.

**WHEREAS**, Hotel occupancy tax revenues payable under this Agreement will be paid on a reimbursement basis. The Chamber shall provide the City a monthly invoice for expenditures allowed under the Authorizing Legislation and this Agreement. The City shall review the invoice for compliance with the Authorizing Legislation and this Agreement, and promptly pay the Chamber for invoiced expenses within thirty (30) days of receipt of the invoice.

**WHEREAS**, This Agreement shall be effective and binding upon parties beginning October 1, 2021, and shall remain in effect until September 30, 2026 subject to early termination.

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

Part 1: The City Manager is hereby authorized to execute an agreement with the Abilene Chamber of Commerce, Abilene Cultural Affairs Council, and Abilene Convention and Visitors Bureaus for the management and use of Hotel Occupancy Taxes.

Part 2: This Resolution shall take effect immediately from and after passage.

**ADOPTED** and approved by the City Council on the 13<sup>th</sup> of May, 2021.

**ATTEST:**

\_\_\_\_\_  
**Shawna Atkinson**  
City Secretary

\_\_\_\_\_  
**Anthony Williams**  
Mayor

**APPROVED:**

---

**Stanley Smith**  
**City Attorney**

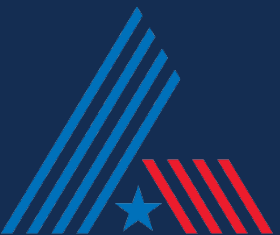
# Agreement Abilene Chamber of Commerce, Abilene Cultural Affairs Council, and Abilene Convention and Visitors Bureau for Management and Use of Hotel Occupancy Taxes



# Management and Use of Hotel Occupancy Taxes

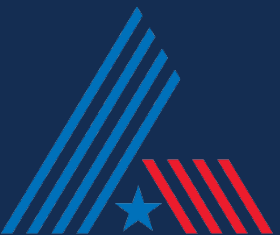
The City seeks to enter into a new agreement for the management and use of Hotel Occupancy Taxes pursuant to Chapter 351.101(c) of the Texas Tax Code. The City of Abilene has operated under an agreement with the Chamber and the Chamber affiliates, the Abilene Convention and Visitor's Bureau, and the Abilene Cultural Affairs Council since 1981.

This Agreement shall be effective and binding upon parties beginning October 1, 2021, and shall remain in effect until September 30, 2026 subject to early termination.

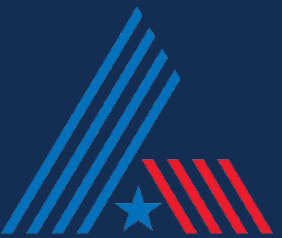


# Management and Use of Hotel Occupancy Taxes

- Hotel occupancy tax revenues shall only be expended in accordance with authorized budget appropriations, and only on those items that are specifically enumerated in the Authorizing Legislation.
- Hotel occupancy taxes spent for a purpose allowed by the Authorizing Legislation may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a) of the Authorizing Legislation.
- Hotel occupancy tax revenues payable under this Agreement will be paid on a reimbursement basis.



# QUESTIONS?





**AN AGREEMENT BETWEEN THE CITY OF ABILENE, ABILENE CHAMBER OF  
COMMERCE, ABILENE CULTURAL AFFAIRS COUNCIL, AND ABILENE CONVENTION  
AND VISITORS BUREAU FOR THE MANAGEMENT AND USE OF HOTEL  
OCCUPANCY TAXES**

This Agreement is entered into between the City of Abilene, a Texas Home Rule Municipality (the “City”), and the Abilene Chamber of Commerce, a Texas non-profit corporation (the “Chamber”) pursuant to Chapter 351 of the Texas Tax Code as amended from time to time (the “Authorizing Legislation”). In furtherance of the purposes of the Authorizing Legislation, and in consideration of the mutual covenants in this Agreement, the City and the Chamber agree as follows:

1.) Purpose. The City seeks to enter into a new agreement for the management and use of Hotel Occupancy Taxes pursuant to Chapter 351.101(c) of the Texas Tax Code. The City of Abilene has operated under an agreement with the Chamber and the Chamber affiliates, the Abilene Convention and Visitor’s Bureau, and the Abilene Cultural Affairs Council since 1981.

2.) Term. This Agreement shall be effective and binding upon parties beginning October 1, 2021, and shall remain in effect until September 30, 2026 subject to early termination as described below. The City may renew this Agreement under the same terms and conditions for an additional five (5) year term by providing sixty (60) days written notice to the Chamber before the completion of the initial term.

This Agreement may not be amended during the term of the agreement without the written consent of both parties. The Chamber may not assign this Agreement in whole, or in part to another party without the written consent of the City.

3.) Notice. Except as otherwise expressly provided for in this Agreement, any written notice regarding the terms and conditions of this Agreement shall be delivered, or sent by United States mail to:

Abilene Chamber of Commerce  
President  
P.O. Box 2281, Abilene, TX 79604

The Chamber is required to notify the City in writing of any address change. Unless otherwise noted in this Agreement, any notice is deemed given when received.

4.) Budget Approval Required. The Chamber shall submit the Abilene Convention and Visitors Bureau (the "ACVB"), and the Abilene Cultural Affairs Council (the "ACAC") proposed annual budgets by June 1 of each and every year of this Agreement. The City Manager shall review the proposed budgets and make a recommendation to the City Council to amend, approve, or reject the budgets as submitted. In the event the City Manager recommends the budget as submitted by the Chamber should be amended or rejected, the City and the Chamber mutually agree to work together to resubmit a budget for Council approval within thirty (30) days. The City Council shall resolve all disputes between the City and the Chamber in regard to the budget.

5.) Regular Reporting Required. The Chamber shall provide the City quarterly reports in a format acceptable to the City listing expenditures made using hotel occupancy tax revenues.

6.) No Commingling of Funds. The Chamber shall keep all hotel occupancy tax revenue that may be retained for future use as authorized under this Agreement in a separate bank account established for that purpose, and may not commingle hotel occupancy tax revenue with any other money.

7.) Financial Recordkeeping. The Chamber shall keep and maintain complete and accurate financial records in accordance with generally accepted accounting principles, subject to any variations required by State law, or are otherwise agreed to in writing by the City.

The Chamber shall account separately for the hotel occupancy tax revenue received through this Agreement, and expenditures made as authorized in this Agreement.

On request from the City Manager or his designee, the Chamber shall make the records relating to the handling and expenditure of hotel occupancy taxes available to the City.

The Chamber shall engage an independent firm of certified public accountants to audit its annual financial statements and shall deliver to the City Manager a copy of its audited annual financial statements, consisting of a statement of financial

position, a statement of changes in financial position, and notes to the financial statements, no later than 120 days after the end of each Fiscal Year.

The notes or supplemental information of the audited annual financial statements shall contain a detailed breakdown of revenues by source and expenditures by category. In addition to the audited annual financial statements, upon request, the Chamber shall deliver a copy of all supporting documents that underlie the audited annual financial statements.

8.) Authorized Expenses Only. Hotel occupancy tax revenues shall only be expended in accordance with authorized budget appropriations, and only on those items that are specifically enumerated in the Authorizing Legislation.

Contract administration fees are authorized as approved by the annual budget, and only to the extent that the contract administration fees are directly related to expenses authorized in Chapter 351.101(a) of the Authorizing Legislation.

Hotel occupancy taxes spent for a purpose allowed by the Authorizing Legislation may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a) of the Authorizing Legislation.

9.) Payment of Hotel Occupancy Taxes. Hotel occupancy tax revenues payable under this Agreement will be paid on a reimbursement basis. The Chamber shall provide the City a monthly invoice for expenditures allowed under the Authorizing Legislation and this Agreement. The City shall review the invoice for compliance with the Authorizing Legislation and this Agreement, and promptly pay the Chamber for invoiced expenses within thirty (30) days of receipt of the invoice.

The City shall maintain a hotel occupancy fund balance equal to twenty-five (25%) percent of authorized annual appropriations for all hotel occupancy tax expenses authorized and appropriated for the fiscal year, including but not limited to expenses authorized for use by the City and the Chamber.

The Chamber may request to maintain funding for conventions, and other eligible events that have signed agreements and associated committed obligations for a future period of forty-eight (48) months in advance of the then proposed fiscal year. For example, the approved budget for FY 2021, may contain advanced funding

appropriations for signed agreements and associated committed obligations up to FY 2025.

The Chamber may request to maintain funding or seek funding in advance for contractual commitments related to grants, performer fees, artist fees, advertising, marketing and other eligible events and items that have a signed agreement and associated committed obligations for a future period no longer than twenty-four (24) months in advance of the then proposed fiscal year.

Such requests for hotel occupancy tax shall be appropriated and set aside for Chamber use as part of the annual budget submittal and approval process. Such obligations and set asides will be clearly identified and accounted for in the annual budget and said funds will be held by the Chamber in accordance with the Authorizing Legislation and this Agreement.

Annual reimbursements to the Chamber shall not exceed fifty (50%) percent of actual hotel occupancy tax collections for any given fiscal year for activities attributed to the Abilene Convention and Visitors Bureau, provided that those hotel occupancy tax revenues set aside for future obligations as outlined above do not count towards the maximum reimbursement calculation.

Annual reimbursements to the Chamber shall not exceed fifteen (15%) percent of actual hotel occupancy tax collections for any given fiscal year for activities attributed to the Abilene Cultural Affairs Council, provided that those hotel occupancy tax revenues set aside for future obligations as outlined above do not count towards the maximum reimbursement calculation.

10.) Early Termination. Either party may terminate this Agreement by written notice to the other party if such other party breaches any of its obligations hereunder and does not cure such breach within 30 days after receiving written demand from the other party specifying the breach in question and demanding that it be cured. Such right to terminate this Agreement shall be without prejudice to the other legal and equitable rights of the parties.

11.) Cooperation. Upon expiration or termination of this Agreement for any reason, the Chamber shall cooperate with the City to ensure a smooth transition and completion of the expenses authorized for that fiscal year as approved in the annual budget. The Chamber shall promptly, but not more than sixty (60) days following termination, turn over to the City without charge all unspent hotel

occupancy tax as well as all other City contributed revenues funds, and all property purchased with hotel occupancy taxes or City provided funds and, upon request, shall assign to the City all contracts, rights and claims relating to the expenses authorized in the annual budget. Termination of this Agreement shall not impair the rights of the City under state law or under any other contract between the City and the Chamber.

12.) Contract Administration. This Agreement shall be administered by the City through the City Manager or his or her designee, and all communications from the Chamber to the City concerning this Agreement shall be directed to the City Manager, unless otherwise specified in writing.

13.) Qualifying Hotel Project – In the event a Qualifying Hotel Project as contemplated under Section 351 of the Tax Code is constructed in the City of Abilene, the parties agree that the State local and hotel occupancy tax revenues derived from the project will be used for the repayment of debt associated with the project and other eligible expenses of the project, and the State and local hotel occupancy taxes revenues derived by the project shall not be allocated for use by the Chamber or its affiliate agencies named in this Agreement.

IN WITNESS WHEREOF, the City and the Chamber have caused this Agreement to be executed and delivered by their duly authorized representatives as of the dates specified below.

CITY OF ABILENE, TEXAS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ABILENE CHAMBER OF COMMERCE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Robert Hanna, City Manager**

**FROM: Mike Rains, Finance Director**

**SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Finding That AEP Texas Inc.'s Application to Amend It's Distribution Cost Recovery Factors to Increase Distribution Rates Within the City Should Be Denied; Authorizing Participation With the Cities Served By AEP Texas; Authorizing Hiring of Legal Counsel; Finding that the City's Reasonable Rate Case Expenses Shall Be Reimbursed by the Company; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of this Resolution to the Company and Legal Counsel (*Mike Rains*)**

---

**GENERAL INFORMATION**

On April 6, 2021, AEP Texas Inc. filed an application to amend its Distribution Cost Recovery Factors (DCRF) to increase electric distribution rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of approximately \$54.56 million (an approximate \$2.60 increase to the average residential customer's bill from the rates just approved in the Company's rate case).

This resolution denies the proposed rates; authorizes the City to join with the Cities Served by AEP ("Cities") to evaluate the filing; authorizes the hiring of the firm of Lloyd Gosselink and consultants to negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation; finds that reasonable rate case expenses shall be reimbursed in full by AEP; directs a copy of this resolution to be submitted to the firm of Lloyd Gosselink and AEP.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

Any expenses incurred by legal counsel and consultants approved by Cities Served by AEP will be reimbursed by AEP.

### **STAFF RECOMMENDATION**

Staff recommends approval.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. Resolution - Denial of AEP Texas Rate Increase
2. Powerpoint - Resolution Denying AEP's Distribution Rate Increase and Authorizing Participation in Cities Served by AEP

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF ABILENE, TEXAS FINDING THAT AEP TEXAS INC.'S APPLICATION TO AMEND ITS DISTRIBUTION COST RECOVERY FACTORS TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH THE CITIES SERVED BY AEP TEXAS; AUTHORIZING HIRING OF LEGAL COUNSEL; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

**WHEREAS**, the City of Abilene, Texas ("City") is an electric utility customer of AEP Texas Inc. ("AEP" or "Company"), and a regulatory authority with an interest in the rates and charges of AEP; and

**WHEREAS**, the City is a member of the Cities Served by AEP ("Cities"), a membership of similarly situated cities served by AEP that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in AEP's service area; and

**WHEREAS**, on or about April 6, 2021 AEP filed with the City an Application to Amend its Distribution Cost Recovery Factor ("DCRF"), PUC Docket No. 51984, seeking to increase electric distribution rates by approximately \$54.56 million (an approximately \$2.60 increase to the average residential customer's bill from the rates just approved in the Company's rate case); and

**WHEREAS**, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted; and

**WHEREAS**, Cities are coordinating its review of AEP's DCRF filing with designated attorneys and consultants to resolve issues in the Company's application; and

**WHEREAS**, Cities members and attorneys recommend that members deny the DCRF.

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

Section 1. That the City is authorized to participate with Cities in PUC Docket No. 51984.

Section 2. That subject to the right to terminate employment at any time, the City of hereby authorizes the hiring of the law firm of Lloyd Gosselink and consultants to negotiate with



the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.

Section 3. That the rates proposed by AEP to be recovered through its DCRF charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

Section 4. That the Company shall continue to charge its existing rates to customers within the City.

Section 5. That the City's reasonable rate case expenses shall be reimbursed in full by AEP within 30 days of presentation of an invoice to AEP.

Section 6. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

Section 7. That a copy of this Resolution shall be sent to Leila Melhem, American Electric Power Service Corporation, 400 West 15<sup>th</sup> Street, Suite 1520, Austin, Texas 78701 and to Thomas Brocato, General Counsel to the Cities, at Lloyd Gosselink Rochelle & Townsend, 816 Congress Ave., Suite 1900, Austin, Texas 78701.

**PASSED AND APPROVED** this 13<sup>th</sup> day of May, 2021.

\_\_\_\_\_  
Anthony Williams, Mayor

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Stanley Smith, City Attorney

**A Resolution** Finding That AEP Texas Inc.'s Application to Amend It's Distribution Cost Recovery Factors to Increase Distribution Rates Within the City Should Be Denied; Authorizing Participation With the Cities Served By AEP Texas; Authorizing Hiring of Legal Counsel; Finding that the City's Reasonable Rate Case Expenses Shall Be Reimbursed by the Company; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of this Resolution to the Company and Legal Counsel



A Resolution Finding That AEP Texas Inc.'s Application to Amend It's Distribution Cost Recovery Factors to Increase Distribution Rates Within the City Should Be Denied; Authorizing Participation With the Cities Served By AEP Texas; Authorizing Hiring of Legal Counsel; Finding that the City's Reasonable Rate Case Expenses Shall Be Reimbursed by the Company; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of this Resolution to the Company and

- On April 6, 2021, AEP Texas Inc. filed an application to amend its Distribution Cost Recovery Factors (DCRF) to increase distribution rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of approximately \$54.56 million (an approximate \$2.60 increase to the average residential customer's bill from the rates just approved in the Company's rate case).
- This resolution authorizes the City to join with the Cities Served by AEP ("Cities") to participate in the filing; authorizes the hiring of the law firm of Lloyd Gosselink and consultants to negotiate with the Company, make recommendations, and direct any administrative proceedings or court litigation; denies the requested rate increase; and requires submittal of this Resolution to AEP and Lloyd Gosselink.
- Any costs incurred in responding to this rate increase will be reimbursed by AEP.





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Cande Flores, Fire Chief

**SUBJECT:** 8. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the Execution of a Purchase Contract with Benchmark Business Solutions, Inc. for the Purchase of (20) Panasonic CF-33 Toughbooks *(Cande Flores)*

---

**GENERAL INFORMATION**

The Abilene Fire Department (AFD) utilizes laptops for mobile medical documentation. The current devices are Panasonic CF-20 Toughbooks. The CF-20 Toughbooks were purchased in April of 2016. These devices are out of warranty and are in need of replacement.

The CF-33 Toughbook is an upgraded model with a larger screen and keyboard. The CF-33 model will also match existing equipment utilized in AFD apparatus and fleet vehicles.

**SPECIAL CONSIDERATIONS**

The AFD has trialed different laptop makes and models and has found that the Panasonic Toughbook is the most durable device to fit our needs. The Panasonic Toughbook has a proven history of use with both the Abilene Fire Department and the Abilene Police Department.

**FUNDING/FISCAL IMPACT**

The total cost of this purchase is \$79,600.00. Funding will come from the AFD Apparatus

Replacement Fund.

This contract includes DIR Pricing which reflects best pricing and does not require this item to be competitively bid.

### **STAFF RECOMMENDATION**

Staff recommends approval of the Resolution to authorize the execution of the purchase contract.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. Resolution - CF-33 Purchase
2. Quote SQ11524
3. CF-33 Specs with Quote
4. Toughbook Purchase Presentation

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE CONTRACT WITH BENCHMARK BUSINESS SOLUTIONS, INC. FOR THE PURCHASE OF (20) PANASONIC CF-33 TOUGHBOOKS FOR THE ABILENE FIRE DEPARTMENT.

**WHEREAS**, the Abilene Fire Department (AFD) utilizes Panasonic Toughbooks for mobile medical documentation.

**WHEREAS**, Benchmark Business Solutions, Inc. is an approved vendor for the City of Abilene and utilizes DIR Pricing.

**WHEREAS**, the AFD current Panasonic CF-20 Toughbooks are five (5) years old, out of warranty, and are in need of replacement.

**WHEREAS**, \$79,600.00 will be funded through the AFD Apparatus Replacement Fund.

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

Part 1: The City Manager is hereby authorized to execute a Purchase Contract with Benchmark Business Solutions, Inc. for the purchase of (20) Panasonic CF-33 Toughbooks.

Part 2: This Resolution shall take effect immediately from and after passage.

**ADOPTED** and approved by the City Council on the 13<sup>th</sup> of May, 2021.

**ATTEST:**

\_\_\_\_\_  
**Shawna Atkinson**  
City Secretary

\_\_\_\_\_  
**Anthony Williams**  
Mayor

**APPROVED:**

\_\_\_\_\_  
**Stanley Smith**  
City Attorney



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              |            |             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|------------------------------|------------|-------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              |            |             |
| Customer: City of Abilene                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                 | Benchmark Business Solutions |            |             |
| Contact: Tracey Freeman                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                 | Created by: Ryan DeMent      |            |             |
| Date: 04/09/2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                 | Expires: 04/20/2021          |            |             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              |            |             |
| Win10 Pro, Intel Core i5-7300U 2.60GHz, vPro, 12.0" QHD Gloved Multi Touch+Digitizer, 16GB, 256GB SSD, Intel WiFi a/b/g/n/ac, TPM 2.0, Bluetooth, Dual Pass (Ch1:WWAN/Ch2:WWAN-GPS), 4G LTE-Advanced Multi Carrier (EM7455), Infrared Webcam, 8MP Cam, Contactless SmartCard, Flat, No Energy Star / EPEAT, Toughbook Preferred, Bundle, Premium Keyboard,FZ-SVCTPUCNF5Y - Ultimate Care Protection - Tablet PC (Years 1,2,3,4 & 5), CF-SVCPDEP5Y - Toughbook & Toughpad Premier Deployment - Includes image deployment |                                                 |                              |            |             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              |            |             |
| Item #                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Description                                     | Qty.                         | Price      | Amount      |
| CF-33AF-01VM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | CF33 - AMANDA SKU - i5, 16GB, 256GB SSD         | 20                           | \$3,980.00 | \$79,600.00 |
| CF-SVCLTUCAPOS2Y                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Ultim Care Protection Years 4 and 5 - CF models | 20                           | \$0.00     | \$0.00      |
| CF-SVCPUPCUPW1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | PROPLUS TO ULTIM CARE 12 MO TOUGHBOOK           | 20                           | \$0.00     | \$0.00      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              | Sub Total: | \$79,600.00 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              | Shipping   | \$0.00      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              | Tax:       | \$0.00      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                 |                              | Total:     | \$79,600.00 |



# Panasonic Toughbook Purchase

**ABILENE FIRE DEPARTMENT**

May, 2021



# AFD LAPTOPS

- AFD utilizes laptops for several mobile operations
  - Mounted in all fire apparatus and fleet response vehicles
    - Receive and review incident data
    - Update unit and incident status using the touchscreen features
    - GPS tracking and route assistance
  - Utilized by paramedics for mobile incident reporting
    - ESO mobile EMS records system
    - Allows on-scene reporting and information recall for repeat patients
  - Utilized for Pre-Fire Planning
    - Allows personnel to update information on the go
    - Camera used to capture building features and hazards
  - Utilized for daily/weekly inventory checks
    - EMS equipment
    - Apparatus equipment



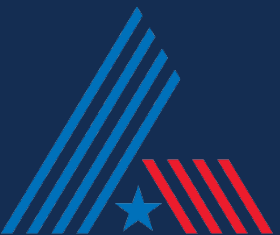
# CURRENT TOUGHBOOKS

- Model CF-33
  - Mounted in fire apparatus and fleet response vehicles
  - Purchased in 2019
- Model CF-20
  - Mobile laptop utilized for:
    - EMS reporting
    - Equipment/Inventory checks
    - Pre-Fire Planning
  - Similar to a CF-33 with minor differences:
    - Smaller screen
    - Smaller keyboard
    - Smaller size can be a plus but it has also shown some durability issues



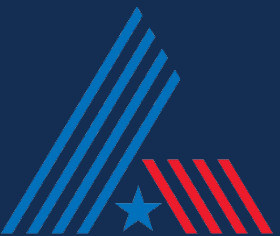
# REPLACEMENT JUSTIFICATION

- CF-20 current inventory was purchased in 2016
- Wear and tear is extensive and units are occasionally damaged
- All CF-20s are now out of warranty
- Any damage requires the unit to be sent off for repairs – Minimum charge of \$300.00
- Replacements are going to be model CF-33
  - Allows for greater inventory flexibility
  - All AFD Toughbooks will be of the same model
  - Screens and keyboards are larger but the unit is still lightweight
  - No durability issues to date with current CF-33 inventory

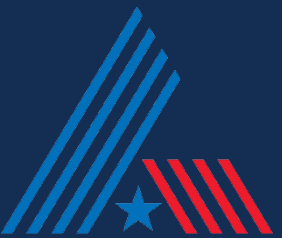


# PURCHASE AND FUNDING

- Vendor is Benchmark Business Solutions, Inc.
  - Utilize Texas Department of Information Resources (DIR) Pricing
  - Competitive Bidding is not required
- Purchase coordinated through COA IT Department
- Total Purchase Price: \$79,600.00
- Funding will come from the AFD Apparatus Replacement Fund



# Questions?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Lesli Andrews, Director

**SUBJECT:** 9. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Sign a Lease Agreement with Betty Hardwick Center for the Adaptive Recreation Building (Lesli Andrews)

---

**GENERAL INFORMATION**

The City of Abilene had to close the Adaptive Recreation Program in March of 2020 due to COVID. In December of 2020 the City Council approved closing the Adaptive Recreation Program indefinitely with the hopes of finding an outside organization to manage the program. Betty Hardwick Center approached the City interested in offering the Adaptive Recreation Program. Through some great conversations the City of Abilene and Betty Hardwick Center would like to enter into a lease agreement for the Adaptive Recreation building located in Rose Park to manage and offer an adult Adaptive Recreation Program.

**SPECIAL CONSIDERATIONS**

Annual lease amount of \$1 for an initial term lease of (1) one year with an automatic extension of (5) five years.

First right of refusal for daily use of Rose Gym before 3:00PM, except days when gym is needed for the Summer Recreation Program.

Use of a parking lot for secured storage of vehicles.

**FUNDING/FISCAL IMPACT**

Revenue of \$1 annually.

### **STAFF RECOMMENDATION**

Staff recommends approval of the agreement between the City of Abilene and Betty Hardwick Center.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. 5\_13\_21 Resolution Betty Hardwick Center- Adaptive Recreation
2. Presentation - City and Betty Hardwick Center Lease Agreement Adaptive Recreation



**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH  
BETTY HARDWICK CENTER FOR THE ADAPTIVE RECREATION BUILDING TO OFFER  
AN ADULT ADAPTIVE RECREATION PROGRAM**

**WHEREAS**, the City of Abilene closed the Adaptive Recreation Program in March of 2020; and

**WHEREAS**, the City Council wanted to explore having an outside organization manage the Adaptive Recreation Program in the Adaptive Recreation Building; and

**WHEREAS**, Betty Hardwick Center approached the City as an interested organization; and

**WHEREAS**, the City seeks to enter into a lease agreement with Betty Hardwick Center; and

**WHEREAS**, the lease agreement is for \$1 annually.

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

Part 1: The City Manager is hereby authorized to enter into a lease agreement with Betty Hardwick Center for the Adaptive Recreation building to offer an adult Adaptive Recreation Program.

Part 2: That this Resolution shall take effect immediately from and after passage.

**ADOPTED this 13th day of May 2021.**

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

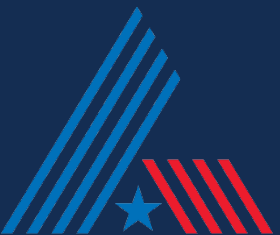
\_\_\_\_\_  
Stanley Smith, City Attorney

# Resolution: City and Betty Hardwick Center Lease Agreement Adaptive Recreation Building



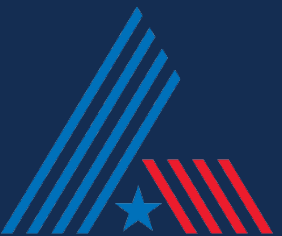
# Request for City Manager to Enter Into Lease Agreement with Betty Hardwick Center

- Facility primary use is to maintain and conduct an adult adaptive recreation program
- Lease amount \$1 annually
- Exclusive use of parking lot for locked storage of vehicles
- First right of refusal for use of Rose Gym daily until 3:00PM, except during City of Abilene Summer Recreation program needs





# Questions?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Lesli Andrews, Director

**SUBJECT:** **10. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Accepting Proposal# CB-2128 for the Asbestos Abatement and Demolition of Cesar Chavez Recreation Center (*Lesli Andrews*)

---

**GENERAL INFORMATION**

The Cesar Chavez Recreation Center located in South Park was used as a recreation center from 1978, until its closing in August of 2014 due to structural failure. The building can not be made operational without significant dollars invested in the facility. The City would like to enter into a contract with AML Environmental to abate the existing asbestos and demolish the building.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

Funding for the asbestos abatement and demolition will come from the MIP fund. Contract amount is \$97,200.

**STAFF RECOMMENDATION**

Staff recommends approval.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

1. 5\_13\_21 Resolution AML Environmental Cesar Chavez (3)
2. 5\_13\_21 AML Environmental Contract
3. Presentation - City and AML Environmental Demo Cesar Chavez Recreation Center (1)  
(1)

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AML  
ENVIRONMENTAL FOR THE ASBESTOS ABATEMENT AND DEMOLITION OF CESAR  
CHAVEZ RECREATION CENTER**

**WHEREAS**, the City of Abilene closed the Cesar Chavez Recreation Center in August of 2014; and

**WHEREAS**, in April of 2021 Requests for Proposals were received for Asbestos Abatement and Demolition of Cesar Chavez; and

**WHEREAS**, three Requests for Proposals were received; and

**WHEREAS**, AML Environmental was selected at a cost of \$97,200.00.

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

Part 1: The City Manager is hereby authorized to enter into a contract with AML Environmental for asbestos abatement and demolition of Cesar Chavez Recreation Center.

Part 2: That this Resolution shall take effect immediately from and after passage.

**ADOPTED this 13th day of May 2021.**

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney





## **CONTRACT**

This contract, dated the 13th day of May, 2021, is between the City of Abilene ("City"), a home rule municipal corporation of the State of Texas and AML Environmental ("Contractor"), a Company organized under the laws of the State of Texas.

### **I. TERMS**

In consideration of \$97,200.00, 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 60 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>            |
|----------------------------|--------------------------|
| X 1. Workers' Compensation | Statutory                |
| Employer's Liability       | \$100,000 per occurrence |

- ☒ **2. Commercial (Public) Liability** \$500,000 combined single  
including, but not limited to:  
• Premises/Operations  
• Independent Contractors  
• Products/Completed Operations  
• Contractual Liability  
(insuring above indemnity)  
and where the exposures exist  
• Explosion Collapse and Underground  
limit for bodily injury  
and property damage  
(per occurrence)
- ☒ **3. Business Automobile Liability** \$500,000 combined single  
to include coverage for:  
• Owned/Leased Autos  
• Non-Owned Autos  
• Hired Cars  
limit for bodily injury  
and property damage  
(per occurrence)
- ☐ **4. Professional Liability** \$500,000 combined single limit  
(per occurrence)
- ☐ **5. See Addendum for Special  
Coverages and/or revisions**
- ☐ **6. No Insurance Required**

#### **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: Lesli Andrews, Director of Community Services  
P.O. Box 60  
Abilene, Texas 79604-0060

or to Contractor at:

ATTN: Trey Yarbrough, Owner  
P.O. Box 3556  
Abilene, Texas 79604

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

CONTRACTOR

By:

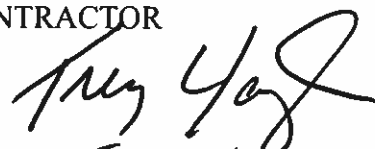
By:

Name:

Name:

Title:

Title:



TREY YARBROUGH

OWNER

ATTEST:

\_\_\_\_\_  
City Secretary

Federal Tax ID#:

APPROVED:

By: \_\_\_\_\_

City Attorney

Corporate Seal if applicable

## **ATTACHMENT A**

### **Scope of Work**

All specifications for Asbestos Abatement/Demolition at Cesar Chavez Recreation Center located in South Park at 1002 Cherry Street included in Request For Proposal.

## ATTACHMENT B

### PAYMENT SCHEDULE

#### OPTION 1 \_\_\_\_

Compensation is based on actual hours of work/time devoted to providing the described professional services and will be paid at a rate of \$Click or tap here to enter text. per hour not to exceed \$Click or tap here to enter text..

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 X

Payment is in a lump sum amount of \$ 97,200.00 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: City to Accept Proposal from AML Environmental for Demolition of Cesar Chavez Recreation Center





# **Request for City to Accept Proposal from AML Environmental for Asbestos Abatement and Demolition of Cesar Chavez Recreation Center**

- Facility closed in 2014 due to structural failure
- Contract amount \$97,200



# Questions?



03.15.2011



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Gregory McCaffery

**SUBJECT:** 11. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2130 to Flat Line, Inc. on Downtown Pavement Marking Project (Greg McCaffery)

---

**GENERAL INFORMATION**

This Project was advertised as a Public Notice on April 11, 2021, and on April 18, 2021 with a bid opening dated April 27, 2021. This contract includes the removal and replacement of pavement marking located within the Central Business District.

**SPECIAL CONSIDERATIONS**

This project has a contract completion time of 30 working days (approx. 1.5 months, weather permitting), with means for the contractor to return for work on two separate phases, thereby approximately half of the downtown area being completed as the concrete improvement project is being addressed.

**FUNDING/FISCAL IMPACT**

Funding for this project is allocated through 2015 Bond funds.

**STAFF RECOMMENDATION**

Staff recommends bid award to Flat Line, Inc. for \$508,503.00.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

1. REV\_Downtown resolution
2. Signed\_Contract\_Flat Line - Downtown Marking council contract
3. REV\_Downtown\_CB2130 TABSHEET
4. Scope of Project
5. location map
6. REV3\_downtown ppt (1)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDING  
BID TO FLAT LINE, INC., CHILDRESS, TEXAS**

**WHEREAS**, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the removal and replacement of pavement markings within the Central Business District.; and

**WHEREAS**, the City of Abilene has utilized the “Best Value” competitive bidding method in determining the award of the contract; and,

**WHEREAS**, the following bids were received and opened on the April 27, 2021:

|                                   |              |
|-----------------------------------|--------------|
| Flat Line, Inc., Childress, Texas | \$508,503.00 |
|-----------------------------------|--------------|

**WHEREAS**, Flat Line, Inc., Childress, Texas submitted the best value bid in the amount of \$508,503.00 with the bid meeting specifications. Staff recommends awarding the bid to the best value bidder, Flat Line, Inc., Childress, Texas.

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

PART 1:        That the City Council approves this bid in the amount of \$ 508,503.00.

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

**ADOPTED** this 13<sup>th</sup> day of May, 2021.

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

# CONSTRUCTION CONTRACT

## BACKGROUND

THIS CONTRACT, made on the 13th day of May, 2021 is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Flat Line Inc. of the City of Childress, 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 --

### DOWNTOWN PAVEMENT MARKING PROJECT

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 \$508,503.00 (Five hundred eight thousand five hundred three 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 in 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.

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.

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.

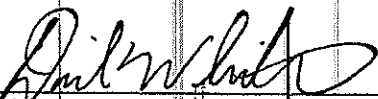


IN WITNESS HERE OF, the parties hereto have executed this contract:

**CONTRACTOR**

Name of Contractor:

Flat Line Inc.

  
Signature

David Whitaker  
Name - Typed or Printed

President  
Title - Typed or Printed

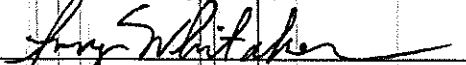
Business Address:

6255 US Hwy 287  
Childress, TX 79201

806 470 6658  
Business Phone No.

75-2833090  
Federal Tax I.D.#

ATTEST: (If Corporation)

  
Corporate Secretary's Signature

Corporate Seal  
(if none, write "None") none

**CITY OF ABILENE**

\_\_\_\_\_  
Authorized Signature

APPROVED:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Secretary

Seal: \_\_\_\_\_

**CITY OF ABILENE  
PURCHASING DIVISION  
TABULATION OF BIDS**

PAGE  
1 OF 1

**DEPARTMENT:** ENGR  
**BID NO.:** CB-2130  
**TIME OF OPENING:** 11:00 A.M.  
**DATE OF OPENING:** APRIL 27, 2021

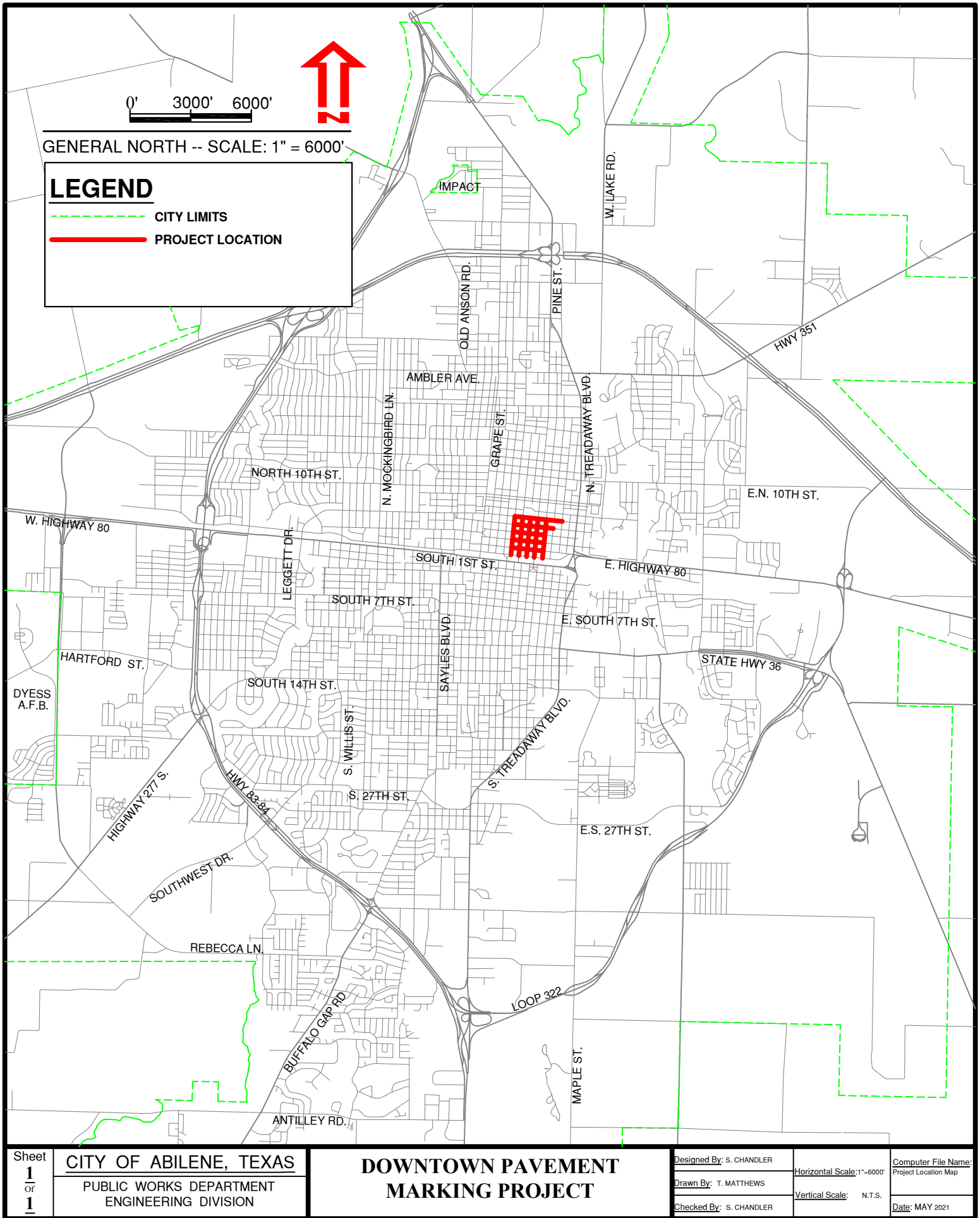
FLAT LINE INC

| ITEM      | DESCRIPTION                       | QTY | UNIT | UNIT PRICE | EXTENSION  | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION |
|-----------|-----------------------------------|-----|------|------------|------------|------------|-----------|------------|-----------|------------|-----------|------------|-----------|------------|-----------|
| 1.        | DOWNTOWN PAVEMENT MARKING PROJECT |     |      |            | 508,503.00 |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
| BASE BID  |                                   |     |      |            | 508,503.00 |            |           |            |           |            |           |            |           |            |           |
| DISCOUNT  |                                   |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
| TOTAL BID |                                   |     |      |            | 508,503.00 |            |           |            |           |            |           |            |           |            |           |

\*NOTES: INDICATES RECOMMENDED AWARD

## **SCOPE OF PROJECT**

This construction contract involves the removal of any existing pavement markers within the project area, as well as placement of the new pavement marking plan for the central business district. This project area includes all blocks, excluding N 1<sup>st</sup> St from N 1<sup>st</sup> St to N 6<sup>th</sup> St and from Hickory St to Walnut St also including some blocks at the edge of the boundary in order to remove unnecessary tapers meant to line vehicles up with previous pavement markings.



# Agenda Item: Downtown Pavement Marking Project

**Resolution: Bid Award #CB-2130 Downtown  
Pavement Marking Project**

*(McCaffery)*



**LEGEND**

- CITY LIMITS
- PROJECT LOCATION

**SHEET 1 OF 1**

**CITY OF ABILENE, TEXAS**

PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION

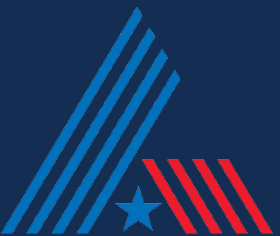
**DOWNTOWN PAVEMENT MARKING PROJECT**

|                          |                           |                       |
|--------------------------|---------------------------|-----------------------|
| Designed By: S. CHANDLER | Horizontal Scale: 1"=400' | Computer File Name:   |
| Drawn By: T. BETHUNE     | Vertical Scale: N.T.S.    | Project Location Map: |
| Checked By: S. CHANDLER  | Date: MAY 2001            |                       |

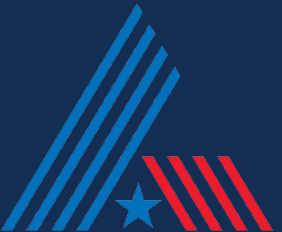
# **Agenda Item:**

## **Downtown Pavement Marking Project**

- Construction Contract includes the removal and replacement Pavement Markings within the Central Business District.
- Project Advertised April 11<sup>th</sup> 2021 & April 18<sup>th</sup> 2021, Bids Opened April 27<sup>th</sup> 2021.
- One bid was received.
- Staff recommends award of bid to Flat Line, Inc. in the amount of \$508,503.00



# Questions?







**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Gregory McCaffery

**SUBJECT:** 12. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding Bid No. 2131 to Flat Line, Inc. on Crosswalk Pavement Marking Replacements (Greg McCaffery)

---

**GENERAL INFORMATION**

This Project was advertised as a Public Notice on April 11, 2021, and on April 18, 2021 with a bid opening dated April 27, 2021. This contract includes the removal and replacement of crosswalks and railroad crossings located in various intersections across the City of Abilene.

**SPECIAL CONSIDERATIONS**

This project has a contract completion time of 30 working days (approx. 1.5 months, weather permitting)

**FUNDING/FISCAL IMPACT**

Funding for this project is allocated through Street Maintenance funds.

**STAFF RECOMMENDATION**

Staff recommends bid award to Flatline, Inc. for \$293,584.00.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

1. REV\_Crosswalks resolution
2. Signed\_Contract\_Flat Line - Crosswalk council contract
3. REV\_Crosswalks\_CB2131 TABSHEET
4. Scope of Project
5. Project Location
6. REV\_Crosswalk ppt

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDING  
BID TO FLAT LINE, INC., CHILDRESS, TEXAS**

**WHEREAS**, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the removal and replacement of crosswalks and railroad crossings in various location throughout the City of Abilene.; and

**WHEREAS**, the City of Abilene has utilized the “Best Value” competitive bidding method in determining the award of the contract; and,

**WHEREAS**, the following bids were received and opened on the April 27, 2021:

|                                   |              |
|-----------------------------------|--------------|
| Flat Line, Inc., Childress, Texas | \$293,584.00 |
|-----------------------------------|--------------|

**WHEREAS**, Flat Line, Inc., Childress, Texas submitted the best value bid in the amount of \$293,584.00 with the bid meeting specifications. Staff recommends awarding the bid to the best value bidder, Flat Line, Inc., Childress, Texas.

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

PART 1:        That the City Council approves this bid in the amount of \$ 293,584.00.

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

**ADOPTED** this 13<sup>th</sup> day of May, 2021.

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

# CONSTRUCTION CONTRACT

## BACKGROUND

THIS CONTRACT, made on the 13th day of May, 2021 is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Flat Line Inc. of the City of Childress, 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 --

### CROSSWALK PAVEMENT MARKING REPLACEMENTS

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 \$293,584.00 (Two hundred ninety-three thousand five hundred eighty-four 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 in 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.

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.

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 HERE OF, the parties hereto have executed this contract:

**CONTRACTOR**

Name of Contractor:

Flat Line Inc.



Signature

David Whitaker

Name - Typed or Printed

President

Title - Typed or Printed

Business Address:

6255 US Hwy 287

Childress, TX 79201

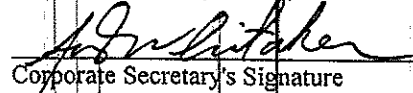
806 470 6658

Business Phone No.

75 2833090

Federal Tax I.D.#

ATTEST: (If Corporation)

  
Corporate Secretary's Signature

Corporate Seal

(if none, write "None") none

**CITY OF ABILENE**

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal: |

**CITY OF ABILENE  
PURCHASING DIVISION  
TABULATION OF BIDS**

PAGE  
1 OF 1

**DEPARTMENT:** ENGR  
**BID NO.:** CB-2131  
**TIME OF OPENING:** 11:00 A.M.  
**DATE OF OPENING:** APRIL 27, 2021

FLAT LINE INC

| ITEM      | DESCRIPTION                             | QTY | UNIT | UNIT PRICE | EXTENSION  | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION |
|-----------|-----------------------------------------|-----|------|------------|------------|------------|-----------|------------|-----------|------------|-----------|------------|-----------|------------|-----------|
| 1.        | CROSSWALK PAVEMENT MARKING REPLACEMENTS |     |      |            | 293,584.00 |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
|           |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
| BASE BID  |                                         |     |      |            | 293,584.00 |            |           |            |           |            |           |            |           |            |           |
| DISCOUNT  |                                         |     |      |            |            |            |           |            |           |            |           |            |           |            |           |
| TOTAL BID |                                         |     |      |            | 293,584.00 |            |           |            |           |            |           |            |           |            |           |

\*NOTES: INDICATES RECOMMENDED AWARD

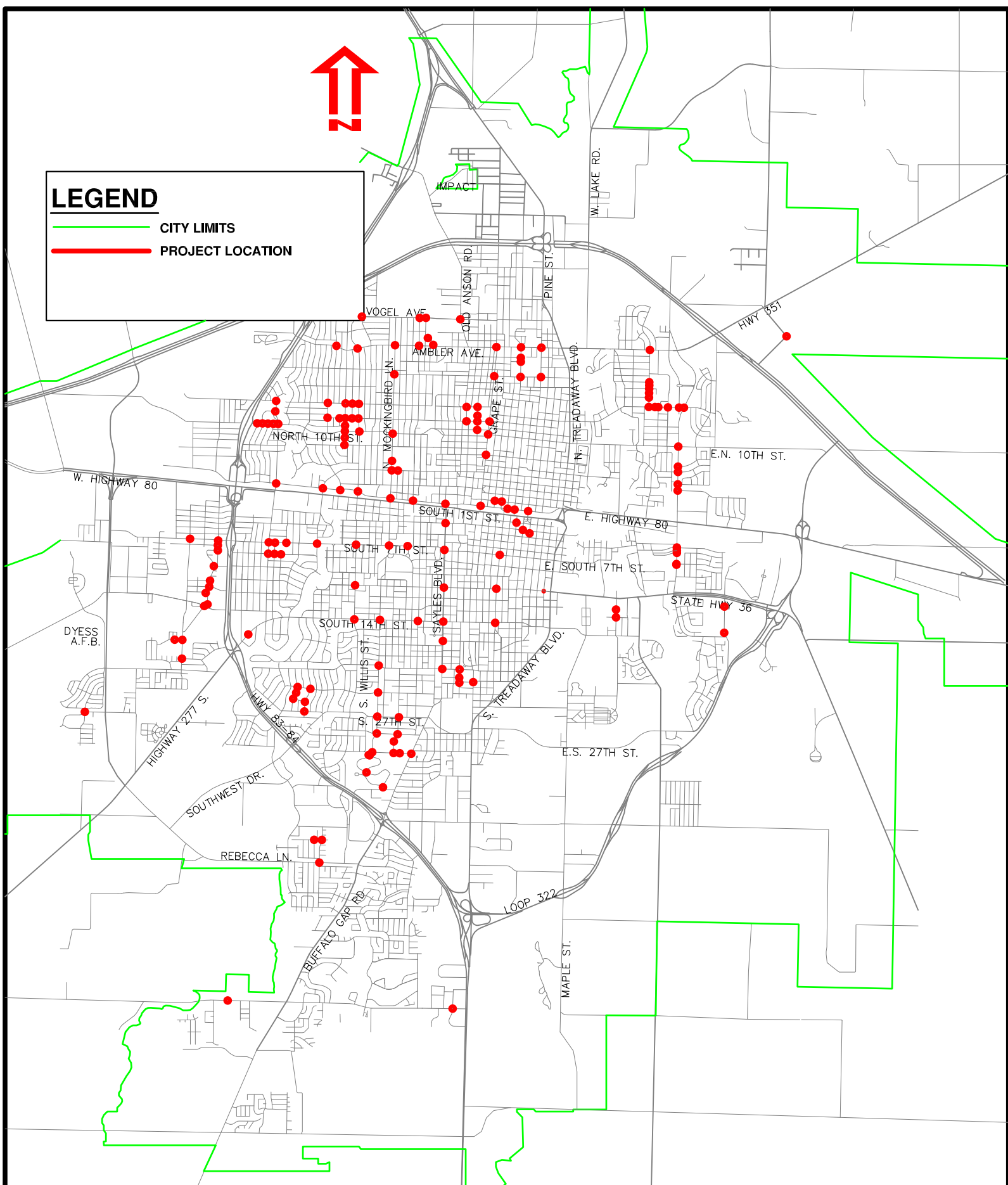


## **SCOPE OF PROJECT**

This construction contract involves the removal and replacement of existing crosswalks in various locations throughout the City of Abilene. This contract will also include the removal and replacement of several stop bars, school zone lines, yield lines, and railroad advanced warning symbols.

# LEGEND

- CITY LIMITS
- PROJECT LOCATION



# Agenda Item: Crosswalk Pavement Marking Replacements

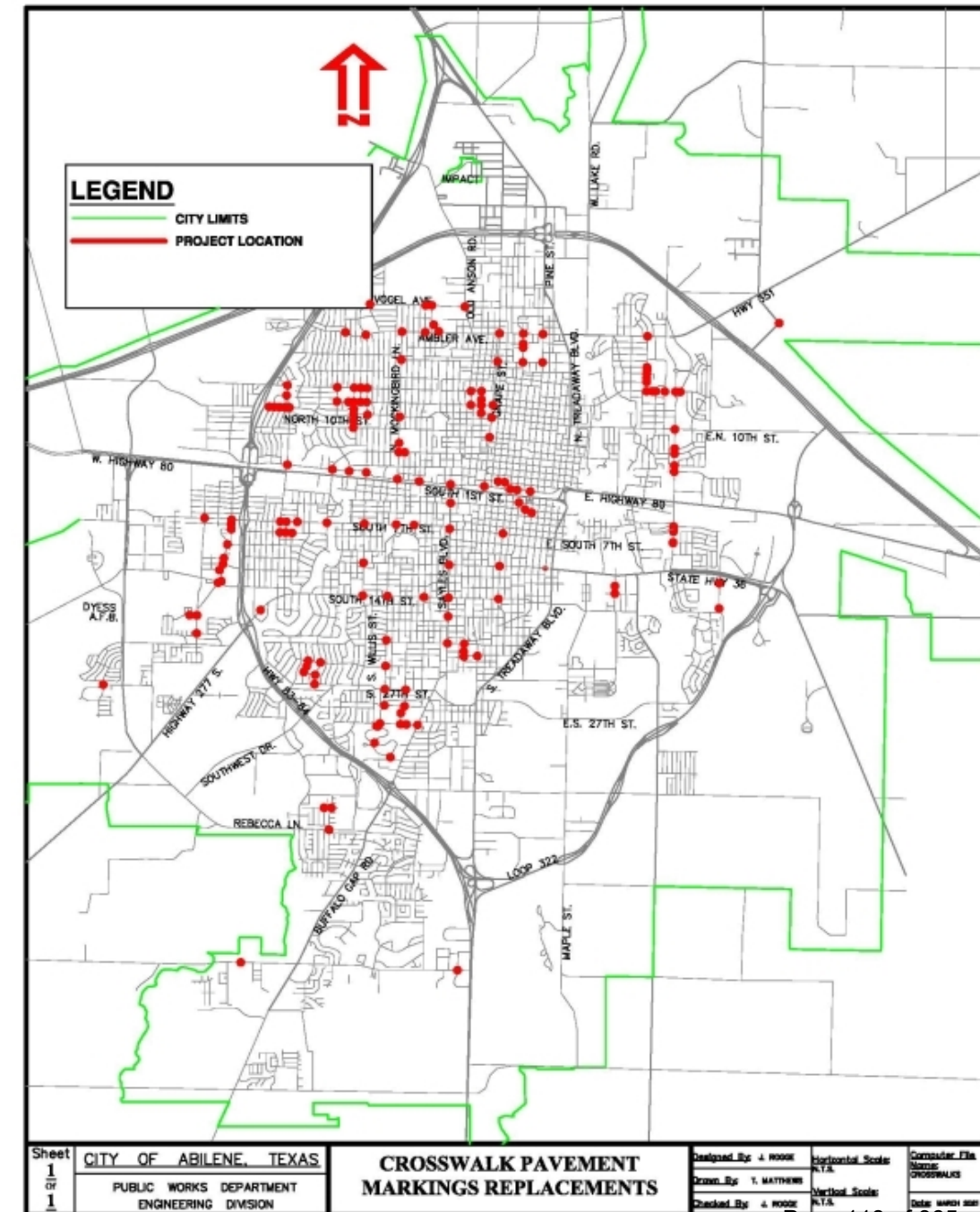
**Resolution: Bid Award #CB-2131 Crosswalk  
Pavement Marking Replacements**

*(McCaffery)*



# Crosswalk Pavement Marking Replacements

| NORTH INTERSECTIONS                 |                                   |
|-------------------------------------|-----------------------------------|
| VOGEL & MIMOSA                      | N 12TH & BEL AIR                  |
| VOGEL & SHELTON                     | N 12TH & MINTER                   |
| VOGEL & WESTMORELAND                | N 12TH & BEECHWOOD                |
| VOGEL & OLD ANSON                   | N 12TH & WILLIS                   |
| MUSGRAVE & E LAKE                   | N 12TH & CLINTON                  |
| SEARS PARK ENTRANCE @ WESTMORELAND  | N 12TH & MERCHANT                 |
| SEARS PARK ENTRANCE @ AMBLER        | N 12TH & GRAPE                    |
| AMBLER & YORKTOWN                   | MINTER & N 11TH                   |
| AMBLER & WILLIS                     | MERCHANT & N 11TH                 |
| AMBLER & MOCKINGBIRD                | N 10TH & BOWIE                    |
| AMBLER & SHELTON                    | N 10TH & N SAN JOSE               |
| AMBLER & GRAPE                      | N 10TH & LA SALLE                 |
| AMBLER & HICKORY                    | N 10TH & JEFFERSON                |
| AMBLER & PINE                       | N 10TH & PIONEER                  |
| AMBLER & CAMPUS CT                  | N 10TH & MINTER                   |
| HICKORY & N 21ST                    | N 10TH & WILLIS                   |
| HICKORY & COMPERE                   | N 10TH & MOCKINGBIRD              |
| N 18TH & MOCKINGBIRD                | N 10TH & GRAPE                    |
| N 18TH & GRAPE                      | EN 10TH & JUDGE ELY               |
| N 18TH & HICKORY                    | MINTER & N 9TH                    |
| N 18TH & PINE                       | MINTER & STATE                    |
| CAMPUS CT & EN 19TH                 | GRAPE & N 8TH                     |
| CAMPUS CT BTW EN 18TH & EN 19TH     | N JUDGE ELY & RUSSWOOD            |
| CAMPUS CT & EN 18TH                 | N JUDGE ELY & PIEDMONT            |
| CAMPUS CT BTW EN 19TH & COLLEGE     | MOCKINGBIRD BTW AHS GYM & PARKING |
| CAMPUS CT & COLLEGE                 | MOCKINGBIRD & N 6TH               |
| N 14TH & PIONEER                    | N JUDGE ELY & MUSKEN              |
| N 14TH & GLENDALE                   | N JUDGE ELY & SAN JACINTO         |
| N 14TH & MINTER                     | N 2ND & BEECH                     |
| N 14TH & BEECHWOOD                  | N 2ND & ORANGE                    |
| N 14TH & WILLIS                     | N 1ST & PIONEER                   |
| N 14TH & CLINTON                    | N 1ST & LEGGETT                   |
| N 14TH & MERCHANT                   | N 1ST & WESTWOOD                  |
| EN 16TH & CAMPUS CT                 | N 1ST & WILLIS                    |
| EN 16TH @ CHURCH & THEATRE          | N 1ST & MOCKINGBIRD               |
| EN 16TH & WASHINGTON                | N 1ST & SHELTON                   |
| EN 16TH & AVE F                     | N 1ST & GRAHAM                    |
| EN 16TH @ SOCCER FIELD              | N 1ST & GRAPE                     |
| EN 16TH & JUDGE ELY                 | N 1ST & HICKORY                   |
| PIONEER & N SAN JOSE                | N 1ST & CEDAR                     |
| MERCHANT @ MARTINEZ SCHOOL ENTRANCE | N 1ST & PINE                      |
| N 12TH & GLENDALE                   |                                   |

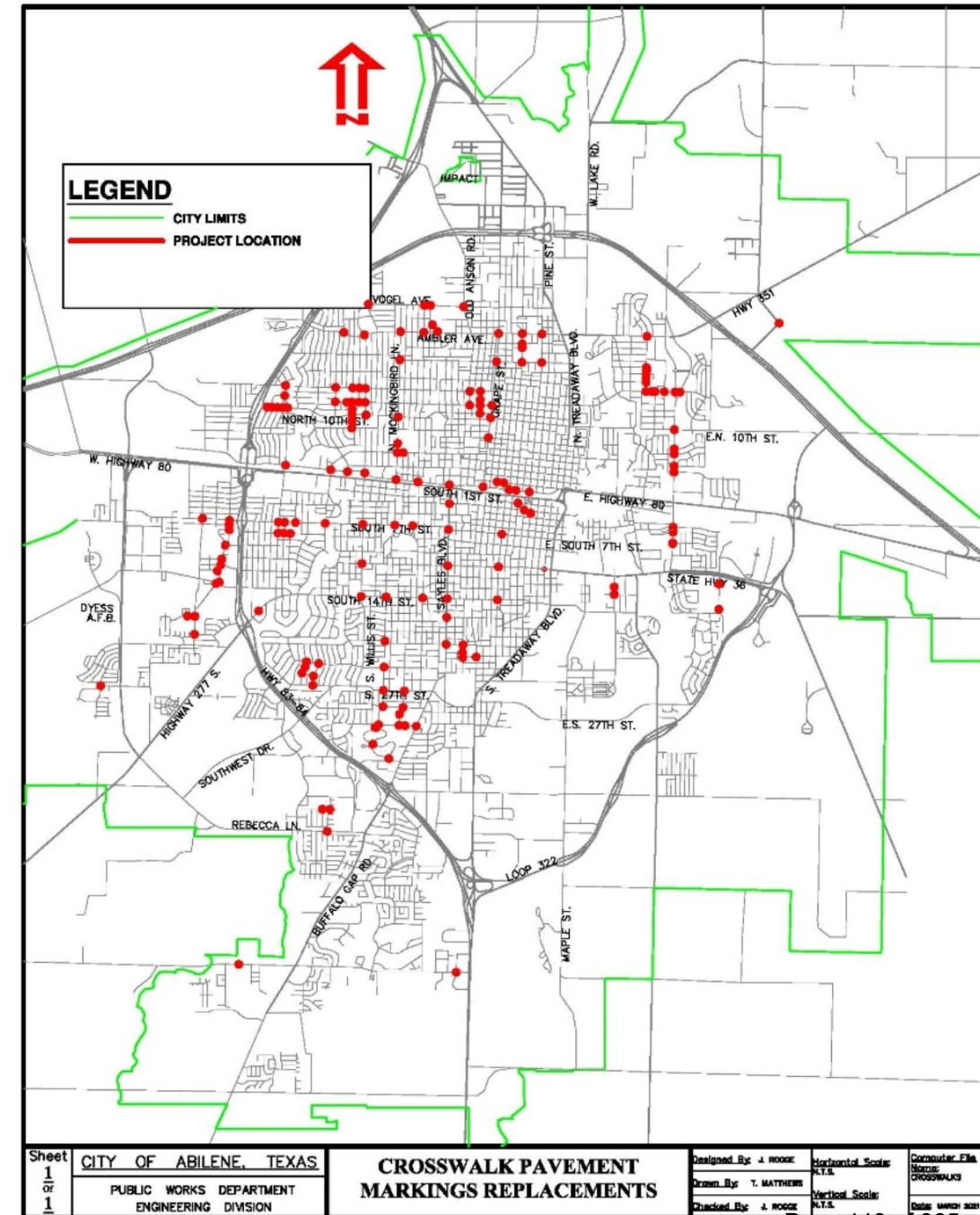




# Crosswalk Pavement Marking Replacements

## SOUTH INTERSECTIONS

|                                    |                                    |
|------------------------------------|------------------------------------|
| S 2ND & SYCAMORE                   | S 14TH & SAYLES                    |
| S 3RD & SAYLES                     | S 14TH & BUTTERNUT                 |
| S 3RD & CHESTNUT                   | EXPO @ GATE C                      |
| OAK BTW NEW AND OLD COURT HOUSES   | S 14TH @ WOODHAVEN SHOPPING CENTER |
| JUDGE ELY & MINDA                  | SAGEHEN RIDGE @ CLACK MS ENTRANCE  |
| JUDGE ELY & LUZON                  | SAGEHEN RIDGE & CORSICANA          |
| JUDGE ELY & PROF BYNUM             | S 17TH & SAYLES                    |
| S 7TH & CORSICANA                  | CORSICANA & ALAMO                  |
| S 7TH & ALAMEDA                    | S 20TH & BARROW                    |
| S 7TH & PIONEER                    | S 20TH & SAYLES                    |
| S 7TH & BUCCANEER                  | S 20TH & VINE                      |
| S 7TH & OXFORD                     | OVER & VINE                        |
| S 7TH & LEGGETT                    | S 21ST & VINE                      |
| S 7TH & WILLIS                     | S 21ST & JEANETTE                  |
| S 7TH & BARROW                     | GREENBRIAR & S 23RD                |
| S 7TH BTWN ROSE PARK AND ARBOR APT | ELMWOOD & S 23RD                   |
| S 7TH & SAYLES                     | BARROW & S 23RD                    |
| S 7TH & BUTTERNUT                  | GREENBRIAR @ AUSTIN ELEMENTRY      |
| ALAMEDA & PUEBLO                   | GREENBRIAR & S 25TH                |
| ALAMEDA & SHENANDOAH               | ELMWOOD & S 25TH                   |
| POTOMAC & PIONEER                  | ELMWOOD & BROOKHOLLOW              |
| POTOMAC & BUCCANEER                | JENNINGS & DELEWARE                |
| POTOMAC & WESTRIDGE                | S 27TH & BARROW                    |
| JUDGE ELY & FRIARS                 | S 27TH & MARSHALL                  |
| JUDGE ELY @ CRAIG EXIT             | EDGEMONT & BARROW                  |
| PRESIDIO & SPRINGBROOK             | EDGEMONT & MARSHALL                |
| PRESIDIO & BENBROOK                | MARSHALL @ JACKSON PARKING LOT     |
| S 11TH & WILLIS                    | S 32ND & BARROW                    |
| S 11TH & SAYLES                    | S 32ND & MARSHALL                  |
| S 11TH & BUTTERNUT                 | S 32ND @ JACKSON ENTRANCE          |
| PRESIDIO & FAIRMONT                | S 32ND BUFFALO GAP (SOUTH)         |
| PRESIDIO & WALDEMAR                | RED BUD N ENTRANCE @ TRAIL RAMPS   |
| EXPO @ GATE 2                      | RED BUD RD BTW LOOPS               |
| LAKE SIDE @ N ENTRANCE THOMAS ELEM | RED BUD S ENTRANCE @ TRAIL         |
| LAKE SIDE & BYNUM                  | PAINTBRUSH & CARRIE ANNE           |
| PRESIDIO @ REAGAN ENTRANCE         | PAINTBRUSH & BRUCE                 |
| HARTFORD & ANDY                    | REBECCA & BRUCE                    |
| S 14TH & WILLIS                    | ANTILLEY @ WYLIE HIGH GRAVEL ROAD  |
| S 14TH & BARROW                    | ANTILLEY & DIRECTORS               |
| S 14TH & ROSS                      |                                    |

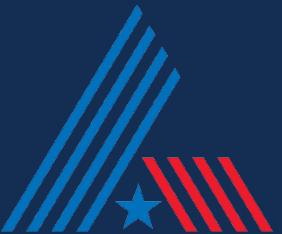


# **Agenda Item: Crosswalk Pavement Marking Replacements**

- Construction Contract includes the removal and replacement of crosswalks in various location throughout the City.
- Project Advertised April 11<sup>th</sup> 2021 & April 18<sup>th</sup> 2021, Bids Opened April 27<sup>th</sup> 2021.
- One bid was received.
- Staff recommends award of bid to Flat Line, Inc. in the amount of \$293,584.00



# Questions?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Gregory McCaffery

**SUBJECT:** 13. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Approve an Extended Term Street Use License with ABI 173, Inc. (*Greg McCaffery*)

---

**GENERAL INFORMATION**

ABI 173, Inc., have submitted an application for an Extended Term Street Use License to use a portion of City right-of-way along the east right-of-way on Walnut Street and the south right-of-way on North 2<sup>nd</sup> Street. The applicant wishes to build and maintain two metal framed enclosures with shade top for outdoor patio seating for the Ice House at Lone Star Dry Goods.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

**STAFF RECOMMENDATION**

Staff has reviewed this request and recommends that the City Council authorize the City Manager to execute the attached Extended Term Street Use License with ABI 173, Inc. for use of a portion of the City's right-of-way on Walnut Street and North 2<sup>nd</sup> Street.

**BOARD OR COMMISSION RECOMMENDATION**



**ATTACHMENTS:**

1. Resolution (2)
2. OwnerSignedAgreement
3. Presentation2020

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENDED TERM STREET USE  
LICENSE WITH ABI 173, INC.**

**WHEREAS**, the applicant has submitted an Extended Term Street Use License application for the construction and maintenance of two metal framed enclosures with shade top for outdoor patio seating along the east right-of-way on Walnut Street and the south right-of-way on North 2<sup>nd</sup> Street; and

**WHEREAS**, this application and Extended Term Street Use License have been reviewed and approved by City Staff.

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

PART 1: That the City Manager is hereby authorized to execute the Extended Term Street Use License with ABI 173, Inc.

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

**ADOPTED** this 13th day of May, 2021.

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

THE STATE OF TEXAS

STREET USE LICENSE AGREEMENT  
EXTENDED TERM

COUNTY OF TAYLOR

THIS STREET USE LICENSE AGREEMENT, hereinafter referred to as "License", executed this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2021, by and between the CITY OF ABILENE, a municipal corporation situated in Taylor and Jones Counties, Texas, hereinafter referred to as "City", and ABI 173, Inc., hereinafter referred to as "Licensee".

WITNESSETH:

That City, pursuant to Chapter 29, "Streets and Sidewalks", Article V, "Street Use License", does hereby grant to Licensee the privilege of using the following described public property, to-wit:

*-A portion of City right-of-way along the east side of Walnut Street and the south side of North 2<sup>nd</sup> Street.*

for and in consideration of THREE HUNDRED AND NO/100 (\$300.00) DOLLARS, commencing the date of execution unless otherwise specified, and upon the conditions and covenants set forth in this License and in Exhibit A incorporated by reference for all purposes herein.

I. Purpose:

The purpose of this License is to permit Licensee to:

*To build and maintain two metal framed 8' x 18' enclosure(s) with shade top made of solarmesh for outdoor patio seating for patrons for the Ice House at Lone Star Dry Goods*

II. 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.

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

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

"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:

injury or damage to any property or right

injury, damage, or death to any person or entity

attorneys fees, witness fees, expert witness fees and expenses, and

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 part that is unmixed with the fault of any other person or entity.

#### **B. Indemnity**

The Licensee agrees to indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Licensee's occupancy or use of the premises described above and/or activities conducted in connection with this License.

Licensee must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Licensee'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 Licensee or Licensee's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects which may now exist or which may hereafter arise on the premises, whether or not caused in whole or in part by improvements constructed by the Licensee. Responsibility for all such defects is expressly assumed by the Licensee.

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

BOTH CITY AND LICENSEE EXPRESSLY INTEND THIS LICENSE'S INDEMNITY PROVISION TO REQUIRE LICENSEE 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.

### III. Insurance

Licensee agrees to secure and maintain the following types and amounts of insurance, for the term of this license:

| <u>Type</u>                                                                    | <u>Amount</u>                                         |
|--------------------------------------------------------------------------------|-------------------------------------------------------|
| Comprehensive General Liability to include (but not limited to) the following: | \$250,000 ----- Per Person                            |
| a) Premises/Operations Coverage                                                | \$500,000 ----- Per Occurrence for Bodily Injury, and |
| a) Contractual Liability Coverage                                              | \$100,000 ----- Per Occurrence for Property Damage    |

The preceding insurance requirements notwithstanding, the City reserves the right to revise the types and amounts of insurance required by this License prior to the approval of the License or if License is in effect, to be effective thirty (30) days after notice is sent to the address provided herein.

All insurance policies or certificates shall contain the following provisions:

- a. That the City of Abilene, Texas, is named as an additional insured.
- b. That such insurance shall not be cancelled or materially changed without a minimum of thirty (30) day's advance notice in writing to the City.

All insurance policies shall be subject to the examination and approval of the Office of the City Attorney, City of Abilene, Texas, for their adequacy as to form and content, form of protection, and insurance company. Licensee shall furnish to City Secretary for her License file certificates or copies of the policies, plainly and clearly evidencing such insurance at the time of application, and thereafter new certificates prior to the expiration date of any prior certificate.

Licensee understands that it is its sole responsibility to provide this necessary information and that failure to timely comply with the requirements of this article shall be a cause for termination of this License.

### IV. License Requirements and Restrictions:

1. During the term of this License, Licensee shall maintain the premises licensed herein in a good and safe condition at all times. If the street surface, parkway, or facilities in the parkway, including landscaping, are damaged or disturbed by any activity associated with this License, the Licensee shall at its expense, restore the same to as good a condition as before the activity, to the satisfaction of the Director of Public Works or designee.

2. The construction signing and barricading requirements of the Texas Manual On Uniform Traffic Control Devices shall be met for all work done in the public right-of-way.

3. The Licensee shall be responsible for locating, protecting, and repairing (if damaged) all utilities within the area permitted and shall pay all costs associated with adjustments to utilities including street lights that are necessitated by the permitted use.

4. Permitted facilities shall be installed in accordance with all applicable laws, regulations, and codes.

5. The Licensee shall relocate its facilities at its own expense to accommodate public improvements in the right-of-way.

6 In the performing or permitting of work consistent with its normal course of duty within the right-of-way, the City shall not be liable for any damages to the Licensee's facilities or equipment or injury to Licensee, all such claim for damage or injury being expressly waived by Licensee.

7 If Street Use License regulations change, the Licensee shall agree to any new requirements or shall remove all constructed facilities from the right-of-way.

8 Upon termination the Licensee shall restore the property at its expense, to a good workmanlike condition and in a manner satisfactory to the Director of Public Works or designee.

9 The City Manager, Police Chief, Fire Chief, or a designee of such officials, shall have the authority to order immediate removal of any objects or materials placed on the premises by Licensee if, in the City's opinion, removal is necessary to protect the health, safety, or welfare of the public. If the Licensee fails to comply with the order, the City shall remove the materials, and the Licensee shall reimburse the City for the cost of compliance. The Licensee may appeal the removal order to the Abilene City Council by filing written notice with the City Secretary within 5 days of the order; provided, however that ANY APPEAL SHALL NOT STAY THE OFFICIAL'S ORDER OR THE REMOVAL PROCEDURE.

V. Termination

1 This License shall automatically terminate 10 years from the date of execution.

2 The City shall have the right to cancel this License at any time by giving Licensee thirty (30) days notice of its cancellation. The notice shall be in writing delivered to Licensee by certified mail.

3 In the event Licensee shall permit any City of Abilene, Abilene Independent School District, West Central Texas Municipal Water District, or any other taxes assessed against it to become delinquent, this License shall automatically terminate and become null and void.

4. This License may not be assigned or conveyed; any attempt by Licensee to do either shall automatically terminate the License. In the event Licensee should sell the property adjacent to the area for which the License has been granted, this License shall automatically terminate.

CITY OF ABILENE, TEXAS

NAME OF LICENSEE

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
ABI 173, Inc

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
TED EVANS, owner  
Printed Name and Title

APPROVED

Business Address: 173 Walnut St, 79601

\_\_\_\_\_  
City Attorney

EXHIBIT "A"  
STREET USE LICENSE AGREEMENT  
WITH

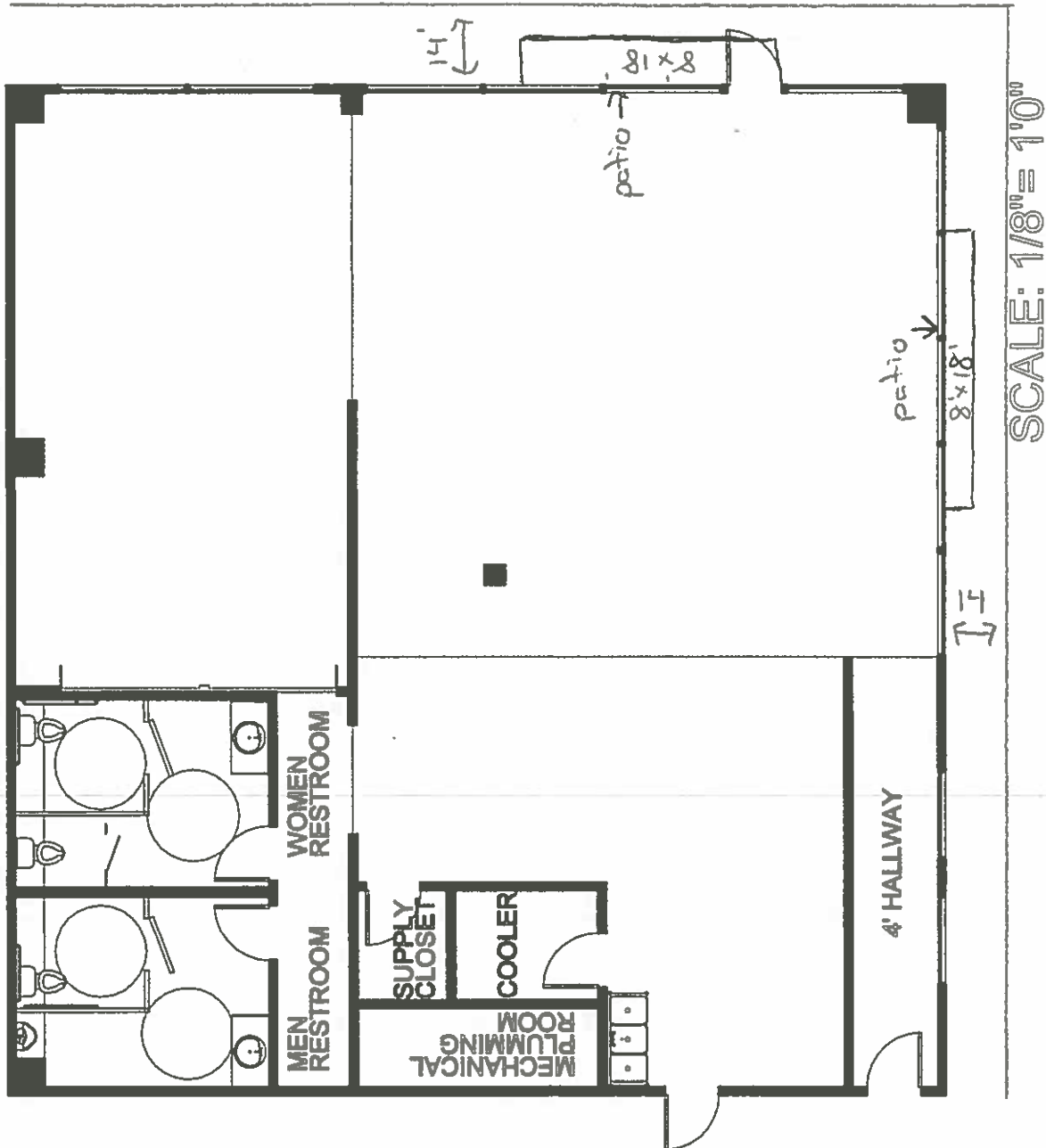
ABI 173, Inc.

CONDITIONS AND COVENANTS

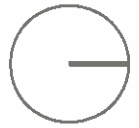
The Street Use License Agreement is subject to the following conditions and covenants:

1. The Licensee shall contact the city's Engineering Division (676-6281) prior to commencing any work in the right-of-way.
2. The Licensee shall submit a traffic control plan to the Traffic and Transportation Division (676-6281) for approval before beginning any work that will result in blocking traffic lanes.
3. The Licensee shall contact the Traffic Signal Shop (676-6066) or the Traffic Engineering office (676-6281) for location of traffic signal facilities and shall contact the Water Utilities Department (676-6425) for location of water and sewer lines before beginning excavation in the right-of-way.
4. The Licensee shall contact the city of Abilene Building Inspections (676-6232) regarding any necessary permits for the installation of the requested facility.
5. The Licensee shall ensure all underground utilities are identified and marked prior to any excavation.
6. The Licensee shall barricade any excavation in the right-of-way to prevent pedestrian and/or vehicular access while excavation is unattended. Any barricades left in the right-of-way overnight must be lighted.
7. The Licensee shall promptly repair all signs, pavement markings, and other traffic control devices damaged by its work in the right-of-way.
8. If the City determines that the subject right-of-way is needed for purposes that would be adversely impacted by the permitted facility, the Licensee shall remove the permitted facility within sixty (60) days notice of cancellation.
9. Must maintain 3' minimum clearance between all signs, hydrants, and surface structures.

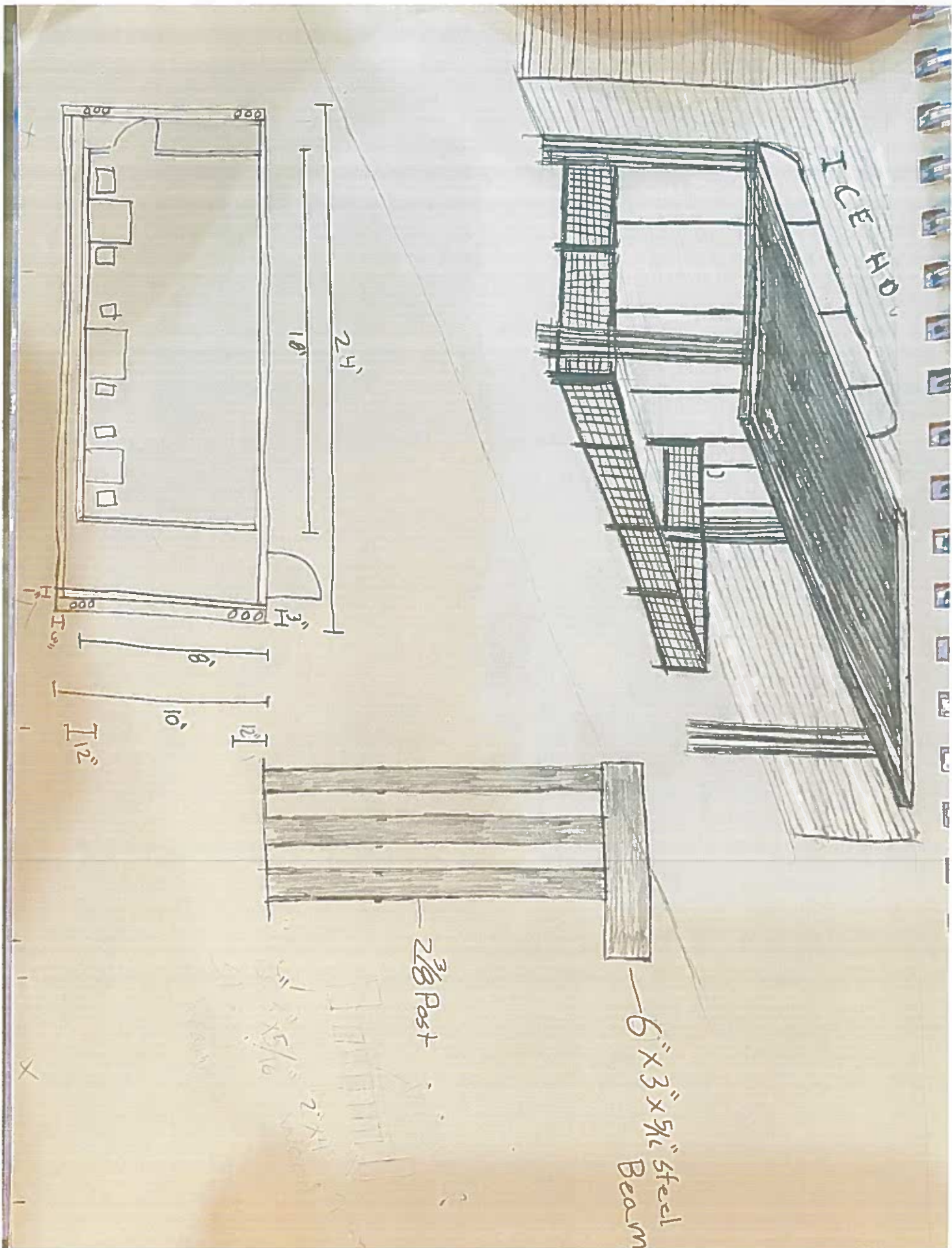
Walnut St



N 2nd St









# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/14/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                     |                                                                                                                                                                     |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PRODUCER</b><br>CBS Insurance<br>3005 South Treadaway Blvd<br><br>Abilene TX 79602               | <b>CONTACT NAME:</b> Erin Camp, CISR<br><b>PHONE (A/C, No, Ext):</b> (325) 695-0222 <b>FAX (A/C, No):</b> (325) 695-0228<br><b>E-MAIL ADDRESS:</b> ecamp@cbsins.com |
| <b>INSURER(S) AFFORDING COVERAGE</b>                                                                |                                                                                                                                                                     |
| <b>INSURER A:</b> United Fire & Casualty Co. <span style="float: right;"><b>NAIC #</b> 13021</span> |                                                                                                                                                                     |
| <b>INSURER B:</b>                                                                                   |                                                                                                                                                                     |
| <b>INSURER C:</b>                                                                                   |                                                                                                                                                                     |
| <b>INSURER D:</b>                                                                                   |                                                                                                                                                                     |
| <b>INSURER E:</b>                                                                                   |                                                                                                                                                                     |
| <b>INSURER F:</b>                                                                                   |                                                                                                                                                                     |

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                        | ADOL | SUBR | INSR | WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                   |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------|------|------|-----|---------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY                                                                                         |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                                                                           |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          |                                                                                                                                                          | Y    | Y    |      |     | 60523815      | 04/13/2021              | 04/13/2022              | EACH OCCURRENCE \$ 1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000<br>MED EXP (Any one person) \$ 5,000<br>PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ 2,000,000<br>PRODUCTS - COMP/OP AGG \$ 2,000,000 |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC<br>OTHER: |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
| A        | <b>AUTOMOBILE LIABILITY</b>                                                                                                                              |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | <input checked="" type="checkbox"/> ANY AUTO                                                                                                             |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS                                                                       | Y    | Y    |      |     | 60523815      | 04/13/2021              | 04/13/2022              | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>Uninsured motorist \$ 1,000,000                                             |
|          | <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY                                                                  |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
| A        | <input checked="" type="checkbox"/> UMBRELLA LIAB                                                                                                        |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | <input type="checkbox"/> EXCESS LIAB                                                                                                                     |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE                                                                                      | Y    | Y    |      |     | 60523815      | 04/13/2021              | 04/13/2022              | EACH OCCURRENCE \$ 2,000,000<br>AGGREGATE \$ 2,000,000                                                                                                                                                                                   |
|          | DED RETENTION \$                                                                                                                                         |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
| A        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>                                                                                                     |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                                                                              | Y/N  |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |
|          | <input checked="" type="checkbox"/> N                                                                                                                    | N/A  | Y    |      |     | 60523815      | 04/13/2021              | 04/13/2022              | PER STATUTE <input checked="" type="checkbox"/> OTH-ER <input type="checkbox"/><br>E.L. EACH ACCIDENT \$ 1,000,000<br>E.L. DISEASE - EA EMPLOYEE \$ 1,000,000<br>E.L. DISEASE - POLICY LIMIT \$ 1,000,000                                |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                                   |      |      |      |     |               |                         |                         |                                                                                                                                                                                                                                          |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is listed as additional insured regarding the General Liability and automobile liability as required by written contract. Waiver of subrogation applies to General Liability, Business Auto, and Workers Compensation policies as required by written contract. Certificate Holder is provided 30 day notice in the event of material change in coverage.

## CERTIFICATE HOLDER

## CANCELLATION

|                                                      |                                                                                                                                                                                                     |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City of Abilene<br>PO Box 60<br><br>Abilene TX 79604 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.<br><br>AUTHORIZED REPRESENTATIVE<br> |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

© 1988-2015 ACORD CORPORATION. All rights reserved.

# Agenda Item: Extended Term Street Use License

**Resolution:** Approval of Extended Term  
Street Use License  
*(McCaffery)*



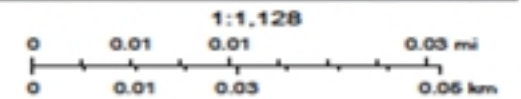


# Location Map

ArcGIS Web Map



4/21/2021, 11:03:57 AM



City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin,

ArcGIS Web AppBuilder  
City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDO | City of Abilene, TX | City of Abilene | TNRIS, Texas, NAD, USDO

# Agenda Item:

## Extended Term Street Use License

- ABI 173, Inc., has submitted an application for an Extended Term Street Use License to use a portion of City right-of-way along the east right-of-way on Walnut Street and the south right-of-way on North 2<sup>nd</sup> Street for the purpose of building and maintaining two enclosures with shade top for outdoor patio seating.
- The application has been reviewed and found to be complete.
- Staff recommends approval of the Extended Term Street Use License.



# Questions?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Gregory McCaffery

**SUBJECT:** **14. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action for the submittal of an application for the State of Texas Department of Transportation 2021 Alternative (TA) Program call for projects for the South 14th Street Walkability Project (Pioneer Street to Barrow Street) (*Greg McCaffery*)

---

**GENERAL INFORMATION**

On January 15, 2021, TxDOT announced a statewide Call for Projects for the 2021 Transportation Alternatives (TA), which provides funding for a variety of alternative transportation projects, including bicycle infrastructure improvements, shared use paths, sidewalk improvements, and infrastructure-related projects to improve safety for non-motorized transportation.

The City of Abilene submitted a preliminary application for a South 14th Street Walkability Project. On April 13, 2021, the City received permission from TXDOT to proceed with the detailed application on this project. The South 14th Street Project will include a 5-foot sidewalk along with pedestrian improvements/bridge on the south side from Pioneer Drive to Barrow Street. This project connects to the Transportation Alternatives Set-Aside (TASA) sidewalk project the City received in 2017 that runs from S. Danville Drive to Texas Avenue and over to Corsicana Avenue (currently under construction).

**SPECIAL CONSIDERATIONS**

None.

**FUNDING/FISCAL IMPACT**

The cost of this project is 80% TA funding with a 20% local match. The South 14<sup>th</sup> project will

require a \$312,702 local match (Total Project Cost \$1,563,510). In addition, any cost overruns will be the responsibility of the City. Funding for the City local match if the City's project is selected by TXDOT and the City elects to proceed will be from the 2015 Bond Funds.

### **STAFF RECOMMENDATION**

Staff recommends approval of the item.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. REV\_Sponsor\_Resolution TA-S 14 St 2021
2. S 14TH TA GRANT\_Project\_Location\_Map
3. REV\_Presentation TA Project S 14th Street 04212021 (2)



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE FILING OF AN APPLICATION WITH THE TEXAS  
DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE TRANSPORTATION  
ALTERNATIVES PROGRAM FOR THE SOUTH 14TH STREET WALKABILITY  
PROJECT.**

**WHEREAS**, the Texas Department of Transportation issued a call for projects in January 2021 for communities to apply for funding assistance through the Transportation Alternatives Set-Aside (TA) Program; and,

**WHEREAS**, the TA funds may be used for construction of pedestrian and/or bicycle infrastructure. The TA funds require a local match, comprised of cash. The City of Abilene would be responsible for all non-reimbursable costs and 100% of overruns, if any, for TA funds; and,

**WHEREAS**, the Project will provide a safe route for pedestrians, children, older adults, and individuals with disabilities to access daily needs and encourage the overall safety of the traveling public; and,

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

**Part I.** That the City Manager is authorized to act on behalf of the City of Abilene in all matters related to the application and any subsequent activities associated with the application that may result, including but not limited to the submission of the application, acceptance of the funds of awarded and execution of all documents.

**Part II.** The City of Abilene supports funding this project as described in the 2021 TA Detailed Application (including the preliminary engineering budget, if any, construction budget, the department's 15% direct state cost for oversight, and the required local match, if any) and is willing to commit to the project's development, implementation, construction, maintenance, management, and financing. The City of Abilene is willing and able to enter into an agreement with the department by resolution or ordinance, should the project be selected for funding.

**Part III.** This resolution is affected upon adoption.

**ADOPTED** this 13<sup>th</sup> day of May, 2021.

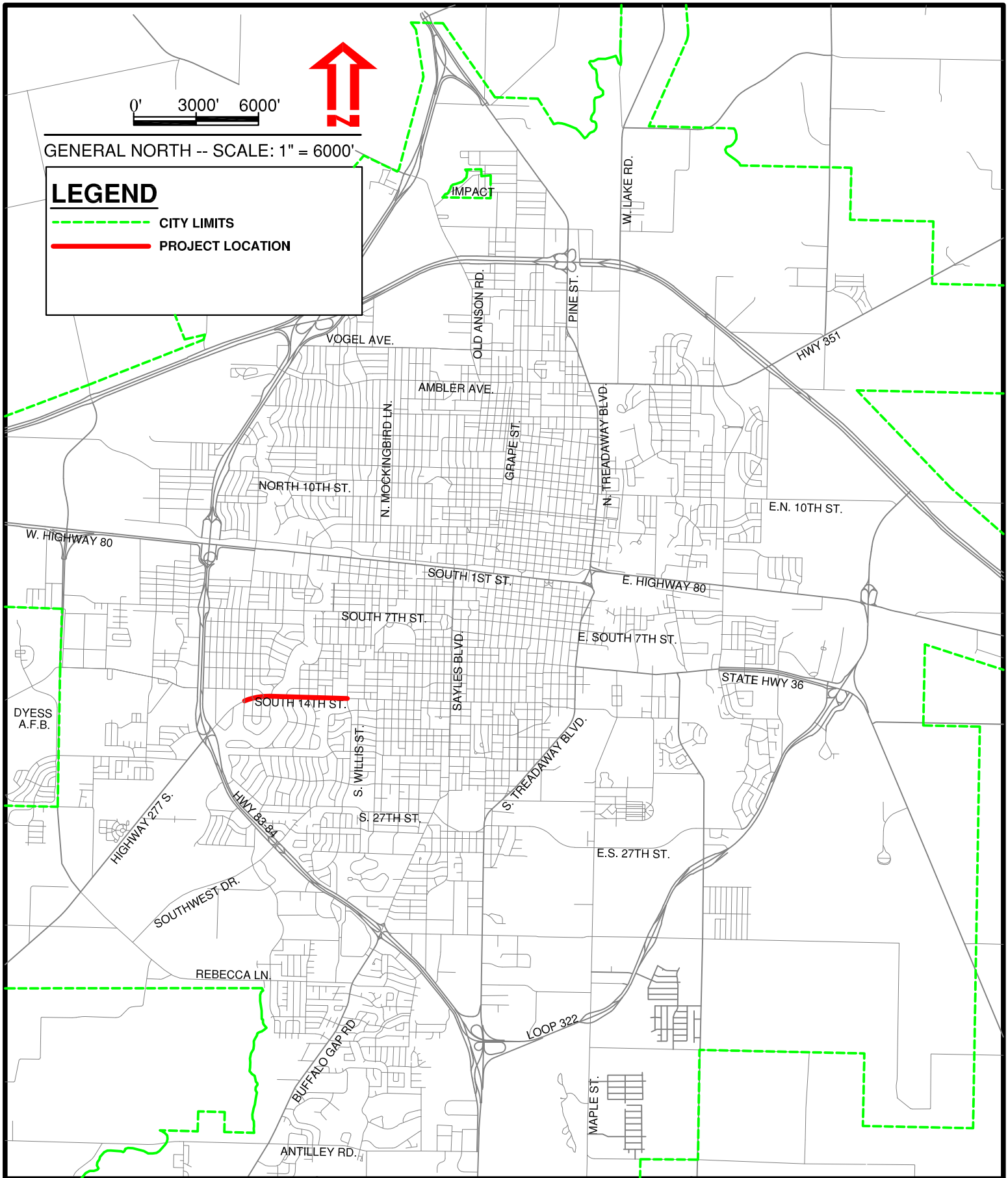
**ATTEST:**

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

**APPROVED:**

\_\_\_\_\_  
Stanley Smith, City Attorney



Sheet  
1  
of  
1

**CITY OF ABILENE, TEXAS**  
PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION

**S 14TH STREET  
TA GRANT PROJECT**

Designed By: S. CHANDLER

Drawn By: T. MATTHEWS

Checked By: S. CHANDLER

Horizontal Scale: 1"=6000'

Vertical Scale: N.T.S.

Computer File Name:

2021 TA GRANTS

Date: MAY 2021

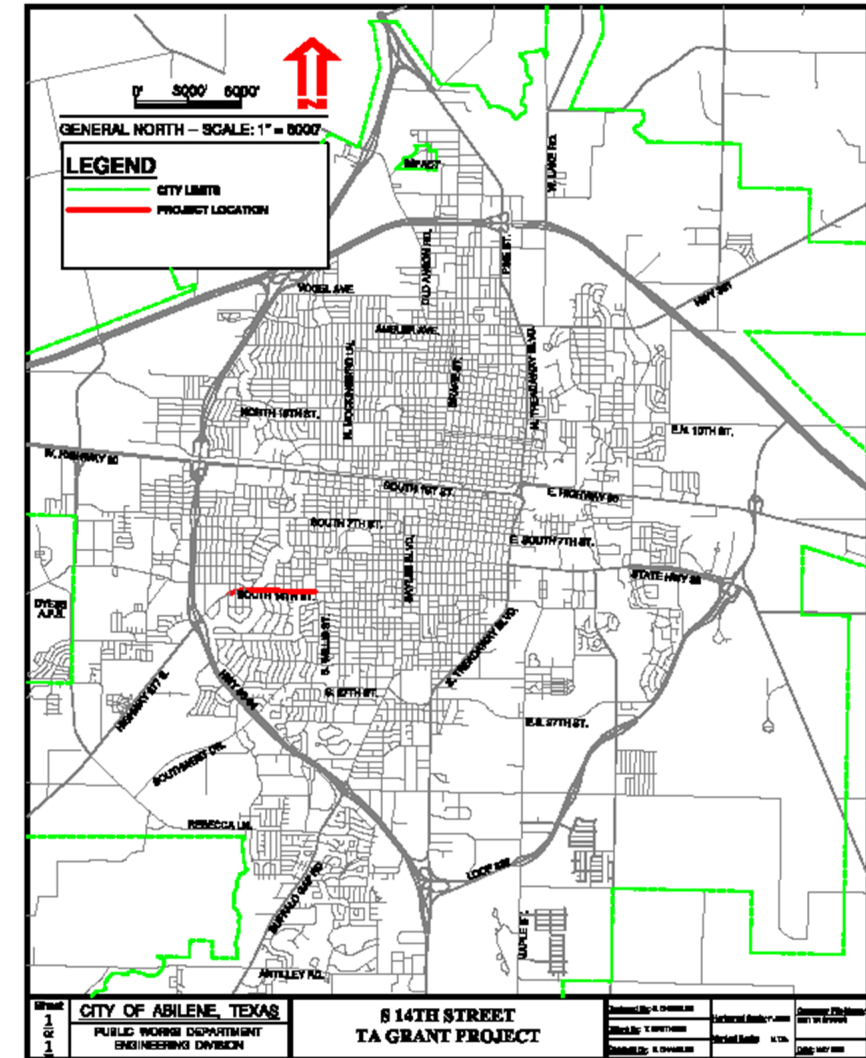
# Transportation Alternatives South 14<sup>th</sup> Street Walkability Project

*(McCaffery)*



# Transportation Alternatives Project – South 14<sup>th</sup> Street

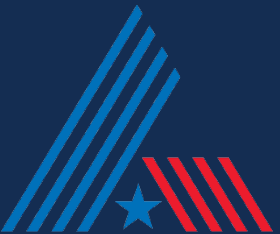
## Pioneer Drive to Barrow Street



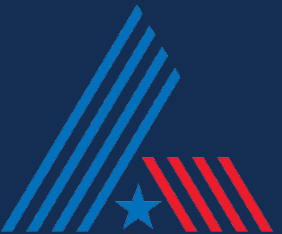
# Transportation Alternatives

## Project – South 14<sup>th</sup> Street

- On January 15, 2021, TxDOT announced a statewide Call for Projects for the 2021 Transportation Alternatives (TA)
- The City submitted a sidewalk project on South 14<sup>th</sup> Street from Pioneer Drive to Barrow Street.
- Cost is 80% TA funding with a 20% local match. Local match for the South 14<sup>th</sup> local match is \$312,702 (TPC \$1,563,510).
- Any cost overruns will be the responsibility of the City.
- Staff recommends approval of the item.



# QUESTIONS?





## City Council Agenda Memo

City Council Meeting Date: 5/13/2021

**TO:** Robert Hanna, City Manager

**FROM:** Gregory McCaffery

**SUBJECT:** **15. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action for the submittal of an application for the State of Texas Department of Transportation 2021 Alternative (TA) Program call for projects for the Old Anson Road Walkability Project (West Stamford Street to Ambler Avenue) (Greg McCaffery)

---

### **GENERAL INFORMATION**

On January 15, 2021, TxDOT announced a statewide Call for Projects for the 2021 Transportation Alternatives (TA), which provides funding for a variety of alternative transportation projects, including bicycle infrastructure improvements, shared use paths, sidewalk improvements, and infrastructure-related projects to improve safety for non-motorized transportation.

The City of Abilene submitted a preliminary application for a Old Anson Road Walkability Project from West Stamford Street to Ambler Avenue. On April 13, 2021, the City received permission from TXDOT to proceed with the detailed application on this project. The Old Anson Road Project will include a 5-foot sidewalk, pedestrian improvements, and a designated bike route from West Stamford Street to Ambler Avenue.

### **SPECIAL CONSIDERATIONS**

None.

### **FUNDING/FISCAL IMPACT**

The cost of this project is 80% TA funding with a 20% local match. The Old Anson Road project will require a \$159,149 local match (Total Project Cost \$795,744). In addition, any cost overruns will be the responsibility of the City. Funding for the City local match if the City's project

is selected by TXDOT and the City elects to proceed will be from the 2015 Bond Funds.

### **STAFF RECOMMENDATION**

Staff Recommends approval of the item.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. REV\_Sponsor\_Resolution TA-Old Anson Rd 2021
2. OLD ANSON TA GRANT\_Project\_Location\_Map
3. REV\_Presentation TA Projects Old Anson Rd 04212021 (2)



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE FILING OF AN APPLICATION WITH THE TEXAS  
DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE TRANSPORTATION  
ALTERNATIVES PROGRAM FOR THE OLD ANSON ROAD WALKABILITY  
PROJECT.**

**WHEREAS**, the Texas Department of Transportation issued a call for projects in January 2021 for communities to apply for funding assistance through the Transportation Alternatives Set-Aside (TA) Program; and,

**WHEREAS**, the TA funds may be used for construction of pedestrian and/or bicycle infrastructure. The TA funds require a local match, comprised of cash. The City of Abilene would be responsible for all non-reimbursable costs and 100% of overruns, if any, for TA funds; and,

**WHEREAS**, the Project will provide a safe route for pedestrians, children, older adults, and individuals with disabilities to access daily needs and encourage the overall safety of the traveling public; and,

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

**Part I.** That the City Manager is authorized to act on behalf of the City of Abilene in all matters related to the application and any subsequent activities associated with the application that may result, including but not limited to the submission of the application, acceptance of the funds of awarded and execution of all documents.

**Part II.** The City of Abilene supports funding this project as described in the 2021 TA Detailed Application (including the preliminary engineering budget, if any, construction budget, the department's 15% direct state cost for oversight, and the required local match, if any) and is willing to commit to the project's development, implementation, construction, maintenance, management, and financing. The City of Abilene is willing and able to enter into an agreement with the department by resolution or ordinance, should the project be selected for funding.

**Part III.** This resolution is affected upon adoption.

**ADOPTED** this 13<sup>th</sup> day of May, 2021.

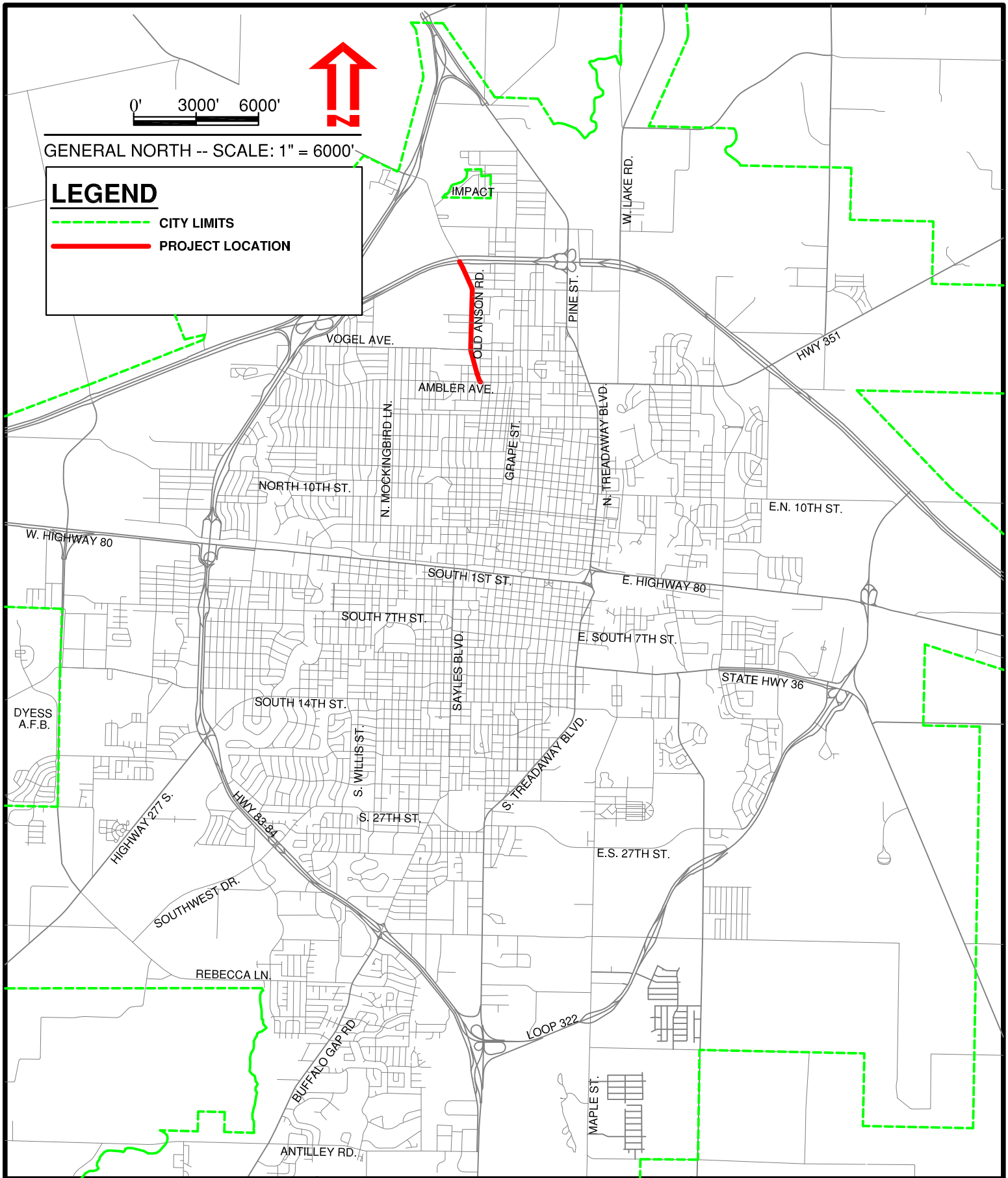
**ATTEST:**

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

**APPROVED:**

\_\_\_\_\_  
Stanley Smith, City Attorney



Sheet  
1  
of  
1

**CITY OF ABILENE, TEXAS**  
PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION

**OLD ANSON RD  
TA GRANT PROJECT**

Designed By: S. CHANDLER

Drawn By: T. MATTHEWS

Checked By: S. CHANDLER

Horizontal Scale: 1"=6000'

Vertical Scale: N.T.S.

Computer File Name:

2021 TA GRANTS

Date: MAY 2021

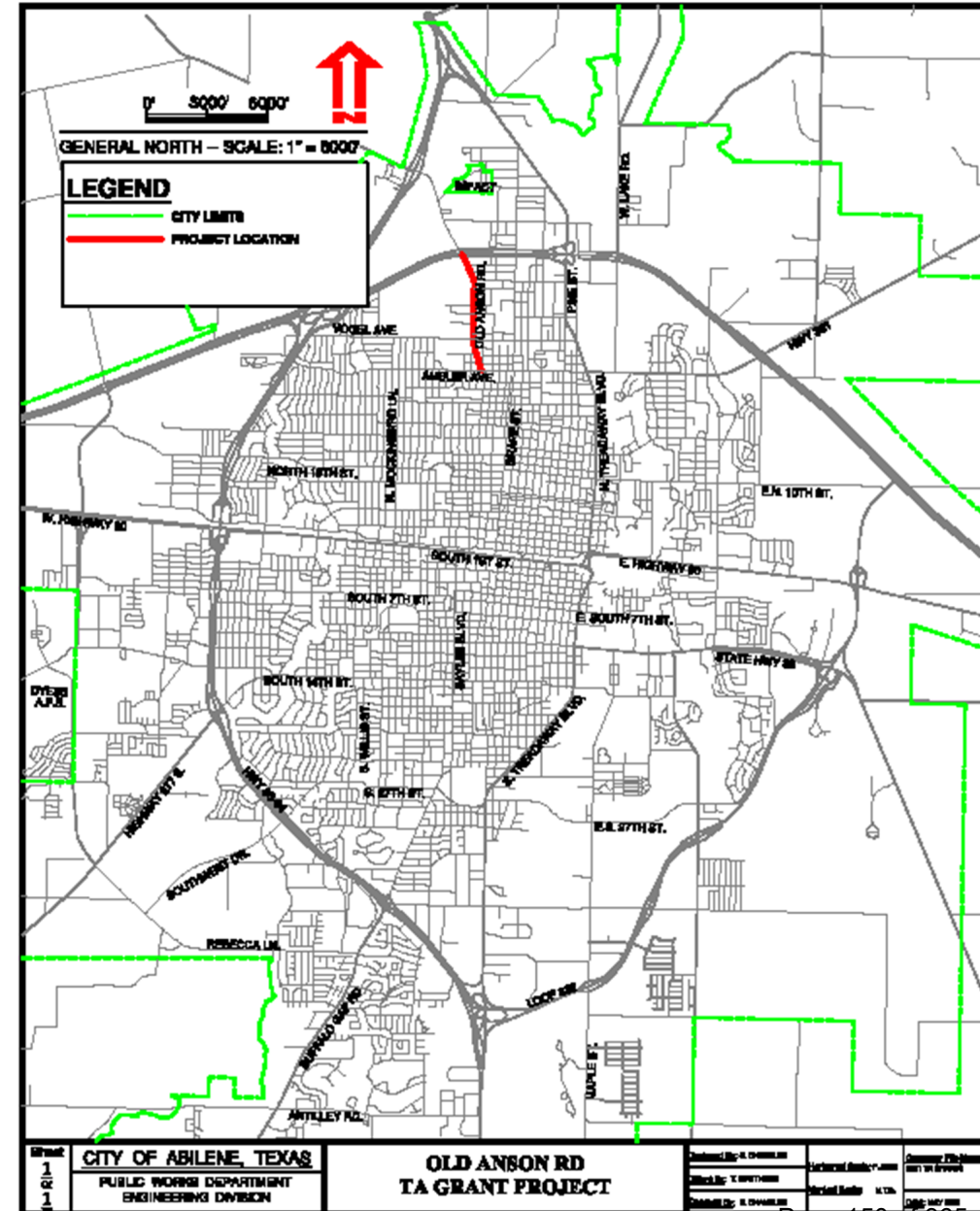
# Resolution: Transportation Alternatives Old Anson Road Walkability Project

*(McCaffery)*



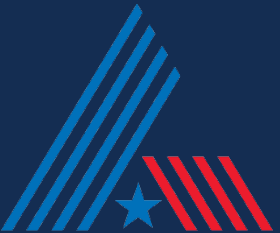
# Transportation Alternatives Project – Old Anson Road

## W. Samford Street to Ambler Avenue

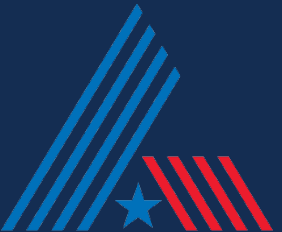


# Transportation Alternatives Projects – Old Anson Road

- On January 15, 2021, TxDOT announced a statewide Call for Projects for the 2021 Transportation Alternatives (TA)
- The City submitted a sidewalk project on Old Anson Road from W. Samford Street to Ambler Avenue.
- Cost is 80% TA funding with a 20% local match. Local match for Old Anson Road is \$159,149 (TPC \$795,744).
- Any cost overruns will be the responsibility of the City.
- Staff recommends approval of the item.



# QUESTIONS?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Mike Warrix, Director

**SUBJECT:** 16. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Resolution Authorizing the City Manager to Execute an Agreement with Meals on Wheels Plus, Incorporated for the Disbursement of Community Development Block Grant (CDBG) Funds. *(Mike Warrix)*

---

**GENERAL INFORMATION**

As an entitlement City, Abilene receives a CDBG funding allocation each year from the U.S. Department of Housing and Urban Development. Meals on Wheels Plus, Inc. submitted a successful application for use of CDBG funds for the purposes of replacing kitchen equipment, specifically air conditioners, exhaust fans, and ice making equipment. An Agreement between the City and Meals on Wheels Plus, Inc. has been prepared and is awaiting execution by the City Manager.

**SPECIAL CONSIDERATIONS**

The project is included in the adopted 2020-2024 Consolidated Plan and 2020-2021 Action Plan.

**FUNDING/FISCAL IMPACT**

The project will be funded entirely from the City's current CDBG funding allocation. Funding has been allocated for this project and is available.

**STAFF RECOMMENDATION**

Approval

## **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. CDBG Agreement Meals on Wheels Resolution
2. Agreement Meals on Wheels Plus CDBG
3. PowerPoint Meals on Wheels Plus CDBG



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH  
MEALS ON WHEELS PLUS, INCORPORATED FOR THE DISBURSEMENT OF  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS**

**WHEREAS**, as an entitlement City receiving funds from the U.S. Department of Housing and Community Development (HUD), the City of Abilene is the recipient of Community Development Block Grant (CDBG) Program funds; and

**WHEREAS**, the primary objective of the CDBG Program is to improve the environment within the City of Abilene principally for the benefit of low and moderate income citizens, pursuant to the Housing and Community Development Act of 1974, as amended; and

**WHEREAS**, the City Council adopted the *2020-2024 Consolidated Plan* and *2020-2021 Action Plan* via resolution 199-2020 on October 8, 2020; and

**WHEREAS**, Meals on Wheels Plus, Incorporated is an organization devoted to serving the frail elderly and younger adults with disabilities that are often in need of meals; and

**WHEREAS**, Meals on Wheels Plus, Incorporated successfully applied for \$81,000.00 in CDBG funding for the purposes of replacing kitchen air conditioners, exhaust fans, and an ice machine; and

**WHEREAS**, this request for CDBG funding was included as a recommended project in the *2020-2024 Consolidated Plan* and *2020-2021 Action Plan* adopted by City Council on October 8, 2020.

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

**PART 1:** That the City Manager of the City of Abilene, Texas is hereby authorized to sign said Agreement and all appurtenant documents on behalf of the City.

**PART 2:** That the financial assistance authorized by the Community Development Block Grant Program referred to above is required to enable the City of Abilene to carry out appropriate community development activities directed toward meeting program objectives.

**ADOPTED this 13<sup>th</sup> day of May, 2021.**

**ATTEST:**

---

Shawna Atkinson, City Secretary

---

Anthony Williams, Mayor

APPROVED:

---

Stanley Smith, City Attorney

**AGREEMENT FOR DISBURSEMENT OF COMMUNITY  
DEVELOPMENT BLOCK GRANT FUNDS TO  
MEALS ON WHEELS PLUS, INCORPORATED**

This Agreement is made this 28<sup>th</sup> day of April, 2021, by and between the City of Abilene, Texas, a municipal corporation of Taylor and Jones Counties ("City"), and the Meals on Wheels Plus, Incorporated a non-profit organization of the State of Texas ("MOW") and ratifies the formal approval for the allocation of funds given by the Abilene City Council on the 8<sup>th</sup> day of October, 2020.

For and in consideration of the covenants, promises, and agreements set forth herein, it is mutually agreed as follows:

**I. GENERAL PROVISIONS**

**A. Purpose**

The Meals on Wheels Plus, Incorporated (MOW) is an organization devoted to serve the frail elderly and younger adults with disabilities often needing meals. Many have multiple health problems, live in or near poverty, and are unable to prepare balanced meals for themselves and are malnourished. MOW delivered the first meals from the new kitchen and office complex at 717 North 10<sup>th</sup> Street on June 15, 2004. At that time the air conditioners and exhaust fans for the vent hood were new. With constant use there is a need to replace both the air conditioners and exhaust fans. The large ice machine, moved to the new building from the previous facility across the alley, also need to be replaced. This proposal for funding for the requested equipment will improve the quality of the MOW facility to insure home delivered meals will still be available for needy residents of Abilene.

The City has received a grant from the United States Department of Housing and Urban Development (United States Department of Housing and Urban Development Community Development Block Grant No. B-20-MC-48-0001) for use in improving the environment in the City of Abilene principally for the benefit of low and moderate income citizens, pursuant to the Housing and Community Development Act of 1974, as amended. The purpose of this Agreement is to provide MOW with no more than Eighty-One Thousand Dollars (\$81,000) to complete the following:

The funding requested is to install two large fans over the exhaust hood in the kitchen were installed in 2004 and need to be replaced. The exhaust hood is over the cooking equipment in the kitchen. Six Carrier air conditioning units were installed on the flat roof of the MOW complex. Carrier units have a useful life of 15 years and these units are now 16 to 17 years old and need to be replaced. One piece of equipment that was not new is the large ice machine that provides ice for the volunteers to use when packing the drinks and cold lunch items on each day.

The Ice-O-Matic ice machine had been purchased in April 2000 and moved from the previous facility at 949 Mesquite. The useful life for Ice-O-Matic is 7 years. This machine is now 20 years old and needs to be replaced. Imperial Convection Oven natural gas, is also being replaced from the used Vulcan ovens. The above items are essential to the operation of MOW and are very expensive. The COVID-19 crisis resulted in the decision to cancel several fund-raising events which created a large funding shortfall.

**Complete Total (See List in Attachment A)**

**\$81,000.00**

The City shall act through its agent, the City Manager, or his duly authorized representative, unless otherwise stated in this Agreement. MOW shall act through its agent, or duly authorized representative, unless otherwise stated in this agreement.

**B. Duration**

The term of this Agreement begins on the 28<sup>th</sup> day of April, 2021 and ends on September 30<sup>th</sup>, 2021. Acceptance of the Community Development Block Grant (CDBG) funds and performance of this Agreement by MOW is expressly conditioned upon MOW being able to obtain additional funding sufficient to meet the total cost of the contract terms satisfactory to MOW. Otherwise, this Agreement shall not bind either party, in which case money forwarded to MOW by the City or assets acquired with said funds shall be returned in full immediately.

MOW agrees to meet one of the National Objectives in CFR §570.208 until five years after the expiration of this agreement. If it does not, the subrecipient shall pay to the City the cost of the improvements less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment will be considered program income to the City.

CDBG funds may be used by the grantee or other public or private nonprofit entities for the: Acquisition (including long term leases for periods of 15 years or more), Construction, Reconstruction, Rehabilitation (including removal of architectural barriers to accessibility), or Installation of public improvements or facilities (except for buildings for the general conduct of government). 24 CFR §570.201(c).

**C. Conditions for Religious Organizations**

Faith-based activities or Organizations that are religious are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation. The use of CDBG funds identified in 24 CFR §570.200(j) defines such use of funds.

#### D. Termination

This Agreement may be terminated by the City in the event of default, inability, or failure to perform on the part of MOW, if the City disapproves a new use of the funds (under Section I.A of this Agreement.), or whenever such termination is determined by the City to be in the City's best interest. Likewise, the Agreement may be terminated by MOW if the City does not provide funds pursuant to this Agreement. The Agreement may also be terminated by mutual agreement between MOW and the CITY.

The City shall notify MOW in writing of any breach of this Agreement, and specify a reasonable time within which to cure the particular breach. After being notified of such breach, if MOW fails to cure the breach within the time stated in the notice, this Agreement shall automatically terminate at the expiration of the stated time allowed for cure.

MOW shall return all CDBG funds on-hand. All funds distributed shall be returned to the City and payment shall be considered urgent pursuant to this Agreement, along with any assets acquired with those funds, and any accounts receivable. The City must approve any changes that MOW wants to modify of CDBG funds under this Agreement.

#### E. Status of MOW as Independent Contractor

MOW shall operate hereunder as an Independent Contractor and not as an officer, agent, servant, or employee of the City. MOW shall have exclusive control of the project, and it is expressly agreed that no officer, director, member, agent, employee, contractor, subcontractor, licensee, or invitee of the MOW is in the paid service of the City.

#### F. Venue

Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance, attempted performance or non-performance of this Agreement, venue for said action shall be in the City of Abilene, Taylor County, Texas.

#### G. Written Instrument is Entire Agreement

This written instrument constitutes the entire Agreement by the parties hereto concerning the work and services to be performed under this Agreement. Any prior or contemporaneous oral or written agreement which purports to vary the terms of this Agreement shall be void.

#### H. Paragraph Headings

The paragraph headings contained herein are for convenience in reference to this Agreement and are not intended to define or to limit the scope of any provision of this Agreement.

## **II. DUTIES AND RESPONSIBILITIES OF CITY**

### **A. Disbursement of Funds**

The City will furnish federal grant funds (United States Department of Housing and Urban Development Community Development Block Grant No. B-20-MC-48-0001) for use as stated herein. The City will monitor the use of such funds to ensure appropriate use of the funds. Funds shall be disbursed after execution of this Agreement and compliance with the provisions therein. MOW may then submit a written request for disbursement, but in no event more frequently than one disbursement every 30 days. The written request for disbursement must consist of copies of the invoices from contractors and/or an official letter from MOW Board Chair or Treasurer stating the progress of the project.

### **B. Amount of Funds**

- C. It is agreed that the total distributions of federal grant funds made available to or paid on behalf of MOW during the term the 28<sup>th</sup> day of April, 2021, and ends on September 30, 2021, shall be no more than Eighty-One Thousand Dollars to complete the following:

To install two large fans over the exhaust hood in the kitchen were installed in 2004 and need to be replaced. The exhaust hood is over the cooking equipment in the kitchen. Six Carrier air conditioning units were installed on the flat roof of the MOW complex. Carrier units have a useful life of 15 years and these units are now 16 to 17 years old and need to be replaced. One piece of equipment that was not new is the large ice machine that provides ice for the volunteers to use when packing the drinks and cold lunch items on each day. The Ice-O-Matic ice machine had been purchased in April 2000 and moved from the previous facility at 949 Mesquite. The useful life for Ice-O-Matic is 7 years. This machine is now 20 years old and needs to be replaced. Imperial Convection Oven natural gas, is also being replaced from the used Vulcan ovens. The above items are essential to the operation of MOS and are very expensive. The COVID-19 crisis resulted in the decision to cancel several fund-raising events which created a large funding shortfall.

**Complete Total (See List in Attachment A)**

**\$81,000.00**

- D. MOW shall be reimbursed by the City for approved direct expenses incurred during the period of this agreement.

## **III. DUTIES AND RESPONSIBILITIES OF MOW**

### **A. Statement of Work**

MOW shall follow the agreed upon procurement procedures (solicit bids for labor and materials and enter into a professional contract to perform the rehabilitation) for materials and any other items not being donated/provided by volunteers for the rehabilitation.

**B. Funding**

- 1) The total funds eligible to be reimbursed under this Agreement shall be Eighty-One Thousand Dollars (\$81,000) based on documentation of project expenses presented on the CDBG Funding Application.
- 2) Under no circumstances shall MOW expend more Eighty-One Thousand Dollars (\$81,000).
- 3) The funds from the City may be spent only on the activities set forth above as stated under I. A.
- 4) In accordance with City Council policy approved on July 10, 1997, only requests for capital improvements funding from private non-profit agencies will be considered. These activities are identified under 24 CFR §570.201(c) Public Facilities. MOW must also follow all statutes stated under the Part 84- Uniform Administrative Requirements for Grants And Agreements With Institutions Of Higher Education, Hospitals, And Other Non-Profit Organizations
- 5) Federal awards to institutions of higher education, hospitals and other non-profit organizations are subject to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards at 2 CFR part 200.

**C. Records and Reports**

MOW will keep or cause to be kept an accurate record of all actions taken and all funds expended, with source documents, in the pursuit of the objectives of the performance of this Agreement. The City shall have the right to inspect and/or audit all records and reports kept by MOW regarding this Agreement. MOW is also required to keep records documenting national objective compliance, which will be determined by the City. MOW is also required to submit to the City a report that documents the meeting of the national objective compliance.

MOW shall maintain client data, which will include, but not limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made to the City monitors or their designees for review upon request.

MOW shall submit monthly reports to the City Grants Administrator detailing client statistical data. The City will specify and provide correct statistical reporting information and forms.

MOW is also required to maintain record retention requirements described at 24 CFR §570.502(b)(ix)(A) and (B), which is basically (5) years after the project is completed.

#### **D. Compliance with All Applicable Laws and Regulations**

MOW shall carry out each activity in compliance with all Federal laws and regulations described in 24 CFR 570 Subpart K, Subpart J and any amendments thereto, except that MOW does not assume the City's responsibility for initiating the review process under Executive Order 12372, as described at §570.613.

MOW further agrees that its officers, directors, agents, employees, contractors and subcontractors shall abide by and comply with all, federal, state, and local laws, including all ordinances, rules, and regulations of the City of Abilene, and the Housing and Community Development Act of 1974, as amended, and all regulations pertaining thereto.

Pursuant to the CDBG Desk Guide: <https://www.hudexchange.info/resource/89/community-development-block-grant-program-cdbg-guide-to-national-objectives-and-eligible-activities-for-entitlement-communities/> CDBG funds may be used by the grantee or other public or private nonprofit entities for the: Acquisition (including long term leases for periods of 15 years or more), Construction, Reconstruction, Rehabilitation (including removal of architectural barriers to accessibility), or Installation of public improvements or facilities (except for buildings for the general conduct of government). 24 CFR §570.201(c).

MOW shall comply with the requirements and standards of 2 CFR Part 2400, and 24 CFR Parts 84-85.

In the procurement of all materials, supplies, equipment, labor or services using the funds provided herein, MOW shall comply with the City's procurement procedures or such written procedures of its own that meet or exceed those of the City.

#### **24 CFR 570.505 Use of real property**

The standards described in this section apply to real property within MOW control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement or recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the close-out of the grant from which the assistance to the property was provided.

MOW may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless



MOW provides the City of Abilene reasonable notice to allow the affected the citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:

(1) The new use of such property qualifies as meeting one of the national objectives in 24 CFR 570.208 and is not a building for the general conduct of government; or

(2) If the City of Abilene determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(3) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in §570.504 (b) (4) or (5), as applicable, shall apply to the use of funds reimbursed.

(5) Following the reimbursement of the CDBG program in accordance with this complete section, the property no longer will be subject to any CDBG requirements.

[53 FR 8058, Mar. 11, 1988, as amended at 53 FR 41331, Oct. 21, 1988]

(4) If the City notifies MOW of any violation(s) of this section on the part of MOW or any of its officers, directors, agents, servants, employees, invitees, or subcontractors, then MOW shall immediately desist from and correct such violations pursuant to the procedure set forth in Section I. entitled: No Financial Interest in Purchases Made with Grant Funds.

#### E. Flood Insurance Requirements

Should the property listed as 717 North 10<sup>th</sup> Street be determined by FEMA to be in a Flood Zone, then MOW shall purchase and maintain Flood insurance on the property listed as 717 North 10<sup>th</sup> Street, commonly known as Meals on Wheels Plus, Inc.

Section 102(a) of the Flood Disaster Protection Act requires the purchase of flood insurance in connection with any form of financial assistance for repair or improvement of any publicly or privately owned building located within the special flood hazard area.

The flood insurance purchase requirement applies to any amount of financial assistance approved for housing repairs and improvements, including such items as wheel chair ramps, for single family homes located within the special flood hazard area.

The flood insurance requirement is limited to insurance for the building-related improvement. The duration of coverage is for the life of the building irrespective of the transfer of ownership.

Any exception to Section 102(a) will be determined on a case by case basis in accordance with current HUD policy. For example, any improvements the cost for which is less than the premium of a standard flood insurance policy for the effected property is exempt from Section 102(a).

Each city receiving CDBG funds is legally responsible for complying with all Housing and Urban Development (HUD) federal regulations including those found at 24 CFR Part 58. The environmental review regulations enforced by the National Environmental Policy Act (NEPA) and the executed grant agreement require that an environmental review be completed prior to the obligation of funds through a signed contract, expenditure or drawdown of funds, and most importantly before the start of construction. The environmental review and applicable public notifications become part of a written record that identifies and addresses the level of clearance that is required. This record considers the physical, social and economic impacts of the entire project.

The environmental documentation for this activity, as well as the execution of the signed contract between MOW and the City of Abilene, must be completed before CDBG funds may be expended. In addition, a Pre-Construction Conference must be performed before the Notice to Proceed may be issued. Any construction work that begins or any materials purchased and/or payments made before the Notice to Proceed has been issued will not be eligible expenses and will not be reimbursed.

The CDBG funding includes additional regulations, such as Davis Bacon and Related Acts, which apply to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. These provisions require that all contractors and all subcontractors shall be required to pay their laborers and mechanics employed under this contract no less than the locally prevailing wages and fringe benefits for the corresponding work determined by the Department of Labor. MOW will require and collect complete timely and accurate weekly payrolls from contractors and/or subcontractors. ONS will provide all necessary documentation concerning Housing and Urban Development (HUD) regulations, Davis Bacon and Related Acts, the Section 3 Clause, as well as any additional documents for compliance with NEPA and all other applicable Federal and local laws, regulations and executive orders. All applicable HUD and federal regulations will be attached as an Exhibit with the MOW contract. MOW will also be required to supply proof that the contractor and subcontractors are not listed on the Department of Labor's Debarred Contractor List by presenting the ONS with information from the SAM'S Systems website. MOW will be responsible along with the contractor and any subcontractors to attend the Pre-Construction Conference.

#### **F. Lead-Based Paint Regulations**

HUD has issued final regulations on notification, evaluation, and reduction of lead-based paint hazards in facilities receiving federal assistance. Rehabilitation of facilities where children are served may be affected by this new regulation resulting in Lead Based Paint requirements. If paint surfaces are not lead-free, safe work practices and clearance testing will be required along with possible methods of removal when over De Minimus levels are disturbed 24 CFR 35.1350.

Lead Paint disturbance and removal is dangerous and safety precautions will be strictly enforced when workers are engaged in rehabilitation activities. All lead-based paint activities shall be performed in accordance with applicable Federal laws and authorities 24 CFR 35.145.

#### G. Monitor Effectiveness of Services and Work

MOW agrees to fully cooperate with the City in monitoring the effectiveness of the services and work to be performed by MOW in compliance with the terms of this Agreement. The City shall have access at all reasonable hours to the offices and records (dealing with the use of the funds that are the basis of this Agreement) of MOW, its officers, directors, agents, employees, and subcontractors for the purpose of such monitoring

#### H. Employment Practices

In the execution, performance or attempted performance of this Agreement, MOW will not discriminate against any person or persons because of sex, race, religion, color, national origin, or disability, nor will MOW permit its officers, directors, agents, servants, employees, invitees, contractors, or subcontractors, to engage in such discrimination.

In accordance with the policy of the Executive Branch of the Federal Government, MOW covenants that neither it nor any of its officers, agents, employees, contractors or subcontractors, while engaged in performing this Agreement, shall, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age, except on the basis of a bona fide occupational qualification, retirement plan or statutory requirement.

MOW further covenants that neither it nor any of its officers, agents, employees, contractors, subcontractors, or persons acting on their behalf, shall specify, in solicitations or advertisements for employees to work on any program assisted under this Agreement, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement.

In the performance of all contracts, MOW will comply with the Affirmative Action Guidelines of Executive Order 11246 and the implementing regulations and documents thereof, which shall be supplied by the City, and which are hereby incorporated for all purposes.

Labor Standards: MOW agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. MOW shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. MOW agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged

under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve MOW of its obligation, if any, to require payment of the higher wage. MOW shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

“Section 3” Clause: In the performance of all contracts in the amount of \$100,000.00 or more, MOW will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, and the implementing regulations and documents, which shall be supplied by the City, and which are hereby incorporated for all purposes. Additionally, MOW agrees to the following provisions:

The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment are to be given lower income residents of the project area and contracts for work in connection with the project are to be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR §135 and all applicable rules and orders of the Department issued there under prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

MOW will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers’ representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment training.

MOW will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR §135. MOW will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR §135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

**I. No Financial Interest in Purchases Made with Grant Funds**

No officer, employee, or board member of MOW shall have a financial interest, (directly or indirectly), in this Agreement or the monies transferred hereunder, or be financially interested, (directly or indirectly), in the sale to MOW of any land, equipment, materials, supplies, or services purchased with any funds transferred hereunder, except on behalf of MOW as an officer, employee, member, or board member. Any willful violation of this paragraph with the knowledge, expressed or implied, by MOW, shall render this Agreement voidable by the City.

In the procurement of supplies, equipment, construction, and services by MOW, the conflict of interest provisions in 24 CFR §85.36 and 24 CFR §84.42, respectively shall apply. In all cases not governed by 24 CFR §85.36 and 24 CFR §84.42, the provisions of 24 CFR §570.611 shall apply.

If HUD has granted any exceptions to the Conflict of Interest provisions of 24 CFR §84, §85, §92 or §570, then MOW agrees to abide by the terms and conditions of such exceptions.

**J. Assignment**

MOW shall not assign all or any part of its rights, privileges, or duties under this Agreement without the prior written approval of the City Council of the City of Abilene. Any attempted assignment of same without approval shall be void, and shall constitute a breach of this Agreement. It is agreed that the City has the right to inspect and approve in writing any proposed subcontracts between MOW and any subcontractor engaged in any activity in conjunction with this CDBG funded project prior to any being incurred.

**K. 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.

#### IV. INDEMNIFICATION

##### 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.

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

“MOW” employees” shall mean any employees, officers, agents, contractors, 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) attorney’s 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 un-appealable 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

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

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

MOW must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of MOW 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 MOW or MOW 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 MOW.

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

BOTH CITY AND MOW EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE MOW 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

**C. Waiver of Immunity**

If MOW has or claims any immunity or exemption (statutory or otherwise) from and against liability for damages or injury, including death, to persons and/or property, MOW hereby expressly waives its rights to plead defensively such immunity or exemption as against the City.

---

Remainder of Page Intentionally Left Blank

**Meals on Wheels Plus, Incorporated**  
**717 North 10<sup>th</sup> Street**  
**Abilene, TX 79601**

**City of Abilene, Texas**  
**P.O. Box 60**  
**Abilene, Texas 79604**

  
(Signature)

\_\_\_\_\_  
City Manager: Robert Hanna

Betty L. Bradley  
(Typed Name)

ATTEST:

04/28/2021  
(Date)

\_\_\_\_\_  
City Secretary: Shawna Atkinson

Title: Executive Director

\_\_\_\_\_  
(Date)

Approved as to Form:

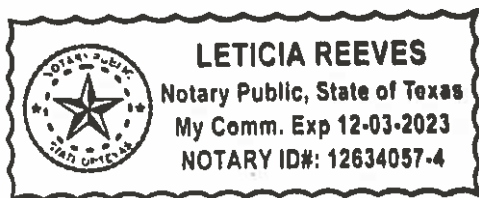
  
City Attorney: Stanley Smith  
Asst. City Attorney: Kelley Messer



STATE OF TEXAS           X

COUNTY OF TAYLOR       X

This instrument was acknowledged before me on this 28<sup>th</sup> day of April,  
2021, by Betty L. Bradley (name) Executive Director (title),  
of Meals on Wheels Plus, Incorporated a non-profit corporation of the State of Texas, on behalf  
of said corporation.



Leticia Reeves  
Notary Public in and for the State of Texas

Leticia Reeves  
Notary's typed or printed name

My Commission expires: 12-03-2023

## APPLICATION

## ATTACHMENT "A"

## 2020/2021 CDBG/HOME Project Budget

Organization: Meals on Wheels Plus, Inc.

Project Name: Replace Air Conditioning Units, Exhaust Fans and Ice Machine

Total Project Cost: \$ 81,000.00 CDBG/HOME funds requested \$ 81,000.00

Note: Indicate if funds are cash or in-kind contribution.

| Item                                                  | CDBG/<br>HOME<br>Funds | Other<br>Funding | Source<br>of Other Funds | Total<br>Project<br>Budget |
|-------------------------------------------------------|------------------------|------------------|--------------------------|----------------------------|
| Two Large Exhaust Fans                                | \$24,000.00            | \$0.00           | n/a                      | \$24,000.00                |
| Six Roof Top Air<br>Conditioning Units                | \$32,000.00            | \$0.00           | n/a                      | \$32,000.00                |
| Ice Machine                                           | \$11,000.00            | \$0.00           | n/a                      | \$11,000.00                |
| Labor & Material to Install<br>Exhaust Fans           | \$2,000.00             | \$0.00           | n/a                      | \$2,000.00                 |
| Labor & Material to Install Air<br>Conditioning Units | \$7,000.00             | \$0.00           | n/a                      | \$7,000.00                 |
| Labor & Material to Install Ice<br>Machine            | \$2,000.00             | \$0.00           | n/a                      | \$2,000.00                 |
| Crain, Forklift & Electrical<br>Hookups               | \$3,000.00             | \$0.00           | n/a                      | \$3,000.00                 |
|                                                       |                        |                  |                          |                            |
|                                                       |                        |                  |                          |                            |
| Note: All amounts are cash                            |                        |                  |                          |                            |
|                                                       |                        |                  |                          |                            |
|                                                       |                        |                  |                          |                            |
|                                                       |                        |                  |                          |                            |
| <b>Totals</b>                                         | <b>\$81,000.00</b>     | <b>\$0.00</b>    | <b>n/a</b>               | <b>\$81,000.00</b>         |

# CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

## OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

MEALS ON WHEELS PLUS, INC.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☒

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐

Yes

☒

No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

  
Signature of vendor doing business with the governmental entity

04/28/2021

Date

## CDBG AGREEMENT – MEALS ON WHEELS PLUS, INC.

- Resolution Authorizing City Manager to Execute Agreement for Disbursement of CDBG Funding in the Amount of \$81,000.00
- Project and Funding Amount Included in Previously Adopted *2020-2024 Consolidated Plan* and *2020-2021 Action Plan*
- Funds to be Used for Replacement of Kitchen HVAC Units, Exhaust Fans, and Ice Making Equipment



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Robert Hanna, City Manager**

**FROM: Rodney Taylor, Director**

**SUBJECT: 17. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing a Professional Services Contract for Baylor Drive Lift Station RPR Services (Rodney Taylor)**

---

**GENERAL INFORMATION**

Water Utilities staff is recommending that the Abilene City Council authorize a professional services contract with Enprotec/Hibbs & Todd, Inc. (EHT) for the Baylor Drive Lift Station RPR Services. The Value of the contract is \$49,500.00. The contract will provide for a part time resident project representative to closely monitor the ongoing project construction, and for additional hours of contract management services by the project design engineer.

This contract is the third professional services contract related to this project. The first was the Baylor Drive Lift Station Improvements in the amount of \$68,840.00 for site acquisition and final design. The second was the 2020 Baylor Drive Lift Station Replacement Contract Management for bidding assistance and contract management in the amount of \$49,940.00.

**SPECIAL CONSIDERATIONS**

The bid for the Baylor Drive Lift Station Replacement Project in the amount of \$1,030,096.74 was awarded to Lupe Rubio Construction Company, Inc. in March 2020. The contract completion date was specified as December 20, 2020. Due to delays in acquiring critical parts and construction interruptions, partly related to the impacts of the Covid-19 pandemic, the project has not been completed to date. Lupe Rubio has expressed his commitment to successfully completing the project by June 21, 2021.

The ongoing delays in completing the project has depleted the authorized funds for contract management by EHT. This contract will provide additional funds for contract management. The contract also provides for the part time services of a highly qualified resident project

representative by EHT to carefully monitor the progress of the contractor for meeting the new schedule and for insuring the quality of the work.

### **FUNDING/FISCAL IMPACT**

This contract will utilize funds from the FY2021 Annual Operating Budget of the Water Utilities Department.

### **STAFF RECOMMENDATION**

Staff recommends authorizing the contract as described herein.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. WrittenResolution-WtrDpt-Authorize PS Contract-Baylor Drive LS RPR-5-13-2021
2. Contract-Baylor Drive RPR-EHT-5-13-2021
3. Presentation-Authorize PS Contract-EHT-Baylor Drive LS RPR-5-13-2021

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH ENPROTEC/HIBBS & TODD, INC. FOR THE BAYLOR DRIVE LIFT STATION RPR SERVICES.**

**WHEREAS**, the City of Abilene (City) owns and operates the publicly owned treatment works including the Baylor Drive Lift Station, which is aged, in poor condition, and for which the site is too small to accommodate an upgrade project; and

**WHEREAS**, the City hired Enprotec/Hibbs & Todd, Inc. (EHT) to design the relocation and replacement of the Baylor Drive Lift Station and the engineers design work and project management has been performed under two professional service contracts, and the unforeseeable length of project construction has resulted in the depletion of the \$118,780.00 previously approved for engineering services and contract management by EHT; and

**WHEREAS**, Lupe Rubio Construction Company, Inc. (Rubio) was awarded the bid for constructing the Baylor Drive Lift Station Replacement Project, but due to the delays in acquiring critical parts and construction interruptions partly related to the impacts of the Covid-19 pandemic, the project is significantly behind schedule for completion; and

**WHEREAS**, this contract for professional services will provide for a part time resident project representative to closely monitor the ongoing project construction, and for additional hours of contract management services by the project design engineer necessary for completing the project, and staff does recommend authorizing the contract with EHT for the Baylor Drive Lift Station RPR Services in the amount of \$49,500.00; and

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

That the City Manager is authorized to execute the professional services contract with Enprotec/Hibbs & Todd, Inc. for the Baylor Drive Lift Station RPR Services in the amount of \$49,500.00.

**ADOPTED this 13th day of May, 2021.**

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley E. Smith, City Attorney



## **PROFESSIONAL SERVICES CONTRACT Engineers & Architects**

This contract, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021, is between the City of Abilene, a home rule municipal corporation of the State of Texas ("City"), and Enprotec/ Hibbs & Todd, a Corporation organized under the laws of the State of Texas ("Consultant").

The City is engaged in Baylor Drive Lift Station RPR Services and desires to engage the services of Consultant, as an independent contractor and not as an employee, to assist in the project and to render his or her or its services on the terms and conditions provided in this Contract.

The Consultant is a[n] qualified architect/engineer properly licensed/certified to practice in the State of Texas. Consultant desires to render professional services to the City on the terms and conditions provided in this Contract.

The Consultant must perform services with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

THEREFORE, the City engages the services of the Consultant. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

### **I. TERMS**

In consideration of the compensation stated in paragraph II, the Consultant must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Consultant must complete all services by a mutually agreed upon date.

### **II. FEE**

For the services to be rendered under this Contract, the Consultant will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

### **III. FACILITIES**



The Consultant will furnish all facilities and equipment that may be necessary to perform services required under this agreement.

#### **IV. ASSIGNMENT**

The Consultant may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Consultant to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Consultant's successors and assigns and may be enforced by the City against such successors and assigns.

#### **V. STATUS OF CONSULTANT**

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

#### **VI. AMENDMENT OR MODIFICATION**

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

#### **VII. OWNERSHIP OF DOCUMENTS AND MATERIALS**

All documents and materials prepared by Consultant under the terms of this contract are the Consultant's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection *whenever requested*. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use.

#### **VIII. NONDISCLOSURE**

The Consultant may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other material which Consultant prepares or acquires in performing this contract, including any duplicate copies kept by Consultant. The Consultant may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

## IX. 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.

“Consultant” includes the person, corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Consultant’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Consultant.

“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.

### B. Indemnity

The Consultant shall indemnify, hold harmless and defend the City against liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant or the Consultant’s agent, or another entity over which the Consultant exercises control.

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

Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Consultant’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 Consultant or Consultant'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 Consultant.**

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

## **X. INSURANCE**

### **A. GENERAL REQUIREMENTS**

The Consultant agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Consultant is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Consultant 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 Consultant 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 Consultant 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 with respect to operations for which this agreement is made.
2. Provide for 30 days advance written notice of cancellation or material change.

## C. TYPES AND AMOUNTS OF INSURANCE

The types of insurance required in this contract are those indicated by initials. If no initials appear on any of items 1 through 6, items 1 through 4 shall be required.

| <u>Type</u>                                                                                                                                                                                                                                                                                                                                                                   | <u>Amount</u>                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <u>  X  </u> 1. Workers' Compensation<br>Employer's Liability                                                                                                                                                                                                                                                                                                                 | Statutory<br>\$100,000 per occurrence                                                           |
| <u>  X  </u> 2. Commercial (Public) Liability<br>including, but not limited to: <ul style="list-style-type: none"><li>• Premises/Operations</li><li>• Independent Contractors</li><li>• Products/Completed Operations</li><li>• Contractual Liability<br/>(insuring above indemnity)<br/>and where the exposures exist</li><li>• Explosion Collapse and Underground</li></ul> | \$500,000 combined single<br>limit for bodily injury<br>and property damage<br>(per occurrence) |
| <u>  X  </u> 3. Business Automobile Liability<br>to include coverage for: <ul style="list-style-type: none"><li>• Owned/Leased Autos</li><li>• Non-Owned Autos</li><li>• Hired Cars</li></ul>                                                                                                                                                                                 | \$500,000 combined single<br>limit for bodily injury<br>and property damage<br>(per occurrence) |
| <u>  X  </u> 4. Professional Liability                                                                                                                                                                                                                                                                                                                                        | \$500,000 combined single limit<br>(per occurrence)                                             |
| <u>    </u> 5. See Addendum for Special<br>Coverages and/or revisions                                                                                                                                                                                                                                                                                                         |                                                                                                 |

\_\_\_6. No Insurance Required

### **XI. 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.

### **XII. TERMINATION**

This contract may be terminated at any time upon 30 days written notice by City to Consultant. In the event of termination, Consultant will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Consultant fails to fulfill his obligations under this contract, or if the Consultant violates any of the agreements of this contract, the City has the right to terminate the contract by giving five days written notice to the Consultant. The Consultant will be compensated for work satisfactorily performed before the termination date.

The Consultant, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Consultant. The City may withhold any payments to Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

### **XIII. PROJECT REPRESENTATION**

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Consultant and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means, methods, techniques, or procedures employed by Consultant. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Consultant's control.

### **XIV. NOTICE**

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

**City – ATTN:**

**Rodney Taylor  
PO Box 60  
Abilene, TX 79604**

**Consultant – ATTN:**

**Jordan Hibbs  
402 Cedar St  
Abilene, TX 79601**

### **XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES**



Consultant, 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. Consultant must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

#### **XVI. NO INDEBTEDNESS**

Consultant 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. Consultant 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.

#### **XVII. EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the City 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.

#### **XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY**

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

#### **XIX. 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.

## **XX. 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 Consultant. The Consultant 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 Consultant 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.

## **XXI. LEGAL CONSTRUCTION**

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

## **XXII. 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.

## **XXIII. 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.

#### **XIV. 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 instrument.

*{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**

**PROFESSIONAL**

By:

By:



Name:

Name: Jordan S. Hibbs

Title:

Title: Vice President

Address: 402 Cedar St., Abilene, TX 79601

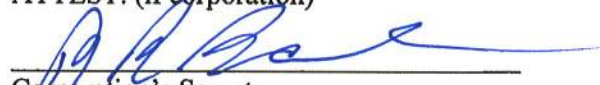
Phone Number: 325-698-5560

Federal Tax ID#: 75-2258512

ATTEST:

ATTEST: (if corporation)

\_\_\_\_\_  
City Secretary

  
\_\_\_\_\_  
Corporation's Secretary

APPROVED:

Corporate Seal (if available)

By: \_\_\_\_\_

City Attorney



## EXHIBIT "A"

### SCOPE OF SERVICES BAYLOR DRIVE LIFT STATION – RPR SERVICES

Consultant (or "Engineer") shall provide additional Construction Phase Services and Resident Project Representative (RPR) Services for the Baylor Drive Lift Station Project due to ongoing delays by the Construction Contractor. The full scope of services for the additional tasks is as follows.

#### I. Basic Services – Construction Phase Services

##### A. Engineer shall:

1. *General Administration of Construction Contract.* Consult with City and act as City's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of Engineer as assigned in said General Conditions shall not be modified, except as Engineer may otherwise agree in writing. All of City's instructions to Contractor will be issued through Engineer, who shall have authority to act on behalf of City in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.
2. *Pre-Construction Conference.* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
3. *Visits to Site and Observation of Construction.* In connection with observations of Contractor's work in progress while it is in progress:
  - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations by Engineer, and the Project Inspector, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress or to involve detailed inspections of Contractor's work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment as assisted by the Project Inspector, if any. Based on information obtained during such visits and such observations, Engineer will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and Engineer shall keep City informed of the progress of the Work.

- b. The purpose of Engineer's visits to, and representation by the Project Inspector, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for City a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
4. *Defective Work.* Recommended to City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Engineer believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
5. *Clarifications and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents to allow the orderly completion of the Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Engineer may issue Field Orders through the City's representative, authorizing minor variations from the requirements of the Contract Documents.
6. *Change Orders and Work Change Directives.* Recommend Change Orders and Work Change Directives to the City, as appropriate, and support the City in the preparation of Change Orders and Work Change Directives as required.
7. *Shop Drawings and Samples.* Review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such

reviews or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. Engineer has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to Engineer.

8. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by contractor, but subject to a reasonable number of substitution requests.
9. *Inspections and Tests.* Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.
10. *Disagreements between City and Contractor.* Render formal written decisions on all claims of City and Contractor relating to the acceptability of contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, Engineer shall be fair and not show partiality to City or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
11. *Applications for Payment.* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
  - a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to City, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe Contractor's work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of Engineer contained in this

paragraph are expressly subject to the limitations set forth in subparagraph b. below and other express or general limitations in this Agreement and elsewhere.

- b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to City free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between City and Contractor that might affect the amount that should be paid.

12. *Contractor's Completion Documents.*

- a. Receive and review maintenance and operating instructions, schedules, and guarantees.
- b. Receive certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as specified, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such Engineer's review will be limited as stated.
- c. Engineer shall transmit these documents to City.

13. *Substantial Completion.* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with City and Contractor, conduct an inspection to determine if the Work is Substantially Complete.

14. *Final Notice of Acceptability of the Work.* Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the

recommendation for final payment, Engineer shall also provide a "Notice of Acceptability of Work" that the Work is acceptable to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

- B. *Duration of Construction Phase.* The services provided in this contract shall commence on April 12, 2021 and shall be completed on or before June 21, 2021 (to match Contractor's completion schedule).
- C. *Limitation of Responsibilities.* Engineer shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. Engineer shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

## II. Basic Services – Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist Engineer in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Article shall provide part time representation during construction of the Baylor Drive Lift Station Improvements project. These services shall commence on April 12, 2021 and shall be completed on or before June 21, 2021 (to match Contractor's completion schedule).
- B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- C. The duties and responsibilities of the RPR are limited to those of Engineer in this Exhibit A and in the Contract Documents, and are further limited and described as follows:
  - 1. *General:* RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor, keeping Owner advised as necessary. RPR's dealings with subcontractors shall only be through or with



the full knowledge and approval of Contractor. RPR shall generally communicate with Owner with the knowledge of and under the direction of Engineer.

2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conference, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been reviewed by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*



- a. Conduct on-site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
9. *Inspections, Tests, and System Startups:*
- a. Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
  - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that contractor maintains adequate records thereof.
  - c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.
10. *Records:*
- a. Maintain at the Site (electronically) orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project related documents.
  - b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions,

observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
- d. Maintain records for use in preparing Project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

11. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer, proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system startup reports.
- d. Report immediately to Engineer the occurrence of any Site accidents, any Hazardous Environmental Conditions, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.

12. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submissions and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

- a. Before Engineer issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
- c. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed or corrected.
- d. Observe whether all items on final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.
3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advise or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

9. Be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the work.

## **ATTACHMENT B**

### **PAYMENT SCHEDULE PARTIES TO INITIAL OPTION SELECTED**

#### **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 \$(per the attached Schedule of Charges) per hour not to exceed \$49,500.00.

Professional 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 Professional 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 Professional has been notified.

**Enprotec / Hibbs & Todd, Inc.**  
**HOURLY CHARGES FOR PROFESSIONAL SERVICES (2021)**  
Charges include all salaries, salary expense, overhead, and profit.

|                                                                |                           |
|----------------------------------------------------------------|---------------------------|
| Principal .....                                                | \$ 220.00 per hour        |
| Senior Project Manager .....                                   | 180.00 per hour           |
| Project Manager .....                                          | 160.00 per hour           |
| Senior Engineer / Geologist .....                              | 145.00 per hour           |
| Project Engineer / Geologist .....                             | 130.00 per hour           |
| Staff Engineer I / Geologist I .....                           | 115.00 per hour           |
| Staff Engineer II / Geologist II .....                         | 100.00 per hour           |
| RPLS I .....                                                   | 145.00 per hour           |
| RPLS II .....                                                  | 95.00 per hour            |
| Operations Specialist / Regulatory Compliance Specialist ..... | 140.00 per hour           |
| Contract Operator (Certified Class B Water Operator) .....     | 100.00 per hour           |
| Engineering / Field Technician I .....                         | 135.00 per hour           |
| Engineering / Field Technician II .....                        | 110.00 per hour           |
| Engineering / Field Technician III.....                        | 85.00 per hour            |
| Survey Tech I .....                                            | 85.00 per hour            |
| Survey Tech II .....                                           | 65.00 per hour            |
| CAD I .....                                                    | 130.00 per hour           |
| CAD II .....                                                   | 100.00 per hour           |
| CAD III .....                                                  | 65.00 per hour            |
| Administrative .....                                           | 70.00 per hour            |
| Survey Party .....                                             | 225.00 per hour - 3 man   |
| .....                                                          | 200.00 per hour - 2 man   |
| .....                                                          | 175.00 per hour - 1 man   |
| <b>Expense Items</b>                                           |                           |
| Consultants, Contractors & Supplies .....                      | Cost plus 10%             |
| Travel (out of town only) .....                                | Current IRS rate per mile |
| Lodging and meals (out of town trips) .....                    | Actual cost               |

## ATTACHMENT C

### *OWNERSHIP OF DOCUMENTS AND MATERIALS*

#### ***Parties to initial option chosen***

***(Option 1)*** \_\_\_\_

All documents and materials prepared by Professional under the terms of this contract are the City's property from the time of preparation, and Professional must deliver the documents and materials to the City or make them available for inspection whenever requested. Professional has the right to make duplicate copies of such documents or materials for its own file or for other such purposes as the City authorizes in writing.

***(Option 2)*** X

All documents and materials prepared by the Professional remain the property of the Professional; however, Professional must furnish City, at no additional cost, one set of reproducible mylars of the original drawings of the work and/or one copy of all documents prepared by the Professional pursuant to this Agreement.



## ATTACHMENT D

### 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 Professional's/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 Professional has undertaken to perform on the project, regardless of whether that person contracted directly with the Professional and regardless of whether that person has employees. This includes, without limitation, independent contractors, subprofessionals, 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 Professional 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 Professional providing services on the project, for the duration of the project.
- c. The Professional must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Professional's current certificate of coverage ends during the duration of the project, the Professional 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. Professional 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 Professional, 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 Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
  - g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional 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 Professional 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 Professional 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 Professional, 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 Professional, 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 Professional:
      - (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 Professional is representing to the City that all employees of the Professional 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 Professional to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k. The Professional's failure to comply with any of these provisions is a breach of contract by the Professional which entitles the City to declare the contract void if the Professional does not remedy the breach within ten (10) days after receipt of notice of breach from the City.

**ATTACHMENT E**  
**NOTICE TO PROCEED**

Click or tap here to enter text.

**ATTACHMENT F**  
**CHANGE IN SCOPE OF SERVICES**

Click or tap here to enter text.

Authorize a Professional Services Contract with  
Enprotec/Hibbs & Todd, Inc. for the  
Baylor Drive Lift Station RPR Services.



- The Baylor Drive Lift Station is aged, in poor condition, and the site is too small to accommodate an upgrade project.
- Enprotec/Hibbs & Todd, Inc. (EHT) was hired to design the relocation and replacement of the Baylor Drive Lift Station, and the engineers design work and the project management is being performed under two professional service contracts totaling \$118,780.00.
- Lupe Rubio Construction Company, Inc. was awarded the bid for constructing the Baylor Drive Lift Station Replacement Project in March 2020.



- The project is significantly behind schedule for completion due to the delays in acquiring critical parts and construction interruptions partly related to the impacts of the Covid-19 pandemic.
- Funds for the ongoing contract management by EHT for the project are now depleted
- This contract with Enprotec/Hibbs & Todd, Inc. for the Baylor Drive Lift Station RPR Services in the amount of \$49,500.00 will provide for Resident Project Representation and for ongoing project management for the successful completion of the project.





# New location of Baylor Drive Lift Station





Authorize a Professional Services Contract with  
Enprotec/Hibbs & Todd, Inc. for the  
Baylor Drive Lift Station RPR Services.

Questions  
?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Robert Hanna, City Manager**

**FROM: Rodney Taylor, Director**

**SUBJECT: 18. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing a Contract for Repair of Ivie Raw Water Intake Pump #3 Using BuyBoard Purchasing Cooperative (Rodney Taylor)**

---

**GENERAL INFORMATION**

Water Utilities staff is recommending that the Abilene City Council authorize a contract with Precision Pump Systems, LLC for Repair of Ivie Intake Pump #3 in the amount of \$94,900.00. The contract is being secured through BuyBoard Cooperative Purchasing, Contract #589-19, a Local Government Purchasing Cooperative created in accordance with Section 791.001 of the Texas Government Code.

**SPECIAL CONSIDERATIONS**

The Ivie Intake Pump Station is located on Lake O.H. Ivie approximately 50 miles south of Abilene. The pump station includes three vertical turbine pumps used to pump raw lake water into the Ivie Pipeline System for delivery to the Hargesheimer Water Treatment Plant. At this time two of the three intake pumps are inoperable. Pump #3 has a capacity of 6,000 gallons per minute. Pump #3 is currently offline due to excessive vibration and noise due to wear and or failure of internal parts. The contract will provide for the pump to be pulled, repaired, reinstalled, and tested to verify performance. The price includes repair or replacement of normal wear parts, machining, labor, and transportation.

In March 2021 the City solicited bids for the Rebuild of Vertical Turbine Pumps which included the repair of each of Ivie Intake Pumps #1 and #3. None of the bid proposals was properly completed to allow a fair assessment and comparison between them or for selecting a single bidder. All bids were rejected. Rather than rebidding the repairs, staff identified a similar repair opportunity by contracting directly with Precision Pump Systems through BuyBoard Cooperative Purchasing. The price of the contract with Precision through BuyBoard is favorable

in comparison with those rejected bids.

### **FUNDING/FISCAL IMPACT**

Funding for the repair of Ivie Intake Pump #3 will come from fund 575 designated for capital improvement projects and/or existing CO fund residuals.

### **STAFF RECOMMENDATION**

Staff recommends that the Abilene City Council authorize the contract with Precision Pump Systems in the Amount of \$94,900 as described herein.

### **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. WrittenResolution-WtrDpt-Precision Pump-Contract Ivie Intake P3 Repair-5-13-2021
2. Contract-Precision Pump Systems-Repair Ivie Intake P3-5-13-2021
3. Presentation-Authorize Contract-Precision Pump Systems-Repair of Ivie Intake P3-5-13-2021

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AUTHORIZING A CONTRACT WITH PRECISION PUMP SYSTEMS LLC FOR THE  
REPAIR OF IVIE INTAKE PUMP #3.**

**WHEREAS**, the City of Abilene (City) owns and operates the Ivie Pipeline System which includes the Intake Pump Station, Booster Pump Station, the Ovalo Terminal Storage Tank, the transmission pipeline, and an electrical transmission system; and

**WHEREAS**, the Ivie Intake Pump Station includes three vertical turbine pumps to transfer raw lake water through the pipeline system to the Hargesheimer Water Treatment Plant; and

**WHEREAS**, Ivie Intake Pumps #1 and #3 are currently inoperable and in need of repairs due to wear and/or failure of internal parts; and

**WHEREAS**, City staff was not successful in its attempt to receive a correctly completed bid proposal through the City's normal bid solicitation process; and

**WHEREAS**, City staff is able to secure the repair of Ivie Pump #3 using a contract with Precision Pump Systems, LLC through BuyBoard Cooperative Purchasing, a local government purchasing cooperative created in accordance with Section 791.001 of the Texas Government Code; and

**WHEREAS**, the staff recommends authorizing the contract with Precision Pump System LLC for the Repair of Ivie Intake Pump #3 in the amount of \$94,900.00; and

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

That the City Manager is authorized to execute the contract with Precision Pump Systems LLC for the Repair of Ivie Intake Pump #3 in the amount of \$94,900.00.

**ADOPTED this 13th day of May, 2021.**

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley E. Smith, City Attorney



## **SERVICES CONTRACT**

This contract, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021, is between the City of Abilene, a home rule municipal corporation of the State of Texas ("City"), and Precision Pump Systems a LLC organized under the laws of the State of Texas ("Contractor").

The purpose of this Contract is to state the terms and conditions under which Contractor will provide Repair of Raw Water Intake Pump #3 services to the City during the term stated herein.

In consideration of the mutual promises contained in this Contract, City and Contractor agree as follows:

### **I. TERMS**

Contractor must provide all services as described in Attachment A, which is incorporated by reference for all purposes within 77 calendar days after the effective date of this Contract.

### **II. PAYMENT**

For the services to be rendered under this Contract, the Contractor will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

### **III. MATERIALS AND SUPPLIES**

The Contractor will furnish all materials and equipment necessary to perform the services agreed to under this Contract, which are to be supplied by the Contractor.

### **IV. TERMINATION**

This agreement may be canceled or terminated by either party for (1) the other party's violation or failure to comply with any terms or conditions contained herein, or (2) upon the giving of sixty (60) days written notice by either party of the desire to terminate the same. Upon the termination of this agreement as provided herein, an accounting shall be made between the parties and payments made to the parties as provided for herein to the day of termination.

### **V. ASSIGNMENT**

The Contractor may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Consultant to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Contractor's successors and assigns and may be enforced by the City against such successors and assigns.

## **VI. STATUS OF CONTRACTOR**

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

## **VII. AMENDMENT OR MODIFICATION**

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent, which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

## **VIII. 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.**

## **IX. 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 shall:

1. Name the City as an additional insured with respect to operations for which this agreement is made.
2. Provide for 30 day advance written notice of cancellation or material change.

### **C. TYPES AND AMOUNT OF INSURANCE**



The types of insurance required in this contract are those indicated by initials. If no initials appear on any of items 1 through 6, items 1 through 4 shall be required.

| <u>Type</u>                                                                                                                                                                                                                                                                                                                                                                  | <u>Amount</u>                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <u>  </u> X_1. Workers' Compensation<br>Employer's Liability                                                                                                                                                                                                                                                                                                                 | Statutory<br>\$100,000 per occurrence                                                           |
| <u>  </u> X_2. Commercial (Public) Liability<br>including, but not limited to: <ul style="list-style-type: none"><li>• Premises/Operations</li><li>• Independent Contractors</li><li>• Products/Completed Operations</li><li>• Contractual Liability<br/>(Insuring above indemnity)<br/>and where the exposures exist</li><li>• Explosion Collapse and Underground</li></ul> | \$500,000 combined single<br>limit for bodily injury<br>and property damage<br>(per occurrence) |
| <u>  </u> X_3. Business Automobile Liability<br>to include coverage for: <ul style="list-style-type: none"><li>• Owned/Leased Autos</li><li>• Non-Owned Autos</li><li>• Hired Cars</li></ul>                                                                                                                                                                                 | \$500,000 combined single<br>limit for bodily injury<br>and property damage<br>(per occurrence) |
| <u>  </u> 4. Professional Liability                                                                                                                                                                                                                                                                                                                                          | \$500,000 combined single limit<br>(per occurrence)                                             |
| <u>  </u> 5. See Addendum for Special<br>Coverages and/or revisions                                                                                                                                                                                                                                                                                                          |                                                                                                 |
| <u>  </u> 6. No Insurance Required                                                                                                                                                                                                                                                                                                                                           |                                                                                                 |

#### **X. 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.

#### **XI. NOTICE**

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

**City -           ATTN:**       Rodney Taylor  
                                          PO Box 60  
                                          Abilene, TX 79604

**Contractor - ATTN:**       Collin Brown  
                                          PO Box 79149  
                                          Houston, TX 77273

## **XII. 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 required in completing the work contracted for in this agreement.

## **XIII. NO INDEBTEDNESS**

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.

## **XIV. EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the City 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.

## **XV. VERIFICATION OF EMPLOYMENT ELIGIBILITY**

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

#### **XVI. 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.

#### **XVII. 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 Professional. The Service 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 Service 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.

#### **XVIII. LEGAL CONSTRUCTION**

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

#### **XIX. 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.

## **XX. 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.

## **XXI. 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 instrument.

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

**IN WITNESS HEREOF** the parties have entered into this agreement as of the date written above.

**CITY OF ABILENE**

By:

Title:

**SERVICE CONTRACTOR**

By: Zone Industries DbA Precision Pump Systems

Title: Collin Brown- Regional Manager

Address: 820 W Sandy Lake Rd. Suite 200  
Coppell, TX 75019

Phone Number: 817-912-5151

Federal Tax ID #: 46-1109042

ATTEST:

\_\_\_\_\_  
City Secretary

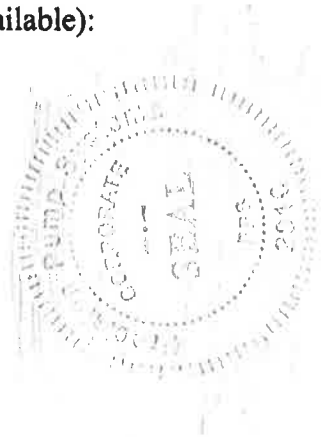
APPROVED:

\_\_\_\_\_  
City Attorney

ATTEST: (If Corporation)

  
\_\_\_\_\_  
Corporation's Secretary

Corporate Seal (If available):



**ATTACHMENT A**  
**SCOPE OF SERVICES**

The City of Abilene is in need of a rebuild of vertical turbine pump #3, located at Lake O.H. Ivie Pump Station which is located at the Lake O.H. Ivie Reservoir. Pump #3, is a Hydroflo 18HH6C-13994-w – 7 stage vertical turbine pump rated at 6,000 GPM @ 560 ft. TDH @ 1800 RPM.

The Contractor shall be responsible for a turn-key rehabilitation project.

The contractor shall perform pre-removal field testing and inspection services of the pump and motor.

The contractor shall be responsible for removal of the pump and motor and partial breakdown of the pump prior to transportation, loading and providing transportation of the pump to the contractor's facility for rehabilitation.

Once the pump has arrived at the contractors facility, the contractor shall fully disassemble and inspect the pump.

Upon inspection, the contractor shall create and provide the City with an inspection report outlining the existing condition of the pump and it's individual components. The report will also contain the manufacturers tolerance specifications of each individual component.

The contractor shall provide and install all standard wear parts, including all, labor, machining, cleaning, transportation, equipment, and related materials required to pull and repair and reinstall the pump. Repair shall bring clearances of all machined and replaced parts to within the manufacturer's tolerances for noise, vibration, and performance of the overhauled pump. The contractor shall also provide and install new METRIX Model 440 Vibration switches on the motor.

Once the pump has been rehabilitated, the contractor shall reassemble the pump, transport the rehabilitated pump to the Lake Ivie pump station, unload and reinstall the pump.

The contractor shall perform post repair field performance testing, verification of proper function and inspection services. In the event of extensive damage being found to casted parts located in the bowl assembly, the contractor has provided unit costs for providing and installing new impeller and new bowl assembly's.

The Quote Number: 1006376 is attached and made part of this contract document. To

the extent that any provision of the Quote conflicts with the terms and conditions of this Services Contract, the terms and conditions of this Services Contract control.



# PRECISION PUMP SYSTEMS

PO Box 73149

Houston Texas 77273

Phone: 713-783-8530 Fax: 713-783-1221

**BuyBoard Contract # 589-19**

Attn: City of Abilene TX  
Project: OH Ivie Raw Water Intake Pump Repair  
Contact: City of Abilene Water Department

Date: 04/09/2021  
**Quote No. 1006376**

Pursuant to your inquiry as referenced above, we are pleased to submit our proposal for your kind consideration. We appreciate your confidence in **Precision Pump Systems (PPS)** to supply the best equipment and service available in the industry today.

## **Equipment Scope & Services Included -**

### **QTY 1: Repair of Raw Water Intake pump #3 Hydroflo 18HL 7 Stage 1250HP Pump.**

This repair includes testing pump and motor before the pump is taken out of service. Pulling pump from intake structure. Shipping pump disassembled back to shop for full inspection.

#### **All Labor quoted at \$190.00 an hour for pulling, inspection, assembly, installation.**

This quote is for replacing all standard wear parts on the pump. These items include line/bowl shafting, collets, couplings, and bearings. Impellers will be dynamically balanced. The bowl assembly will be re-assembled in the shop after repairs are made. Spider bearings will be pressed in the shop. Shafting, column, couplings, and other parts will be assembled during installation. Pump will be reinstalled and tested. (This pump is constructed of 316SS column piping, casted bowls, impellers, and shafting. The pump does not require coating of the wetted parts.)

The TIR on the column and head flanges will be checked and if any fits are out of tolerance, they will be machined back to correct tolerance.

New METRIX Model 440 Vibration switches will be provided and installed on the motor during installation of the pump and motor.

If there is extensive damage found to casted parts located in the bowl assembly those items will be priced per breakdown below. A full report will be sent to the city with pictures of any "major" damage that would require these parts needed for the repair.

Adder for unexpected repair parts if needed, New 316SS impeller Each- \$5,900.00

Adder for unexpected repair parts if needed New bowl with wear ring Each- \$15,250.00

Pump will be transported back to the intake structure and installed. Once installed, performance and vibration testing will be performed. Cost includes all transportation, field service and shop labor for repair.

Terms are net 30, upon approved credit. No taxes are included. Prices firm for 30 days only. Note: Retainers are not considered as part of the terms of the quotation. PPS will furnish Insurance Certificate upon request. The above quotation is subject to PPS's standard conditions of sale and any party's acceptance to purchase items @ cost noted hereby signify that they have read and understand those conditions and agree to them. These said terms & conditions shall have absolute & overriding authority of any agreement between PPS & other parties unless specifically noted otherwise by PPS in writing. No verbal or handwritten changes to this proposal shall be acceptable, unless within revised written proposal provided. This offer is not a Bill of Sale. Customer must supply written notice of any order cancellation and is solely responsible for All cost associated with any order cancellation requested. There will be a 1% Interest per Month Charge on All Payments Past 60 Days. By Signing this Quote, means you have read and agree to all Terms and Conditions.

**P.O. Box 73149, Houston, TX 77273 Tel: 713-783-8530 Fax: 713-783-1221**





## PRECISION PUMP SYSTEMS

PO Box 73149

Houston Texas 77273

Phone: 713-783-8530 Fax: 713-783-1221

BuyBoard Contract # 589-19

**Net Price: \$94,900.00**

**Expected Lead time 8-11 Weeks**

**NOTES/EXCEPTIONS:**

*Unless specifically mentioned in this proposal for inclusion with proposed items, PPS has not included any other items or services. Items quoted are standard construction and paint unless otherwise noted. Motors sent in for rebuild that are "Listed Motors" i.e. UL, FM, etc. will not be re-certified unless specifically stated at time of repair. Any sale of goods is based on our "Standard Terms & Conditions of Sales"; request copy if needed. Proposal is limited to the items and quantities listed. Neither verbal nor handwritten changes are acceptable. Any revision to proposal will be provided in a re-typed "revised" proposal.*

We look forward to working with you on this and any future projects. If you have any questions or thoughts, please do not hesitate to call.

Sincerely,

Colin Brown

**PRECISION PUMP SYSTEMS**

O: 817-912-5151

M: 903-360-4306

cleadbetter@precisionpumpsystems.com

**APPROVED BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

Terms are net 30, upon approved credit. No taxes are included. Prices firm for 30 days only. Note: Retainers are not considered as part of the terms of the quotation. PPE will furnish Insurance Certificate upon request. The above quotation is subject to PPE's standard conditions of sale and any parties acceptance to purchase items & cost noted hereby signify that they have read and understand those conditions and agree to them. These said terms & conditions shall have absolute & overriding authority of any agreement between PPE & other parties, unless specifically noted otherwise by PPE in writing. No verbal or handwritten changes to this proposal shall be acceptable, unless revised written proposal provided. This quote is not a Bill of Sale. Customer must supply written notice of any order cancellation and is solely responsible for All cost associated with any order cancellation requested.

**P.O. Box 450270, Houston, TX 77245 Tel: 713-783-8530 Fax: 713-783-1221**

**ATTACHMENT B**  
**PAYMENT SCHEDULE**

**OPTION 1 \_\_\_\_**

Compensation is based on actual hours of work/time devoted to providing the described services and will be paid at a rate of \$Click or tap here to enter text. per hour not to exceed \$Click or tap here to enter text..

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 X**

Payment is in a lump sum amount of \$94,900.00 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)

Authorize a Contract with Precision Pump Systems LLC for the  
Repair of Ivie Intake Pump #3.



- The Ivie Intake Pump Station includes three vertical turbine pumps used to transfer raw lake water into the Ivie Pipeline System for delivery to the Hargesheimer Water Treatment Plant.
- At this time each of Ivie Intake Pump #1 and #3 are inoperable due to wear and/or failure of internal parts.
- In March 2021 the City solicited for bids for the repair of pumps #1 and #3 but was not successful due to the submission of incomplete bid proposals by all bidders. All bids were rejected.



- City staff is able to secure the repair of Ivie Pump #3 using a contract with Precision Pump Systems LLC through BuyBoard Cooperative Purchasing, a local government purchasing cooperative created in accordance with Section 791.001 of the Texas Government Code.
- The contract is for the removal, repair, reinstallation, and verification testing, and includes repair or replacement of all normal wear parts, labor, machining, and transportation of the pump.
- The value of the contract is \$94,900.00.





Authorize a Contract with Precision Pump Systems LLC for the  
Repair of Ivie Intake Pump #3.

Questions?





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Robert Hanna, City Manager**

**FROM: Stanley Smith, City Attorney**

**SUBJECT: 19. Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Land Development Code, Chapter 3, Subdivision Regulations, Article 2, Subdivision Standards, Division 7, Roadways, Section 3.2.7.4, Street, Alley Abandonment and Closure Policy (*Stanley Smith*)**

---

**GENERAL INFORMATION**

Periodically, a citizen or the City will apply to abandon a city street. The procedure to abandon a public street is the same as a zoning amendment, which requires notices be mailed to all land owners within 200 feet of the public street being abandoned, as well as a hearing before the Planning and Zoning Commission with the requisite publishing of public notices. Upon abandonment of a city street, the public right of way is vacated and the abutting land owners become owners of the former street. A replat is required following the abandonment of a city street.

A closure of a city street is not an abandonment or vacation of the public right of way, but merely a closure of the street to through traffic. It is proposed that the procedure to close a city street be modified to occur via approval of a Resolution or Ordinance directly by the City Council. A public hearing would still be required prior to closure of the city street, or portion of the city street. The City Council may also make additional requirements regarding the closure of the city street, including barriers, signage, and lighting for public safety purposes. A replat would not be required, as the "closed" street would remain a public right-of-way.

It is intended that a "closure" of a city street would not be used for a "temporary" closure, but is intended to be utilized when the street is to no longer be used for vehicular traffic but should remain a public space. Additionally, because the street is not abandoned, a "closed" street could be "re-opened" for vehicular traffic by the City Council at any time should the need arise.

## **SPECIAL CONSIDERATIONS**

## **FUNDING/FISCAL IMPACT**

## **STAFF RECOMMENDATION**

Staff recommends approval of the Ordinance amendment.

## **BOARD OR COMMISSION RECOMMENDATION**

N/A

## **ATTACHMENTS:**

1. Closure of City Streets Amendment
2. Exhibit A Section\_3\_2\_7\_4\_Street,\_Alley\_Abandonment\_and\_Closure\_Policy  
AMENDMENT
3. Amend LDC Closure City Street

**AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE LAND DEVELOPMENT CODE OF THE ABILENE CITY CODE OF ORDINANCES, BY AMENDING CHAPTER 3, SUBDIVISION REGULATIONS, ARTICLE 2, SUBDIVISION STANDARDS, DIVISION 7, ROADWAYS, SECTION 3.2.7.4, STREET, ALLEY ABANDONMENT AND CLOSURE POLICY; CALLING A PUBLIC HEARING; PROVIDING A CRIMINAL PENALTY; AND A PROVIDING A SEVERABILITY CLAUSE.**

**WHEREAS**, the closure of a city street, alley, thoroughfare or public right of way is not intended to be an abandonment or vacation of the street, alley, thoroughfare or public right of way; and

**WHEREAS**, the procedure to close a city street, alley, thoroughfare or public right of way should be a different procedure than an abandonment of a city street, alley, thoroughfare or public right of way, but still provide a process for public input and public safety requirements; and

**WHEREAS**, the procedure to abandon a city street, alley, thoroughfare or public right of way shall remain as currently provided in the Land Development Code and is not be modified or amended herein.

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

**PART 1:** That Chapter 3, Article 2, Division 7, Section 3.2.7.4, Street, Alley Abandonment and Closure Policy, of the Land Development Code of the City of Abilene Code of Ordinances is hereby amended as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

**PART 2:** That any person, firm or corporation violating any of the provisions of these chapters shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

**PART 3:** That if any provision or any section of this Ordinance shall be held to be illegal, invalid, void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

**PASSED ON FIRST READING this 13<sup>th</sup> day of May, 2021.**

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 23rd day of May, 2021, the same being more than twenty-four (24) hours prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 4:30 p.m., on the 27<sup>th</sup> day of May, 2021 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal

ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON FINAL READING THIS 27<sup>th</sup> day of May, 2021.**

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

## EXHIBIT "A"

### Section 3.2.7.4 Street, Alley Abandonment and Closure ~~Requirements Policy~~

- (a) General. The abandonment ~~or closure~~ of a thoroughfare, alley, right-of-way or public street shall be by replat or plat abandonment unless such was obtained by the City without platting.
- (b) Quit Claim Deed. A Quit Claim deed that eliminates any and all future claim for City responsibility for the abandoned thoroughfare, public street, right-of-way or alley may be required by the City Council as part of the approval of the document (i.e., plat or separate instrument) that achieves abandonment.
- (c) Approval Process. Any thoroughfare, public street, right-of-way or alley ~~closure or~~ abandonment shall follow the same process as required for a zoning change. City Council shall be the final decision maker.
- (d) Closure. The City Council shall have the authority to close any thoroughfare, alley, right-of-way or public street, or any portion thereof, to traffic. Such closure may be by Resolution or Ordinance after a public hearing, and it shall not be necessary to follow the same process as required for a zoning change. The City Council may require signage, barriers, lighting, or other features as it deems appropriate to protect the public safety. Such closure shall not be an abandonment of the thoroughfare, alley, right-of-way or public street.

# **Amending Land Development Code - Closure of City Street**





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Mike Warrix, Director

**SUBJECT:** **20. Ordinance (Final Reading) Z-2021-06: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Five Owners of the Subject Properties, Represented by Jacob & Martin LLC, to Amend Terms and Conditions of Planned Development District Number 82 (PD 82) Specifically as They Affect Certain Commercial Properties Located Directly North of Lone Star Drive and East of Loop 322, to Allow Use and Development in Compliance with Requirements of General Retail (GR) Zoning, Instead of Specific Uses and Standards Now Required by PD 82. (Mike Warrix)**

---

**GENERAL INFORMATION**

Amend Planned Development 82 to remove all current development standards and restrictions applicable to Tract 1 and allow all development standards ordinarily applicable within General Retail zoning.

**SPECIAL CONSIDERATIONS**

None

**FUNDING/FISCAL IMPACT**

None

**STAFF RECOMMENDATION**

Approval

**BOARD OR COMMISSION RECOMMENDATION**



On April 6, 2021, the Planning and Zoning Commission voted 7-0 to recommend approval of this request to City Council.

**ATTACHMENTS:**

1. Z-2021-06 DRAFT PD ordinance
2. Z-2021-06 Council Staff Report
3. Z-2021-06 Applications
4. Z-2021-06 Council presentation

ORDINANCE NO. \_\_\_\_\_  
PAGE 1  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE CITY CODE AND CONCERNING PD-82, A PLANNED DEVELOPMENT DISTRICT, AS WELL AS ORDINANCE NUMBER 40-2003, 02-2005, and 19-2006; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the Land Development Code of the City of Abilene is hereby amended by changing Ordinance Numbers 40-2003, 02-2005 and 19-2006; specifically as set out in Exhibit "A" attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 22<sup>nd</sup> day of April, 2021.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20<sup>th</sup> day of March, 2021, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13<sup>th</sup> day of May, 2021, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13<sup>th</sup> day of May, 2021.

ATTEST:

\_\_\_\_\_  
Shawna Atkins,  
City Secretary

\_\_\_\_\_  
Anthony Williams,  
Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith,  
City Attorney

ORDINANCE NO. \_\_\_\_\_

Exhibit "A"

4<sup>th</sup> Amendment to Ordinance No. 40-2003, 02-2005, and 19-2006

PART 7:Specific Modifications: As identified in Exhibit B of Ordinance 40-2003; Tract 1 shall be subject to the requirements of the General Retail (GR) zoning district; as modified below:

DELETE: Portion of Section B. Permitted Uses

B. Permitted Uses:

Tract 1 (north of Lone Star Drive)

- Service and retail uses listed on Permitted Use List "A"

ADD: New subparagraph to Section B, to read as follows:

B. Permitted Uses:

Tract 1 (north of Lone Star Drive)

- All uses ordinarily permitted within General Retail (GR) Zoning.

DELETE: Portion of Section D. Signage

D. Signage

Tract 1:

1. No more than seven monument signs shall be permitted on Tract 1, as shown in approximate locations on Exhibit B (signs marked "C"). Each monument sign shall not exceed a height of 6 feet and a width of 10 feet.
2. One pole sign of no greater than 30 feet in height and not exceeding 100 square feet in area is permitted along the access road frontage in the northwest portion of the property, shown on the site plan for "future development" (see sign denoted "D" on Exhibit B).
3. One Pole sign of no greater than 30 feet in height and not exceeding 100 square feet in area is permitted near the southwest corner of the property. This sign shall be at least 50 feet north of southwest corner of the property (see sign denoted "B" on Exhibit B).
4. One monument sign identifying the project and business located within shall be permitted, not to exceed 30 feet in height and 10 feet in width. This sign shall be constructed with similar materials as the buildings (masonry, stone, brick, etc.) and shall match the architectural quality of these buildings (see sign denoted "A1" on Exhibit B).
5. Up to two monument signs identifying the project and businesses located within shall be permitted, not to exceed 10 feet in height and 10 feet in width. These signs shall be constructed with similar materials as the buildings (masonry, stone brick, etc.) and shall match the architectural quality of these buildings (see signs denoted "A2" on Exhibit B).
6. All signs on Tract 1 shall include landscaping in addition to turf, such as low shrubs, around the base of each sign.

ADD: Section D. Signage

D. Signage

Tract 1:

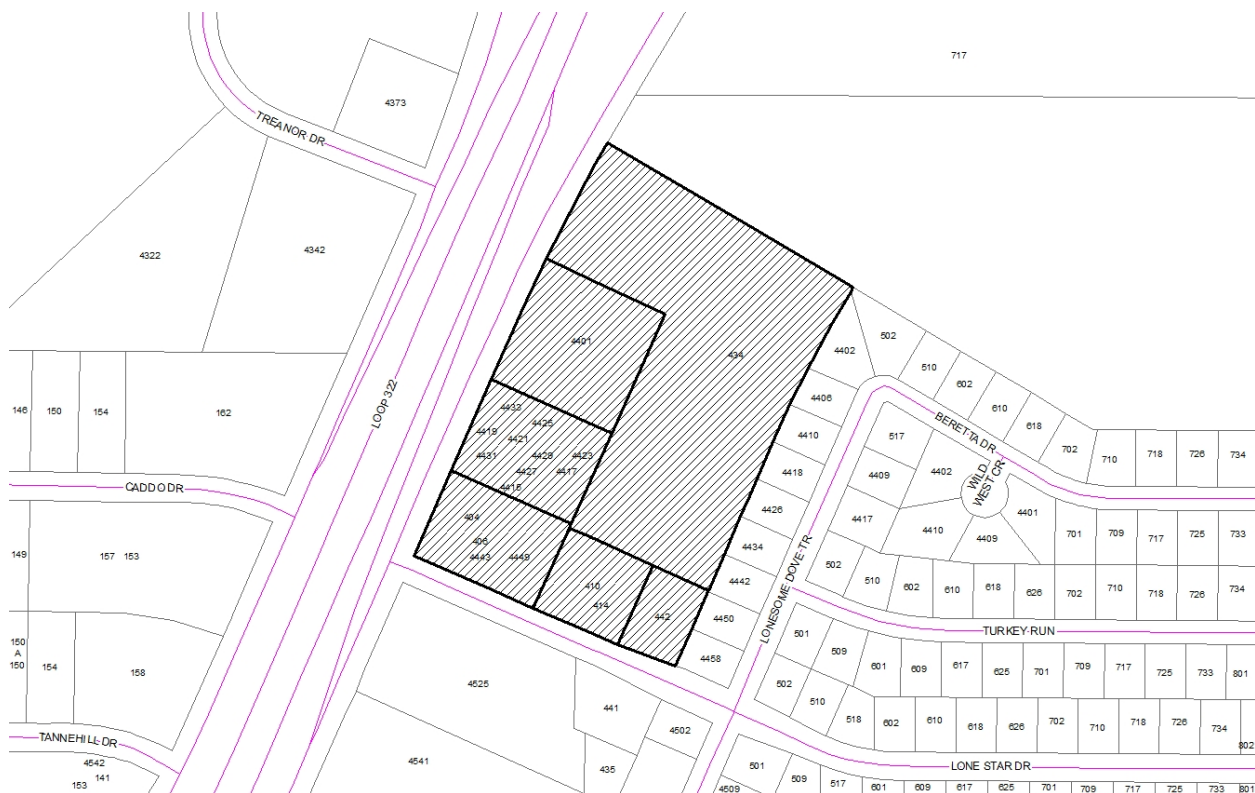
1. All signs within Tract 1 shall conform to standards ordinarily applicable within General Retail (GR) Zoning.

DELETE: Section f. Structure Height

- Maximum of 35 feet, except hotel/motel, which may be a maximum of 4 stories if they are separated from residentially zoned property by a minimum of 100'

ADD: Section f. Structure Height

- Tract 1:
  - Structure height shall be subject to standards ordinarily applicable within General Retail (GR) Zoning
- Tract 2:
  - Maximum of 35 feet, except hotel/motel, which may be a maximum of 4 stories if they are separated from residentially zoned property by a minimum of 100'

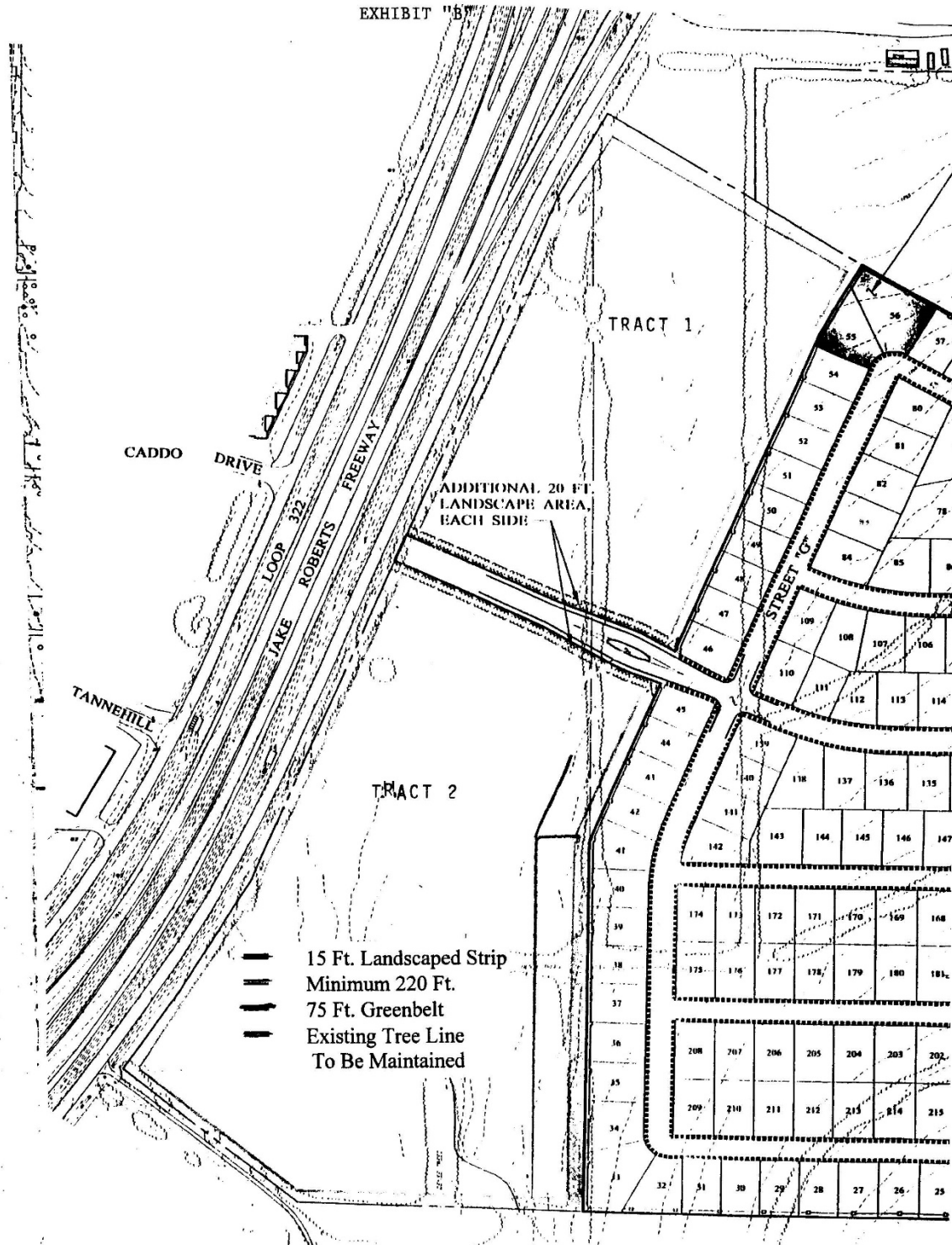


Location: 4300 block (east side) of Loop 322, at 4401 thru 4449 Loop 322 and at 404 thru 442 Lone Star Dr.

## Graphic Concept Plan

ORDINANCE NO. 40-2003

EXHIBIT "B"



# ZONING CASE Z-2021-06

## STAFF REPORT



### Scheduled Hearings

P & Z Commission: April 6, 2021

City Council 1<sup>st</sup> Reading: April 22, 2021

City Council 2<sup>nd</sup> Reading: May 13, 2021

### Applicant

Owner: Moore 322 LLC, Moore Outpost LLC, Moore Lone Star LLC, Rykard Copper Creek, and Acme Commercial Properties LLC

Agent: Jacob & Martin

### Request

Amend Planned Development District 82 (PD-82) to remove all current development standards and restrictions applicable to Tract 1 and allow all development standards ordinarily applicable within General Retail (GR) zoning.

### Location

4300 block (east side) of Loop 322, at 4401 thru 4449 Loop 322 and 404 thru 442 Lone Star Drive. The property is bound to the west by Loop 322; to the north by Cisco College; to the east by single-family residential properties; and the south by vacant property.

### Background

The subject properties were annexed in 1968 and zoned Agricultural Open Space (AO). In 1998, a portion of the subject properties were rezoned to General Commercial (GC), and in 2003, all of the subject properties were rezoned to Planned Development District 82 (PD-82) without the designation of a base zoning. PD-82 consists of two tracts, Tract 1 and Tract 2. This request affects the parcels in Tract 1. A copy of the original ordinance (#40-2003) containing the list of permitted uses is included in this report. One amendment was made to Tract 1 in PD-82 since initially adopted in 2003. The 2005 amendment added "hotel/motel" to the list of permitted uses.

### Zoning and Existing Land Use

Current zoning and existing land use of properties adjacent to and in the subject property's immediate area are illustrated in this report. As indicated on the map, adjacent zoning consists of Planned Developments 81 and 82 to the east and south; General Commercial and College University to the north; and Heavy Industrial to the west of Loop 322.

### Criteria Assessment

According to Section 1.4.1.4, Criteria for Approval, of the City of Abilene Land Development Code, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan map, as amended;**

It is the opinion of staff that the proposed zoning map amendment will serve to implement the goals, objectives, and policies of the Comprehensive Plan and Future Land Use and Development Plan Map. The Future Land Use and Development Plan includes the subject properties within a “Major Commercial Activity Center” designation. Such centers aim to provide the highest level of commercial, service, and employment concentration outside of the downtown area. The proposed zone change is generally consistent with the uses described in a major commercial activity center.

**(2) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

It is the opinion of staff that uses permitted by the proposed base designation of General Retail (GR) zoning, and related development standards will be appropriate with existing uses in the immediate area. All of the existing land uses within the subject properties are permitted by-right in General Retail zoning. Additionally, any proposed commercial development constructed adjacent to the existing single-family residences east of the subject property will be required to provide a Type B Land Use Buffer pursuant to Section 4.2.4.2 of the Land Development Code. This land-use buffer will generally alleviate any nuisances that may be created by commercial development in proximity to residential land uses.

**(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

The subject properties currently have access to existing utilities and public amenities, which are adequate for servicing the development. The request presents no apparent conflict with existing or proposed plans for community facilities and related infrastructure.

**(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

It is the opinion of the staff that there are no other factors present that would substantially affect the public health, safety, morals, or general welfare.

**Staff Recommendation**

Staff recommends approval.

**Planning and Zoning Commission Recommendation**

The Planning and Zoning Commission recommended approval by a vote of seven (7) to zero (0) on April 6, 2021.

**Notification**

Pursuant to Section 1.2.2.2 of the Land Development Code, staff mailed personal notices on March 26, 2021, via certified mail to the applicant and other property owners within a 200-foot radius of the subject properties. These property owners and associated parcel ID numbers are identified in Table 1.

**TABLE 1**

| Owner                          | Parcel ID | Response |
|--------------------------------|-----------|----------|
| ACME COMMERCIAL PROPERTIES LLC | 974864    |          |
| BAILEY STEPHEN C & LINDA S     | 109805    |          |
| BENAVIDES ROBERT VALDEZ JR &   | 969274    |          |
| BRANDON TERRY ALANA            | 969290    |          |
| CISCO JUNIOR COLLEGE           | 987466    |          |
| CISCO JUNIOR COLLEGE           | 105338    |          |
| CLARK JAMES & DEBORAH          | 109807    |          |
| CLARK KIMBERLY C               | 109831    |          |
| COX JAMES L & DELORES ANN      | 973309    |          |
| HESSON DANIEL T & BAILEY M     | 973310    |          |
| LEWIS DONALD SCOTT &           | 972994    |          |
| MOORE 322 LLC                  | 1062086   |          |
| MOORE 322 LLC                  | 25083     |          |
| MOORE 322 LLC                  | 99122     |          |
| MOORE 322 LLC                  | 974865    |          |
| MOORE LONE STAR LLC            | 971992    |          |
| MOORE OUTPOST LLC              | 972980    |          |
| MURPHY RODNEY D & SUZANNE      | 973311    |          |
| NAZWORTH BRUCE F & NIKKI       | 973308    |          |
| OWEN JANNA SUE                 | 969291    |          |
| QUINTANA DAVID & JENNIFER      | 109829    |          |
| RYKARD COPPER CREEK            | 972979    | In Favor |
| SANDERS EDDIE                  | 973324    |          |
| SANDERS EDDIE                  | 969275    |          |
| SODERWALL SCOTT L & TERRI      | 109804    | Opposed  |
| SPEARS LORRY                   | 109806    |          |
| STOCKARD INVESTMENTS INC       | 205470    |          |
| VELASQUEZ LUIS FELIPE &        | 109830    |          |
| WIESE LEONARD A & BARBARA L W  | 109808    |          |
| WRISTEN CHARLES W JR           | 109803    |          |
| YATES ROBERT HUNTER            | 973312    |          |

**ATTACHMENTS:**

- PD-82 Original Ordinance 40-2003
- Draft Amended Ordinance
- Application
- PowerPoint



[illegible]

4



Case # Z-2021-06  
March 23, 2021

ORDINANCE NO. 40-2003

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-82 PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Zoning Ordinance of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

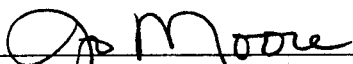
PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

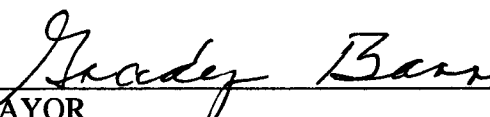
PASSED ON FIRST READING this 23 day of OCTOBER \_\_\_\_\_ A.D.  
20 03.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 5 day of October, 20 03, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13 day of NOVEMBER, 20 03, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

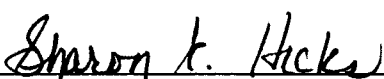
PASSED ON SECOND AND FINAL READING THIS 13 day of NOVEMBER \_\_\_\_\_,  
A.D. 2003.

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

ORDINANCE NO. 40-2003

Exhibit "A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development District shall be in accordance with the maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development District and are hereby incorporated by reference and included as part of this ordinance.

All use and development within the Planned Development District must be in compliance with the general Comprehensive Zoning Ordinance of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in the herein said Planned Development District shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Subpart E, Abilene Municipal Code, known as the Zoning Ordinance of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From AO, GC & PDD (Agricultural Open Space, General Commercial & Planned Development) District to PDD (Planned Development District) District.

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.



ORDINANCE NO. 40-2003

EXHIBIT "A"

Page 2

PART 5: Legal Description. The legal description of this PDD is as follows:

TRACT 1:

**BEING** a 12.808 acre tract out of a 25.133 acre tract conveyed to Centro Real Estate, L.P., a Texas Limited Partnership, recorded in Volume 2612, Page 237, Official Public Records, Taylor County, Texas and out of a 118.66 acre tract conveyed to Centro Real Estate, L.P., a Texas Limited Partnership, recorded in Volume 2775, Page 460, Official Public Records, Taylor County, Texas said 4.449 acre tract being more particularly described as follows:

***(Bearings are based on the City of Abilene Survey, Monumentation and Mapping Program, City Survey Markers 041R & 065R)***

**BEGINNING** at the northwest corner of said 118.66 acre tract, for the northwest corner of this tract;

**THENCE** South 58 degrees 58 minutes 54 seconds East (being the Reference Bearing for this description, Record Bearing for said 118.66 acre tract being South 59 degrees 59 minutes 18 seconds East), along the north line of said 118.66 acre tract for a distance of 601.80 feet to a point for the northeast corner of this tract;

**THENCE** South 31 degrees 05 minutes 35 seconds West for a distance of 95.68 feet to a point for corner;

**THENCE** South 27 degrees 51 minutes 47 seconds West for a distance of 194.03 feet to a point for corner;

**THENCE** South 24 degrees 07 minutes 53 seconds West for a distance of 594.34 feet to a point for corner;

**THENCE** North 69 degrees 09 minutes 50 seconds West for a distance of 145.53 feet to a point for corner;

**THENCE** North 65 degrees 52 minutes 07 seconds West for a distance of 455.85 feet to a point in the southeast right of way line of State Highway Loop 322, same being the west line of said 25.133 acre tract, for the southwest corner of this tract;

ORDINANCE NO. 40-2003

EXHIBIT "A"

Page 3

**THENCE** along the southeast right of way line of said State Highway Loop 322 same being the west line of said 25.133 acre tract as follows:

North 24 degrees 05 minutes 24 seconds East for a distance of 622.80 feet to a point for corner;

North 27 degrees 51 minutes 24 seconds East for a distance of 230.85 feet to a point for corner;

North 31 degrees 02 minutes 24 seconds East for a distance of 111.11 feet to the place of beginning, containing 12.808 acres of land.

**TRACT 2:**

**BEING** a 20.925 acre tract out of a 25.133 acre tract conveyed to Centro Real Estate, L.P., a Texas Limited Partnership, recorded in Volume 2612, Page 237, Official Public Records, Taylor County, Texas and out of a 118.66 acre tract conveyed to Centro Real Estate, L.P., a Texas Limited Partnership, recorded in Volume 2775, Page 460, Official Public Records, Taylor County, Texas said 20.925 acre tract being more particularly described as follows:

***(Bearings are based on the City of Abilene Survey, Monumentation and Mapping Program, City Survey Markers 041R & 065R)***

**BEGINNING** at a point in the southeast right of way line of State Highway Loop 322, said point also being the southwest corner of said 25.133 acre tract, for the southwest corner of this tract;

**THENCE** North 38 degrees 01 minutes 24 seconds East along the southeast right of way line of said State Highway Loop 322, same being the West line of said 25.133 acre tract, for a distance of 400.00 feet to a point for corner;

**THENCE** North 24 degrees 05 minutes 24 seconds East (being the Reference Bearing for this description, Record Bearing for said 25.133 acre tract being North 23 degrees 05 minutes 00 seconds East), along the southeast right of way line of said State Highway Loop 322, same being the West line of said 25.133 acre tract, for a distance of 836.70 feet to a point for the northwest corner of this tract;

**THENCE** South 65 degrees 52 minutes 07 seconds East for a distance of 455.81 feet to a point for corner;

**THENCE** South 62 degrees 34 minutes 24 seconds East a distance of 145.53 feet to a point for the northeast corner of this tract;

**THENCE** South 24 degrees 07 minutes 35 seconds West for a distance of 385.85 feet to a point in the east line of said 25.133 acre tract;

**THENCE** along the east line of said 25.133 acre tract as follows;

South 00 degrees 59 minutes 23 seconds West for a distance of 253.51 feet to a point for corner;

North 88 degrees 51 minutes 36 seconds West for a distance of 15.20 feet to a point for corner;

South 01 degrees 28 minutes 24 seconds West for a distance of 519.20 feet to the southeast corner of said 25.133 acre tract for the southeast corner of this tract;

**THENCE** along the south line of said 25.133 acre tract as follows;

North 88 degrees 33 minutes 36 seconds West for a distance of 579.10 feet to a point for corner;

North 51 degrees 58 minutes 36 seconds West for a distance of 461.40 feet to the place of beginning, containing 20.925 acres of land.

Location:

Loop 322

PART 6: Purpose. The purpose of the Planned Development District (PDD) request is to allow for commercial development and related activities of a large tract which generally has not developed under present zoning and development procedures.

PART 7: Specific Modifications. The following regulations shall govern the use and development of this Planned Development District:

a. Development Regulations:

The PDD shall be developed in accordance with the attached site plan (Exhibit B).

b. Permitted Uses:

Tract 1 (north of Lone Star Ranch Drive)

- Service and retail uses listed on Permitted Use List "A"

Tract 2 (south of Lone Star Ranch Drive)

- All uses listed in Permitted Use List "A"
- Permitted Use List "B" with the following conditions:
  - Minimum of 75 feet from east boundary of tract 2. This area shall be entirely landscaped using xeriscape materials and/or natural vegetative materials.
  - Minimum of 250 feet south of east-west collector street
  - Access directly onto Loop 322 frontage road ONLY
  - Maintain existing tree line along the east side of Tract 2
  - The east side of all structures shall have no windows, doors, or other openings
- Building materials:

The following regulations shall apply to those structures that have facades that are visible from the right-of-way of Loop 322 and Lone Star Ranch Drive. The facades shall also have architectural resemblance to those structures built in Tract I. This may be accomplished in several different ways:

  - Visual interest may be accomplished through the use of recessed facades, or offsets to break up the expanse of the large warehouse
  - Suspended awnings or canopies to encourage a more pedestrian-friendly atmosphere
  - Use of similar light fixtures as used in Tract I structures
  - Use of similar color scheme and textured wall materials as Tract I



- Use of slopes and angles at particular points of entry to add visual interest

c. Landscaping

- Minimum 15' landscaped strip along all PDD boundaries
- Use of xeriscape materials and principles
- Specific landscaping to be determined via the site plan review process

~~d. Signage~~ *Handwritten: A monument 2-2005*

- Tracts One and Two- One monument-style group sign per tract with maximum height of 12 feet, with maximum area of 300 square feet and base of sign must be a minimum of 40% of the width of the sign itself, for commercial/retail.
- An additional monument sign may be erected to direct warehousing traffic, with maximum area of 50 square feet
- Wall signs shall cover no more than 20% of any wall
- Off-site advertising and portable signs prohibited

e. Setbacks

- 15 feet along Loop 322 frontage *LIST B*
- 30 feet along east-west collector frontage (applies to permitted use list A only, see above for distance back for permitted use B)
- 20 feet from south PDD boundary
- 20 feet from north PDD boundary
- 30 feet from east PDD boundary
- 10 feet from all lot lines interior to the PDD

f. Structure Height - maximum of 35 feet

g. Storage – Outdoor storage and display shall be prohibited

h. Freight Containers – Shall be prohibited

PERMITTED USE LIST "A"

RESIDENTIAL:

- All residential uses EXCEPT Vacation Travel Trailer Parks

ACCESSORY AND INCIDENTAL

- All Accessory Uses typical for the permitted uses on this list

CULTURAL AND RECREATIONAL

- Art Galleries
- Bowling Lanes
- Golf Driving Range
- Golf Courses (including par 3 and miniature golf)
- Libraries
- Museums
- Parks/playgrounds
- Planetariums
- Pool/Billiard Halls
- Skating Rinks
- Public Swimming Pools and/or Tennis Courts
- Theaters/Playhouses

EDUCATIONAL AND RELIGIOUS

- Art, Music and Dance Schools
- Business, Commercial, Driving or Trade Schools
- Church or Place of Worship
- Educational and Scientific Research
- Kindergarten/Child Care
- Youth Organizations/Centers

OFFICE

- All types of offices

SERVICES

- Auctions
- Carwash
- Banking and other Financial Services
- Beauty and Barber Shops
- Blueprinting/Photocopying/Typesetting
- Post Office
- Catering
- Delivery Services
- Diaper Services
- Employment Services

- Food Lockers
- Health Clubs/Physical Fitness Centers/Gymnastics
- Interior Decorating
- Janitorial
- Laundry and Dry Cleaning
- Painting/Wallpaper Services
- Photographic
- Printing
- Radio/TV Studio
- Tailoring
- Travel Arranging
- Optical Shops
- Veterinarians (small animals only, may include kennel)

RETAIL TRADE

- Antiques
- Appliances
- Bakery Products
- Bicycles
- Books and Stationery
- Cameras and Photographic Supplies
- China, Glassware, Metal ware
- Clothing and Apparel
- Coins and Stamps
- Department Stores
- Pharmacy
- Electronics
- Floor Coverings/Carpet
- Furniture and Home Furnishings
- Furriers
- Gasoline (including auto servicing)
- Gifts, Novelties
- Grocery Store/Food and Beverage sales
- Convenience Stores
- Hardware
- Hobby and Crafts
- Jewelry
- Liquor Stores (all types)
- Music/Record Stores

- Newspaper/Magazines
- Office Supplies/Equipment and Medical Supplies/Equipment Sales or Rental
- Optical Goods
- Pets and Pet Supplies
- Florist
- Radios/Televisions
- Restaurants (standard and fast food)
- Shoes
- Sporting Goods
- Variety Stores

PERMITTED USE LIST "B"

- Cabinet Making
- Carpentry and Wood flooring
- Electrical Equipment/Wiring Supplies
- Exterminating/Fumigating
- Freight Service
- Furniture, Appliance, Fur Repair
- HVAC
- Indoor Shooting Range
- Janitorial
- Landscaping Services
- Lumber and Building Materials
- Masonry, Stonework, Tile
- Foods/Beverages (including refrigerated)
- Moving and Storage
- Paper and Paper Products
- Periodical Publishing/Printing
- Plastic Products
- Plumbing Supplies/Equipment
- Roofing/Sheet Metal
- Rug Cleaning
- Self Storage Units
- Storage and Warehousing General
- Textiles and Textile Products
- Wood Products

ORDINANCE NO. 40-2003

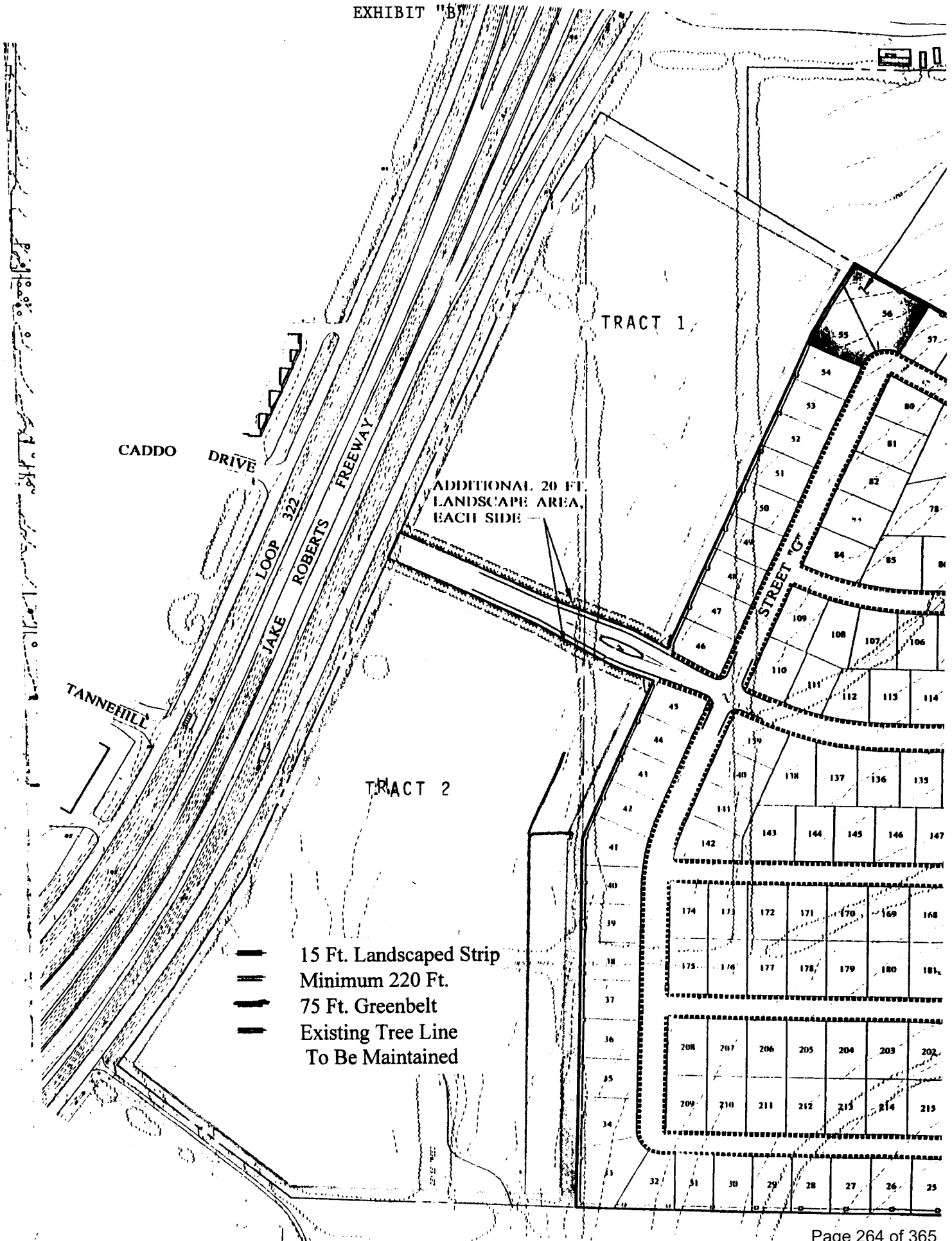
EXHIBIT "A"

Page 10

*NA* PART 8: Development Schedule. If a plat for all or a portion of this subdivision is not approved within 12 months of the date of this ordinance, the Planning Director shall initiate rezoning of the PDD to AO (Agricultural Open Space).

-END-

EXHIBIT "B"



AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-82 AND ORDINANCE NO. 40-2003, A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Zoning Ordinance of the City of Abilene, is hereby amended by changing Ordinance No.40-2003, as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 16th day of December A.D. 2004.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 28th day of December, 2004, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13th day of January, 2005, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13 day of January, A.D. 2005.

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

ORDINANCE NO.

Exhibit "A"

1st Amendment to Ordinance No. 40-2003

Amend:

PART 7: Specific Modifications

ADD: Add to Permitted Use List "A"  
Hotel/Motel

DELETE: Section D. Signage

ADD: Section D. Signage

Tract 1:

1. No more than seven monument signs shall be permitted on Tract 1, as shown in approximate locations on Exhibit B (signs marked "C"). Each monument sign shall not exceed a height of 6 feet and a width of 10 feet.
2. One pole sign of no greater than 30 feet in height and not exceeding 100 square feet in area is permitted along the access road frontage in the northwest portion of the property, shown on the site plan for "future development" (see sign denoted "D" on Exhibit B).
3. One pole sign of no greater than 30 feet in height and not exceeding 100 square feet in area is permitted near the southwest corner of the property. This sign shall be at least 50 feet north of southwest corner of the property (see sign denoted "B" on Exhibit B).
4. One monument sign identifying the project and businesses located within shall be permitted, not to exceed 30 feet in height and 10 feet in width. This sign shall be constructed with similar materials as the buildings (masonry, stone, brick, etc.) and shall match the architectural quality of these buildings (see sign denoted "A1" on Exhibit B).
5. Up to two monument signs identifying the project and businesses located within shall be permitted, not to exceed 10 feet in height and 10 feet in width. These signs shall be constructed with similar materials as the buildings (masonry, stone, brick, etc.) and shall match the architectural quality of these buildings (see signs denoted "A2" on Exhibit B).
6. All signs on Tract 1 shall include landscaping in addition to turf, such as low shrubs, around the base of each sign.

Tract 2 (the north 250'):

7. One freestanding sign identifying the project shall be permitted within the north 250 feet of Tract 2, and shall not exceed 30 feet in height and 10 feet in width. This sign shall be constructed with similar materials as the



ORDINANCE NO. 2-2005

EXHIBIT "A"

PAGE 3

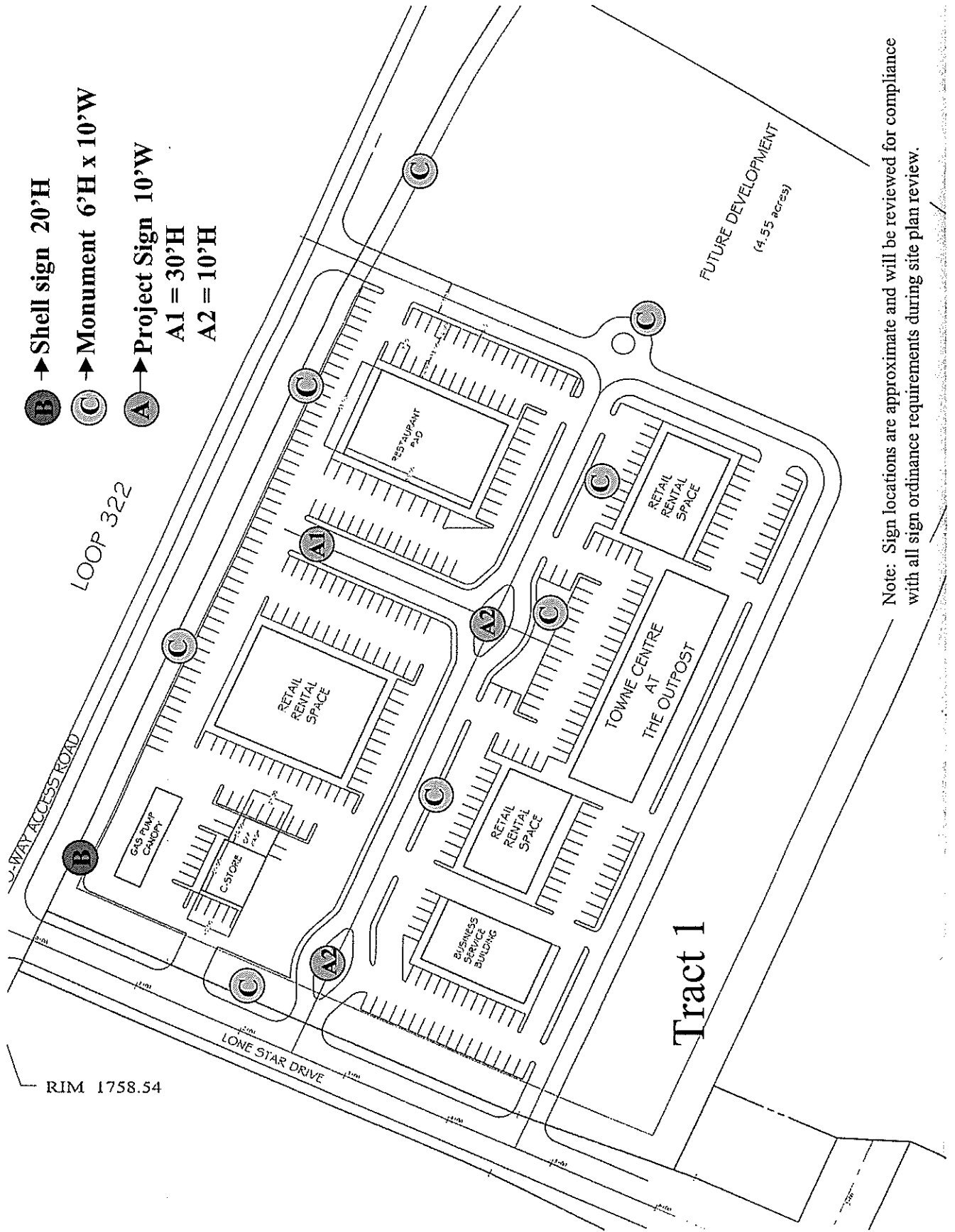
buildings (masonry, stone, brick, etc.) and shall match the architectural quality of these buildings.

Location: Lone Star Drive and Loop 322

-END-

# Exhibit B: Staff Recommendation

- B** → Shell sign 20'H
- C** → Monument 6'H x 10'W
- A** → Project Sign 10'W  
A1 = 30'H  
A2 = 10'H



Note: Sign locations are approximate and will be reviewed for compliance with all sign ordinance requirements during site plan review.

ORDINANCE NO. 19-2006

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-82 AND ORDINANCE NO. 40-2003 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, known as the Zoning Ordinance of the City of Abilene, is hereby amended by changing Ordinance No. 40-2003, as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

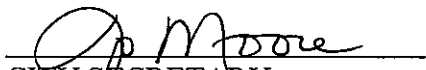
PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 11<sup>th</sup> day of May, A.D. 2006.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 12<sup>th</sup> day of April, 2006, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 23<sup>rd</sup> day of May, 2006, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 23<sup>rd</sup> day of May, A.D. 2006.

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

ORDINANCE NO.

Exhibit "A"

2nd Amendment to Ordinance No. 40-2003

PART 7: Specific Modifications

ADD: Add to Permitted Use List "A"

- Electric Go-Cart Track (100' minimum separation from residentially zoned property)
- Indoor Water Park

DELETE: Section f. Structure Height

- Maximum of 35 feet

ADD: Section f. Structure Height

- Maximum of 35 feet, except hotel/ motel, which may be a maximum of 4 stories if they are separated from residentially zoned property by a minimum of 100'

Location: Lone Star Drive and Loop 322

-END-

For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

**CASE #: Z-2021-06**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: MOORE 322 LLC RYKARD COPPER CREEK  
Parcel I.D.: 972979

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☒  
Additional Comments:

I am opposed ☐

Signature: \_\_\_\_\_

**RECEIVED**

**APR 05 2021**

**PLANNING**

101 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060  
*We work together to build and maintain a community of the highest quality for present and future generations.*



CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

SODERWALL SCOTT L & TERRI  
4410 LONESOME DOVE TRL  
ABILENE, TX 79602-8154

## **NOTICE OF PUBLIC HEARING**

**RE: Rezoning Application Number Z-2021-06**

**03/26/2021**

The Planning and Zoning Commission will hold a public hearing on **April 6, 2021 at 1:30 PM**, in **City Council Chambers, 2nd Floor**, City Hall, N. 5<sup>th</sup> and Walnut Streets, to recommend approval or denial to City Council on a request from all five owners of the subject properties, represented by Jacob & Martin LLC, to amend terms and conditions of Planned Development District Number 82 (PD 82) specifically as they affect certain commercial properties located directly north of Lone Star Drive and east of Loop 322, to allow use and development in compliance with requirements of General Retail (GR) zoning, instead of specific uses and standards now required by PD 82. Legal description being all of the following six tracts in Lone Star Ranch Section One in Abilene, Taylor County, Texas: Lot 101 in Block A (Cont. 1), Lot 102 in Block A (Cont. 2), Lot 1 in Block A (Cont. 2), Lots 1 and 2 in Block A (Cont. 4) and Lot 1 in Block A (Cont. 5).

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only that area which is bounded by the cross-hatched line on the map is being considered for amendment to the existing Planned Development District. The solid boundary line around the subject area is only a notification area. If approved by the Planning and Zoning Commission or if denied and appealed to Abilene's City Council within the specified ten-day period, this case will be heard by City Council for 2<sup>nd</sup> and Final Reading with public hearing on **May 13, 2021 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Jared Smith, Planner II at telephone 325-676-6490 or by email address [jared.smith@abilenetx.gov](mailto:jared.smith@abilenetx.gov).

For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

### **CASE #: Z-2021-06**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ~~MOORE 322 LLC~~ SODERWALL SCOTT L & TERRI  
Parcel I.D.: 109804

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☐  
Additional Comments:

I am opposed ☒

Signature

MAR 31 AM 11:36



# Development Application

## Planning

- ☐ Conditional Use      ☐ Easement Release      ☐ Rezoning      ☐ Other  
☐ PDD      ☐ Street Name Change      ☐ Thoroughfare Abandonment      ☒ PDD Amendment  
Other: \_\_\_\_\_

Project Name: Lone Star Ranch Tract 1  
Address: 434 Lone Star Drive No. of lots: 6 Acreage: \_\_\_\_\_  
Legal Description: \_\_\_\_\_  
Subdivision Name: Lone Star Ranch Block: A Lot: 1,2,101,102  
Current Zoning: PD Proposed Zoning (if applicable): PD (Base Zoning GR for Tract 1)

## OWNER AND AUTHORIZATION

Owner Name: MOORE 322 LLC  
PO BOX 6444  
Address: ABILENE, TX 79608-6444  
City, State, Zip: \_\_\_\_\_ Fax: \_\_\_\_\_  
Phone: 325-380-3131 Email: alexandermoore325@gmail.com

*I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Jacob & Martin, LLC will act as my agent before the Planning and Zoning Commission.*

Agent Name: Jacob & Martin, LLC  
Address: 3465 Curry Ln  
City, State, Zip: Abilene, TX 79606 Fax: \_\_\_\_\_  
Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 01/28/21

## FOR OFFICE USE ONLY

Received: \_\_\_\_\_ Fee: \$ \_\_\_\_\_ Receipt No.: \_\_\_\_\_  
Case No.: Z-2021-006 Reviewed By: \_\_\_\_\_

FEB 1 4:16



# Development Application

## Planning

- ☐ Conditional Use      ☐ Easement Release      ☐ Rezoning      ☐ Other  
☐ PDD      ☐ Street Name Change      ☐ Thoroughfare Abandonment      ☒ PDD Amendment  
Other: \_\_\_\_\_

Project Name: Lone Star Ranch Tract 1  
Address: 434 Lone Star Drive No. of lots: 6 Acreage: \_\_\_\_\_  
Legal Description: \_\_\_\_\_  
Subdivision Name: Lone Star Ranch Block: A Lot: 1,2,101,102  
Current Zoning: PD Proposed Zoning (if applicable): PD (Base Zoning GR for Tract 1)

## OWNER AND AUTHORIZATION

Owner Name: MOORE OUTPOST LLC  
PO BOX 6444  
Address: ABILENE, TX 79608-6444  
City, State, Zip: \_\_\_\_\_ Fax: \_\_\_\_\_  
Phone: 325-380-3131 Email: alexandermooore325@gmail.com

*I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) \_\_\_\_\_ will act as my agent before the Planning and Zoning Commission.*

Agent Name: Jacob & Martin, LLC  
Address: 3465 Curry Ln  
City, State, Zip: Abilene, TX 79606 Fax: \_\_\_\_\_  
Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 01/28/21

## FOR OFFICE USE ONLY

Received: \_\_\_\_\_ Fee: \$ \_\_\_\_\_ Receipt No.: \_\_\_\_\_  
Case No.: Z-2021-06 Reviewed By: \_\_\_\_\_





# Development Application

## Planning

- ☐ Conditional Use
 ☐ Easement Release
 ☐ Rezoning
 ☐ Other  
☐ PDD
 ☐ Street Name Change
 ☐ Thoroughfare Abandonment
 ☒ PDD Amendment  
 Other: \_\_\_\_\_

Project Name: Lone Star Ranch Tract 1  
 Address: 434 Lone Star Drive No. of lots: 6 Acreage: \_\_\_\_\_  
 Legal Description: \_\_\_\_\_  
 Subdivision Name: Lone Star Ranch Block: A Lot: 1,2,101,102  
 Current Zoning: PD Proposed Zoning (if applicable): PD (Base Zoning GR for Tract 1)

## OWNER AND AUTHORIZATION

Owner Name: MOORE LONE STAR LLC  
PO BOX 6444  
 Address: ABILENE, TX 79608-6444

City, State, Zip: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Phone: 325-380-3131 Email: alexandermoores325@gmail.com

*I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) \_\_\_\_\_ will act as my agent before the Planning and Zoning Commission.*

Agent Name: Jacob & Martin, LLC  
 Address: 3465 Curry Ln  
 City, State, Zip: Abilene, TX 79606 Fax: \_\_\_\_\_  
 Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 01/28/21

## FOR OFFICE USE ONLY

Received: \_\_\_\_\_ Fee: \$ \_\_\_\_\_ Receipt No.: \_\_\_\_\_  
 Case No.: 2-2021-060 Reviewed By: \_\_\_\_\_



# Development Application

## Planning

☐ Conditional Use

☐ Easement Release

☐ Rezoning

☐ Other

☐ PDD

☐ Street Name Change

☐ Thoroughfare Abandonment

☒ PDD Amendment

Other: \_\_\_\_\_

Project Name: Lone Star Ranch Tract 1

Address: 434 Lone Star Drive No. of lots: 6 Acreage: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Subdivision Name: Lone Star Ranch Block: A Lot: 1,2,101,102

Current Zoning: PD Proposed Zoning (if applicable): PD (Base Zoning GR for Tract 1)

## OWNER AND AUTHORIZATION

Owner Name: RYKARD COPPER CREEK

RESTAURANT DEVELOPMENT LP

Address: 4401 LOOP 322

ABILENE, TX 79602-8056

City, State, Zip: \_\_\_\_\_ Fax: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Jacob & Martin, LLC will act as my agent before the Planning and Zoning Commission.*

Agent Name: Jacob & Martin, LLC

Address: 3465 Curry Ln

City, State, Zip: Abilene, TX 79606 Fax: \_\_\_\_\_

Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 1/26/21

## FOR OFFICE USE ONLY

Received: \_\_\_\_\_ Fee: \$ \_\_\_\_\_ Receipt No.: \_\_\_\_\_

Case No.: 2-2021-06 Reviewed By: \_\_\_\_\_



# Development Application

## Planning

☐ Conditional Use      ☐ Easement Release      ☐ Rezoning      ☐ Other  
☐ PDD      ☐ Street Name Change      ☐ Thoroughfare Abandonment      ☒ PDD Amendment  
Other: \_\_\_\_\_

Project Name: Lone Star Ranch Tract 1

Address: 434 Lone Star Drive      No. of lots: 6      Acreage: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Subdivision Name: Lone Star Ranch      Block: A      Lot: 1,2,101,102

Current Zoning: PD      Proposed Zoning (if applicable): PD (Base Zoning GR for Tract 1)

## OWNER AND AUTHORIZATION

Owner Name: ACME COMMERCIAL PROPERTIES LLC

PO BOX 6060

Address: ABILENE, TX 79608-6060

City, State, Zip: \_\_\_\_\_      Fax: \_\_\_\_\_

Phone: \_\_\_\_\_      Email: \_\_\_\_\_

*I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) \_\_\_\_\_ will act as my agent before the Planning and Zoning Commission.*

Agent Name: Jacob & Martin, LLC

Address: 3465 Curry Ln

City, State, Zip: Abilene, TX 79606

Phone: 325-695-1070      Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: Walter D. Harkins      Date: 1-26-21

## FOR OFFICE USE ONLY

Received: \_\_\_\_\_      Fee: \$ \_\_\_\_\_      Receipt No.: \_\_\_\_\_

Case No.: 2-2021-06      Reviewed By: \_\_\_\_\_



# Development Application

---

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

This property has essentially functioned as GR throughout its history in terms of usage and layout.

The owner would like to amend the PD to fully allow GR requirements & uses for Tract 1 of this PD

by deleting the current requirements for Tract 1 and replacing them with those found in a GR

zoning.

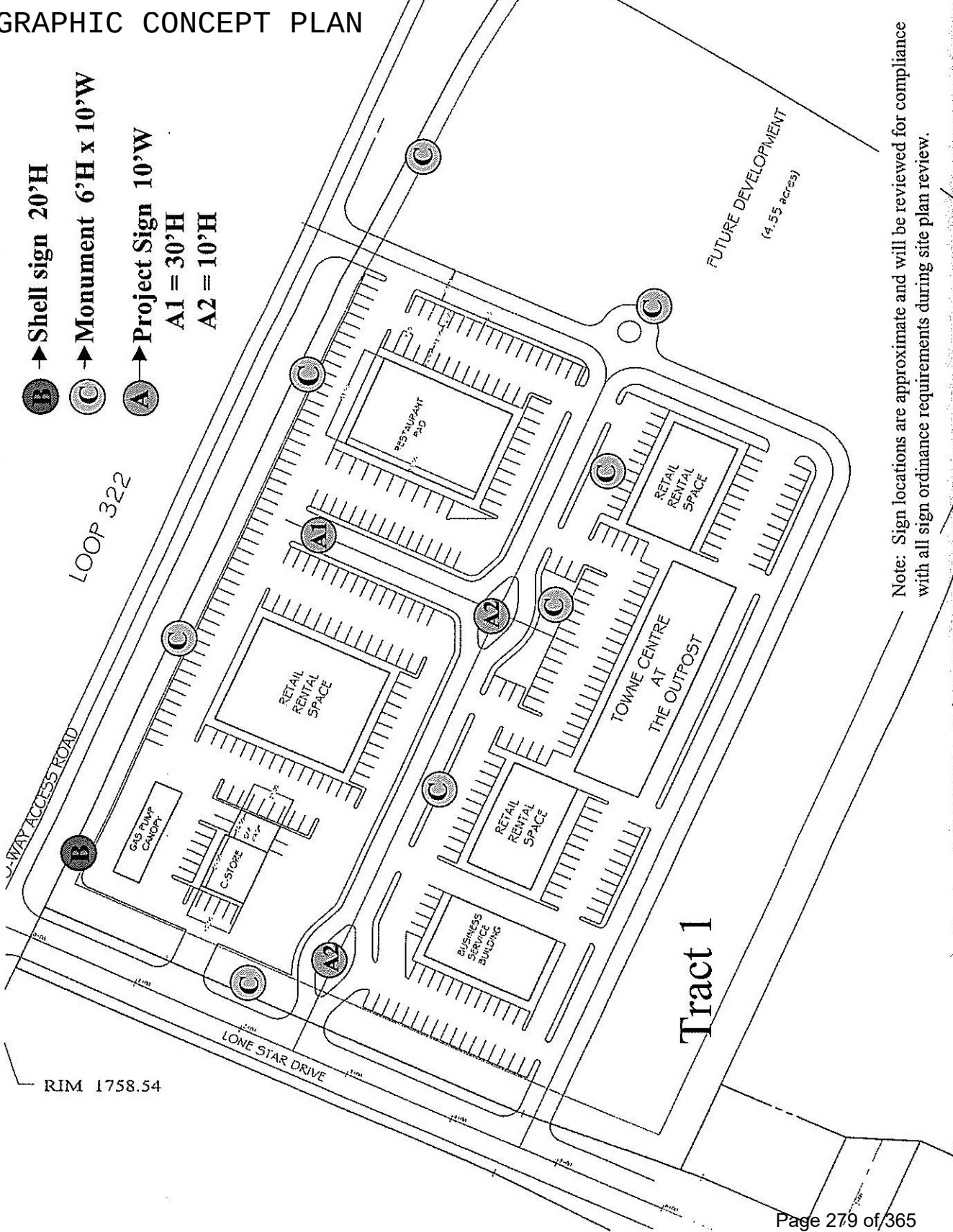
# GRAPHIC CONCEPT PLAN

## Exhibit B: Staff Recommendation

● → Shell sign 20'H

● → Monument 6'H x 10'W

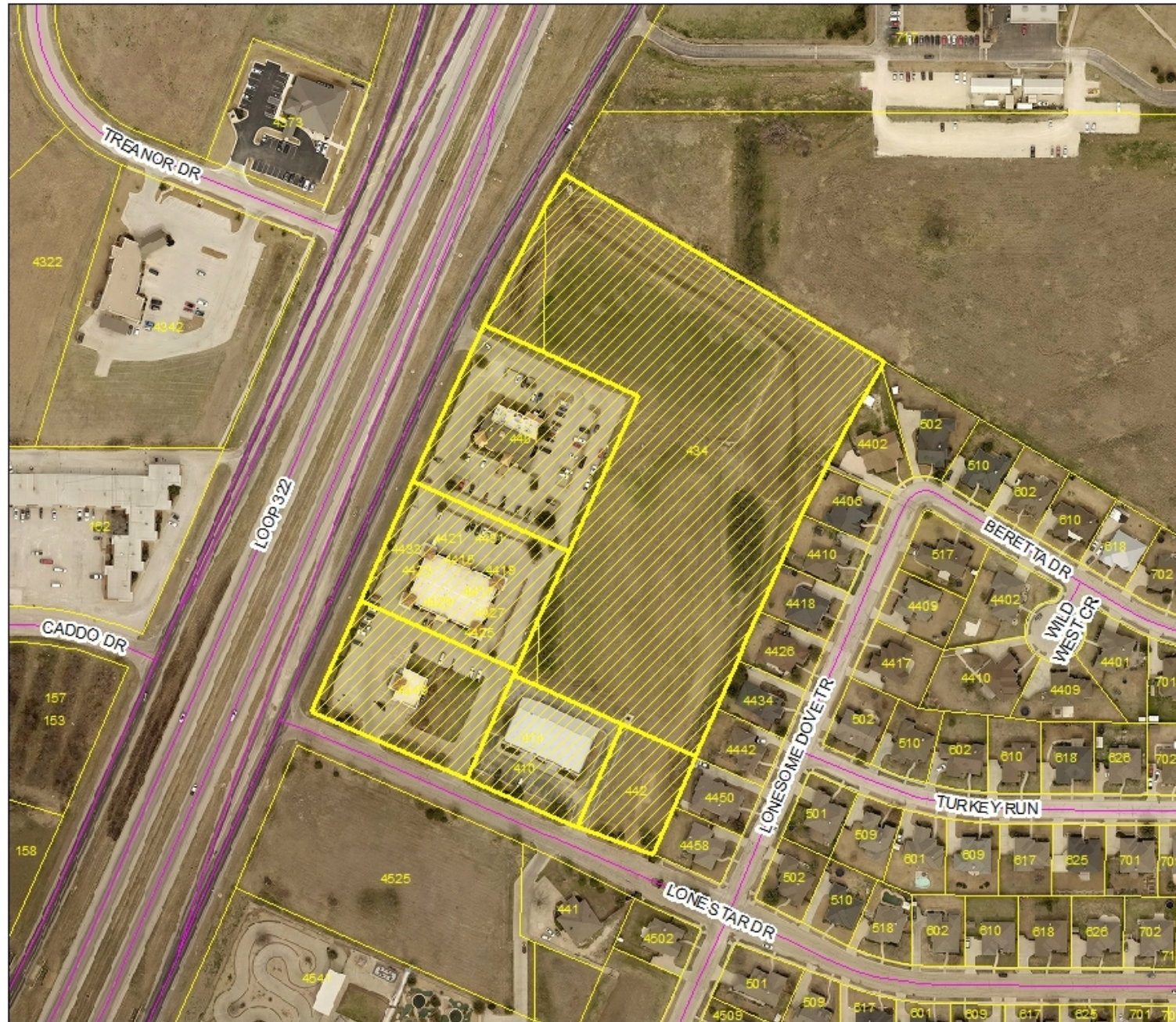
● → Project Sign 10'W  
A1 = 30'H  
A2 = 10'H



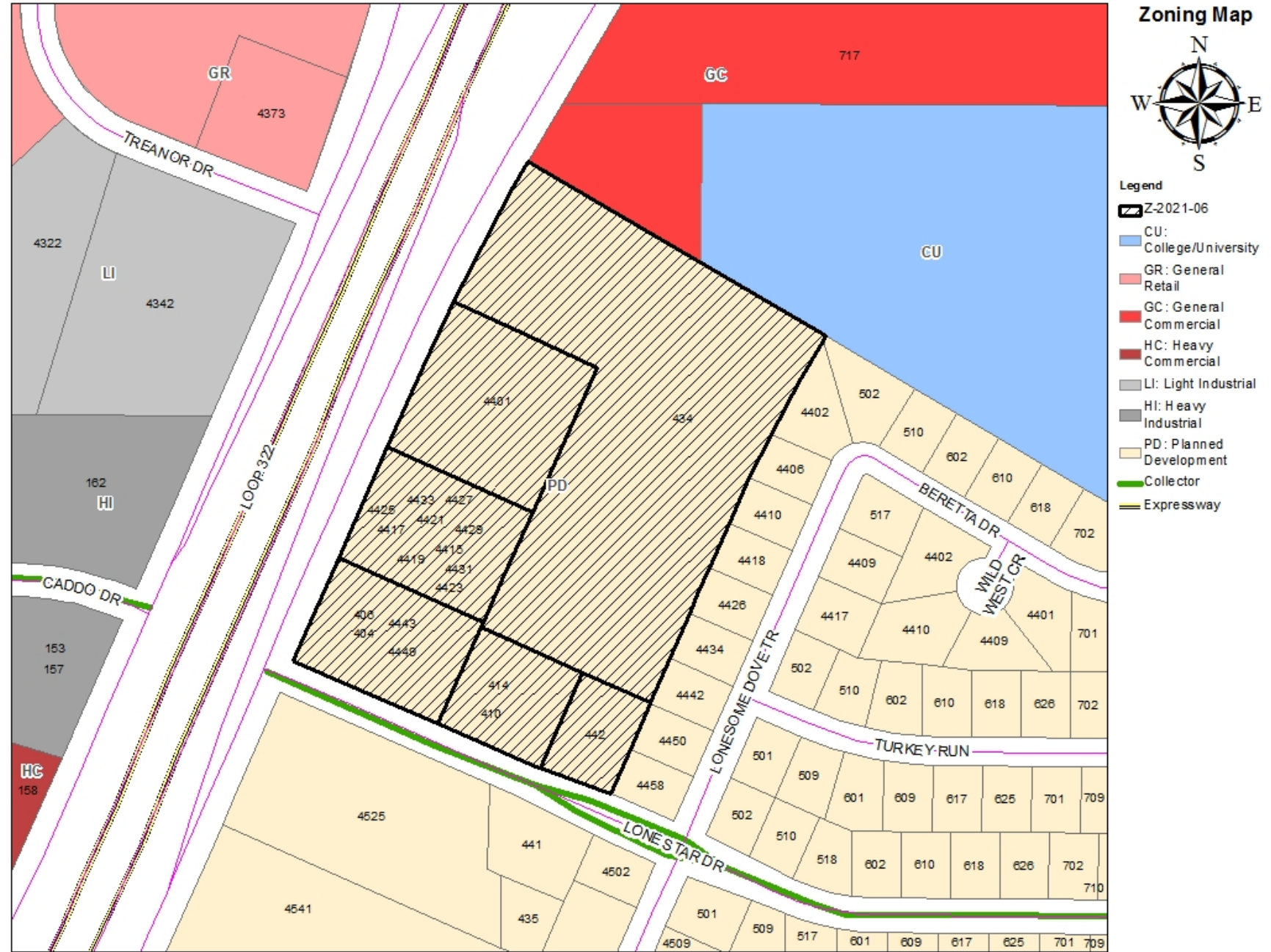
Note: Sign locations are approximate and will be reviewed for compliance with all sign ordinance requirements during site plan review.

|                                              |                                                                                                               |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>Case:</b>                                 | Z-2021-06                                                                                                     |
| <b>Owner:</b>                                | Moore 322 LLC, Moore Outpost LLC, Moore Lone Star LLC, Rykard Copper Creek and Acme Commercial Properties LLC |
| <b>Agent:</b>                                | Jacob & Martin                                                                                                |
| <b>Request:</b>                              | Amend Planned Development District 82                                                                         |
| <b>Location:</b>                             | 4300 block (east side) of Loop 322, at 4401-4449 Loop 322 and at 404- 442 Lone Star Drive                     |
| <b>Notification:</b>                         | 0 in Favor, 1 Opposed                                                                                         |
| <b>Planning &amp; Zoning Recommendation:</b> | Approval                                                                                                      |











# GENERAL RETAIL (GR) PERMITTED USES

## **RESIDENTIAL USES:**

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- P Hotel/Motel

## **ACCESSORY AND INCIDENTAL USES:**

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Day Care Operation – Home Based
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- P Garage Sales
- P Home Occupation
- TP Itinerant Business
- P Manufacturing (incidental)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- P Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

## **CULTURAL AND RECREATIONAL USES:**

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment - Indoor

## **GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:**

- C Ambulance Service
- P Fire/Police Station
- P Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

## **EDUCATIONAL AND RELIGIOUS USES:**

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- C Trade/Business School
- P University/College

## **SERVICE**

- P/C Automobile Wash
- C Funeral Home/ Mortuary/Morgue
- P Kennel (Without Outdoor Pens)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

## **TRADE – RETAIL USES**

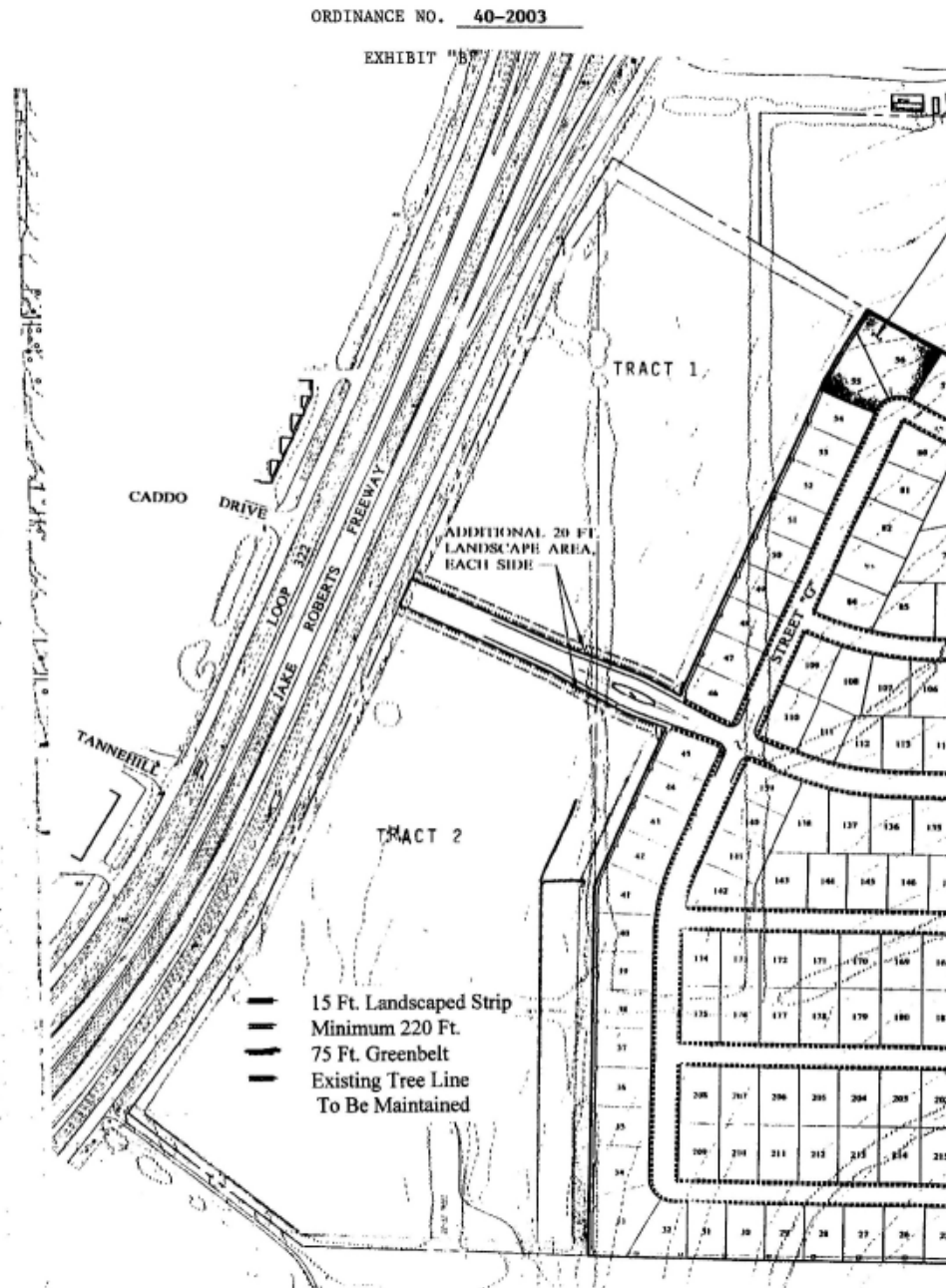
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)
- C Retail Sales/Rental (outdoors, non-vehicle)

## **TRANSPORTATION, COMMUNICATION AND UTILITIES:**

- C Antenna Tower- Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Public Utility Facility

## **RESOURCE PRODUCTION AND EXTRACTION USES:**

- P Petroleum or Gas Well
- P Urban Garden11

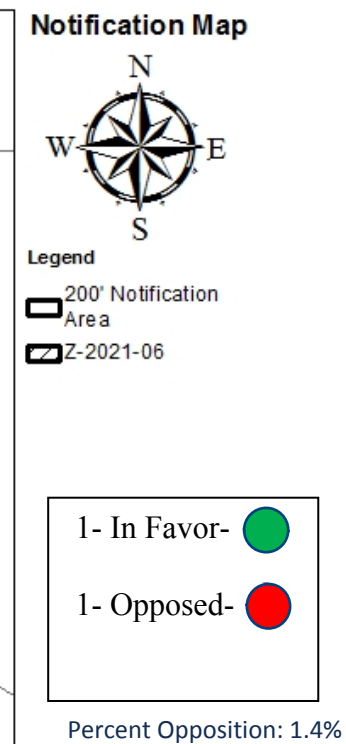


# Z-2021-06 VIEWS OF SUBJECT PROPERTIES





## Z-2021-06 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval

# Questions?



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Mike Warrix, Director

**SUBJECT:** **21. Ordinance (Final Reading) Z-2021-07: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Heart of Texas Hearing Centers, Represented by Fallen Perrie Busenlehner, to Rezone Property from Neighborhood Office (NO) to Planned Development (PD) District to Permit Retail Sale of Apparel and Related Accessories, In Addition to All Uses Permitted in NO Zoning Districts. (Mike Warrix)**

---

**GENERAL INFORMATION**

Rezone property from Neighborhood Office (NO) to Planned Development District (PD) with base zoning of NO to allow for retail sales of apparel and related accessories.

**SPECIAL CONSIDERATIONS**

None

**FUNDING/FISCAL IMPACT**

None

**STAFF RECOMMENDATION**

Approval

**BOARD OR COMMISSION RECOMMENDATION**

On April 6, 2021, the Planning and Zoning Commission voted 7-0 to recommend approval of

this request to City Council.

**ATTACHMENTS:**

1. Z-2021-07 DRAFT Ordinance
2. Z-2021-07 Council Staff Report
3. Z-2021-07 application
4. Z-2021-07 Council presentation



ORDINANCE NO.

**Comment [RGG1]:** Page: 1  
To be filled in by the City Secretary's office.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE," OF THE ABILENE CITY CODE, CONCERNING PD-169 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the Land Development Code of the City of Abilene is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 22<sup>nd</sup> day of April, 2021.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20<sup>th</sup> day of March, 2021, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13<sup>th</sup> day of May, 2021, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13<sup>th</sup> day of May, 2021.

ATTEST:

\_\_\_\_\_

CITY SECRETARY

\_\_\_\_\_

MAYOR

APPROVED:

\_\_\_\_\_

CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 1

ORDINANCE NO. \_\_\_\_\_

Exhibit  
"A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in possession of the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development must be in compliance with the general Comprehensive Zoning Ordinance of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in the herein said Planned Development shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That the Land Development Code of the City of Abilene is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: from Neighborhood Office (NO) to Planned Development (PD) District.

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PART 5: Legal Description. The legal description of this PDD is as follows: 0.558 acres out of a tract of land recorded on Page 784 in Volume 837 of Deed Records for Taylor County, Texas and being in the A. Greenwall Survey No. 100 in the City of Abilene, Taylor County, Texas, said 0.558 acres being more particularly described by metes-and-bounds as follows:

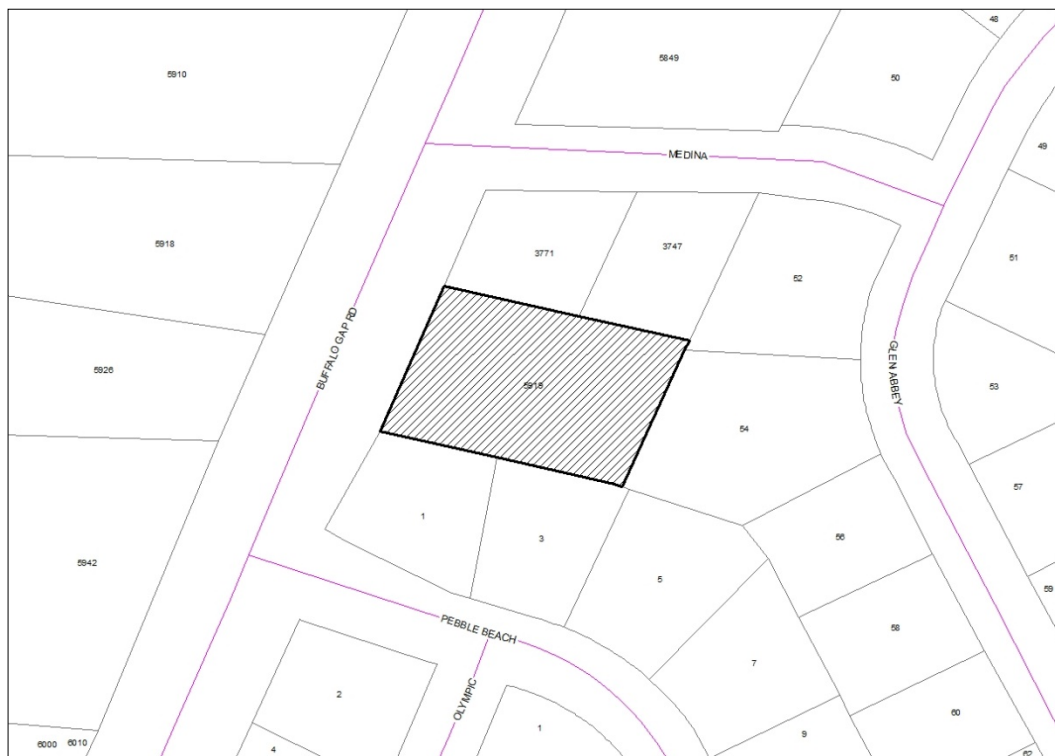
BEGINNING at a found 3/8-inch metal rebar on the east line of right-of-way for Buffalo Gap Road (120' wide) at the southwest corner of that certain tract recorded on Page 784 in Volume 837 (of Deed Records) and at the northwest corner of Lot 56 in Block I of The Fairways Addition to the City of Abilene Taylor County, Texas as shown by plat recorded on Slide 294-C in Cabinet 2 of Plat Records for Taylor County, Texas, said 3/8" metal rebar being the southwest corner of this tract, and from whence a found 3/8" metal rebar at the southwest corner of said Lot 56 bears South 21°56' 27" West 120.08 feet;

THENCE North 22° 40' 44" East with the east line of right-of-way for Buffalo Gap Road for a distance of 119.70 feet to a 1/2-inch metal rebar set for the northwest corner of this tract and from whence a 1/2-inch metal rebar set for the northwest corner of that certain tract recorded on Page 748 in Volume 837 of Deed Records for Taylor County, Texas bears North 22° 40' 44" East 93.49 feet;

THENCE South 78° 27' 17" East for a distance of 207.35 feet to a 1/2-inch metal rebar set on the west line of Lot 1 in Block I of The Fairways Addition, for the northeast corner of this tract and from whence a found 3/8-inch metal rebar at the northwest corner of said Lot 1 bears North 23° 59' 56" East 134.32 feet;

THENCE South 23° 59' 56" West with the west line of Lots 1 and 2 in said Block I, for a distance of 121.48 feet to a found PK nail at the common corner of said Lot 2 with Lots 54 and 55 in said Block I, for the southeast corner of this tract;

THENCE North 78° 07' 30" West with the north line of said Lots 55 and 56, for a distance of 204.27 feet to the POINT OF BEGINNING.



ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 3

PART 6: Purpose. The purpose of the Planned Development (PD) District is to allow limited retail sales of apparel and related accessories on the subject property, as well as other uses ordinarily allowed within Neighborhood Office (NO) zoning districts.

PART 7: Specific Modifications. The use and development of land and buildings in this Planned Development (PD) District shall generally be subject to requirements of the Neighborhood Office (NO) zoning classification, except as modified below:

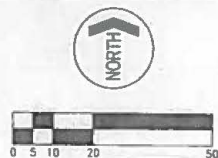
A. Permitted Uses

- (1) In addition to uses allowed (by right or with approval of a Conditional Use Permit) in Neighborhood Office Districts, retail sales of apparel and related accessories shall also be allowed.

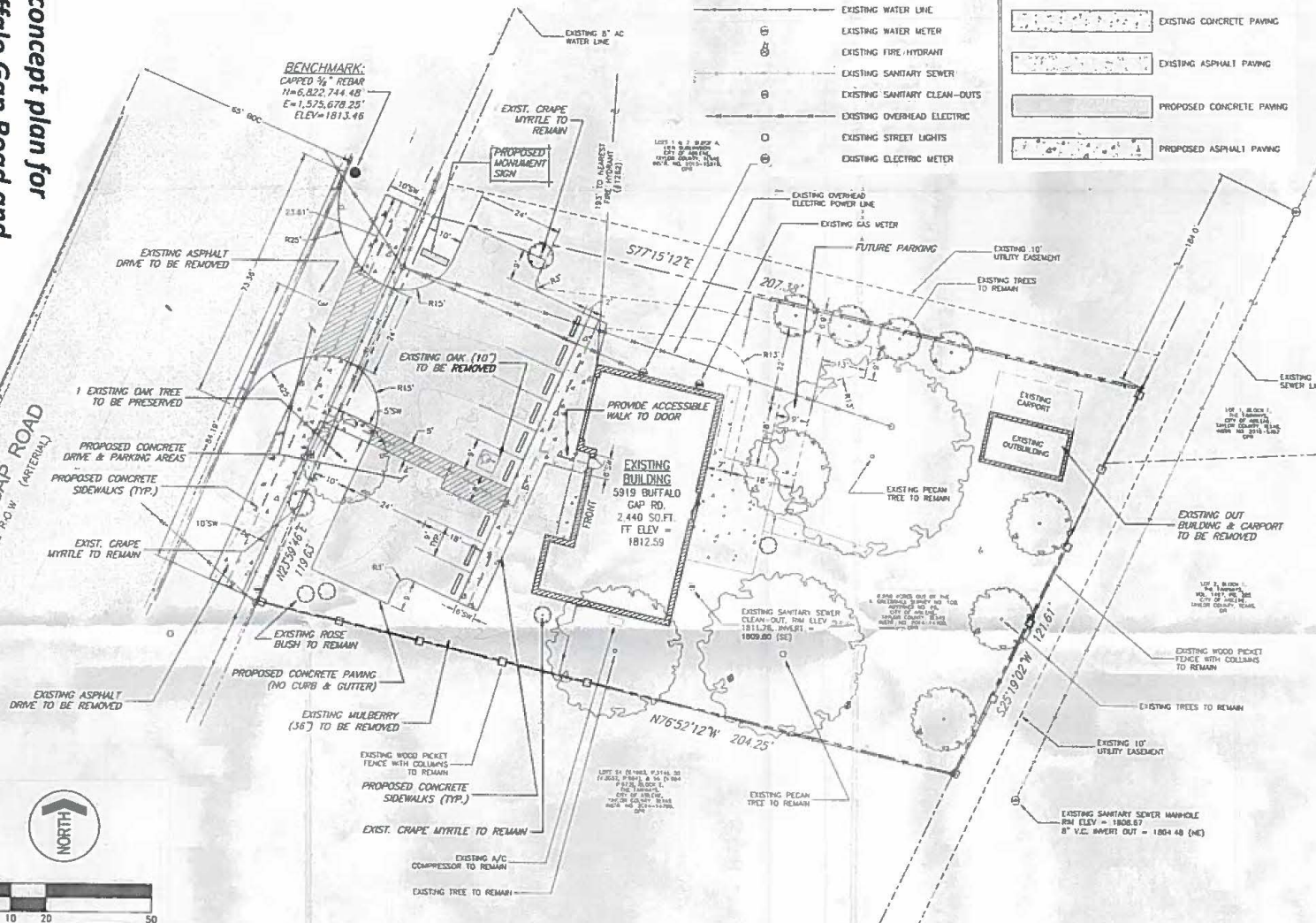
EXHIBIT "A" GRAPHIC CONCEPT PLAN  
PAGE 4

**graphic concept plan for  
5919 Buffalo Gap Road and  
Planned Development (PD)  
District Number 169**

**BUFFALO GAP ROAD**  
120' WIDE R.O.W. (ARTERIAL)



| SITE PLAN LEGEND |                               |
|------------------|-------------------------------|
| ---              | SITE BOUNDARY                 |
| ---              | ADJACENT R.O.W. & BOUNDARIES  |
| ---              | BUILDING SETBACK LINE         |
| ---              | UTILITY & DRAINAGE EASEMENTS  |
| ---              | EXISTING WATER LINE           |
| ---              | EXISTING WATER METER          |
| ---              | EXISTING FIRE HYDRANT         |
| ---              | EXISTING SANITARY SEWER       |
| ---              | EXISTING SANITARY CLEAN-OUTS  |
| ---              | EXISTING OVERHEAD ELECTRIC    |
| ---              | EXISTING STREET LIGHTS        |
| ---              | EXISTING ELECTRIC METER       |
| ---              | PROPOSED ACCESSIBLE ROUTE     |
| ---              | HANDICAP ACCESSIBLE PARKING   |
| ---              | PROPOSED ACCESSIBLE CURB RAMP |
| ---              | PROPOSED WHEELSTOPS           |
| ---              | EXISTING CONCRETE PAVING      |
| ---              | EXISTING ASPHALT PAVING       |
| ---              | PROPOSED CONCRETE PAVING      |
| ---              | PROPOSED ASPHALT PAVING       |



# ZONING CASE Z-2021-07

## STAFF REPORT

---



### Scheduled Hearings

Planning & Zoning Commission: April 6, 2021

City Council 1<sup>st</sup> Reading: April 22, 2021

City Council 2<sup>nd</sup> Reading: May 13, 2021

### Applicant

Owner: Heart of Texas Hearing Centers Inc. (Erika Vela)

Agent: Fallen Perrie Busenlehner

### Request

Rezone 0.558 acres of land with an existing commercial building and paved parking area, from Neighborhood Office (NO) to a Planned Development (PD) District. Based upon the information provided in the application, the purpose of this request is to keep the existing base zoning classification of Neighborhood Office zoning, with an additional allowance for retail sales of apparel and related accessories. A graphic concept plan provided with the application depicts the existing commercial building and paved parking area on this property.

### Location

The subject property is located at 5919 Buffalo Gap Road, midway between its intersections with Medina and Pebble Beach. This particular location lies 0.3 miles north of Antilley Road and 0.4 miles south of Woodlake Drive. The property is bound to the south, east, and west by single-family residential; and to the north by vacant property.

### Background

The subject property was annexed in 1963, and property tax records indicate the existing building (originally a residence) was completed in 1966. Between 1974 and 2018, the subject property was incorporated into a Residential Single-Family zoning district. In 2018, this property was rezoned to its existing Neighborhood Office (NO) classification, and in 2019, the existing building was converted for commercial use as an office and clinic for an audiologist. The audiologist has moved and seeks to lease the subject property as a retail space to an apparel boutique.

### Zoning and Existing Land Use

Current zoning and existing land use of properties adjacent to and in the subject property's immediate area are illustrated on the map included in this report. As indicated on the map, adjacent zoning consists of a vacant Neighborhood Office (NO) tract directly to the north; to the south and east are single-family homes in "The Fairways" Planned Development District; and to the west, on the opposite side of Buffalo Gap Road are single-family homes in an RS-8 zoning district.

### Criteria Assessment

Section 1.4.1.4 of the Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

**(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land use and Development Plan Map, as amended;**

It is the opinion of staff that the proposed zoning map amendment will serve to implement the goals, objectives, and policies of the Comprehensive Plan, Future Land Use and Development Plan Map, and the 1994 Buffalo Gap Corridor Study. The primary objective (#1A) of the Buffalo Gap Corridor Study is to ensure that development throughout this corridor is accomplished appropriately, specifically by encouraging office zoning along Buffalo Gap Road frontage at mid-block locations. The limited expansion of allowed uses on the subject property is anticipated to have only a negligible impact (if any) on the intensity of commercial activity and nearby residences. The overall appearance from street frontage is also expected to be unaffected.

**(2) Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

It is the opinion of staff that the uses permitted by the proposed zone change are consistent with the surrounding properties, which are a mixture of other Neighborhood Office zones and single-family residential properties. Uses allowed within the existing NO classification are primarily limited to business, administrative, and professional offices. Other restrictions include limitations on building size and operating hours for business activity between 6:00 a.m.-11:00 p.m. These other restrictions will remain in effect, with approval of this proposed Planned Development District. The only difference will be expanding allowed uses to include retail sales of apparel and related accessories. The expansion represents a modest increase in permitted use and is not anticipated to increase traffic flow to and from this location substantially.

**(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

The subject property currently has access to existing utilities and public amenities adequate for the existing and for the proposed additional uses. This request also presents no apparent conflicts with existing or proposed plans for community facilities and related infrastructure.

**(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

It is the opinion of staff that no other factors are present that would substantially affect the public health, safety, morals, or general welfare.

**Staff Recommendation**

City staff recommends approving this proposed Planned Development District.

**Planning and Zoning Commission Action**

The Planning and Zoning Commission recommended approval by a vote of seven (7) to zero (0) on April 6, 2021.



## Notification

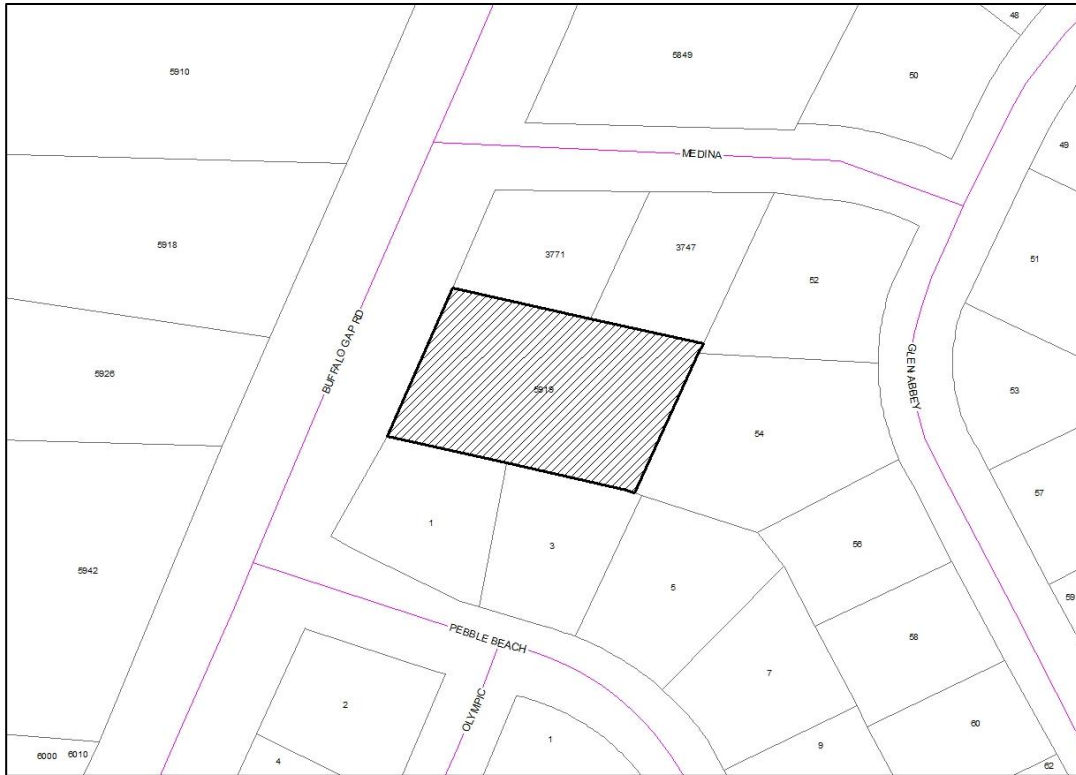
Pursuant to Section 1.2.2.2 of the Land Development Code, staff mailed personal notices on March 26, 2021 (via certified mail) to the applicant and to other owners of property within a 200-foot radius of this subject property. These property owners and associated addresses are identified in Table 1.

**TABLE 1**

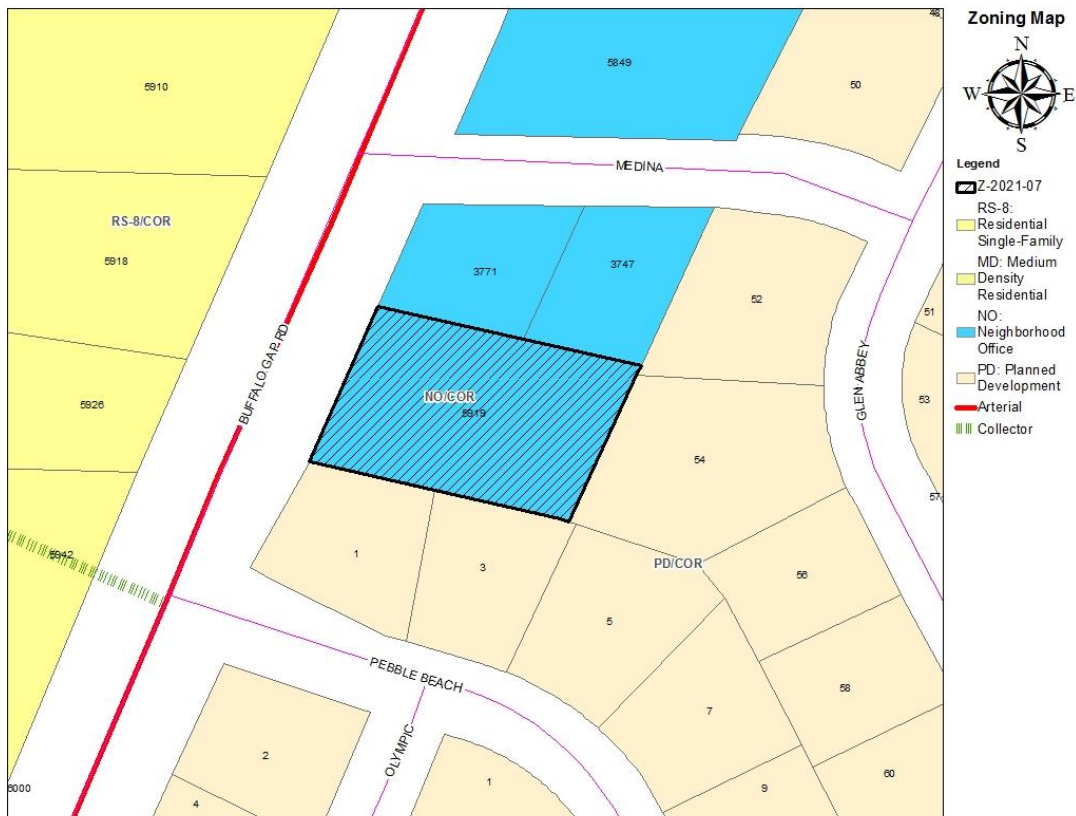
| Owner                              | Parcel ID | Response |
|------------------------------------|-----------|----------|
| 5 S DEVELOPMENT LLC                | 12859     |          |
| ADAMS JAMES W & HOLLI N            | 53182     |          |
| BARBER MARVIN NATHAN II            | 16042     |          |
| BARSTAD ERIC & JESSICA             | 54108     |          |
| DAVIS MARGARET HICKS               | 16164     | Opposed  |
| ELLIS GLENN C & HEATHER E          | 16406     |          |
| FRYMIRE TOMMY R & LORI D           | 22704     |          |
| HEART OF TEXAS HEARING CENTERS INC | 12010     |          |
| KLEIN CHAD J                       | 22580     |          |
| MC NEER JAMES F & BEVERLY K        | 22834     | Opposed  |
| MOORE SAM                          | 75702     | Opposed  |
| NGUYEN STEVE &                     | 207276    |          |
| NGUYEN STEVE &                     | 207275    |          |
| STEARNS JOSH R & DIANE             | 16282     |          |
| STEPHENS O B JR DECD ET AL         | 11262     |          |
| STEPHENS PROPERTIES I LTD          | 11420     |          |
| STEPHENS PROPERTIES LLC            | 11023     |          |
| STROUD MARY                        | 55796     |          |
| WALKER DWAYNE K& C LA RUE          | 22975     | In Favor |



## LOCATION MAP



## ZONING MAP



**Attachments**

PD Graphic Concept Plan

Draft PD Ordinance

Application

PowerPoint Presentation

For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

**CASE #: Z-2021-07**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Name: WALKER DWAYNE K& C LA RUE  
Parcel I.D.: 22975

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☒  
Additional Comments:

I am opposed ☐

Signature: Dwayne K Walker

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

*We work together to build and maintain a community of the highest quality for present and future generations.*

If you have  
address [brad.ston](mailto:brad.ston)

For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

**CASE #: Z-2021-07**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Name: MOORE SAM  
Parcel I.D.: 75702

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☐  
Additional Comments:

I am opposed ☒

Signature: Sam Moore

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

*We work together to build and maintain a community of the highest quality for present and future generations.*



Watts, Nick <nick.watts@abilenetx.gov>

---

## [Planning] Case #Z-2021-07

---

**MH Davis** <m51davis@suddenlink.net>

Fri, Apr 2, 2021 at 6:53 PM

To: planning@abilenetx.gov

Cc: "Stone, Brad" <brad.stone@abilenetx.gov>

Hello,

I am responding to the notice (case #Z-2021-07) I received regarding the business located behind (west) of my home at 54 Glen Abbey Street.

I am selecting OPPOSED to this zoning change. The zoning was changed from residential to NO to accommodate the hear aide center. If the change is made to PD for this retail establishment does that mean it will then go further and have commercial or industrial development practically in my back yard?

I understand this is Buffalo Gap Road and things will change, however, having lived here almost 35 years I believe our home development area needs to be recognized, protected and preserved and another change in the zoning will likely jeopardize this area.

Thank you for listening to the views of a person living within FEET of this building.

Respectfully submitted,

Margaret Hicks Davis

54 Glen Abbey

Abilene, Texas 79608-6546

(325) 698-0493

--

You received this message because you are subscribed to the Google Groups "Planning Services" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [planning+unsubscribe@abilenetx.gov](mailto:planning+unsubscribe@abilenetx.gov).

To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/!%26!AAAAAAAAAAAAAYAAAAAAAAADM7%2BGatC7VGoSqMjPeq0G/CgAAAEAAAABXU7azRwp5OnjCBhd5Pv2gBAAAAAA%3D%3D%40suddenlink.net>.

For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

**CASE #: Z-2021-07**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: MC NEER JAMES F & BEVERLY K  
Parcel I.D.: 22834

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☐  
Additional Comments:

I am opposed ☒

Signature: \_\_\_\_\_

*James F. Miller*

APR 6 AM 10:56

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

*We work together to build and maintain a community of the highest quality for present and future generations.*



# Development Application

## Planning

- ☐ Conditional Use
 ☐ Easement Release
 ☒ Rezoning
 ☐ Other
- ☒ PDD
 ☐ Street Name Change
 ☐ Thoroughfare Abandonment
 ☐ PDD Amendment
- Other: \_\_\_\_\_

Project Name: Heart of Texas Hearing Centers  
 Address: 5919 Buffalo Gap Rd No. of lots: 1 Acreage: .558  
 Legal Description: A0086 Sup 100 A Greenwall  
 Subdivision Name: ↑ Block: ↑ Lot: ↑  
 Current Zoning: Office Proposed Zoning (if applicable): FE1 PD

## OWNER AND AUTHORIZATION

Owner Name: Erika Vela  
 Address: 1925 Hospital Place  
 City, State, Zip: Abilene, TX 79606 Fax: 325-455-3018  
 Phone: 325-232-8593 Email: erika@heartoftexashearing.com

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Fallen Perrie Busenlehner will act as my agent before the Planning and Zoning Commission.

Agent Name: Fallen Perrie Busenlehner  
 Address: 5919 Buffalo Gap Rd.  
 City, State, Zip: Abilene, TX 79606 Fax: \_\_\_\_\_  
 Phone: 325-977-0022 Email: fallen@shoptrcschic.tx.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: Erika Vela Date: 3/2/2021

## FOR OFFICE USE ONLY

Received: 03-09-2021 Fee: \$ 2000 Receipt No.: 0001058720  
 Case No.: 2-2021-07 Reviewed By: \_\_\_\_\_

0.558 acre out of A. Greenwall  
 Survey Number 100



# Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

I am wanting to put in a simple, small neighborhood boutique. I plan to sell women's clothing & gifts. My hours are Tues-Sat 10-6. I am so excited to become part of Abilene & bring my unique style to the women of Abilene.

I vow to not be anything short of a positive asset to Abilene & look forward to working with the community.

Thank you for your consideration.

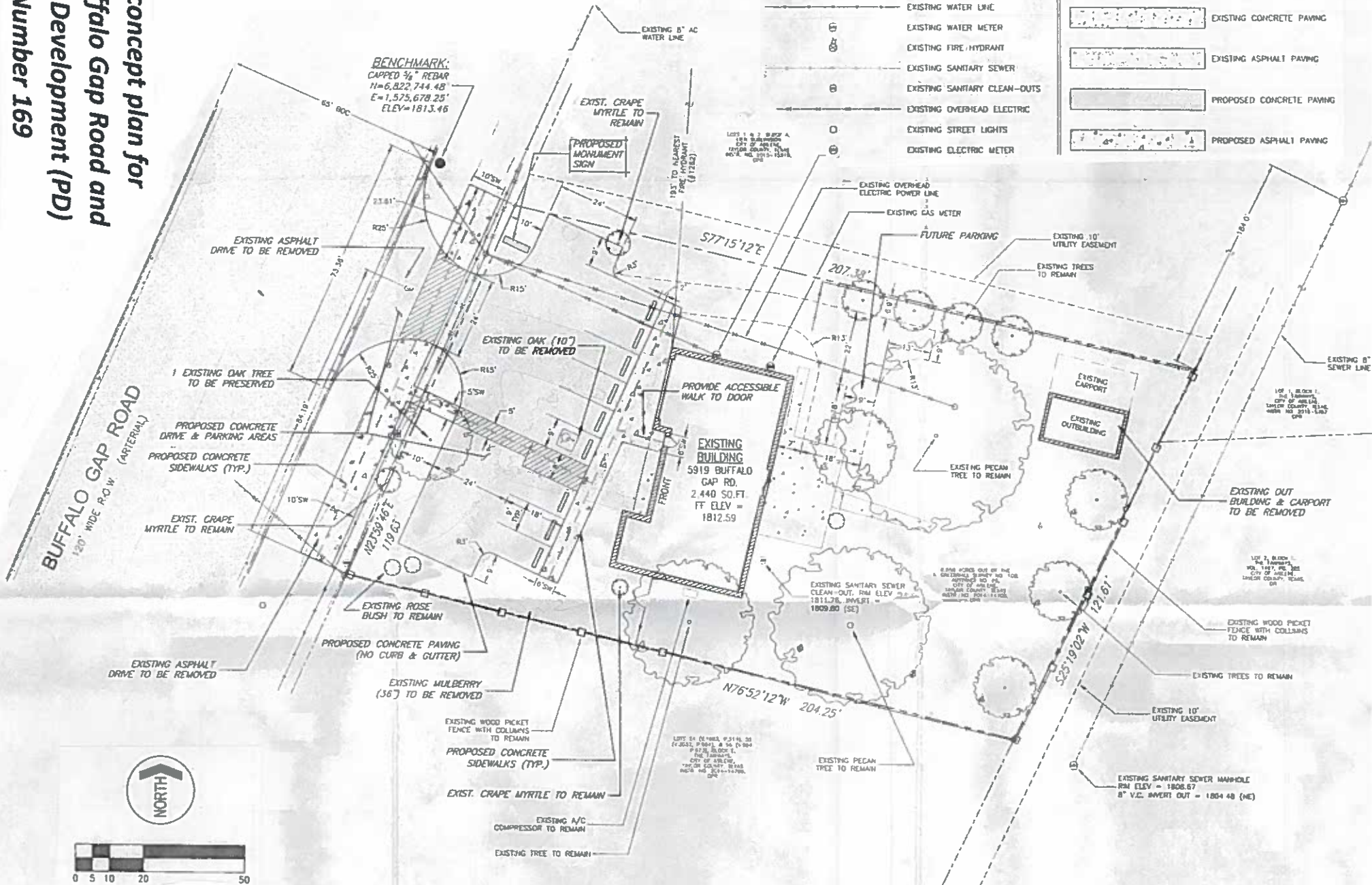
Fallen Busentekner



**graphic concept plan for  
5919 Buffalo Gap Road and  
Planned Development (PD)  
District Number 169**

## SITE PLAN LEGEND

| SITE BOUNDARY                |  | PROPOSED ACCESSIBLE ROUTE     |  |
|------------------------------|--|-------------------------------|--|
| ADJACENT R.O.W. & BOUNDARIES |  | HANDICAP ACCESSIBLE PARKING   |  |
| BUILDING SETBACK LINE        |  | PROPOSED ACCESSIBLE CURB RAMP |  |
| UTILITY & DRAINAGE EASEMENTS |  | PROPOSED WHEELSTOPS           |  |
| EXISTING WATER LINE          |  | EXISTING CONCRETE PAVING      |  |
| EXISTING WATER METER         |  | EXISTING ASPHALT PAVING       |  |
| EXISTING FIRE HYDRANT        |  | PROPOSED CONCRETE PAVING      |  |
| EXISTING SANITARY SEWER      |  | PROPOSED ASPHALT PAVING       |  |
| EXISTING SANITARY CLEAN-OUTS |  |                               |  |
| EXISTING OVERHEAD ELECTRIC   |  |                               |  |
| EXISTING STREET LIGHTS       |  |                               |  |
| EXISTING ELECTRIC METER      |  |                               |  |



**Case:** Z-2021-07  
**Owner:** Heart of Texas Hearing Centers Inc.  
**Agent:** Fallen Perrie Busenlehner  
**Request:** Rezone from Neighborhood Office to Planned Development District  
  
**Location:** 5919 Buffalo Gap Road  
**Notification:** 2 in Favor, 3 Opposed  
**Planning & Zoning Recommendation:** Approval





### Location Map



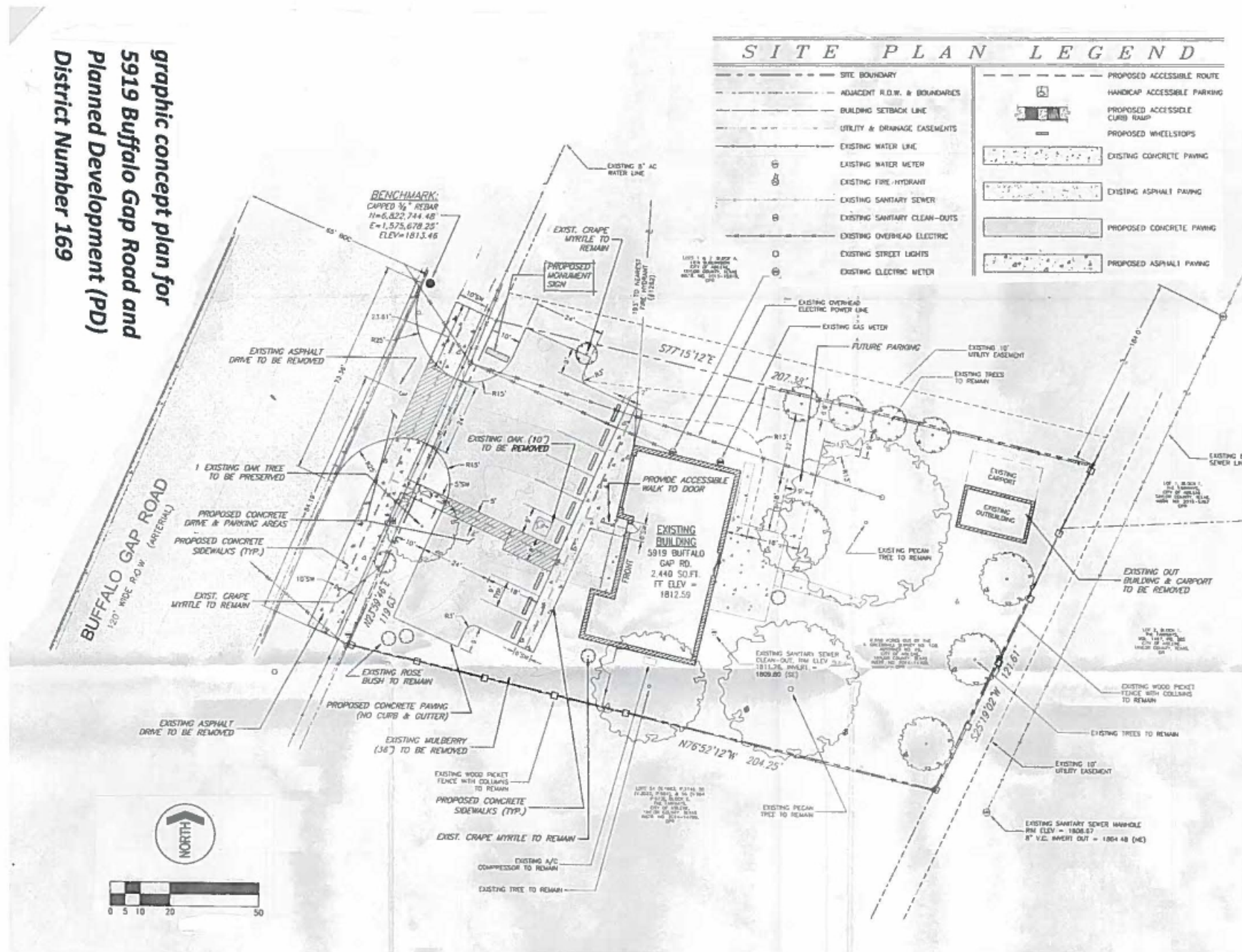
### Legend

 Z-2021-07





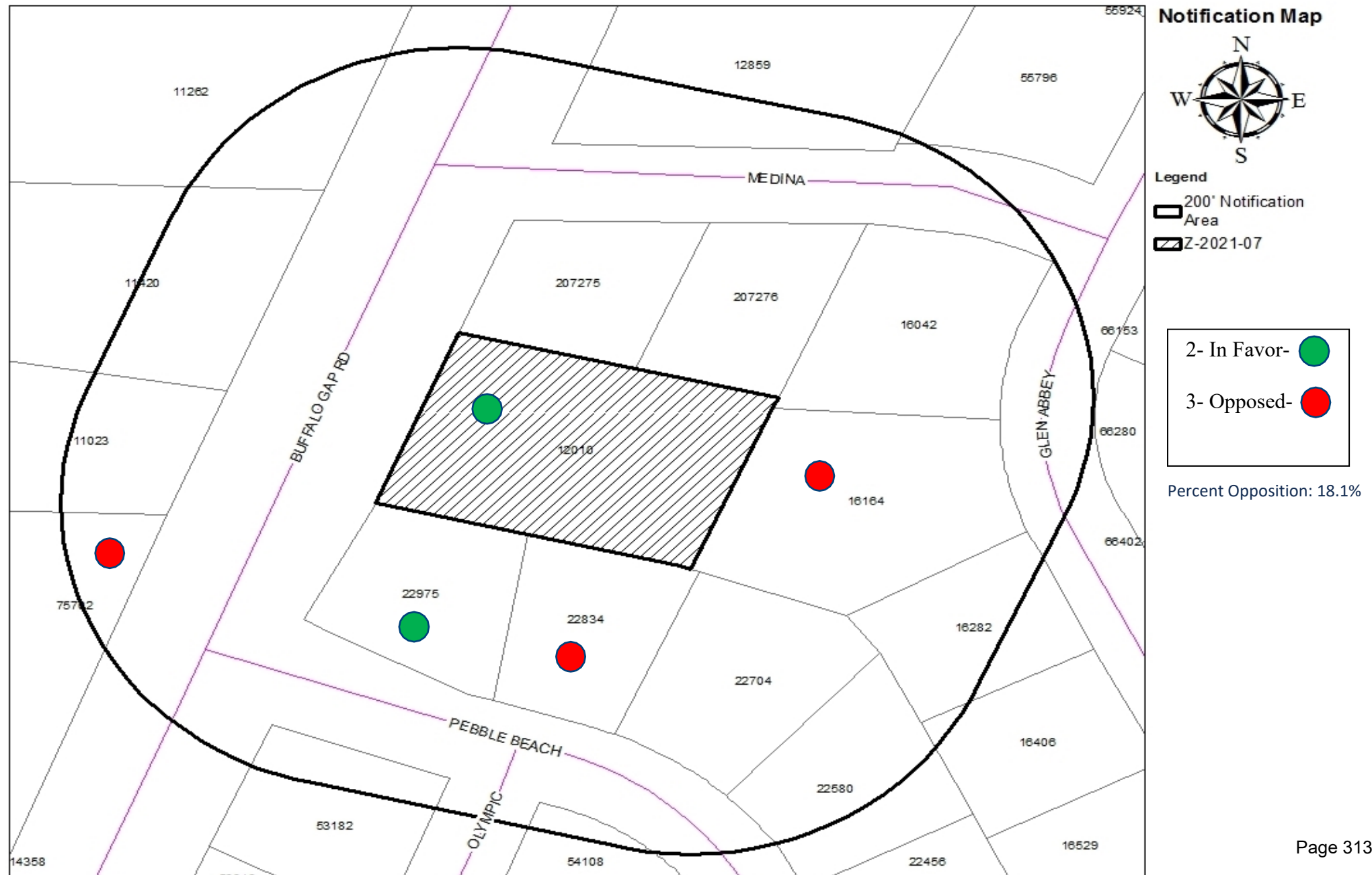
**graphic concept plan for  
5919 Buffalo Gap Road and  
Planned Development (PD)  
District Number 169**







# Z-2021-07 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan, Future Land Use and Development Plan Map* and the 1994 *Buffalo Gap Corridor Study*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval



# Questions?



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Robert Hanna, City Manager

**FROM:** Mike Warrix, Director

**SUBJECT:** **22. Ordinance (Final Reading) Z-2021-08: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Cimarron Meadows Development Corporation, Represented by Jacob & Martin LLC, to Rezone Property from Residential Medium-Density (MD) to Planned Development (PD) District to Allow Duplex Dwellings as well as Townhomes (with no more nor fewer than two dwellings in any one row of attached buildings) on Approximately 14 acres of Vacant Land Located on the 2000 block (east side) of Maple Street and Directly North from the Abilene State-Supported Living Center in Southeast Abilene. (Mike Warrix)**

---

**GENERAL INFORMATION**

Rezone Property from Residential Medium-Density (MD) to Planned Development (PD) District to Allow Duplex Dwellings as well as Townhomes (with no more nor fewer than two dwellings in any one row of attached buildings) on Approximately 14 acres of Vacant Land Located on the 2000 block (east side) of Maple Street and Directly North from the Abilene State-Supported Living Center in Southeast Abilene.

**SPECIAL CONSIDERATIONS**

None

**FUNDING/FISCAL IMPACT**

None

**STAFF RECOMMENDATION**

Approval

## **BOARD OR COMMISSION RECOMMENDATION**

On April 6, 2021, the Planning and Zoning Commission voted 7-0 to recommend approval of this request to City Council.

## **ATTACHMENTS:**

1. Z-2021-08 DRAFT ORDINANCE
2. Z-2021-08 Council Staff Report
3. Z-2021-08 Full Application
4. Z-2021-08 Council presentation

ORDINANCE NO. [REDACTED]

**Comment [RGG1]:** Page: 1  
To be filled in by the City Secretary's  
office.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE," OF THE ABILENE CITY CODE, CONCERNING PD-170 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the Land Development Code of the City of Abilene is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 22<sup>nd</sup> day of April, 2021.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20<sup>th</sup> day of March, 2021, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13<sup>th</sup> day of May, 2021, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13<sup>th</sup> day of May, 2021.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 1

ORDINANCE NO. \_\_\_\_\_

Exhibit  
"A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in possession of the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development must be in compliance with the general Comprehensive Zoning Ordinance of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in the herein said Planned Development shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That the Land Development Code of the City of Abilene is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: from Medium Density (MD) District to Planned Development (PD) District.

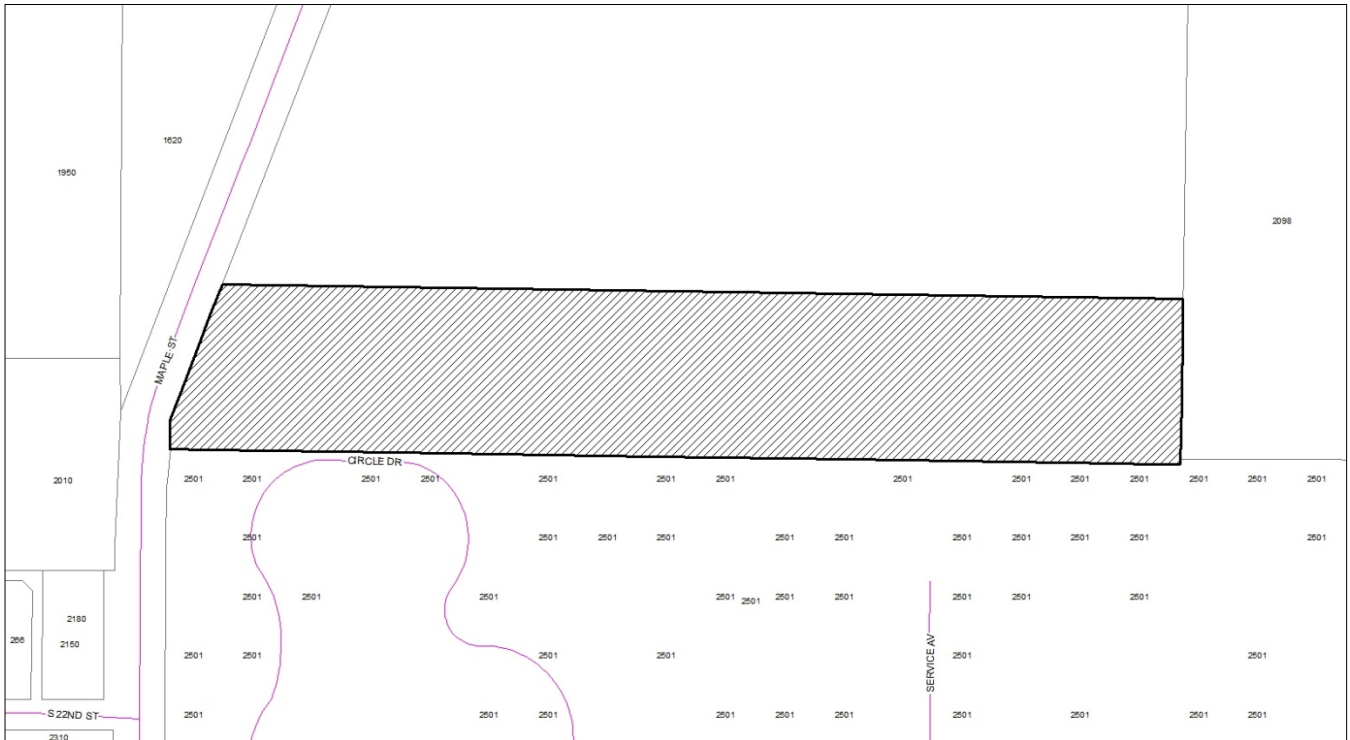
That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 2

PART 5: Legal Description. The legal description of this PDD is as follows: The south 320-feet of Lot 102, Block A of the Parkview Addition to Abilene, Taylor County, TX.



Location: Approximately 14 acres located in the 2000 block (east side) of Maple Street and directly north from the Abilene State-Supported Living Center in southeast Abilene.

PART 6: Purpose. The purpose of the Planned Development District (PDD) request is to allow for development of townhomes with only two units instead of the usual three or more; as well as traditional duplex developments.

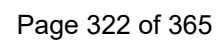
PART 7: Specific Modifications. This Planned Development District shall be subject to the requirements of the Residential Town Home (TH) zoning district, except as modified below:

A. Permitted uses and Specific Regulations

1. All residential uses ordinarily permitted within Residential Town Home (TH) Zoning in addition to the following modifications:
  - a. DWELLING –TOWNHOME
    - i. The definition of DWELLING – TOWNHOME amended to be “one of a group of no less than two (2) nor more than two (2) attached dwelling units, separated by a fire-rated wall.” NOTE: Ordinarily, no less than three (3) attached dwelling units are required.
  - b. DWELLING – DUPLEX
2. Site Layout and Building Requirements:
  - a. DWELLING – TOWNHOME
    - i. All site layout and building requirements ordinarily applicable within Residential Townhome (TH) Districts, except as otherwise specified within this section.
    - ii. A contiguous row of attached townhome dwellings shall have a minimum length of two (2) dwelling units and a maximum length of two (2) dwelling units. NOTE: Ordinarily, a contiguous row of attached townhome dwellings must have a minimum length of three (3) dwelling units.
    - iii. Townhome developments of no more than two units shall be exempt from the requirement of major Site Plan review by Abilene’s Development Review Committee.
    - iv. Setbacks:
      - Minor Street: 10-feet
      - Collector Street: 20-feet
      - Arterial Street: 30-feet
      - Side Yard: 6-feet
      - Rear Yard: 20-feet
  - b. DWELLING – DUPLEX
    - i. All site layout and building requirements ordinarily applicable within Medium Density (MD) Districts shall apply.

Except as otherwise specified in and allowed by this ordinance, the use and development of this subject property shall be governed by regulations applicable to the Town Home (TH) zoning classification.

EXHIBIT "A" GRAPHIC CONCEPT PLAN  
PAGE 4





# ZONING CASE Z-2021-08

## STAFF REPORT

---



### **Scheduled Hearings**

Planning & Zoning Commission: April 6, 2021

City Council 1<sup>st</sup> Reading: April 22, 2021

City Council 2<sup>nd</sup> Reading: May 13, 2021

### **Applicant**

Owner: Cimarron Meadows Development Corporation

Agent: Jacob & Martin, LLC

### **Request**

Rezone approximately 13.7 acres of Residential Medium Density (MD) zoning to a Planned Development District with a base zoning of Residential Townhome (TH). Based upon information provided within the application, the purpose of this request is to allow the construction of townhome and duplex dwellings. Residential Townhome zoning requires a minimum of three contiguous units. However, the applicant is requesting a minimum of two units which split lot boundaries as depicted in the graphic site plan submitted with the application pursuant to Section 1.4.2.3 (Concept Plan) of the Land Development Code.

### **Location**

The subject property is the southernmost 320-feet (approximately 13.7 acres) out of Lot 102, Block A, Section 2, of the Parkview Addition. The property is bound to the west by Maple Street; to the north by vacant property; to the east by a single-family residential property; and to the south by the Abilene State Supported Living Center.

### **Background**

The subject property was annexed in 1957 and zoned Agricultural Open Space (AO). In 1995, the property was rezoned to Planned Development District 58 (PDD-58); with the intention of allowing an amusement park. Between 1997 and 2006, the property was utilized for this use. In 2020, City Council approved ordinance #44-2020; effectively rezoning approximately 60 acres of this Planned Development to a combination of Single-Family Residential (RS-6) and Residential Medium Density (MD).

### **Zoning and Existing Land Use**

Current zoning and existing land use of properties adjacent to and in the immediate area of the subject property are illustrated on the map included in this report. As indicated on the map, adjacent zoning consists of Agricultural Open Space (AO) to the south and east; Residential Medium Density (MD) to the north; and PD-58 as well as Agricultural Open Space (AO) west of Maple Street.

### **Criteria Assessment**

Section 1.4.1.4 of the Land Development Code states that in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

**(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land use and Development Plan Map, as amended;**

It is the opinion of staff that the proposed zoning map amendment will serve to implement the goals, objectives, and policies of the Comprehensive Plan and Future Land Use and Development Plan Map. The Future Land Use and Development Plan Map identifies the subject property as low density residential development. The proposed zone change is consistent with low density residential land use. Additionally, the proposed zone change will promote the Comprehensive Plan's goal of infill by encouraging development of land within an interior region of the City that has remained vacant since its annexation in 1957.

**(2) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

It is the opinion of staff, that the uses permitted by the proposed zone change are consistent with the surrounding properties in the immediate vicinity, which are primarily residential. Furthermore, this proposed Planned Development will function much like Residential Townhome (TH) zoning but at a lower density than ordinarily required within a TH district. According to Abilene's Land Development Code TH zoning serves as a medium density transitional buffer from the Abilene State Supported Living Center to the south and the single-family residential homes to the north.

**(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

The subject property currently has access to existing utilities and public amenities which are adequate for servicing the development that may result from this change in zoning. Furthermore, the request presents no apparent conflicts with existing or proposed plans for community facilities and/or related infrastructure.

**(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

It is the opinion of staff that no other factors are present that would substantially affect the public health, safety, morals, or general welfare.

**Staff Recommendation**

Staff recommends approval.

**Planning and Zoning Commission Action**

The Planning and Zoning Commission recommended approval by a vote of seven (7) to zero (0) on April 6, 2021.

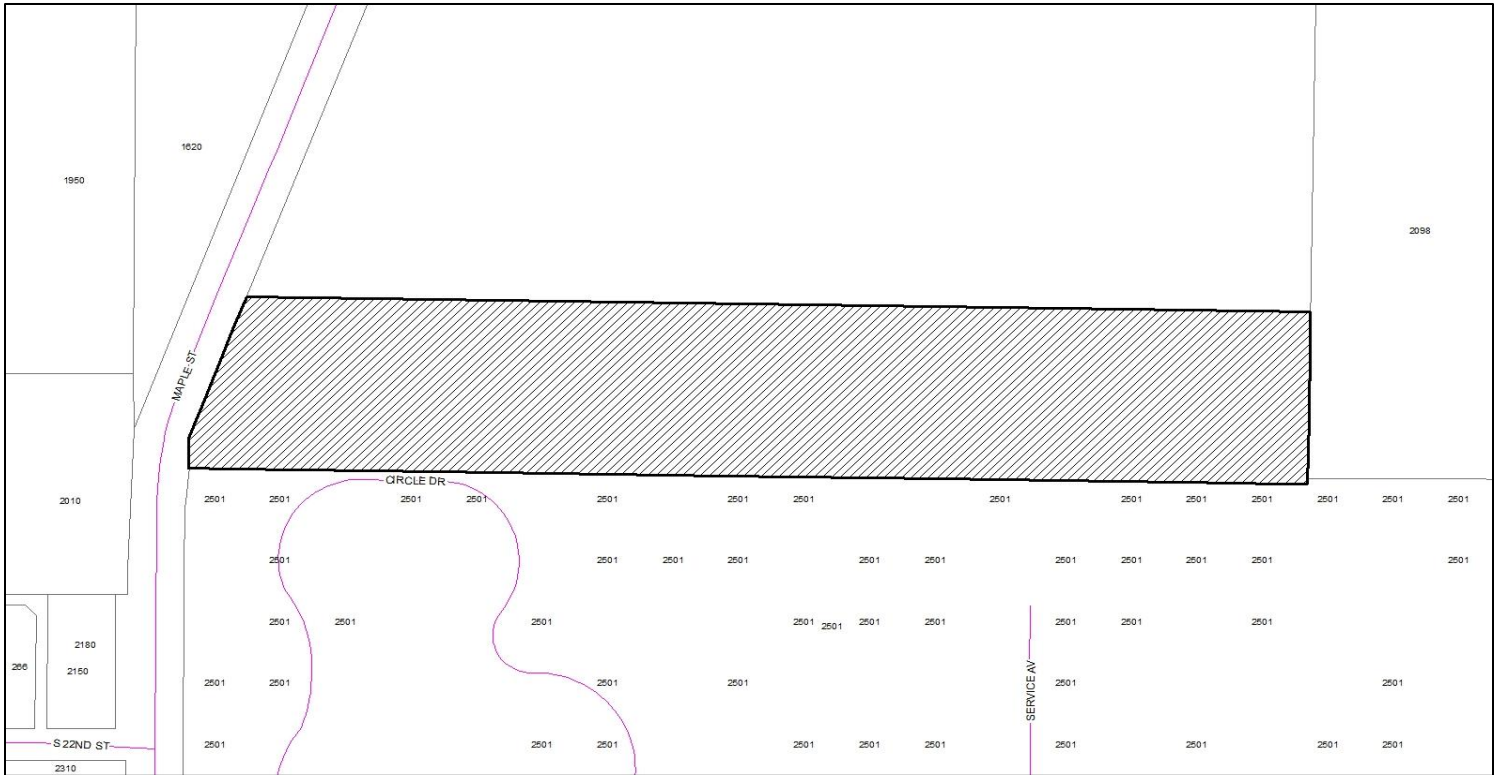
**Notification**

Pursuant to Section 1.2.2.2 of the Land Development Code, staff mailed personal notices on March 26, 2021, via certified mail to the applicant and other property owners within a 200-foot radius of the subject property. These property owners and associated addresses are identified in Table 1.

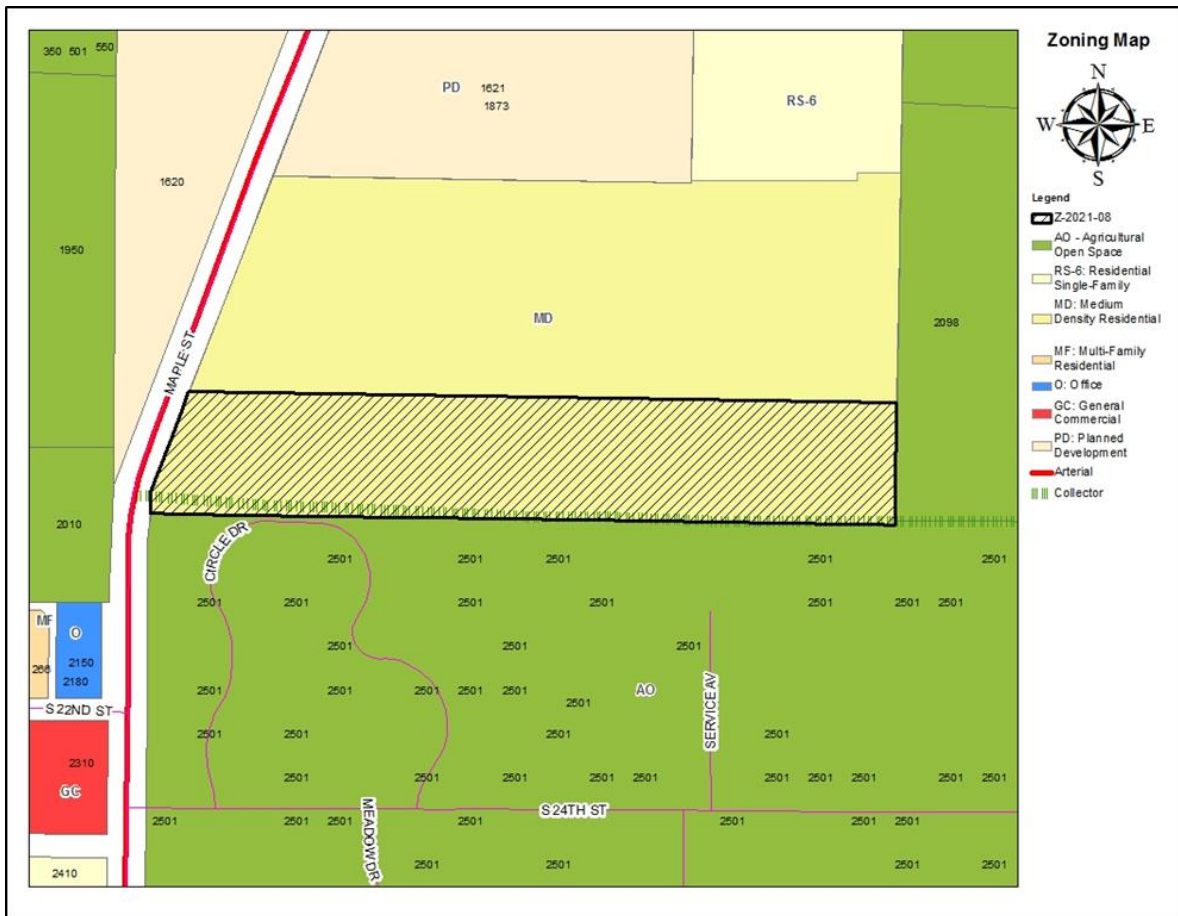
**TABLE 1**

| Owner                             | Parcel ID | Response |
|-----------------------------------|-----------|----------|
| ABILENE IND SCHOOL DIST           | 33283     |          |
| ABILENE STATE SCHOOL              | 12623     |          |
| LEWIS DONALD                      | 74501     |          |
| ROGERS RECREATION INC             | 1063566   | In Favor |
| SCHWERTNER CHARLES & KAYE TRUST   | 52606     | In Favor |
| TURQUOISE DOG PROPERTIES SERIES T | 32761     |          |

## LOCATION MAP



## ZONING AND EXISTING LAND USE MAP



**Attachments**

Ordinance 44-2020

PD Concept Plan

Draft PD Ordinance

Application

PowerPoint Presentation

ORDINANCE NO. 44-2020

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

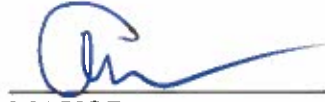
PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 22<sup>nd</sup> day of October, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19<sup>th</sup> day of September, 2020, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 5<sup>th</sup> day of November, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 5<sup>th</sup> day of November, 2020.

ATTEST:

  
CITY SECRETARY

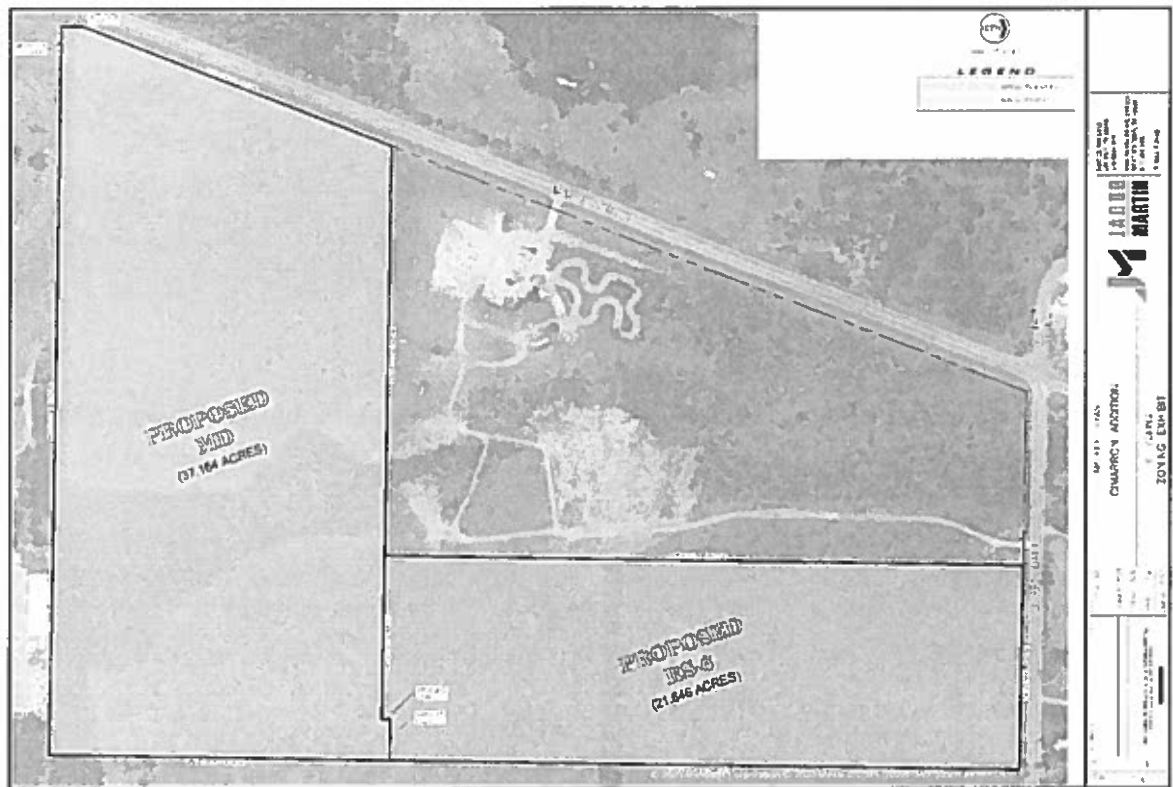
  
MAYOR

APPROVED:

  
CITY ATTORNEY

## EXHIBIT A

Rezone property from Planned Development District 58 (PDD 58) zoning classification, to a combination of Medium Density (MD) and Residential Single-Family (RS-6) zoning districts, as follows:



Location: 6800-6900 blocks (west side) of Highway 83-84 Abilene, Taylor County, Texas.

### **Medium Density (MD) zoning district**

BEING a 37.164 acre zoning tract out of the northwest quarter of Section No. 51, Blind Asylum Lands, Abstract No. 630, City of Abilene, Taylor County, Texas, and being out of the southern portion of Lot 1, Block A, Section 2, Parkview Addition as shown per plat recorded in Cabinet 3, Slide 270, Plat Records, Taylor County, Texas, and further conveyed (called "TRACT TWO") in a Warranty Deed to Rogers Recreation, Inc. recorded in Volume 2236, Page 860, Official Public Records, Taylor County, Texas, and also being out of "Tract Three" as described in said Volume 2236, Page 860. Said 37.164 acre zoning tract is more particularly described in metes and bounds as follows:

BEGINNING at a point for the southwest corner of this described tract and said "TRACT THREE", and being in the southeasterly right-of-way line of Maple Street;  
THENCE N. 00° 37' 56" E. along the west line of this described tract, same being the west line of said "TRACT THREE", same being the southeasterly right-of-way line of said Maple Street, a distance of 55.73 feet to a point for corner of this described tract;

THENCE N. 21° 10' 42" E. along the northwest line of this described tract, same being the northwest line of said "TRACT THREE", same being the southeasterly right-of-way line of said Maple Street, a distance of 891.39 feet to a point for the northwest corner of this described tract;

THENCE along the northerly lines of this described tract; and over and across said "TRACT THREE" and said Lot 1, Block A, the following bearing and distances:

- S. 89° 04' 34" E, at 106.47 feet pass the southeast line of said "TRACT THREE", same being the northwest line of said Lot 1, Block A, and continuing on for a total distance of 1540.36 feet to a point for an interior corner of this described tract;
- N. 00° 55' 26" E a distance of 23.96 feet to a point for a corner of this described tract;
- S. 89° 04' 34" E a distance of 110.00 feet to a point for the northeast corner of this described tract, and being in the east line of said Lot 1, Block A;

THENCE S. 00° 55' 26" W along the east line of this described tract, same being the east line of said Lot 1, Block A, a distance of 913.96 feet to a point for the southeast corner of this described tract, same being the southeast corner of said Lot 1, Block A;

THENCE N. 89° 07' 46" W along the south line of this described tract, same being the south line of said Lot 1, Block A, a distance of 1872.87 feet to a point for a slight angle point of this described tract, and being at the southwest corner of said Lot 1, Block A, same being the southeast corner of said "TRACT THREE";

THENCE N. 89° 14' 38" W, and continuing along the south line of this described tract, same being the south line of said "TRACT THREE", a distance of 85.80 feet to the POINT OF BEGINNING and containing 31.164 acres of land, more or less.

#### **Single Family Residential (RS-6) zoning district**

BEING a 21.646 acre zoning tract out of the northwest quarter of Section No. 51, Blind Asylum Lands, Abstract No. 630, City of Abilene, Taylor County, Texas, and being out of the eastern portion of Lot 1, Block A, Section 2, Parkview conveyed (called "TRACT TWO") in a Warranty Deed to Rogers Recreation, Inc. recorded in Volume 2236, Page 860, Official Public Records, Taylor County, Texas. Said 21.646 acre zoning tract is more particularly described in metes and bounds as follows:

BEGINNING at a point for the northeast corner of this described tract, and said Lot 1, Block A, and being in the south right-of-way line of Berry Lane;

THENCE S. 00° 55' 26" W along the east line of this described tract, same being the east line of said Lot 1, Block A, a distance of 1695.10 feet to a point for the southeast corner of this described tract;

THENCE along the southerly lines of this described tract, and over and across said Lot 1, Block A, the following bearings and distances:

- N. 89° 04' 34" W a distance of 110.00 feet to a point for an interior corner of this described tract;
- S. 00° 55' 26" W a distance of 23.96 feet to a point for a corner of this described tract;
- N. 89° 04' 34" W a distance of 440.00 feet to a point for the southwest corner of this described tract;

THENCE N. 00° 55' 26" E, and continuing over and across said Lot 1, Block A, and along the west line of this described tract, a distance of 1719.32 feet to a point for the northwest corner of this described tract, and being in the north line of said Lot 1, Block A, same being the south right-of-way line of said Berry Lane;

THENCE S. 89° 02' 59" E along the north line of this described tract, same being the north line of said Lot 1, Block A, same being the south right-of-way line of said Berry Lane, a distance of 550.00 feet to the POINT OF BEGINNING and containing 21.646 acres of land, more or less.

-END-



For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

MAR 31 AM 11:36

**CASE #: Z-2021-08**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: SCHWERTNER CHARLES & KAYE TRUST  
Parcel I.D.: 52606

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☒  
Additional Comments:

I am opposed ☐

Signature:

*Charles & Kaye Trust*

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

*We work together to build and maintain a community of the highest quality for present and future generations.*

For the PLANNING & ZONING COMMISSION  
Please call (325) 676-6237 if you have any questions about this notice.

APR 7 AM 10:33

**CASE #: Z-2021-08**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ROGERS RECREATION INC  
Parcel I.D.: 1063566

Mailing To: Planning and Development Services  
P.O. Box 60, Abilene TX 79604-0060

Email: [planning@abilenetx.gov](mailto:planning@abilenetx.gov)

I am in favor ☒  
Additional Comments:

I am opposed ☐

Signature:

*Ken Lee Y.P.*

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

*We work together to build and maintain a community of the highest quality for present and future generations.*



# Development Application

## Planning

☐ Conditional Use ☐ Easement Release ☒ Rezoning ☐ Other  
☐ PDD ☐ Street Name Change ☐ Thoroughfare Abandonment ☐ PDD Amendment  
Other: \_\_\_\_\_

Project Name: Cimarron Meadows  
Address: PARKVIEW SEC 2, BLOCK A, LOT 102 REP, ACRES 58.81 Acreage: \_\_\_\_\_  
Legal Description: A0777 SUR 14 L A L SW/4, ACRES 92.013  
Subdivision Name: Cimarron Meadows Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
Current Zoning: MD Proposed Zoning (if applicable): PD (Base Zoning TH)

## OWNER AND AUTHORIZATION

Owner Name: Cimarron Meadows Development Corporation  
Address: 13209 Villa Montana Way  
City, State, Zip: Austin, TX 78732-1635 Fax: \_\_\_\_\_  
Phone: 325-665-4348 Email: \_\_\_\_\_

*I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) Jacob & Martin will act as my agent before the Planning and Zoning Commission.*

Agent Name: Jacob & Martin  
Address: 3465 Curry Lane  
City, State, Zip: Abilene, TX 79606 Fax: 325-691-5134  
Phone: 325-695-1070 Email: cfarrow@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: [Signature] Date: 03-08-2021

## FOR OFFICE USE ONLY

Received: 3/8/21 Fee: \$ 2,000.00 Receipt No.: \_\_\_\_\_  
Case No.: Z-2021-08 Reviewed By: [Signature]

# Development Application

---

## RECOMMENDATIONS

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you (FAX or E-mail) of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

## PUBLIC NOTIFICATION

The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

## PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

SIGNED: \_\_\_\_\_



DATE: \_\_\_\_\_

03-08-2021

# PROJECT OVERVIEW

**Project Type:** Zoning Application

**ID #** 21-000038 | **Started** 03/08/2021 at 11:43 AM



## Address

1873 Maple St, Abilene,  
TX USA 79602

## Legal

Parkview Sec 2 Blk Block  
A Lot Lot 1  
Parkview Sec 2, Block A,  
Lot 1, Acres 83.355

## Property Info

**Property ID:** 95952

## Description

We would like to rezone a portion of the existing zoned MD tract to a Planned Development District with a base zoning of Town Home (TH). Unlike traditional Town Home zoning; the owner wishes to have a minimum of TWO units split by a lot line and no more than TWO units in a contiguous townhome "set" so that this functions as a duplex, but is able to sell off individual sides of the unit. Additionally, we request the provision to allow duplexes by right; subject to the standards ordinarily applicable within MD zoning. Furthermore, we would like to amend the requirement regarding minimum building separation for townhome structures from 15-feet to 12-feet. Finally, the owner wishes to have the setback requirements for Townhome Developments to mirror those setbacks which are ordinarily applicable within Medium Density (MD) zoning.

| PROJECT STEPS                                              | DATE & TIME            | RESULT    | USER           |
|------------------------------------------------------------|------------------------|-----------|----------------|
| Request                                                    | 03/08/2021 at 11:45 AM | Accept    | -              |
| Zoning Application Review                                  | 03/09/2021 at 8:58 AM  | Accepted  | Jared Smith    |
| Planning Payment                                           | 03/09/2021 at 3:34 PM  | Paid      | Jared Smith    |
| Create Agenda for Planning and Zoning Commission           | 03/26/2021 at 10:47 AM | Created   | Cheryl Sawyers |
| Staff Prepares Report & Send Property Notification Letters | 03/26/2021 at 10:47 AM | Completed | Cheryl Sawyers |
| P&Z Commission Decision                                    | -                      | -         | -              |
| Prepare City Council Agenda                                | -                      | -         | -              |
| City Council Decision                                      | -                      | -         | -              |
| Archive                                                    | -                      | -         | -              |

## INFORMATION FIELDS

### Owner Name

Cimarron Meadows Development Corporation

### Agent Name

Jacob & Martin

### Block

-

**Lot**

-

**Acreage**

14.13

**Legal Description of property**

PARKVIEW SEC 2, BLOCK A, LOT 102 REP, ACRES 58.81

**Subdivision Name**

Cimarron Meadows Addition

**Current Zoning**

MD

**Proposed Zoning**

PD

**Agree to Terms**

Clayton Farrow 3-8-2021

| INVOICES  | DUE DATE   | CONTACT        | TOTAL       | PAID        | DUE     |
|-----------|------------|----------------|-------------|-------------|---------|
| 21-000970 | 03/09/2021 | Clayton Farrow | \$ 2,000.00 | \$ 2,000.00 | \$ 0.00 |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |
|           |            |                |             |             |         |

**CREDENTIALS**

Engineer

| Name           | Contact Info                              | Address                                   | Credentials | Availability | Validity |
|----------------|-------------------------------------------|-------------------------------------------|-------------|--------------|----------|
| Clayton Farrow | cfarrow@jacobmartin.com<br>(325) 695-1070 | 3465 Curry Lane<br>Abilene, TX 79606-2287 |             | 0 days left  | Off      |

Surveyor

Developer

Homeowner

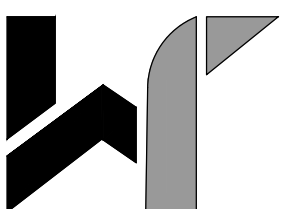
| REVIEWS                                                    | DATE & TIME            | STATUS    | HISTORY   |
|------------------------------------------------------------|------------------------|-----------|-----------|
| Zoning Application Review                                  | 03/09/2021 at 8:58 AM  | Approved  | Accepted  |
| Create Agenda for Planning and Zoning Commission           | 03/26/2021 at 10:47 AM | Approved  | Created   |
| Staff Prepares Report & Send Property Notification Letters | 03/26/2021 at 10:47 AM | Approved  | Completed |
| P&Z Commission Decision                                    | 03/26/2021 at 10:47 AM | In Review | -         |



RE-ZONING  
ZONING EXHIBIT

ABILENE TEXAS

**MARTIN**  
**JACOB**

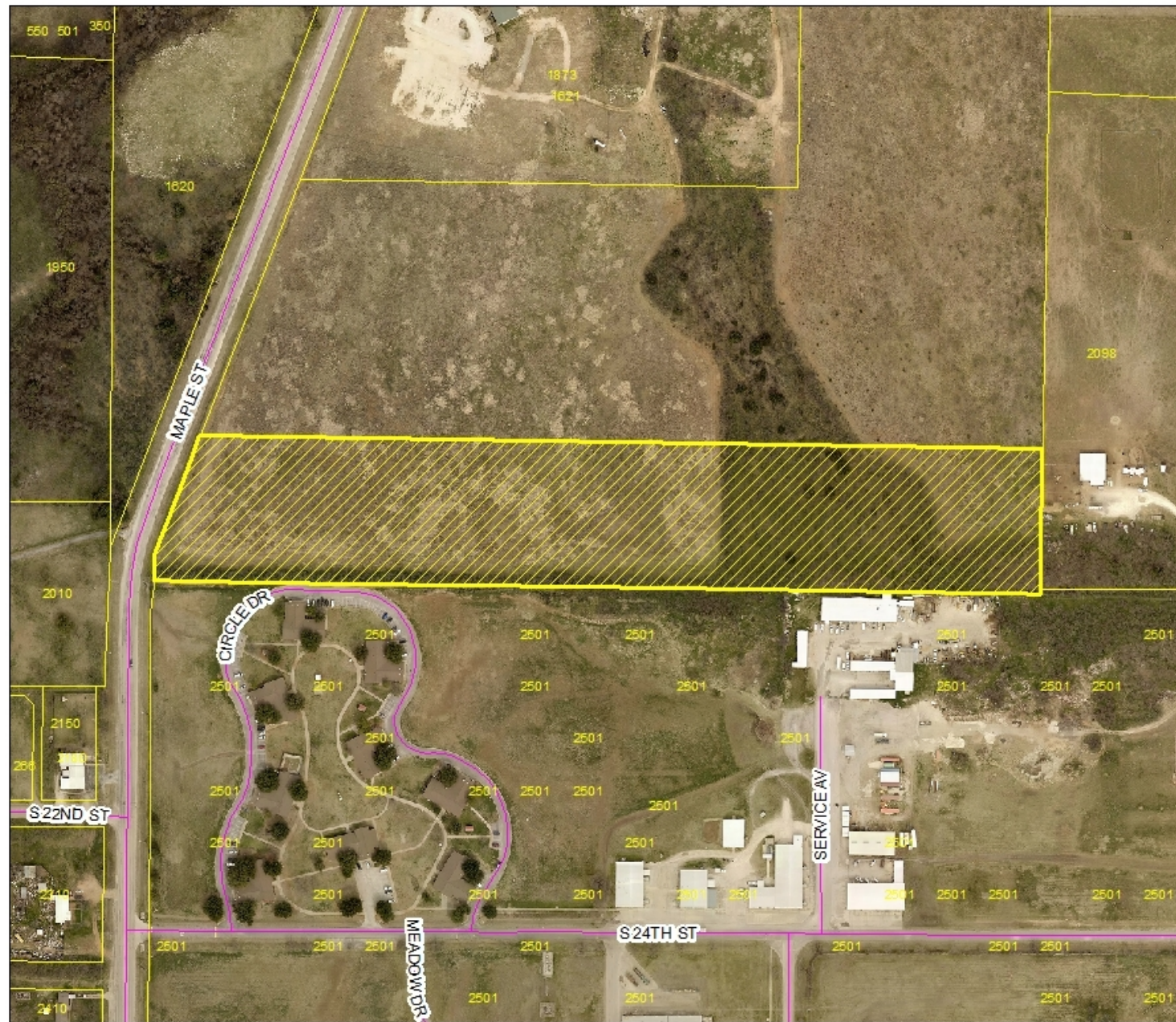


SCALE: 1" = 100'





|                                              |                                                                                                                            |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| <b>Case:</b>                                 | Z-2021-08                                                                                                                  |
| <b>Owner:</b>                                | Cimarron Meadows Development Corp.                                                                                         |
| <b>Agent:</b>                                | Jacob & Martin                                                                                                             |
| <b>Request:</b>                              | Rezone from Medium Density (MD) to<br>Planned Development District (PD) with a<br>base zoning of Residential Townhome (TH) |
| <b>Location:</b>                             | Lot 102, Block A, Sec 2 Parkview Addition                                                                                  |
| <b>Notification:</b>                         | 2 in Favor, 0 Opposed                                                                                                      |
| <b>Planning &amp; Zoning Recommendation:</b> | Approval                                                                                                                   |



Location Map

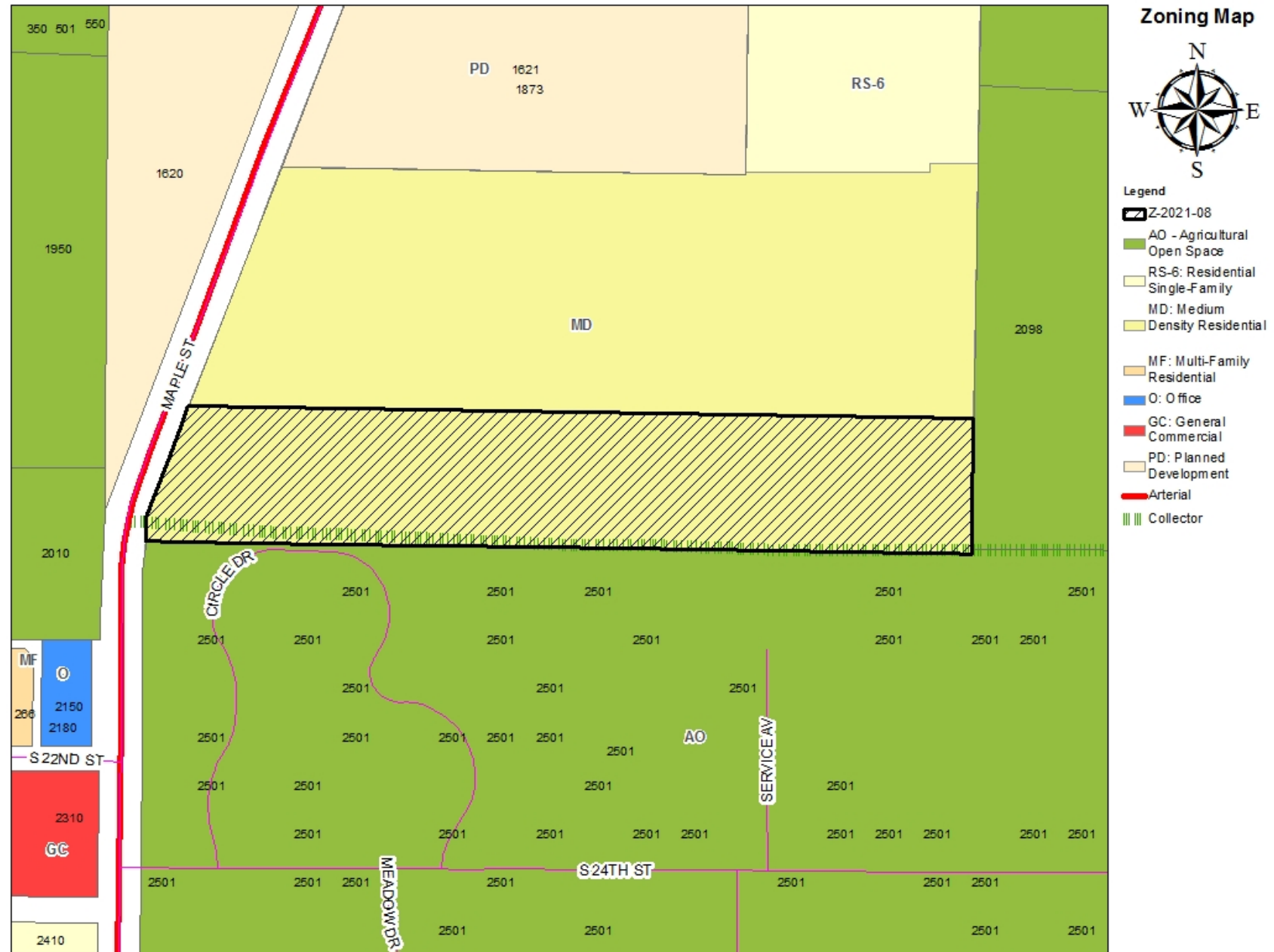


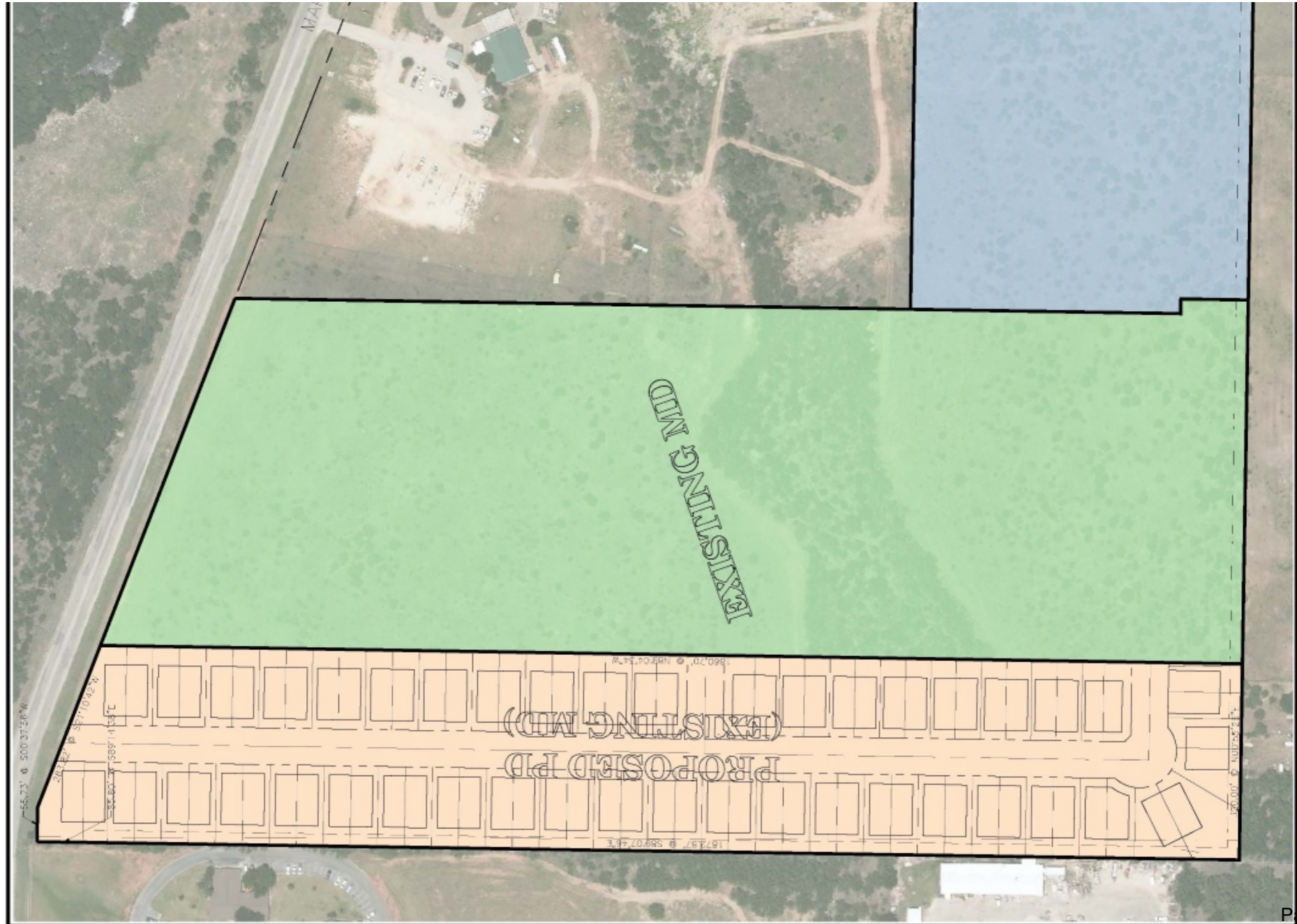
Legend

 Z-2021-08



# Z-2021-08 ZONING MAP



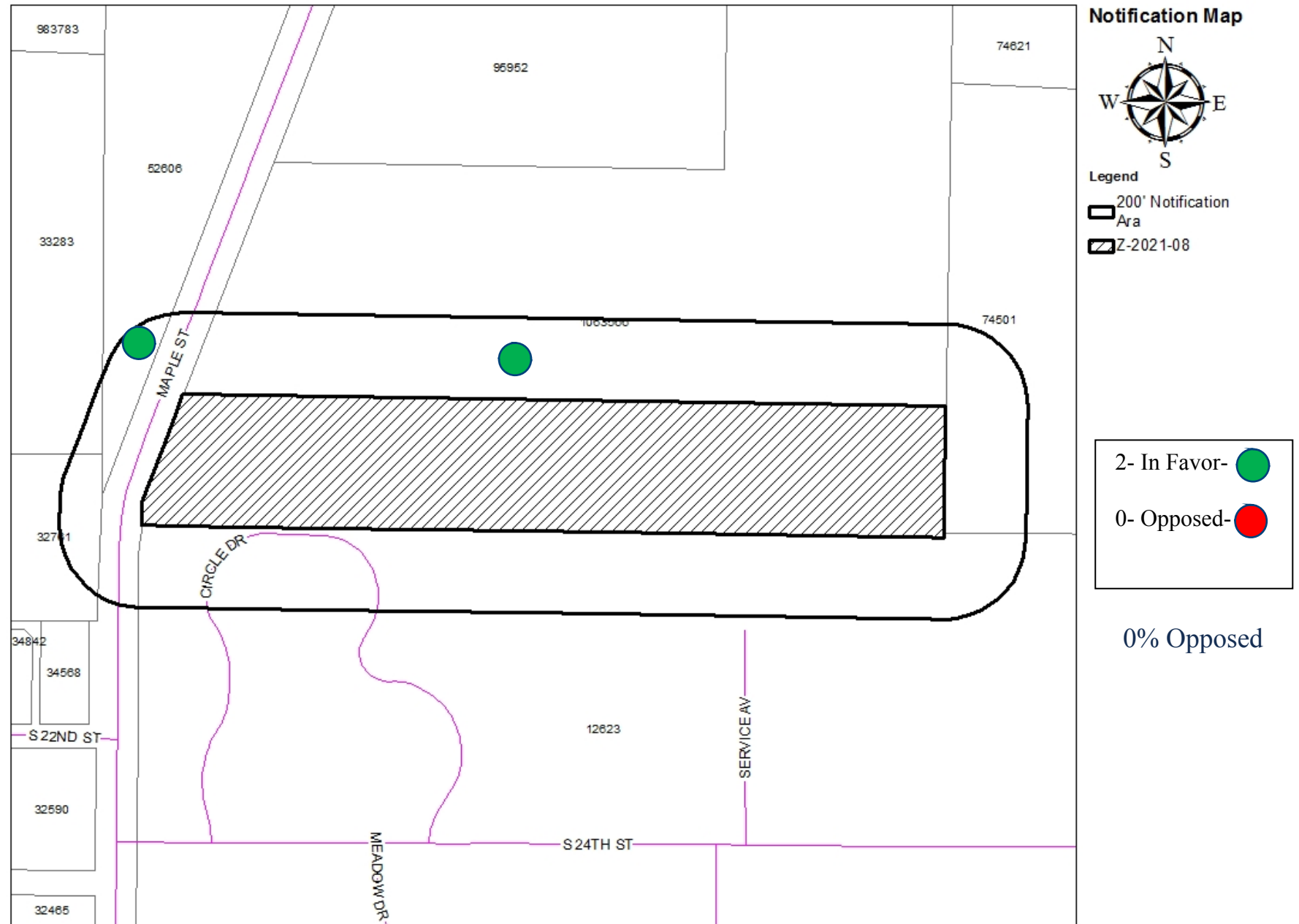




# Z-2021-08 VIEWS OF SUBJECT & NEIGHBORING PROPERTIES



# Z-2021-08 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval

# Questions?



## City Council Agenda Memo

City Council Meeting Date: 5/13/2021

**TO:** Robert Hanna, City Manager

**FROM:** Mari Cockerell, Communications Manager

**SUBJECT:** 23. Presentation: Receive a Report and Hold a Discussion and Public Hearing on Accessibility Alterations and Renovations to Council Chamber *(Mari Cockerell)*

---

### **GENERAL INFORMATION**

City staff seeks Council's direction in renovation changes to Council Chamber that will include allowing for full accessibility to the raised dais from inside of Chamber, and the back exterior entrance from the city manager's executive conference room. Renovations will also include removal of lower desks, and reconstruction of podium to improve accessibility. Dais table top will be replaced and include the partial recessing of Council monitors. Lighting will be improved, and minor cosmetic changes will be made to the front of the dais. Estimates include possible replacement of carpet and chairs.

### **SPECIAL CONSIDERATIONS**

### **FUNDING/FISCAL IMPACT**

Funding will come from PEG. This item includes two proposed project scopes and budget; \$83,031.20 or \$128,100. The greater renovation budget includes a total of \$40,000 that would allow for carpeting and floor demo, new chairs (100), and extended ceiling acoustic and electrical/lighting work. All cost project estimates include a 10% construction contingency and 2% design contingency.

### **STAFF RECOMMENDATION**

## **BOARD OR COMMISSION RECOMMENDATION**

### **ATTACHMENTS:**

1. Parkhill Design slides
2. Parkhill 3D view
3. Parkhill ceiling lighting
4. Parkhill estimates
5. Parkhill floor plan



# City Council Meeting

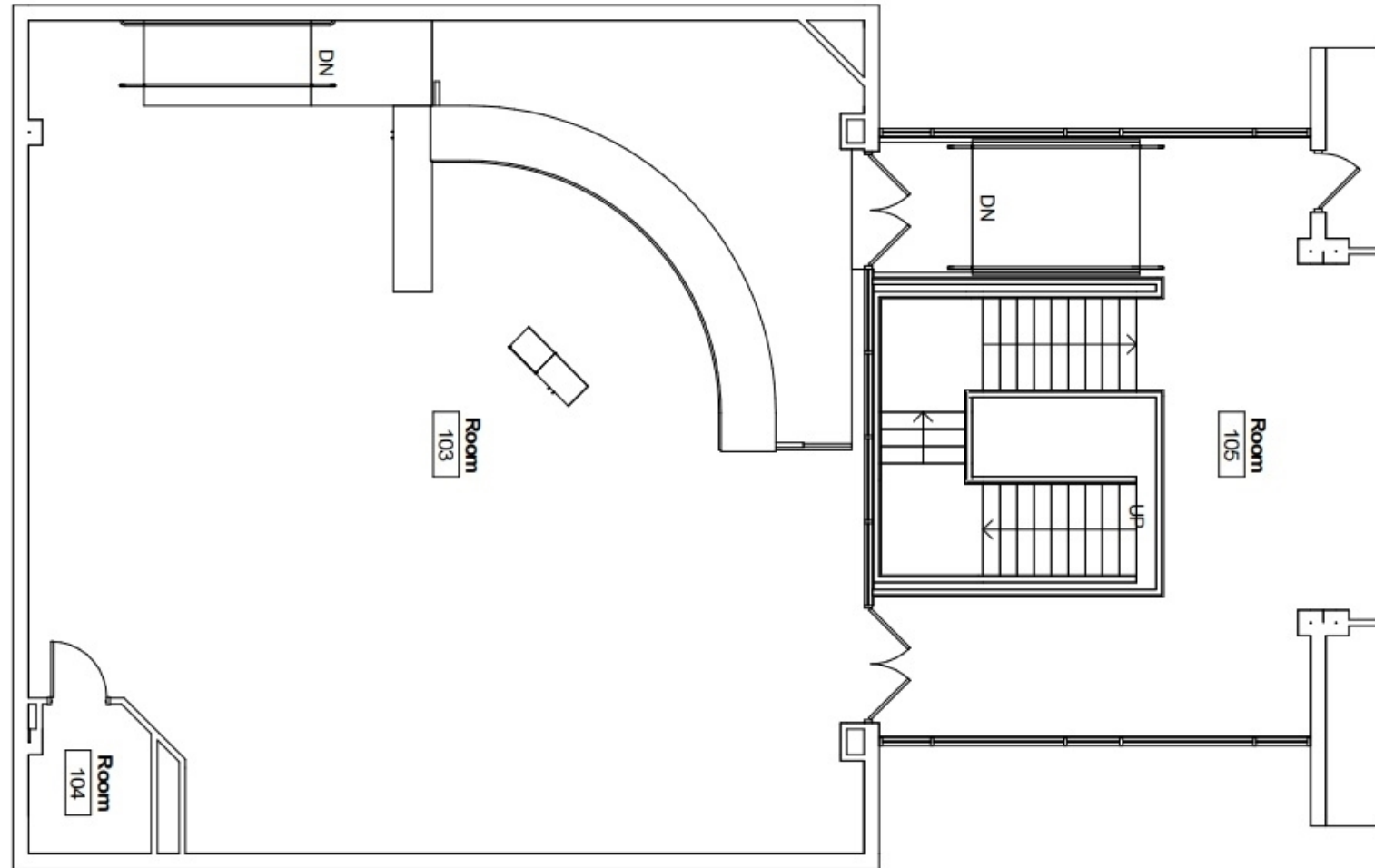


# Accessibility renovations to Council Chamber

- Proposed renovation to Council Chamber will include allowing for full accessibility to the raised dais from inside of Chamber, as well as the back exterior entrance from the city manager's executive conference room.
- Renovations will also include removal of lower desks, and reconstruction of podium to improve accessibility. Dais table top will be replaced and include the partial recessing of display monitors. Lighting will be improved, and minor cosmetic changes will be made to the front of the dais. Estimates include possible replacement of carpet and chairs.
- Funding will come from PEG. This item includes two proposed project scopes and budget; \$83,031.20 or \$128,100. The greater renovation budget includes a total of \$40,000 that would allow for carpeting and floor demo, new chairs (100), and extended ceiling acoustic and electrical/lighting work. All cost project estimates include a 10% construction contingency and 2% design contingency. City staff seeks Council direction in selection between two project budgets.



# Accessibility renovations to Council Chamber



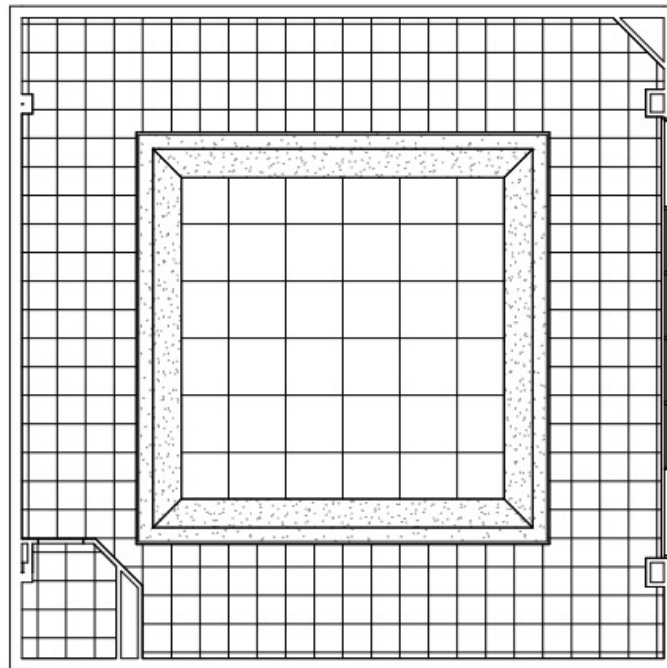
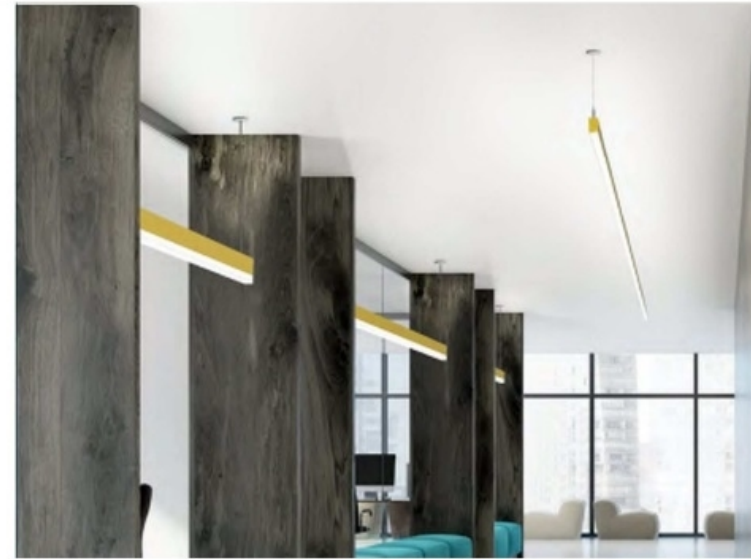
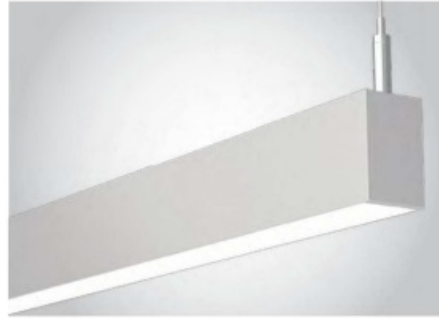
Presentation to City Council  
05.13.2021

# Accessibility renovations to Council Chamber



Presentation to City Council  
05.13.2021

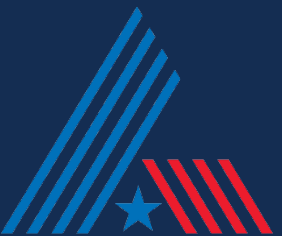
# Accessibility renovations to Council Chamber



Presentation to City Council  
05.13.2021

# Accessibility renovations to Council Chamber

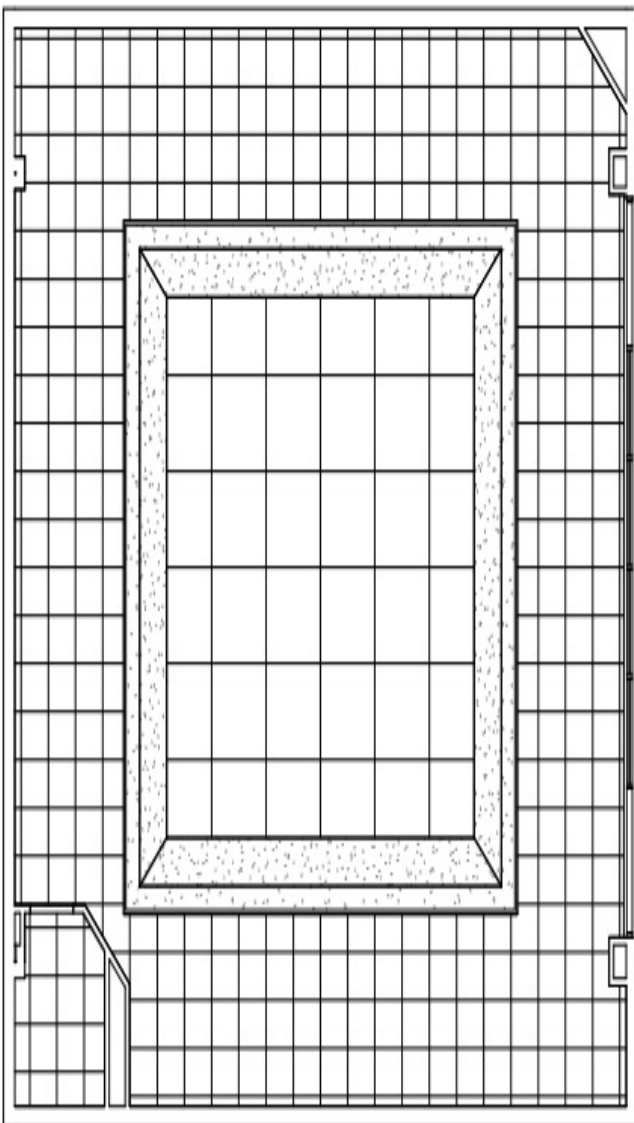
- Questions?







Presentation to City Council  
05.13.2021



Presentation to City Council  
05.13.2021





OWNER: City of Abilene  
PROJECT: Council Chamber Renovation  
LOCATION: Abilene, TX

PSC JOB NO.: 03.1077.21  
REPORT DATE: 5/4/2021

BY: RT  
PRICING YEAR: 2021

SUBMITTAL: SD

BASIC SCOPE

| CODE DESCRIPTION                                       | QUANTITY |       | LABOR |       | MATERIAL/EQUIPMENT |       | SUBCONTRACTOR |             | TOTAL COST  |
|--------------------------------------------------------|----------|-------|-------|-------|--------------------|-------|---------------|-------------|-------------|
|                                                        | NO.      | UNIT  | UNIT  | TOTAL | UNIT               | TOTAL | UNIT          | TOTAL       |             |
|                                                        | UNITS    | MEAS. | COST  |       | COST               |       | COST          |             |             |
| Demo                                                   |          |       |       |       |                    |       |               |             |             |
| Casework                                               | 60       | LF    |       |       |                    |       | \$7.50        | \$450.00    | \$450.00    |
| (media cabinet, countertop, trim on desk, front desks) |          |       |       |       |                    |       |               |             |             |
| Ceiling/Lighting                                       | 2,000    | SF    |       |       |                    |       | \$2.50        | \$5,000.00  | \$5,000.00  |
| New Construction                                       |          |       |       |       |                    |       |               |             |             |
| Wood Framed Accessibility Ramp                         | 2        | EA    |       |       |                    |       | \$2,000.00    | \$4,000.00  | \$4,000.00  |
| Aluminum Ramp Handrails                                | 4        | EA    |       |       |                    |       | \$1,700.00    | \$6,800.00  | \$6,800.00  |
| Door Modification                                      | 2        | EA    |       |       |                    |       | \$100.00      | \$200.00    | \$200.00    |
| Casework (media cabinet, secretary desk)               | 12       | LF    |       |       |                    |       | \$500.00      | \$6,000.00  | \$6,000.00  |
| Countertop                                             | 135      | SF    |       |       |                    |       | \$75.00       | \$10,125.00 | \$10,125.00 |
| Carpet Tile                                            | 65       | SF    |       |       |                    |       | \$4.00        | \$260.00    | \$260.00    |
| LVT                                                    | 100      | SF    |       |       |                    |       | \$7.00        | \$700.00    | \$700.00    |
| Acoustic Ceilings                                      | 2000     | SF    |       |       |                    |       | \$4.00        | \$8,000.00  | \$8,000.00  |
| Paint (gyp ceiling)                                    | 650      | SF    |       |       |                    |       | \$1.50        | \$975.00    | \$975.00    |
| Special Finish (front of Dais)                         | 125      | SF    |       |       |                    |       | \$65.00       | \$8,125.00  | \$8,125.00  |
| Signage (logo)                                         | 1        | EA    |       |       |                    |       | \$500.00      | \$500.00    | \$500.00    |
| Roller Shades                                          | 1        | LS    |       |       |                    |       | \$2,000.00    | \$2,000.00  | \$2,000.00  |
| New Podium (custom)                                    | 1        | EA    |       |       |                    |       | \$5,000.00    | \$5,000.00  | \$5,000.00  |
| Electrical (lighting)                                  | 1        | LS    |       |       |                    |       | \$16,000.00   | \$16,000.00 | \$16,000.00 |
|                                                        |          |       |       |       |                    |       |               |             |             |
|                                                        |          |       |       |       |                    |       |               |             |             |
| SUB-TOTAL                                              |          |       |       |       |                    |       |               | \$74,135.00 | \$74,135.00 |
| CONSTRUCTION CONTINGENCY (10%)                         |          |       |       |       |                    |       |               | \$7,413.50  | \$7,413.50  |
| DESIGN CONTINGENCY (2%)                                |          |       |       |       |                    |       |               | \$1,482.70  | \$1,482.70  |
|                                                        |          |       |       |       |                    |       |               |             |             |
| TOTAL                                                  |          |       |       |       |                    |       |               |             | \$83,031.20 |



OWNER: City of Abilene  
PROJECT: Council Chamber Renovation  
LOCATION: Abilene, TX

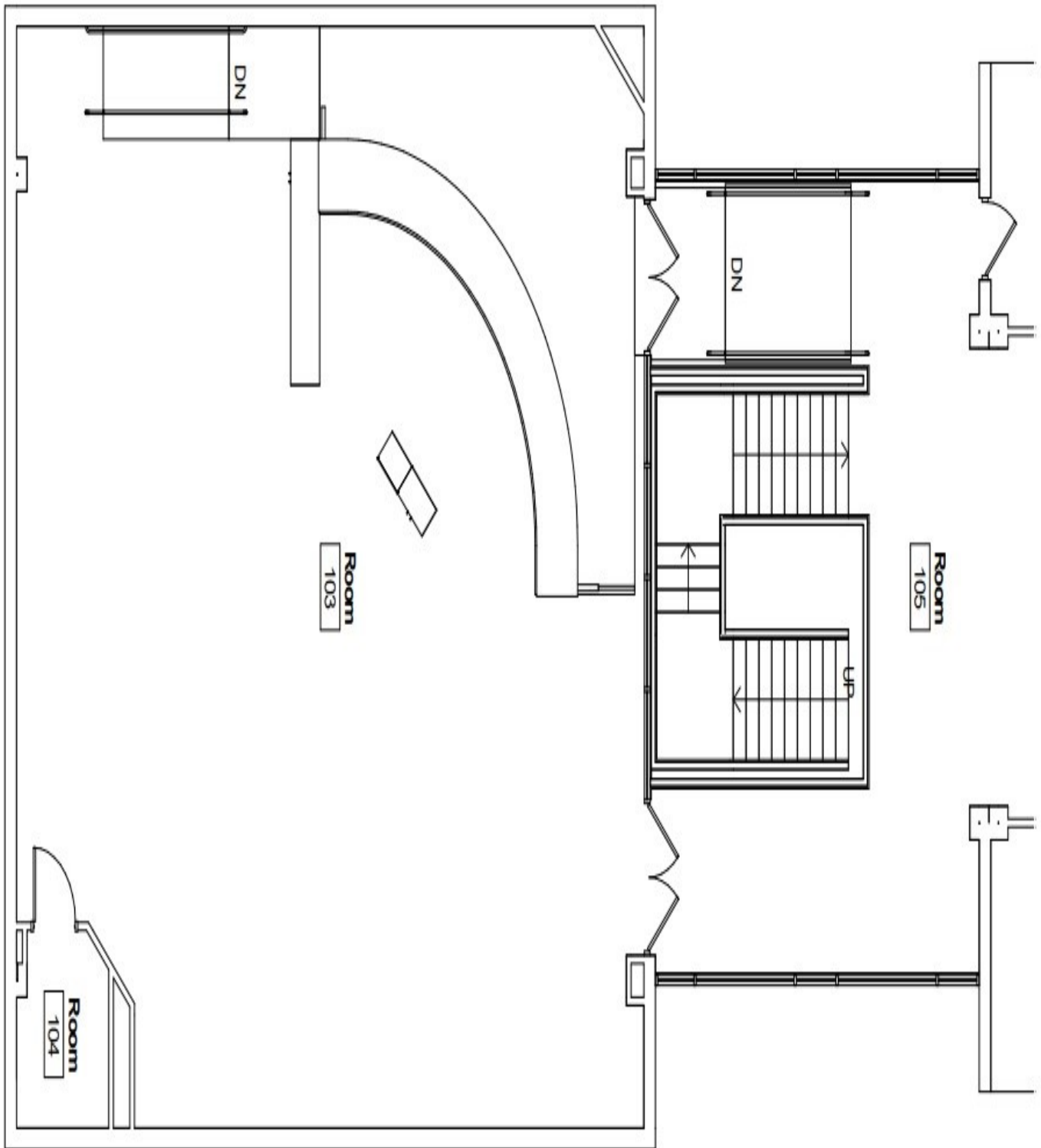
PSC JOB NO.: 03.1077.21  
REPORT DATE: 5/4/2021

BY: RT  
PRICING YEAR: 2021

SUBMITTAL: SD

EXPANDED SCOPE

| COE DESCRIPTION                                                    | QUANTITY |       | LABOR |       | MATERIAL/EQUIPMENT |       | SUBCONTRACTOR |              | TOTAL<br>COST |
|--------------------------------------------------------------------|----------|-------|-------|-------|--------------------|-------|---------------|--------------|---------------|
|                                                                    | NO.      | UNIT  | UNIT  | TOTAL | UNIT               | TOTAL | UNIT          | TOTAL        |               |
|                                                                    | UNITS    | MEAS. | COST  |       | COST               |       | COST          |              |               |
| Demo                                                               |          |       |       |       |                    |       |               |              |               |
| Casework<br>(media cabinet, countertop, trim on desk, front desks) | 60       | LF    |       |       |                    |       | \$7.50        | \$450.00     | \$450.00      |
| Ceiling/Lighting                                                   | 2000     | SF    |       |       |                    |       | \$2.50        | \$5,000.00   | \$5,000.00    |
| Flooring                                                           | 2000     | SF    |       |       |                    |       | \$1.50        | \$3,000.00   | \$3,000.00    |
| New Construction                                                   |          |       |       |       |                    |       |               |              |               |
| Wood Framed Accessibility Ramp                                     | 2        | EA    |       |       |                    |       | \$2,000.00    | \$4,000.00   | \$4,000.00    |
| Aluminum Ramp Handrails                                            | 4        | EA    |       |       |                    |       | \$1,700.00    | \$6,800.00   | \$6,800.00    |
| Door Modification                                                  | 2        | EA    |       |       |                    |       | \$100.00      | \$200.00     | \$200.00      |
| Casework (media cabinet, secretary desk)                           | 12       | LF    |       |       |                    |       | \$500.00      | \$6,000.00   | \$6,000.00    |
| Countertop                                                         | 135      | SF    |       |       |                    |       | \$75.00       | \$10,125.00  | \$10,125.00   |
| Carpet Tile (all new)                                              | 2000     | SF    |       |       |                    |       | \$4.50        | \$9,000.00   | \$9,000.00    |
| LVT                                                                | 100      | SF    |       |       |                    |       | \$7.00        | \$700.00     | \$700.00      |
| Acoustic Ceilings                                                  | 2000     | SF    |       |       |                    |       | \$7.50        | \$15,000.00  | \$15,000.00   |
| Paint                                                              | 650      | SF    |       |       |                    |       | \$1.50        | \$975.00     | \$975.00      |
| Special Finish (front of Dais)                                     | 125      | SF    |       |       |                    |       | \$65.00       | \$8,125.00   | \$8,125.00    |
| Signage (logo)                                                     | 1        | EA    |       |       |                    |       | \$500.00      | \$500.00     | \$500.00      |
| Roller Shades                                                      | 1        | LS    |       |       |                    |       | \$2,000.00    | \$2,000.00   | \$2,000.00    |
| New Podium (custom)                                                | 1        | EA    |       |       |                    |       | \$5,000.00    | \$5,000.00   | \$5,000.00    |
| New Chairs                                                         | 100      | EA    |       |       |                    |       | \$175.00      | \$17,500.00  | \$17,500.00   |
| Electrical (lighting)                                              | 1        | LS    |       |       |                    |       | \$20,000.00   | \$20,000.00  | \$20,000.00   |
|                                                                    |          |       |       |       |                    |       |               |              |               |
|                                                                    |          |       |       |       |                    |       |               |              |               |
| SUB-TOTAL                                                          |          |       |       |       |                    |       |               | \$114,375.00 | \$114,375.00  |
| CONSTRUCTION CONTINGENCY (10%)                                     |          |       |       |       |                    |       |               | \$11,437.50  | \$11,437.50   |
| DESIGN CONTINGENCY (2%)                                            |          |       |       |       |                    |       |               | \$2,287.50   | \$2,287.50    |
|                                                                    |          |       |       |       |                    |       |               |              |               |
| TOTAL                                                              |          |       |       |       |                    |       |               |              | \$128,100.00  |



Presentation to City Council  
05.13.2021



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Honorable Mayor and City Council Members**

**FROM: Stanley Smith, City Attorney**

**SUBJECT: 24. 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. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-

06446; filed September 15, 2020

10. 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
11. Officer Mark Watson and City of Abilene, Case No. 01-21-0002-5335; Appeal of Indefinite Suspension to Arbitration, filed March 10, 2021
12. Governor's Executive Orders COVID-19
13. City's Liability for the Firefighter's Pension Fund
14. Clyde Water

**B. 551.072 (Deliberations about Real Property)**

1. 4725 Loop 322

**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
2. Civic Plaza Hotel Site

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

**STAFF RECOMMENDATION**

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

None



**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO: Honorable Mayor & Members of City Council**

**FROM: Shawna Atkinson, City Secretary**

**SUBJECT: 25.**

**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*)**

- **Frontier Texas! Board of Directors**
- **Office of Neighborhood Services Advisory Board**
- **West Central Texas Municipal Water District Board of Directors**

---

**GENERAL INFORMATION**

The item provides for reappointment of 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 13<sup>th</sup> day of May, 2021.

ATTEST:

\_\_\_\_\_  
Shawna Atkinson, City Secretary

\_\_\_\_\_  
Anthony Williams, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney



|                |                                                                 |                      |
|----------------|-----------------------------------------------------------------|----------------------|
|                | <b>RESOLUTION NO. _____</b><br><b>EXHIBIT "A"</b>               |                      |
| <b>Place #</b> | <b>Board</b>                                                    | <b>Term End Date</b> |
|                | <i><b>Frontier Texas! Board of Directors</b></i>                |                      |
|                | Martez Hawkins [New]                                            | February 2024        |
|                | <i><b>Office of Neighborhood Services Advisory Council</b></i>  |                      |
| 3              | Bill Enriquez [New]                                             | November 2023        |
|                |                                                                 | November 2022        |
| 4              | Darla Mayes [New]                                               | [Unexpired Term]     |
| 5              | Lauren Cantrell [New]                                           | November 2023        |
|                |                                                                 | November 2022        |
| 6              | Terry Cagle [New]                                               | [Unexpired Term]     |
|                | <i><b>West Central Texas Municipal Water District Board</b></i> |                      |
|                | Russell Berry [Reappointment]                                   | May 2023             |
|                | Robert Benham [New]                                             | May 2023             |
|                | Norm Archibald [Reappointment]                                  | May 2023             |

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

- Office of Neighborhood Services Advisory Board
- West Central Texas Municipal Water District Board





**City Council  
Agenda Memo**

**City Council Meeting Date: 5/13/2021**

**TO:** Honorable Mayor and City Council Members

**FROM:** Robert Hanna, City Manager

**SUBJECT:** 26. Oral Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Possible Take Action on Changing the Dates of the Budget Hearings

---

**GENERAL INFORMATION**

To Be Discussed During Meeting

**SPECIAL CONSIDERATIONS**

N/A

**FUNDING/FISCAL IMPACT**

N/A

**STAFF RECOMMENDATION**

**BOARD OR COMMISSION RECOMMENDATION**

N/A

**ATTACHMENTS:**

None