



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 January 27, 2022, at 8:30 a.m., at the Abilene Public Library, South Branch, Mall of Abilene, 4310 Buffalo Gap Road, Abilene, Texas, 79606, 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. Councilmember Shane Price

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. **Proclamations:**

- National Mentoring Month

CONSENT AGENDA AND PUBLIC COMMENTS

All items listed in the Consent Agenda are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion or presentation of these items unless otherwise requested by a Council Member. In the event one or more Council Members remove an item from the consent Agenda for separate discussion or presentation, the item or items removed will be considered in numerical order as part of the Regular Agenda and shall include a public hearing.

After the Council Members have requested any item on the consent Agenda be considered separately, the public comment period will be held. The public comment section of the consent agenda allows members of the public to present any ideas or information to the City Council and staff, and also allows for public comment on the consent agenda items not otherwise pulled for separate consideration. Neither the City Council nor staff will engage in discussion with the public during the public comments unless the item is listed on the Council agenda.

Members of the public will have a total time limit of three (3) minutes to speak during the public comments section.

3. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on January 13, 2022 **(Shawna Atkinson)**
4. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
 - Abilene Housing Authority
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Amend the Airport Use Agreement with Shift Sector to Extend it One Year **(Don Green)**
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on a Request from Frontier Texas! to Change their Board Bylaws **(Robert Hanna)**
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Amendment 2 with Freese & Nichols, Inc. for the Archeological Survey of the Cedar Creek Trail **(Lesli Andrews)**
8. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing a Professional Services Contract for the Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes Evaluation Project **(Rodney Taylor)**
9. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Renewal of the Water Supply Contract with the Hawley Water Supply Corporation **(Rodney Taylor)**
10. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Executing a Professional Services Contract with West Texas Occupational Corporate Health Solutions (WTX-OCHS) and Screening For Life to Conduct Annual Medical Physicals for Employees of the Abilene Fire Department **(Cande Flores)**.
11. **Ordinance (First Reading) Z-2021-38:** Receive a Report, Hold a Discussion and Take Action on a request from Exceptional Holdings LP (represented by Michael Burton) to amend terms and conditions of Planned Development District Number 122 (a.k.a. PD 122) specifically to modify the requirement for screening along or near the north and east boundaries of a tract occupied by an existing restaurant building at 3001 South Danville Drive **(Tim Littlejohn)**
12. **Ordinance (First Reading) Z-2022-01:** Receive a Report, Hold a Discussion and Take Action on a request from Lien Jung and Yi-Chien (represented by Jacob & Martin LLC) to change zoning from Agricultural Open Space (AO) to a Planned Development (PD) District allowing landscape contractor services, in addition to uses commensurate with General Retail zoning, on approximately 12.94 acres of now-vacant land at the southwest corner of Antilley Road and Fairway Oaks Boulevard in south Abilene **(Tim Littlejohn)**
13. **Ordinance (First Reading) Z-2022-02:** Receive a Report, Hold a Discussion and Take Action on a request from Houston Polasek (represented by Heath Polasek) to change zoning from Agricultural Open Space (AO) to a Residential Single-Family Patio Home (PH) District, on 46.25 acres of existing agricultural land at the southwest corner of Maple and East South 27th Streets in southeast Abilene **(Tim Littlejohn)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

14. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving Purchase Agreement with Motorola Solutions for the Body-Worn Camera/In-Car Video Project & Real-Time Intelligence Center Project **(Marcus Dudley)**
15. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Approve a Task Order with Corgan for Design and Construction Management of an Airport Terminal Interior Improvements Project **(Don Green)**
16. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Amend Chapter 10, Article III, “Fire Prevention Code”, Division 1, Sec. 10-46 of the Abilene Municipal Code **(Cande Flores)**.
17. **Presentation:** Receive a Report, Hold a Discussion and Public Hearing on the City of Abilene Pavement Evaluation, 2021 **(Max Johnson)**

EXECUTIVE SESSION

18. **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. 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
 3. 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
 4. 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
 5. 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
 6. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
 7. 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
 8. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
 9. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
 10. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
 11. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No. P827783CV, in the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020
 12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
 13. James Easley v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed September 22, 2021
 14. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021
 15. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

16. Governor's Executive Orders - COVID-19

B. 551.072 (Deliberations about Real Property)

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)

RECONVENE

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 21st day of January, 2022, at 3:05 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on January 13, 2022 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on January 13, 2022

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 01-13-2022 Minutes - Regular - Morning

CITY COUNCIL MEETING
January 13, 2022 at 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
SOUTH BRANCH LIBRARY

The City Council of the City of Abilene, Texas met in Regular Session on January 13, 2022, at 8:30 a.m. at the South Branch Library, Mall of Abilene, 4310 Buffalo Gap Road. Mayor Anthony Williams was present and presiding, along with Mayor Pro-tem Kyle McAlister, Deputy Mayor Pro-tem Travis Craver, and Councilmembers Shane Price, Donna Albus, and Weldon Hurt. Councilmember Lynn Beard was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Councilmember Weldon Hurt delivered the invocation.

Brady Gardner, 5th grader at Taylor Elementary, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Mayor Williams gave a brief report on COVID-19.
- Employee Service Awards:
 - Toby Dyer – 25 Years – Planning & Development Services

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 3-10. No items were pulled for individual consideration.

PUBLIC COMMENTS

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

- David Swart – spoke about COVID funding, and questioned why the City is looking to spend \$3 million on a road we don't own. He also spoke about Rose Park Senior Center and that they haven't changed their senior menu online, and the lights on the Mockingbird underpass being out.
- Jim Baily – spoke in favor of the Fort Phantom Hill road project, and asked a few questions about it.
- Alonso Garcia – spoke in favor of item #15, and explained they are trying to build houses there.
- Carla Ovally – spoke in favor of making Abilene a sanctuary city for the unborn.
- Dorothy Clay – spoke in favor of making Abilene a sanctuary city for the unborn.
- Candy Fogle – spoke in favor of making Abilene a sanctuary city for the unborn.

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

CONSENT AGENDA

Councilmember Hurt moved to approve the consent agenda, consisting of items 3-10. Councilmember Albus seconded the motion. Motion carried.

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

NAYS (0): None

ABSENT (1): Councilmember Beard

Councilmember Hurt voted differently on item 5 only. The vote for item 5 was as follows:

AYES (5): Mayor Williams, Deputy Mayor Pro-tem Craver, and Councilmembers Price and Albus
NAYS (1): Councilmember Hurt
ABSENT (1): Councilmember Beard

3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on December 17, 2021
4. Resolution: Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter
[ASSIGNED RESOLUTION NO. 01-2022]

<i>9-1-1 District Board of Directors</i>	
Michael Rice [Nomination Only]	
<i>Abilene-Taylor County Public Health Advisory Board</i>	
Paige LeMasters [New]	November 2024
<i>Landmarks Commission</i>	
Andrew Penns [New]	November 2024

5. Resolution: Receive a Report, Hold a Discussion and Take Action on Modifying and Extending the Declaration of Local Disaster (COVID-19)
[ASSIGNED RESOLUTION NO. 02-2022]
6. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding Bid #2214 to Bo Simon, Inc.
[ASSIGNED RESOLUTION NO. 03-2022]
7. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Change Order #1 with Contract Paving, Co. for S 27th St Reconstruction
[ASSIGNED RESOLUTION NO. 04-2022]
8. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving an Advanced Funding Agreement (AFA) with TXDOT to Relocate FM 1082
[ASSIGNED RESOLUTION NO. 05-2022]
9. Resolution: Receive a Report, Hold a Discussion and Take Action on the Purchase of Five 2023 Heil Automated Side Loader (ASL) Refuse Trucks from Chastang Autocar
[ASSIGNED RESOLUTION NO. 06-2022]
10. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding the Bid for the Northeast Water Treatment Plant SCADA System Improvements
[ASSIGNED RESOLUTION NO. 07-2022]

REGULAR AGENDA

11. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving a Contract with Incircle Management Inc. for Mowing Services
[ASSIGNED RESOLUTION NO. 08-2022]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would approve a contract with Incircle Management, Inc., for 9 of the 15 mowing categories, funded through various departmental budgets.

Council questioned what the Fire Department will be doing instead of mowing, and if anyone will be fired over this. Mr. Rice answered Council's questions and stated that the Fire Department will begin doing inspections again and no, no one will be fired.

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

- David Swart – questioned if this will take away some jobs. Also spoke about the issues he's had at the cemetery in the past – high weeds and broken headstones, and hoped that this will be a better deal for that.

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Beard

12. Ordinance (Final Reading) CUP-2021-02: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from Thomas Paul Anthony (Represented by Enprotec/Hibbs & Todd, Engineering Consultants) for Approval of a Conditional Use Permit Allowing a Vacation Travel Trailer/Recreational Vehicle Park on 60.01 Acres Bordering the 2600-2700 Blocks (West Side) of West Lake Road in North Central Abilene
[ASSIGNED ORDINANCE NO. 01-2022]

Tim Littlejohn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would approve a conditional use permit (CUP) for the above referenced property, to allow for an RV park.

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

- Jonathan Baum, represents the applicant – let Council know that the preliminary concept drawing is being redesigned.

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Beard

13. Ordinance (Final Reading) Z-2021-37: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Abilene Forrest Hill LLC (Represented By Jacob & Martin, Civil Engineering) To Change Zoning On Approximately 10.6 Acres Of Now-Vacant Land From Residential Single-Family (RS-6) To A Residential Medium-Density (MD) District, And To Change Zoning On Approximately 22 Acres Of Now-Vacant Land From Residential Single-Family (RS-8) To A Residential Single-Family (Rs-6) District, All Approximately 32.6 Acres Of Which Are Located Approximately 1000 Feet East From The 6900 Block Of Old Forrest Hill Road And 1200-2200 Feet West From The 7100 Block Of Hardwick Road In South Abilene

[ASSIGNED ORDINANCE NO. 68-2021]

Tim Littlejohn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Residential Single-Family (RS-6) District to Medium Density (MD) District, and Residential Single-Family (RS-8) District to Residential Single-Family (RS-6) District.

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

- Tal Fillingham, represents the applicant – stated that the MD is in place to support duplexes, and that they hope that staff can come up with a better zoning option for duplexes in the future.

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Beard

14. Ordinance (Final Reading) Z-2021-39: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Bobby Brown To Change Zoning From Residential Single-Family (RS-6) To A Neighborhood Retail (NR) District On Approximately 0.308 Acre Of Land At 2549 And 2601 Ross Street In South Central Abilene. Legal Description Being The West 78 Feet Of The North 172 Feet Of Lot 4 In Block 1 Of The Over Place Addition To The City Of Abilene, Taylor County, Texas

[ASSIGNED ORDINANCE NO. 68-2021]

Tim Littlejohn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Single-Family Residential (RS-6) to Neighborhood Retail (NR) District.

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Beard

15. Ordinance (Final Reading) TC-2021-07: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Severo Garcia (Represented By Geotex Property Solutions LLC) To Abandon Certain Segments Of Unimproved Right-Of-Way Dedicated For Benbrook Street Extending As Much As 500 Feet West From Baker Street In Western Abilene, Leaving At Least A 30-Foot Width Of Right-Of-Way Therein To Function As An Alleyway
[ASSIGNED ORDINANCE NO. 68-2021]

Jared Smith, Interim Planning Manager, presented the item. Adoption of the item would abandon certain north portions of existing unimproved right-of-way for Benbrook Street projecting West from Barker Street, leaving a 30-foot wide right-of-way to someday function as an alley.
Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

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

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

NAYS (0): None

ABSENT (1): Councilmember Beard

EXECUTIVE SESSION

Mayor Williams recessed into Executive Session at 9:23 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

16. D. 551.072 (Deliberations about Real Property)
1. 4810 S 3rd Street
 2. 204 S San Jose Dr
 3. 4674 S 3rd
 4. 4809 S 3rd
 5. 550 & 610 E S 11th St
 6. 4725 Loop 322 & 4902 Eagle Pass
16. C. 551.073 (Deliberations About Gifts & Donations)
1. Train Sculpture

The Executive Session ended at 10:09 a.m. and reconvened to Open Session. Mayor Williams reported no votes or action were taken in Executive Session.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:09 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4.

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

- **Abilene Housing Authority**

GENERAL INFORMATION

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

SPECIAL CONSIDERATIONS

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

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

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

RESOLUTION NO. _____

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

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

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

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

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

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

PASSED this 27th day of January, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____ EXHIBIT "A"	
<i>Abilene Housing Authority</i>	
Roberta Thompson [Reappointment]	November 2023

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

- Abilene Housing Authority





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion and Take Action to Amend the Airport Use Agreement with Shift Sector to Extend it One Year (*Don Green*)

GENERAL INFORMATION

At its December 19, 2019 meeting, Council approved a two-year agreement with Shift Sector to hold an automobile timed race event called Airstrip Attack at the Airport. The agreement provides a fixed \$8,000 in revenue to the Airport for each event. The first year of the event, 2020, was canceled due to COVID restrictions. However, the 2021 event was held October 16 and 17 and was very successful. Staff recommends Council extend the agreement by one year at the same terms to account for the 2020 event not being held. The 2022 event is tentatively scheduled for a weekend in November. If Shift Sector and Airport staff agree to continue this event beyond 2022, a new multi-year agreement will be negotiated and brought to Council for approval.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Additional revenue to the Airport/City.

STAFF RECOMMENDATION

Based on the experience of the 2021 event, Staff recommends extending this agreement by one year.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board approved its recommendation of this agreement extension at its January 24, 2022 meeting.

ATTACHMENTS:

1. Shift S3ctor Resolution
2. Airstrip Attack Presentation 1-27-22

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, ALLOWING FOR TEMPORARY
USE OF DESIGNATED AREAS AT ABILENE REGIONAL AIRPORT FOR SHIFT S3CTOR'S AIRTRIP
ATTACK**

WHEREAS, the City of Abilene (City) owns and operates Abilene Regional Airport (ABI); and

WHEREAS, After a successful event in October 2021, Shift S3ctor (pronounced "sector") seeks to host its Airstrip Attack auto timed race event on designated areas of the airport for two days in the Fall of 2022 detailed in (Exhibit A); and

WHEREAS, Shift S3ctor and ABI staff will coordinate with Federal Aviation Administration, Transportation Security Administration and affected Airport Tenants to maintain operational capability throughout the event; and

WHEREAS, Shift S3ctor will be responsible for all set up, clean up and repairs to the designated areas and shall hold adequate insurance with the City of Abilene named Additional Insured; and

WHEREAS, Shift S3ctor shall contract and arrange for all portable restroom facilities, food and beverage vendors, including TABC-licensed alcohol service; and

WHEREAS, Shift S3ctor shall pay \$8,000.00 to the Airport prior to the event under this agreement; and

WHEREAS, the Airport Development Board approved its recommendation at its January 24, 2022 meeting.

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

1. That the Director of Transportation Services is authorized to enter into the Airport Temporary Use Agreement with Shift S3ctor with for one two-day event in 2022.
2. That this Resolution takes effect immediately upon Council approval.

ADOPTED this 27th day of January 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

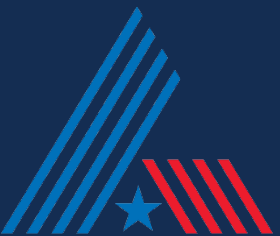


City Council Meeting

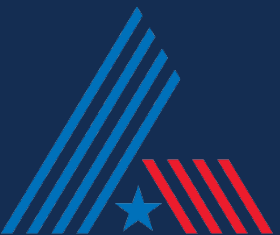
January 27, 2022



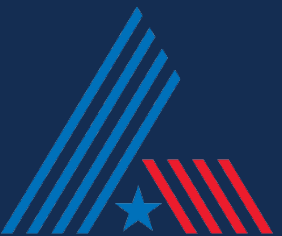
Abilene Regional Airport Use Agreement with Shift S3ctor for the Airstrip Attack Event

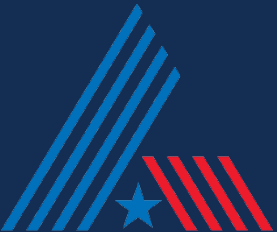


- Shift S3ctor (pronounced 'sector') is a company that organizes timed side-by-side auto races called Airstrip Attack on airport runways in the U.S.
- The original agreement was for events in 2020 and 2021, but the 2020 event was cancelled due to COVID.
- It successfully held this event at ABI in October 2021, and has expressed the desire to return in 2022 and annually thereafter.
- The original agreement with the City must be amended to extend to 2022.
- Staff will again consult with Federal Aviation Administration and Transportation Security Administration and airport tenants whose operations may be affected during this event.
- There are no unresolved conflicts from the 2021 event.
- This event will use a similar area (shaded in green in the next slide) with similar operational adjustments as done for Big Country AirFest.
- The event is open to the public with admission into the event area to be charged by Shift S3ctor. Local non-profit groups will be asked by Shift S3ctor to provide volunteers for various functions and will earn funds for their organization for doing so.

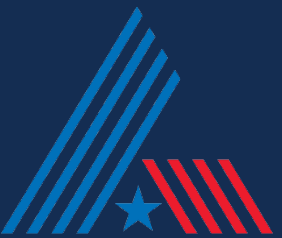


- Shift S3ctor will also recruit food and beverage vendors, including beer and wine (by TACB-licensed vendors), to be sold in the event area.
- Under this agreement, Shift S3ctor is responsible for obtaining satisfactory coverage from the Police and Fire Departments, as well as Emergency Medical Services providers and will provide required liability insurance coverage.
- Shift S3ctor will handle all marketing and advertising and will work with Abilene Convention & Visitors Bureau, as they've done in other cities.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Mindy Patterson, Deputy City Manager

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on a Request from Frontier Texas! to Change their Board Bylaws (Robert Hanna)

GENERAL INFORMATION

The City of Abilene has been a partner with Frontier Texas! since its inception in 2004. Frontier Texas! has the desire to change the bylaws to better reflect the desire of the Board of Directors. The bylaw changes will require a renegotiated lease agreement to outline the agreement with the City of Abilene.

Frontier Texas! has requested the bylaws be changed to achieve the following goals:

- To move towards a relationship with the City of Abilene that would be similar to other private nonprofit organizations who lease space from the City of Abilene.
- To allow Frontier Texas! to self-determine all future board appointments.
- To allow Frontier Texas! board members to participate remotely for board meetings.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Frontier Texas! Board approved the bylaw changes on December 21, 2021.

ATTACHMENTS:

1. Resolution.Frontier Texas! bylaw change
2. Frontier Texas! request red line version
3. Frontier Texas! request clean version
4. Presentation Frontier Texas! Bylaw change

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CHANGING OF THE FRONTIER TEXAS! BYLAWS.**

WHEREAS, the Frontier Texas!, Inc. (Frontier Texas!) Board of Directors has requested the bylaws be changed to achieve the following goals:

- To move towards a relationship with the City of Abilene that would be similar to other private nonprofit organizations who lease space from the City of Abilene.
- To allow Frontier Texas! to self-determine all future board appointments.
- To allow Frontier Texas! board members to participate remotely for board meetings.

WHEREAS, the Frontier Texas! Board of Directors approved the changes at the December 21, 2021 board meeting;

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

PART 1: The City Council authorizes the Frontier Texas! bylaw changes.

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

ADOPTED this 27th day of January, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

FRONTIER *Texas!*

625 North First Street ★ Abilene, Texas 79601 ★ Phone: 325.437.2800 ★ frontiertexas.com

December 21, 2021

Mayor Anthony Williams & City Council
Abilene City Hall
555 Walnut Street
Abilene, TX 79601

Dear Abilene City Council,

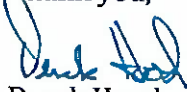
The purpose of this letter is to submit the attached changes to the Frontier Texas bylaws, as approved by the board at our December 21, 2021 meeting, for final approval by the Abilene City Council, as required by our bylaws. We request this be considered at the soonest possible council meeting.

Our board had the following goals in making bylaws changes:

- (1) To move Frontier Texas towards a similar relationship to the City of Abilene as currently exists between other private nonprofit organizations who lease space from the City of Abilene; and free from the limitations of the Texas Open Meetings Act. After receiving counsel from city staff we removed our request to gain bylaws autonomy and we retained the current provision for a city appointee as a voting member.
- (2) To allow Frontier Texas to self-determine all future board appointments. We've been advised by city staff that the removal of this appointment provision will remove the requirement for our board to comply with the limitations of the Texas Open Meetings Act.
- (3) To allow Frontier Texas board members to participate in board meetings remotely and to reduce the special meetings notifications time to 24-hours.
- (4) Allow both entities to maintain a close working relationship and mutual responsibilities, defined primarily through the property lease agreement and the terms of the Abilene Taylor County Events Venue District.

We appreciate your consideration and prompt response to this request. If you have any questions or comments you can direct those to both or either of the signatories below.

Thank you,



Derek Hood
NextEra Energy
Board President
derek.hood@nexteraenergy.com
325-370-8759



Jeff Salmon
Frontier Texas
Executive Director
jeff@frontiertexas.com
325-725-1366

BY-LAWS
OF
FRONTIER TEXAS!, INC.

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ARTICLE ONE

OFFICES

1.01 Registered Office and Registered Agent

The Corporation shall have and shall continuously maintain in the State of Texas a registered office, which is located at 625 N. 1st Street., Abilene, Texas 79601, and whose mailing address is P.O. Box 60, Abilene, Texas 79604. The Corporation shall also have and continuously maintain a registered agent whose office is identical with such registered office. The registered agent shall be the ~~Abilene City Manager~~ **Executive Director of the Corporation**. The Board of Directors may, from time to time, change the registered agent and/or the address of the registered office; provided that such change is appropriately reflected in these By-Laws and in the Articles of Incorporation.

1.02 Principal Office

The Principal office of the Corporation in the State of Texas shall be located in the City of Abilene, Taylor County, Texas, and it may be, but need not be, identical with the registered office of the Corporation. The Corporation may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Corporation may require from time to time.

ARTICLE TWO

PURPOSES

2.01 Purposes

The purpose of Frontier Texas!, Inc. is to promote the cultural and educational welfare of the citizens of the City of Abilene and surrounding region, in accord with the Articles of Incorporation. More specifically, Frontier Texas!, Inc. will provide a historical, cultural and educational perspective of life on the Texas frontier, including a transportation component and aspects of the Texas Forts Trail. Frontier Texas!, Inc. shall perform governance and oversight duties of the Frontier Texas operations.

ARTICLE THREE

NO STOCK AND NO STOCKHOLDERS

3.01 No Stock and No Stockholders

The Corporation shall have no capital stock and no stockholders.

ARTICLE FOUR

BOARD OF DIRECTORS

4.01 Responsibility of Board of Directors

The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors, subject to the Texas Business Organizations Code, the Articles of Incorporation, and these By-Laws. The Board of Directors shall have full charge of the property and business of the Corporation, with full power and authority to manage and to conduct the same.

The Board of Directors may, by contract, resolution, or otherwise, give general or limited or special power and authority to the officers and agents of the Corporation to transact the general business or any special business of the Corporation.

4.02 Number of Directors

The Board of Directors shall be composed of fifteen (15) voting members. Fourteen (14) members will be at large and one (1) City Representative that will be a member of the City Council of the City of Abilene or the City Manager or an Assistant City Manager. The at large Directors of the Corporation shall be nominated **and approved** by the Board of Directors ~~and appointed by the Mayor with the approval of the City Council of the City of Abilene, Texas.~~

4.03 Ex-Officio Directors

The following shall be Ex-Officio Directors without vote:

- a. The Taylor County Judge or a Taylor County Commissioner.
- b. The Mission Support Group Commander from Dyess Air Force Base or his/her designee.
- c. The general manager or an executive officer of the Abilene Convention and Visitors Bureau.
- d. The general manager or an executive officer of the Abilene Cultural Affairs Council.
- e. The general manager or an executive officer of the Texas Midwest Community Network.
- f. The general manager or an executive officer of the Texas Forts Trail.
- g. The general manager or an executive officer of the Taylor County Expo Center.
- h. A representative of the Abilene Downtown Association.
- i. A representative of the Western Heritage Classic Board.
- j. The Executive Director of Frontier Texas!, Inc., who shall also be responsible for carrying out the day-to-day operations of the corporation.
- k. The Past President of Frontier Texas!, Inc.

4.04 Term of Office

The at large Directors appointed in paragraph 4.02 above shall hold their office for a term of three (3) years or until their successors are nominated and appointed by the Board of Directors ~~and appointed by the Mayor and City Council~~. All Directors shall serve ~~at the pleasure of the Mayor and shall serve~~ no more than six (6) years, except that the City representative, Directors who are also officers of the Corporation, Ex-Officio Directors, and initial Directors serving less than a three year initial term may exceed the six (6) year limit. The members of the Board of Directors shall have staggered terms.

4.05 Vacancies and Appointment of New Directors

Upon the death, resignation, removal or expiration of the term of office of any of the Directors, a nominating committee appointed by the President shall recommend candidates to the ~~Mayor and the City Council of the City of Abilene, Texas~~ Board of Directors. The Director shall hold his or her office for the unexpired term of the Director she or he is appointed to succeed, or for the period of three (3) years when the appointment is made due to the expiration of a Director's term of office; and further provided that in the event the best interests of the ~~City of Abilene, Texas,~~ Corporation require the removal of any Director, removal of such Director shall be effected through appointment of such Director's successor as noted above. Any Director appointed for less than a full term may be eligible for re-election for two successive full three (3) year terms.

4.06 Regular Meetings, Notice and Quorum

Regular meetings of the Board of Directors shall be held at least quarterly, or as directed by the President and shall be held at such place as they may determine. Notice of each regular meeting shall be provided by mail, fax or e-mail. Eight (8) Directors present at the meeting shall constitute a quorum. An affirmative vote of five (5) Directors present or 51% of Directors present, whichever is greater, shall be necessary for approval of motions before the Board.

The board authorizes remote/electronic participation in any meeting of the board, unless otherwise indicated in a distributed meeting agenda.

4.07 Special Meetings

Special meetings of the Board of Directors may be called by the President upon twenty-four hours (24 hours) ~~seventy-two hours (72 hours)~~ notice, stating the purpose or purposes thereof, or such special meeting may be held at any time by unanimous consent of the Directors.

4.08 No Compensation

No salary or compensation of any kind shall be paid to any members of the Board of Directors.

ARTICLE FIVE

OFFICERS

5.01 Composition of Officers

The officers of the Corporation are President, Vice President of Operations, Vice President of Finance, Secretary and Treasurer. The President, Vice President of Operations, Vice President of Finance, Secretary and Treasurer shall be elected by the Board. No officer shall serve in any one office for a term longer than two consecutive years.

The President shall appoint a Nominating Committee consisting of three (3) voting members of the Board to nominate officers for that year. The Board shall elect the Officers at its annual meeting in August with terms beginning October 1. The President and both Vice-Presidents shall be voting members of the Board.

The Board of Directors may appoint such other officers and agents as it deems necessary. Such officers and agents shall be appointed for such terms and shall exercise such powers and perform such duties as may be determined from time to time by the Board.

5.02 Executive Committee

The Executive Committee shall consist of the President, Vice President of Finance, Vice President of Operations, Secretary and Treasurer.

The Executive Committee shall at intervals between meetings of the Directors, authorize and exercise all functions of the Board, subject to final approval by the Board. The Executive Committee shall as directed by the President, at a time and place to be designated and may be called for special meetings at any time by the President, or either Vice President on notice of three days. Three (3) members of the Executive Committee shall constitute a quorum.

5.03 Other Committees

The President may appoint other committees as necessary. These committees may be comprised either from current board members or from members of the community and region. The mission of these other committees is to further assist in the successful workings of Frontier Texas!

5.04 Election of Officers

The Officers of the Corporation shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. Vacancies shall be filled at any meeting of the Board of Directors and any person who fills a vacancy shall serve until the next election of officers. Each officer shall hold office until his successor has been elected and qualifies, or until the death, resignation, or removal of the officer.

5.05 Removal of Officers

Any officer or agent elected or appointed by the Board of Directors may be removed at any time for any reason by the affirmative vote of a majority of the entire Board of Directors.

5.06 President

The President shall be the chief executive officer of the Corporation and, subject to the direction of the Board of Directors, shall monitor the business and affairs of the Corporation, with the assistance of the Executive Director, who shall be in charge of carrying out day-to-day operations. He shall preside at all meetings of the Board of Directors. He may, and upon written demand addressed to the President by any three (3) Directors, call a special meeting of the Board of Directors. He shall see that all orders and resolutions of the Board are carried into effect, and he shall perform all other duties that usually pertain to the office or are delegated to him by the Board of Directors.

The President or the Vice President of Finance, acting in the place of the President shall have the power to execute Promissory Notes or other evidences of indebtedness of the Corporation, or to execute contracts or deeds of conveyance for and in behalf of the Corporation; provided, however, that each such note, evidence of indebtedness, contract, or deed shall be a binding obligation of the Corporation only when executed pursuant to resolution by the Board of Directors, granting special authority for the execution thereof. All notes, contracts and deeds of conveyance must be attested by the Secretary of the Corporation.

5.07 Vice President of Finance

The Vice President of Finance shall assist the Board in the financial undertakings of Corporation. In the absence of the President or in the event of the President's inability or refusal to act, the Vice President of Finance shall perform the duties of the President and, as such, the Vice President of Finance shall have the powers of, and be subject to all the restrictions upon, the President. The Vice President of Finance shall also have such powers and shall perform such other duties as may be assigned to him by the President or by the Board of Directors.

5.08 Vice President of Operations

The Vice President of Operations shall assist the Board in the operational transactions of the Corporation. In the absence of the President or Vice President of Finance, or in the event of their inability or refusal to act, the Vice President of Operations shall perform the duties of the President and, as such, the Vice President of Operations shall have the powers of, and be subject to all the restrictions upon, the President. The Vice President of Operations shall also have such powers and shall perform such other duties as may be assigned to him by the President or by the Board of Directors.

5.09 Secretary

The Secretary shall keep permanent records of the proceedings of the Board of Directors, including the minutes of all meetings of the Board of Directors. He shall also be the custodian of the records and the seal of the Corporation, if any, and shall affix the seal to documents, the execution of which is duly authorized. He shall give or cause to be given all notices required by law or by these By-Laws. He shall perform all duties that usually pertain to the office of Secretary or which are delegated to him by the Board of Directors or by the President.

5.10 Treasurer

The Treasurer, with the assistance of the Executive Director of Frontier Texas! Inc. shall keep regular books, records and books of account of the Corporation, and shall ensure the deposit of all monies and other valuable effects of the Corporation in a depository selected by the Directors, and make such financial reports as directed by either the Board of Directors or the President. All checks of the Corporation shall be signed by two members of the Executive Committee or a designated staff member, as approved by the Frontier Texas! Inc. Board of Directors, and a member of the Executive Committee or as otherwise indicated by the Board of Directors. The Treasurer shall render to the President and Directors at the regular meetings of the Board of Directors or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall perform all other duties as may be prescribed by the Board of Directors or by the President.

5.11 Salary of Officers

The officers, agents of the Corporation, shall not receive any salary for their service to the Corporation. This provision shall not apply to the employees of Frontier Texas! including the Executive Director.

ARTICLE SIX

FINANCIAL ADMINISTRATION

6.01 Fiscal Year

The initial fiscal year of the Corporation shall begin on September 1, 2003 and end on September 30, 2004. For each year thereafter, the fiscal year of the Corporation shall begin on the 1st day of October and end on the 30th day of September.

6.02 Operating Funds

No profit shall ever be realized by any person in the operation of this Corporation. ~~All monies coming into the hands of the Corporation above that reasonably necessary for use by the Corporation in carrying out its corporate purposes shall be paid over to the City of Abilene for use by said City in the furtherance of the educational and cultural improvement of the citizens of the City of Abilene and surrounding region. The City Council shall be provided an annual financial update on the status of all funds.~~ It shall be the policy of the Corporation to seek to maintain a sum of money in reserve, over and above the current obligations, for various contingencies to include fundraising, endowments, capital expenditures, etc. in connection with the operation thereof. In the event of dissolution of this Corporation, all funds or assets of said Corporation, after the payment of all corporate debts, shall vest in the City of Abilene for the purpose of promoting the educational and cultural improvements and welfare of the citizens of the City of Abilene and surrounding regions.

The Board shall require members of the operational staff of Frontier Texas!, Inc. and each Officer referred to in these by-laws to execute a surety bond made out to the Corporation, in such amount as it deems advisable, the cost of such bonds to be borne by the Corporation.

6.03 Entering into Contracts

The Board of Directors may authorize, in writing, any officer(s) or agent(s) to enter into any contract or to execute and deliver any instrument in name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

ARTICLE SEVEN

AMENDMENTS TO BY-LAWS

7.01 Amendments to By-Laws

These By-Laws shall be adopted by the Board of Directors of said Corporation and subsequently approved by a written resolution passed by the City Council of Abilene. The power to alter, amend, or repeal the By-Laws or to adopt new By-Laws is vested in the Board of Directors. Any alteration, amendment or repeal requires at least eight (8) members of the Board of Directors to vote in favor of such alteration, amendment or repeal in a meeting called for that purpose. Furthermore, any alteration, amendment or repeal shall not become effective nor have any force or effect whatsoever unless and until same has been approved by a written resolution passed by the City Council of Abilene, Texas.

ARTICLE EIGHT

INDEMNITY

8.01 Indemnity

The Board of Directors shall authorize the Corporation to pay or reimburse any current or former Director or Officer of the Corporation for any costs, expenses, fines, settlements, judgments, and other amounts, actually and reasonably incurred by such persons in any action, suit, or proceeding to which he or she is made a party by reason of holding such position as Officer or Director; provided, however, that such Officer or Director shall not receive such indemnification if he/she be finally adjudicated in such instance to be liable for negligence or misconduct in office. The indemnification herein provided shall also extend to good faith expenditures incurred in anticipation of, or preparation for, threatened or proposed litigation. The Board of Directors may, in proper cases, extend the indemnification to cover the good faith settlement of any such action, suit, or proceedings, whether formally instituted or not.

Furthermore, the Corporation agrees to indemnify and hold harmless and defend the City of Abilene, its officers, agents, and its employees, from and against all claims and suits for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorney's fees, arising out of or resulting from the Corporation's work and from any liability arising out of or in connection with the City of Abilene or its agents, officers, or employees entry upon said property, common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of the Corporation, its officers, employees, agents subcontractors, licensees, invitees, or trespassers or based in whole or in part upon the negligent acts or omissions of the City of Abilene, its

officers, employees, agents, licensees, or invitees. The Corporation agrees to waive any and all claims it may have against the City of Abilene, connected with, resulting from, or arising out of, claims and suits covered by this indemnification provision and agrees that any insurance carrier involved shall not be entitled to subrogation under any circumstances against the City of Abilene, its officers, agents, and employees.

ARTICLE NINE

MISCELLANEOUS

9.01 Miscellaneous

The Board of Directors shall provide a Corporate Seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation, substantially as follows: Frontier Texas!, Inc.

9.02 Table of Contents and Headings

The Table of Contents and Headings used in these By-Laws have been inserted for convenience only and do not constitute matter to be used in construing or interpreting them.

9.03 Construction

Whenever the context so requires, the use of a masculine pronoun shall include the feminine, and singular shall include plural and conversely.

If any portion of these By-Laws shall be invalid or inoperative, then, so far as is reasonable and possible:

- a. The remainder of these By-Laws shall be considered valid and operative, and
- b. Effect shall be given to the intent manifested by the portion held invalid or inoperative, insofar as not prohibited by law.

9.04 Relation to Articles of Incorporation

These By-Laws are subject to and are governed by the Articles of Incorporation of Frontier Texas!, Inc.

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the By-Laws of Frontier Texas!, Inc. and that such By-Laws were duly adopted by the Board of Directors of said Corporation on December 21, 2020.

ATTEST:

FRONTIER TEXAS!, INC.

Secretary of the Corporation
Printed Name: Audrey Perry

By: _____
President
Printed Name: Derek Hood

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF TAYLOR §

This instrument was acknowledged before me on _____, 2021,
by _____, President of Frontier Texas!, Inc.,
a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

BY-LAWS
OF
FRONTIER TEXAS!, INC.

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ARTICLE ONE

OFFICES

1.01 Registered Office and Registered Agent

The Corporation shall have and shall continuously maintain in the State of Texas a registered office, which is located at 625 N. 1st Street., Abilene, Texas 79601, and whose mailing address is P.O. Box 60, Abilene, Texas 79604. The Corporation shall also have and continuously maintain a registered agent whose office is identical with such registered office. The registered agent shall be the Executive Director of the Corporation. The Board of Directors may, from time to time, change the registered agent and/or the address of the registered office; provided that such change is appropriately reflected in these By-Laws and in the Articles of Incorporation.

1.02 Principal Office

The Principal office of the Corporation in the State of Texas shall be located in the City of Abilene, Taylor County, Texas, and it may be, but need not be, identical with the registered office of the Corporation. The Corporation may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Corporation may require from time to time.

ARTICLE TWO

PURPOSES

2.01 Purposes

The purpose of Frontier Texas!, Inc. is to promote the cultural and educational welfare of the citizens of the City of Abilene and surrounding region, in accord with the Articles of Incorporation. More specifically, Frontier Texas!, Inc. will provide a historical, cultural and educational perspective of life on the Texas frontier, including a transportation component and aspects of the Texas Forts Trail. Frontier Texas!, Inc. shall perform governance and oversight duties of the Frontier Texas operations.

ARTICLE THREE

NO STOCK AND NO STOCKHOLDERS

3.01 No Stock and No Stockholders

The Corporation shall have no capital stock and no stockholders.

ARTICLE FOUR

BOARD OF DIRECTORS

4.01 Responsibility of Board of Directors

The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors, subject to the Texas Business Organizations Code, the Articles of Incorporation, and these By-Laws. The Board of Directors shall have full charge of the property and business of the Corporation, with full power and authority to manage and to conduct the same.

The Board of Directors may, by contract, resolution, or otherwise, give general or limited or special power and authority to the officers and agents of the Corporation to transact the general business or any special business of the Corporation.

4.02 Number of Directors

The Board of Directors shall be composed of fifteen (15) voting members. Fourteen (14) members will be at large and one (1) City Representative that will be a member of the City Council of the City of Abilene or the City Manager or an Assistant City Manager. The Directors of the Corporation shall be nominated and approved by the Board of Directors.

4.03 Ex-Officio Directors

The following shall be Ex-Officio Directors without vote:

- a. The Taylor County Judge or a Taylor County Commissioner.
- b. The Mission Support Group Commander from Dyess Air Force Base or his/her designee.
- c. The general manager or an executive officer of the Abilene Convention and Visitors Bureau.
- d. The general manager or an executive officer of the Abilene Cultural Affairs Council.
- e. The general manager or an executive officer of the Texas Midwest Community Network.
- f. The general manager or an executive officer of the Texas Forts Trail.
- g. The general manager or an executive officer of the Taylor County Expo Center.
- h. A representative of the Abilene Downtown Association.
- i. A representative of the Western Heritage Classic Board.
- j. The Executive Director of Frontier Texas!, Inc., who shall also be responsible for carrying out the day-to-day operations of the corporation.
- k. The Past President of Frontier Texas!, Inc.

4.04 Term of Office

The at large Directors appointed in paragraph 4.02 above shall hold their office for a term of three (3) years or until their successors are nominated and appointed by the Board of Directors. All Directors shall serve no more than six (6) years, except that the City representative, Directors who are also officers of the Corporation, Ex-Officio Directors, and initial Directors serving less than a three year initial term may exceed the six (6) year limit. The members of the Board of Directors shall have staggered terms.

4.05 Vacancies and Appointment of New Directors

Upon the death, resignation, removal or expiration of the term of office of any of the Directors, a nominating committee appointed by the President shall recommend candidates to the Board of Directors. The Director shall hold his or her office for the unexpired term of the Director she or he is appointed to succeed, or for the period of three (3) years when the appointment is made due to the expiration of a Director's term of office; and further provided that in the event the best interests of the Corporation require the removal of any Director, removal of such Director shall be effected through appointment of such Director's successor as noted above. Any Director appointed for less than a full term may be eligible for re-election for two successive full three (3) year terms.

4.06 Regular Meetings, Notice and Quorum

Regular meetings of the Board of Directors shall be held at least quarterly, or as directed by the President and shall be held at such place as they may determine. Notice of each regular meeting shall be provided by mail, fax or e-mail. Eight (8) Directors present at the meeting shall constitute a quorum. An affirmative vote of five (5) Directors present or 51% of Directors present, whichever is greater, shall be necessary for approval of motions before the Board.

The board authorizes remote/electronic participation in any meeting of the board, unless otherwise indicated in a distributed meeting agenda.

4.07 Special Meetings

Special meetings of the Board of Directors may be called by the President upon twenty-four hours (24 hours) notice, stating the purpose or purposes thereof, or such special meeting may be held at any time by unanimous consent of the Directors.

4.08 No Compensation

No salary or compensation of any kind shall be paid to any members of the Board of Directors.

ARTICLE FIVE

OFFICERS

5.01 Composition of Officers

The officers of the Corporation are President, Vice President of Operations, Vice President of Finance, Secretary and Treasurer. The President, Vice President of Operations, Vice President of Finance, Secretary and Treasurer shall be elected by the Board. No officer shall serve in any one office for a term longer than two consecutive years.

The President shall appoint a Nominating Committee consisting of three (3) voting members of the Board to nominate officers for that year. The Board shall elect the Officers at its annual meeting in August with terms beginning October 1. The President and both Vice-Presidents shall be voting members of the Board.

The Board of Directors may appoint such other officers and agents as it deems necessary. Such officers and agents shall be appointed for such terms and shall exercise such powers and perform such duties as may be determined from time to time by the Board.

5.02 Executive Committee

The Executive Committee shall consist of the President, Vice President of Finance, Vice President of Operations, Secretary and Treasurer.

The Executive Committee shall at intervals between meetings of the Directors, authorize and exercise all functions of the Board, subject to final approval by the Board. The Executive Committee shall as directed by the President, at a time and place to be designated and may be called for special meetings at any time by the President, or either Vice President on notice of three days. Three (3) members of the Executive Committee shall constitute a quorum.

5.03 Other Committees

The President may appoint other committees as necessary. These committees may be comprised either from current board members or from members of the community and region. The mission of these other committees is to further assist in the successful workings of Frontier Texas!

5.04 Election of Officers

The Officers of the Corporation shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. Vacancies shall be filled at any meeting of the Board of Directors and any person who fills a vacancy shall serve until the next election of officers. Each officer shall hold office until his successor has been elected and qualifies, or until the death, resignation, or removal of the officer.

5.05 Removal of Officers

Any officer or agent elected or appointed by the Board of Directors may be removed at any time for any reason by the affirmative vote of a majority of the entire Board of Directors.

5.06 President

The President shall be the chief executive officer of the Corporation and, subject to the direction of the Board of Directors, shall monitor the business and affairs of the Corporation, with the assistance of the Executive Director, who shall be in charge of carrying out day-to-day operations. He shall preside at all meetings of the Board of Directors. He may, and upon written demand addressed to the President by any three (3) Directors, call a special meeting of the Board of Directors. He shall see that all orders and resolutions of the Board are carried into effect, and he shall perform all other duties that usually pertain to the office or are delegated to him by the Board of Directors.

The President or the Vice President of Finance, acting in the place of the President shall have the power to execute Promissory Notes or other evidences of indebtedness of the Corporation, or to execute contracts or deeds of conveyance for and in behalf of the Corporation; provided, however, that each such note, evidence of indebtedness, contract, or deed shall be a binding obligation of the Corporation only when executed pursuant to resolution by the Board of Directors, granting special authority for the execution thereof. All notes, contracts and deeds of conveyance must be attested by the Secretary of the Corporation.

5.07 Vice President of Finance

The Vice President of Finance shall assist the Board in the financial undertakings of Corporation. In the absence of the President or in the event of the President's inability or refusal to act, the Vice President of Finance shall perform the duties of the President and, as such, the Vice President of Finance shall have the powers of, and be subject to all the restrictions upon, the President. The Vice President of Finance shall also have such powers and shall perform such other duties as may be assigned to him by the President or by the Board of Directors.

5.08 Vice President of Operations

The Vice President of Operations shall assist the Board in the operational transactions of the Corporation. In the absence of the President or Vice President of Finance, or in the event of their inability or refusal to act, the Vice President of Operations shall perform the duties of the President and, as such, the Vice President of Operations shall have the powers of, and be subject to all the restrictions upon, the President. The Vice President of Operations shall also have such powers and shall perform such other duties as may be assigned to him by the President or by the Board of Directors.

5.09 Secretary

The Secretary shall keep permanent records of the proceedings of the Board of Directors, including the minutes of all meetings of the Board of Directors. He shall also be the custodian of the records and the seal of the Corporation, if any, and shall affix the seal to documents, the execution of which is duly authorized. He shall give or cause to be given all notices required by law or by these By-Laws. He shall perform all duties that usually pertain to the office of Secretary or which are delegated to him by the Board of Directors or by the President.

5.10 Treasurer

The Treasurer, with the assistance of the Executive Director of Frontier Texas! Inc. shall keep regular books, records and books of account of the Corporation, and shall ensure the deposit of all monies and other valuable effects of the Corporation in a depository selected by the Directors, and make such financial reports as directed by either the Board of Directors or the President. All checks of the Corporation shall be signed by two members of the Executive Committee or a designated staff member, as approved by the Frontier Texas! Inc. Board of Directors, and a member of the Executive Committee or as otherwise indicated by the Board of Directors. The Treasurer shall render to the President and Directors at the regular meetings of the Board of Directors or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall perform all other duties as may be prescribed by the Board of Directors or by the President.

5.11 Salary of Officers

The officers, agents of the Corporation, shall not receive any salary for their service to the Corporation. This provision shall not apply to the employees of Frontier Texas! including the Executive Director.

ARTICLE SIX

FINANCIAL ADMINISTRATION

6.01 Fiscal Year

The initial fiscal year of the Corporation shall begin on September 1, 2003 and end on September 30, 2004. For each year thereafter, the fiscal year of the Corporation shall begin on the 1st day of October and end on the 30th day of September.

6.02 Operating Funds

No profit shall ever be realized by any person in the operation of this Corporation. It shall be the policy of the Corporation to seek to maintain a sum of money in reserve, over and above the current obligations, for various contingencies to include fundraising, endowments, capital expenditures, etc. in connection with the operation thereof. In the event of dissolution of this Corporation, all funds or assets of said Corporation, after the payment of all corporate debts, shall vest in the City of Abilene for the purpose of promoting the educational and cultural improvements and welfare of the citizens of the City of Abilene and surrounding regions.

The Board shall require members of the operational staff of Frontier Texas!, Inc. and each Officer referred to in these by-laws to execute a surety bond made out to the Corporation, in such amount as it deems advisable, the cost of such bonds to be borne by the Corporation.

6.03 Entering into Contracts

The Board of Directors may authorize, in writing, any officer(s) or agent(s) to enter into any contract or to execute and deliver any instrument in name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

ARTICLE SEVEN

AMENDMENTS TO BY-LAWS

7.01 Amendments to By-Laws

These By-Laws shall be adopted by the Board of Directors of said Corporation and subsequently approved by a written resolution passed by the City Council of Abilene. The power to alter, amend, or repeal the By-Laws or to adopt new By-Laws is vested in the Board of Directors. Any alteration, amendment or repeal requires at least eight (8) members of the Board of Directors to vote in favor of such alteration, amendment or repeal in a meeting called for that purpose. Furthermore, any alteration, amendment or repeal shall not become effective nor have any force or effect whatsoever unless and until same has been approved by a written resolution passed by the City Council of Abilene, Texas.

ARTICLE EIGHT

INDEMNITY

8.01 Indemnity

The Board of Directors shall authorize the Corporation to pay or reimburse any current or former Director or Officer of the Corporation for any costs, expenses, fines, settlements, judgments, and other amounts, actually and reasonably incurred by such persons in any action, suit, or proceeding to which he or she is made a party by reason of holding such position as Officer or Director; provided, however, that such Officer or Director shall not receive such indemnification if he/she be finally adjudicated in such instance to be liable for negligence or misconduct in office. The indemnification herein provided shall also extend to good faith expenditures incurred in anticipation of, or preparation for, threatened or proposed litigation. The Board of Directors may, in proper cases, extend the indemnification to cover the good faith settlement of any such action, suit, or proceedings, whether formally instituted or not.

Furthermore, the Corporation agrees to indemnify and hold harmless and defend the City of Abilene, its officers, agents, and its employees, from and against all claims and suits for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorney's fees, arising out of or resulting from the Corporation's work and from any liability arising out of or in connection with the City of Abilene or its agents, officers, or employees entry upon said property, common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of the Corporation, its officers, employees, agents subcontractors, licensees, invitees, or trespassers or based in whole or in part upon the negligent acts or omissions of the City of Abilene, its officers, employees, agents, licensees, or invitees. The Corporation agrees to waive any and all claims it may have against the City of Abilene, connected with, resulting from, or arising out of,

claims and suits covered by this indemnification provision and agrees that any insurance carrier involved shall not be entitled to subrogation under any circumstances against the City of Abilene, its officers, agents, and employees.

ARTICLE NINE

MISCELLANEOUS

9.01 Miscellaneous

The Board of Directors shall provide a Corporate Seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation, substantially as follows: Frontier Texas!, Inc.

9.02 Table of Contents and Headings

The Table of Contents and Headings used in these By-Laws have been inserted for convenience only and do not constitute matter to be used in construing or interpreting them.

9.03 Construction

Whenever the context so requires, the use of a masculine pronoun shall include the feminine, and singular shall include plural and conversely.

If any portion of these By-Laws shall be invalid or inoperative, then, so far as is reasonable and possible:

- a. The remainder of these By-Laws shall be considered valid and operative, and
- b. Effect shall be given to the intent manifested by the portion held invalid or inoperative, insofar as not prohibited by law.

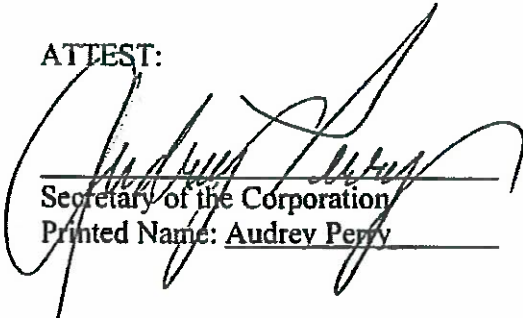
9.04 Relation to Articles of Incorporation

These By-Laws are subject to and are governed by the Articles of Incorporation of Frontier Texas!, Inc.

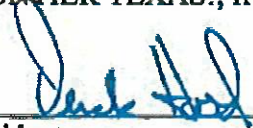
CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the By-Laws of Frontier Texas!, Inc. and that such By-Laws were duly adopted by the Board of Directors of said Corporation on December 21, 2020.

ATTEST:


Secretary of the Corporation
Printed Name: Audrey Perry

FRONTIER TEXAS!, INC.

By: 
President
Printed Name: Derek Hood

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF TAYLOR §

This instrument was acknowledged before me on December 30, 2021,
by Derek Hood, President of Frontier Texas!, Inc.,
a Texas corporation, on behalf of said corporation.




Notary Public, State of Texas

Resolution for the approval of the bylaw changes for Frontier Texas!

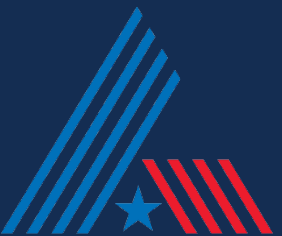
(Robert Hanna)



Frontier Texas! Bylaw changes

Frontier Texas! has requested the bylaws be changed to achieve the following goals:

- To move towards a relationship with the City of Abilene that would be similar to other private nonprofit organizations who lease space from the City of Abilene.
- To allow Frontier Texas! to self-determine all future board appointments.
- To allow Frontier Texas! board members to participate remotely for board meetings.



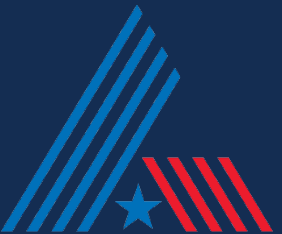
Frontier Texas! Bylaw changes

The Frontier Texas! board of directors approved the requested bylaw changes on its meeting on December 21, 2021.

The lease agreement will be renegotiated to reflect the bylaw changes.



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Amendment 2 with Freese & Nichols, Inc. for the Archeological Survey of the Cedar Creek Trail (Lesli Andrews)

GENERAL INFORMATION

Freese and Nichols, Inc. (FNI) and the City of Abilene (City) entered into a contract to design a 1.4 mile trail project along the east side of Cedar Creek from north of E. South 11th Street (Highway 36) to Stevenson Park and potentially to E. North 10th Street, dated October 22, 2020.

On January 18, 2021, Amendment 1 was executed for the amount of \$38,000. This amendment covered additional coordination, administrative requirements, and costs FNI and its subconsultants would incur to meet the requirements of the agreement between the UPRR (Railroad) and the City. These costs were not included in the original scope of work.

Amendment 2 covers additional coordination, administrative requirements, and costs FNI and its subconsultants will incur to meet the requirements of the Texas Historical Commission, which is requiring a Cultural Resources Survey of the trail corridor. These costs were not included in the original scope of work. Amendment 2 will cost \$16,500.

Amendment 1 and 2 together is \$54,500, which is over the \$50,000 threshold, therefore requiring City Council approval.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Amendments 1 and 2 are funded from the 2015 Cedar Creek bond funds.

STAFF RECOMMENDATION

Staff recommends approving Amendment 2 with Freese & Nichols, Inc. for the Archeological Survey of the Cedar Creek Trail.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 1_27_22 Resolution FNI - Cedar Creek Trail Amendment 2
2. 2021.12.17 Amendment 2
3. Presentation Cedar Creek Trail FNI Amendment 2

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO SIGN AMENDMENT 2 WITH FREESE AND NICHOLS, INC. FOR THE ARCHEOLOGICAL SURVEY FOR CEDAR CREEK TRAIL PROJECT.

WHEREAS, the City of Abilene voted to pass a 2015 bond for a linear trail along Cedar Creek and Lytle Creek; and

WHEREAS, in December of 2021 we were informed the Texas Historical Commission requires an Archeological Survey for the proposed linear trail along Cedar Creek and Lytle Creek; and

WHEREAS, this would require an increase to the contract in access of \$50,000: and

WHEREAS, Freese and Nichols, Inc. will manage the survey at a cost of \$16,500.

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

Part 1: The City Manager is hereby authorized to sign Amendment 2 with Freese and Nichols, Inc. for an Archeological Survey of the linear trail along Cedar Creek and Lytle Creek.

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

ADOPTED this 27th day of January 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

**Attachment F-1
Amendment 2**

**SCOPE OF WORK
CEDAR CREEK TRAIL DEVELOPMENT
Abilene, Texas
REV – January 24, 2022**

I. PROJECT DESCRIPTION

This amendment modifies the agreement between Freese and Nichols, Inc. ("FNI") and the City of Abilene ("City") to design a 1.4 mile trail project along the east side of Cedar Creek from north of E. South 11th Street (Highway 36) to Stevenson Park and potentially to E. North 10th Street, dated October 22, 2020.

This amendment covers additional coordination, administrative requirements, and costs FNI and its subconsultants will incur to meet the requirements of the Texas Historical Commission which is requiring a Cultural Resources Survey of the trail corridor. These costs were not included in the original scope of work.

SPECIAL DESIGN SERVICES

TASK 14 – ARCHEOLOGICAL SURVEY

1. FNI and its subconsultant, Acacia Heritage Consulting (Acacia) will develop a work plan and permit application for the field survey. The work plan will include any desktop research that may be relevant to assessing previous landscape modifications, and potential for significant archeological and historical resources in the project area. Once the THC issues a permit, Acacia will conduct an archeological field survey for all portions within the project area with potential to contain intact archeological resources.
2. Soil and geologic maps suggest that the project area generally has high potential for deeply buried intact archeological deposits. However, the project impacts are expected to be about 1-foot or less. Therefore, the survey will involve visual inspection and shovel testing but not backhoe trenching. Shovel testing will conform to the minimum standards outlined by the Council of Texas Archeologists (CTA) and will involve a minimum of one shovel test every 328 feet (100 meters) along the length of the project, or 16 tests per mile. Previously disturbed areas not shovel tested will be photographed and investigators will make notes about them. Additional shovel tests would be excavated to further characterize and delineate sites within project area, should any be encountered. Shovel test locations will be recorded with a hand-held GPS, all soil from tests will be screened for artifacts, and all tests will be backfilled upon completion. Archeologists will photograph conditions, make notes, and photograph any artifacts within the shovel tests. No artifacts will be collected.
3. Archeological sites will be defined as outlined in the scope of work approved by the THC. Site recording will involve additional shovel tests placed at 40 to 65 feet (15 to 20 meters) intervals to assess them for eligibility as State Antiquities

Landmarks (SAL). For a project in this location and of this size, Acacia estimates recording not more than two archeological sites. Following field survey, site forms, if any, will be submitted to TARL for trinomials. Artifacts found in the field will not be collected, but will be photographed and inventoried, then returned to their original location.

4. Acacia will prepare a draft archeological survey report that will summarize cultural background data, previous investigations, current investigation findings, and regulatory recommendations. This report will be submitted electronically for review to the client and the City of Abilene, revised according to that review. Following draft final revision, Acacia will submit the report to the THC for regulatory review and concurrence with findings. Once a final draft has been approved, Acacia will prepare and submit final reports, notes, and photographs for curation at a federally recognized facility.
 - FNI will provide Acacia with project description, maps, and available schematics.
 - This proposal assumes shovel testing along a linear corridor of approximately 1.6 miles with excavation of up to 40 shovel tests.
 - Formal SAL-eligibility testing or mitigation is not included in this scope of work.
 - Rights of Entry to private properties will be obtained by others prior to commencement of the survey.
 - This project would not involve any federal permits, easements, or notifications that would trigger Section 106 consultation and review.

ASSUMPTIONS

- A. If shovel testing within the UPRR property is required, it will be performed by credentialed FNI staff with the appropriate approvals and badging, under the direction of Acacia. Acacia will not enter the UPRR property.

Agreement by and between the City of Abilene (City) and
Freese and Nichols, Inc. (Consultant)

CEDAR CREEK TRAIL DEVELOPMENT
AMENDMENT 2

II. BASIS OF COMPENSATION

The cost for performing these services set forth herein will be as follows:

Special Services

Task 14 – ARCHEOLOGICAL SURVEY (lump sum) \$16,500.00

Total – Special Services..... \$16,500.00

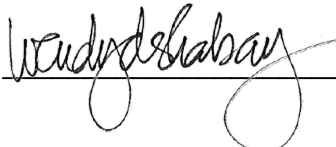
CITY OF ABILENE:

By: _____

Name: _____

Title: _____

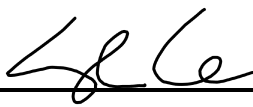
PROFESSIONAL:

By:  _____

Name: Wendy Shabay, FAICP _____

Title: Vice President/Principal _____

ATTEST: _____

ATTEST:  _____

Resolution: Cedar Creek Trail Amendment with Freese and Nichols, Inc.

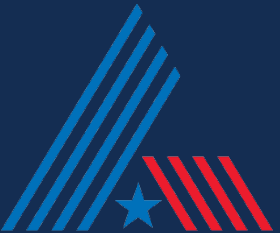


Request to Approve Amendment 2 with Freese and Nichols, Inc. for Archeological Survey

- The Archeological Survey is required by the Texas Historical Commission.
- Amendment 2 in the amount of \$16,500 will be funded from the 2015 Cedar Creek bond funds.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing a Professional Services Contract for the Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes Evaluation Project (*Rodney Taylor*)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council approve a Professional Services Contract with Enprotec/Hibbs & Todd, Inc. (EHT) for the Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes Evaluation Project in the amount of \$101,710.00. This contract will provide for the preparation of plans and contract documents, bidding assistance, project general supervision (not RPR), and contract administration. The project is for the design of new dry polymer feed systems and new sodium hydroxide bulk storage tanks at the City of Abilene's Water Treatment Plants. The project also provides for the Engineer to conduct a round table review of the Grimes WTP to discuss the remaining life of systems and processes along with potential improvements that may be needed in order to maintain operations until the plant is decommissioned in accordance with the Water Treatment Master Plan.

SPECIAL CONSIDERATIONS

The City of Abilene (City) utilizes dry polymer feed systems for preparing polymer solutions used for enhancing the flocculation and sedimentation processes at the Grimes and Northeast Water Treatment Plants. These systems are essential for producing high quality treated water. The contract provides for the design of a new, redundant dry polymer feed system for the Northeast WTP, and a new replacement dry polymer feed system for the Grimes WTP. The existing unit at the Grimes WTP was fabricated by staff in a makeshift manner, and it does not include the preferred features or produce the quality of polymer solution as does an engineered system.

The Water Treatment Plants utilize significant quantities of bulk chemicals in the treatment

processes. Large tanks are required to store sufficient quantities of bulk chemicals to meet plant needs and to accommodate vendor delivery schedules. It is apparent that additional bulk storage of sodium hydroxide is needed at the WTP's in order to reliably meet treatment needs. The contract provides for the design of new, redundant bulk sodium hydroxide storage tanks at the Grimes, Northeast, and Hargesheimer WTP's.

The 2020 Water Treatment Plant Master Plan calls for the eventual decommissioning of the Grimes WTP. However, the City must continue to rely on the operation of the Grimes WTP until improvements and expansions at the Northeast and Hargesheimer WTP's have been completed. The contract provides for the engineering team to meet with City staff in a round table setting to discuss the condition of the Grimes WTP and identify any issues or items that may need to be addressed in the interim period in order to maintain plant capacity and continue to meet water quality standards.

FUNDING/FISCAL IMPACT

Funding for the professional services contract is included in the Fiscal Year 2022 Annual Operating Budget of the Water Utilities Department.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve the professional services contract with Enprotec/Hibbs & Todd, Inc. in the amount of \$101,710.00 for the Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes Evaluation project.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Written Resolution-WtrDpt-Authorize PS Contract with EHT for Dry Polymer Feed Caustic Tanks and Grimes Evaluation-1-27-2022
2. Contract-PS-Dry Polymer Feed, NaOH Tanks, and Grimes Evaluation-signed-1-27-2022
3. Presentation-Authorize PS Contract-EHT-Dry Polymer Feed Sodium Hydroxide Tanks and Grimes Evaluation-1-27-2022

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 DRY POLYMER FEED, SODIUM HYDROXIDE TANKS, AND GRIMES EVALUATION.

WHEREAS, the City of Abilene (Abilene) owns and operates a Public Water Supply System that includes the Grimes Water Treatment Plant (GWTP), Northeast Water Treatment Plant (NWTP), and the Hargesheimer Water Treatment Plant (HWTP); and

WHEREAS, City staff has identified the need to install new Dry Polymer Feed Systems at the GWTP and the NWTP in order to improve system reliability; and

WHEREAS, City staff has identified the need to increase the bulk storage capacity of Sodium Hydroxide solution at the GWTP, NWTP, and HWTP; and

WHEREAS, City staff has identified the need to evaluate the remaining life of systems and processes along with potential improvement projects for the GWTP in order to sustain capacity and water quality until the GWTP is decommissioned per the WTP Master Plan; and

WHEREAS, Enprotec/Hibbs & Todd, Inc. (EHT) has highly qualified engineers to design the improvements and to conduct the operations round table review of the GWTP; and

WHEREAS, the professional services contract with Enprotec/Hibbs & Todd, Inc. will provide for the preparation of plans and contract documents, bidding assistance, general project supervision (not RPR) and contract administration for the Dry Polymer Feed and Sodium Hydroxide Tanks, and to conduct an Operations Round Table Review of the GWTP in the contract amount of \$101,710.00; 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 Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes Evaluation in the amount of \$101,710.00.

ADOPTED this 27th day of January, 2022.

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 _____, 20____, 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 Dry Polymer Feed, Sodium Hydroxide Tanks and Grimes Evaluation 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 City'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>
☒ 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
☐ 2. Commercial (Public) Liability 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	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☐ 3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single 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

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 - EHT
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}

A handwritten signature in blue ink, appearing to be 'JH' or similar, located in the bottom right corner of the page.

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

CITY OF ABILENE

By: _____

Name: Robert Hanna

Title: City Manager

ATTEST: _____

City Secretary

APPROVED: _____

By: _____
City Attorney

PROFESSIONAL

By: _____

Name: Jordan S. Hibbs

Title: JP

Address: 402 Cedar St., Abilene, TX 796

Phone Number: 325-698-5860

Federal Tax ID#: 75-2258512

ATTEST (if corporation) _____

Corporation's Secretary

Corporate Seal (if available)

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a vertical stroke, located in the bottom right corner of the page.

ATTACHMENT A

Scope of Services

DRY POLYMER FEED, SODIUM HYDROXIDE TANKS AND GRIMES EVALUATION

The City of Abilene (COA or City) is planning to construct improvements at its three (3) water treatment plants including new dry polymer feed systems and new sodium hydroxide tanks. The Consultant (or "Engineer") shall perform the below design, bidding and construction phase services for the proposed improvements.

Also, the City would like to conduct an operations round table review of the Grimes WTP to discuss the remaining life of systems and processes along with potential improvement projects. The Engineer shall provide evaluations and conduct the round table as identified below.

The full scope of services to be provided by the Engineer is set forth below.

I. Basic Services – Evaluation Phase

- a. Engineer shall schedule an operations round table at the Grimes WTP. Engineer shall review existing systems and processes at the Grimes WTP with City of Abilene staff.
- b. Engineer shall document findings and recommendations from the operations round table in a concise Technical Memorandum.

II. Basic Services – Design Phase

- a. The Engineer shall perform the following Design Phase Services for the dry polymer feed systems at the Northeast and Grimes WTPs:
 - i. Attend pre-design meeting at the NEWTP and the Grimes WTP to discuss project specifics with City Staff.
 - ii. Evaluate existing systems and appurtenances to determine compatibility with proposed new dry polymer feed systems.
 - iii. Coordinate with the City's preferred vendor and assist City in negotiating price.
 - iv. Develop drawings and specifications for the purpose of procuring a qualified contractor to relocate the existing systems (as necessary) and install the new dry polymer feed systems.



- v. Prepare an Opinion of Probable Construction Cost (OPCC).
- b. The Engineer shall perform the following Design Phase Services for the sodium hydroxide bulk storage tanks at the Northeast, Grimes and Hargesheimer WTPs:
 - i. Attend pre-design meeting at the NEWTP, the Grimes WTP and the Hargesheimer WTP to discuss project specifics with City Staff.
 - ii. Evaluate existing systems and appurtenances to determine best location for each proposed tank at each WTP.
 - iii. Develop drawings and specifications for the purposes of procuring a qualified contractor and obtaining TCEQ approval. The design shall be split into two (2) separate projects – one (1) for the NEWTP and one (1) for the Grimes and Hargesheimer WTPs.
 - iv. Prepare an OPCC.
 - v. Design shall be completed within 3 months after completion of pre-design meetings for each project.

I. Basic Services - Bidding Phase

A. After acceptance by City of the final Design Phase Documents and the most recent Opinion of Probable Construction Cost as determined in the Design Phase, Engineer shall:

- 1. Assist City in advertising for and obtaining bids for the Work and, if applicable, attend a pre-Bid conference.
- 2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
- 3. Consult with City as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.
- 4. Attend the Bid opening and assist City in evaluating Bids or proposals.

B. The Bidding Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.



C. The above scope for Bidding Phase Services is applicable to the NEWTP Caustic Tank Project and the Dry Polymer Feed Project only.

II. Basic Services - Construction Phase

A. Upon successful completion of the Bidding Phase, 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 inspections or construction materials 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 Construction Phase will commence with the execution of the Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractor.



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.

D. The above Construction Phase Scope of Services is applicable only to the NEWTP Caustic Tank and Dry Polymer Feed Systems Projects.



ATTACHMENT B

PAYMENT SCHEDULE PARTIES TO INITIAL OPTION SELECTED

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..

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 \$101,710.00 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 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.



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 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 D
NOTICE TO PROCEED

Click or tap here to enter text.



ATTACHMENT E
CHANGE IN SCOPE OF SERVICES

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Authorizing a Professional Services Contract with
Enprotec/Hibbs & Todd, Inc. for the
Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes
Evaluation



- Professional Services Contract with Enprotec/Hibbs & Todd, Inc.
- Contract price of \$101,710.00
- Preparation of plans and contract documents, bidding assistance, general project supervision (not RPR) and contract administration
- Design and specifications for installation of a new Dry Polymer Feed system at the Northeast and Grimes Water Treatment Plants



- Design and specifications for installation of new Sodium Hydroxide Bulk Storage Tanks at the Grimes, Northeast, and Hargesheimer Water Treatment Plants
- Conduct an operations round table discussion to identify the remaining life of systems and processes and potential improvement projects for the Grimes WTP to sustain capacity and water quality up to the time of decommissioning per the WTP Master Plan.



Authorizing a Professional Services Contract with
Enprotec/Hibbs & Todd, Inc. for the
Dry Polymer Feed, Sodium Hydroxide Tanks, and Grimes
Evaluation

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Renewal of the Water Supply Contract with the Hawley Water Supply Corporation (Rodney Taylor)

GENERAL INFORMATION

City staff is recommending that the Abilene City Council approve the renewal of the Water Supply Contract with the Hawley Water Supply Corporation (HWSC). The renewal of the water supply contract is necessary in order to establish a new contract period of 40 years, which covers the term of project funding from the United States Department of Agriculture - Rural Utilities Service (RUS). The HWSC must construct system improvements to address issues with inadequate system capacity. That agency identified necessary modifications to the water supply contract language required by the Code of Federal Regulations regarding utility purchase contracts. The City has also made certain modifications to the water supply contract in order to establish a fixed value for the Base Contract Amount, and to implement a Connection Charge for each approved new Delivery Point or increase in the Maximum Delivery Rate described for a respective Delivery Point.

SPECIAL CONSIDERATIONS

The City of Abilene has been contracted with the Hawley Water Supply Corporation since 1965. In 2004 all City of Abilene wholesale Water Supply Contracts were updated to establish a new 40-year term in response to an EPA grant and loan made on behalf of the City's project recognizing the regional benefits of constructing the Ivie Pipeline System and the Hargesheime Water Treatment Plant. The 2004 contract with Hawley WSC described seven Delivery Points with respective Maximum Daily Flow Rates.

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve the renewal of the Water Supply Contract with the Hawley Water Supply Corporation in order to modify certain language, and establish a new 40-year term, a fixed Base Contract Amount, and a Connection Charge, as described above.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Written Resolution-WSC-Renewal-Hawley WSC-1-27-2022
2. Water Supply Contract-Hawley WSC-executed-1-27-2022 rev
3. Water Supply Contract-Conservation Plan-Exhibit A-1-27-2022
4. Water Supply Contract-Purchaser Customers in Abilene Protected Service Area-Exhibit B-1-27-2022
5. Presentation-Resolution-Authorize renewal WSC with Hawley WSC-1-27-2022

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE RENEWAL OF THE WATER SUPPLY CONTRACT BETWEEN
THE CITY OF ABILENE AND THE HAWLEY WATER SUPPLY CORPORATION.**

WHEREAS, The City of Abilene (City) is currently a regional supplier of potable water to area cities and rural water supply corporations including the Hawley Water Supply Corporation (HWSC); and

WHEREAS, The HWSC is planning for infrastructure improvements to its water supply system that will be funded through the United States Department of Agriculture - Rural Utilities Service (RUS) program; and

WHEREAS, The RUS requires that the water supply contract between City and HWSC be changed to include certain federally mandated language and to establish a new 40-year contract term; and

WHEREAS, The renewal contract incorporates a fixed Base Contract Amount, and establishes a new Connection Charge applicable when adding a new Delivery Point or increasing the Maximum Delivery Rate of an existing Delivery Point; and

WHEREAS, it is required that the Abilene City Council and the Board of Directors of the HWSC must each approve of the renewal of the Water Supply Contract.

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

That the City of Abilene City Manager is hereby authorized to execute the renewal of the Water Supply Contract between the City of Abilene and the Hawley Water Supply Corporation establishing a new forty-year contract period.

ADOPTED this 27th day of January, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED :

Stanley E. Smith, City Attorney

THE STATE OF TEXAS

COUNTY OF TAYLOR

WATER SUPPLY CONTRACT

This contract ("Contract") is made this ____ day of _____, 2021, by and between the City of Abilene, Texas, a Municipal Corporation of Taylor and Jones Counties, Texas, (hereinafter referred to as "Abilene" or "City"), acting by and through its City Manager, who has been duly authorized to act by the City Council of Abilene, and the Hawley Water Supply Corporation (hereinafter referred to as "Purchaser") a Water Supply Corporation organized under Article 1434a, Texas Revised Civil Statutes, as supplemented by the Texas Non-Profit Corporation Act, Article 1396-1.01 et seq., Texas Revised Civil statutes, as amended.

WITNESSETH:

That 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 purpose of this Contract is for Abilene to sell and provide potable water to the Purchaser for rural residential and rural agricultural uses and those purposes incidental to rural residential and rural agricultural uses under the provisions of this Contract. This Contract is not intended to encourage or permit in the Corporation's area, new or additional large commercial or industrial development, or subdivision development outside the corporate limits of the City. Therefore, the Corporation agrees not to furnish any customer a water connection exceeding a meter size of one and one-half inches (1½") in diameter. This agreement does not authorize sale

of water by the City to the Corporation at terms more favorable than those normally granted to regular customers within the City's corporate limits.

The Corporation agrees to comply with all applicable provisions of Chapter 212 of the Texas Local Government Code, as amended. In particular, the Corporation agrees that it may not serve or connect any land within the City's jurisdiction (including its extraterritorial jurisdiction) with water or other utility service unless: (1) the Corporation has been presented with or otherwise holds a certificate issued by the City stating that any plat required under Section 212.004 of the Texas Local Government Code or otherwise required by the City has been reviewed and approved by the City; or (2) the City determines, in accordance with Section 212.012 of the Texas Local Government Code, that no such certificate is required. The Corporation further agrees to discontinue service to any such land not in compliance with all applicable provisions of Chapter 212 of the Texas Local Government Code.

Abilene shall act by and through its City Manager unless otherwise stated in this Contract. Purchaser shall act by and through its Board President, or his duly authorized representative, unless otherwise stated in this Contract.

B. Modification

This Contract may be changed or modified only with the consent of the City Council of Abilene and the Board of Directors of Purchaser. The prior review and written approval of the United States Department of Agriculture Rural Utilities Service (RUS) is required before adoption of any amendment or modification of the Contract by the City and Purchaser. The Purchaser will implement the project(s) pursuant to RUS-approved funding, which includes various requirements under federal law. Any modification shall be in writing. Such modification may be requested by either party, in which event a joint meeting of such parties shall be held

within ninety (90) days after the giving of such notice, at which joint meeting the requested changes or modifications shall be considered and discussed. No such change or modification may be made which will affect adversely the prompt payment, when due, of all monies required to be paid by Purchaser to Abilene under the terms of this Contract.

C. Assignment

Purchaser shall not assign nor transfer in whole or in part the rights and obligations granted in this Contract without first obtaining the written consent of Abilene, except that Purchaser may pledge this Contract as part of the security for any loan.

Upon default by Purchaser, it is agreed by the parties that upon Abilene's written consent, RUS may assign this Contract to a successor in interest if the assignee agrees to comply with all provisions of the Contract.

This Contract shall be fully assignable by Abilene to the United States Department of Agriculture - Rural Utilities Service ("RUS"), with such assignment not requiring the written consent of Purchaser.

D. Duration, Termination

This Contract shall be effective for a period of forty (40) years, beginning on the effective date, the date set forth above as the date of the last signature to this Contract, and may be amended by mutual written agreement by the parties, as may be necessary for Purchaser to repay a RUS loan to be made to Purchaser by the United States of America acting by and through the Administrator of the Rural Utilities Service. Abilene agrees that it will continue to make water available, subject to availability, when requested by the Purchaser. Upon mutual agreement of the parties, this Contract may be renewed for additional terms.

a) Upon the breach by Abilene of any of the provisions of this Contract, Purchaser may terminate this Contract by giving written notice within thirty (30) days of such breach to Abilene by registered or certified mail to the address shown on the signature page. For purposes of this Contract, references to "breach" and "violation" shall be deemed to carry the same meaning and are used interchangeably.

The notice shall explain in detail the provision(s) of the Contract that is breached and the circumstances giving rise to the breach.

Abilene shall have ninety (90) days upon receipt of written notice to correct the alleged violation of the Contract.

b) Upon the breach by Purchaser of any of the provisions of this Contract, Abilene may terminate this Contract after providing written notice of the breach to RUS and the Purchaser. For purposes of this Contract, references to "breach" and "violation" shall be deemed to carry the same meaning and are used interchangeably. While indebtedness exists, at any time after Abilene provides written notice to Purchaser and RUS, RUS reserves the right to assume all rights and obligations of Purchaser. Abilene's written notice of breach shall be sufficient if sent to both Purchaser and RUS. It is agreed that Purchaser shall have ninety (90) days to correct any and all violations of the Contract after receipt of Abilene's initial written notice of violation under this paragraph. If RUS assumes all rights and obligations of Purchaser, RUS shall have one hundred and twenty (120) days to correct any and all violations of the Contract after receipt of Abilene's initial written notice of violation under this paragraph.. Such notice shall be provided by registered or certified mail to the address shown on the signature page.

The notice shall explain in detail the provision(s) of the contract that is breached and the circumstances giving rise to the breach. It is specifically provided that a failure to pay

Abilene for water supplied under this Contract according to Abilene's billing schedule is a breach of this Contract.

Should Purchaser pay the amount of money owed to Abilene after Abilene has given notice, but within the 90-day period to correct the breach, this Contract shall remain in full force and effect. If Purchaser pays only the monthly charges, and not the full amount owed to Abilene, Abilene, by accepting the payments, shall not be considered as having waived any of its rights under this Contract.

E. Notices

All notices required under the terms of this Contract shall be in writing and sent by registered or certified mail to the addresses listed below.

City of Abilene
c/o City Manager
P.O. Box 60
Abilene, Texas 79604

Hawley Water Supply Corporation
c/o Board President
P.O. Box 296
Hawley, Texas 79525

USDA Rural Development, Rural Utilities Service
4400 Buffalo Gap Road, Suite 4150
Abilene, Texas 79606

F. Venue

Venue for any legal proceeding shall be in the City of Abilene, Taylor County, Texas.

The laws of Texas as to interpretation and performance govern this Contract.

G. Force Majeure

That in case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this agreement, other than the obligation of the

Purchaser to make payment required under the terms hereof, then if such party shall give notice and full particulars of such force majeure in writing to the other party within ten (10) days after occurrence of the event or cause relied on, the obligation of the party filing such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure" includes, but is not limited to, acts of God, strikes, or other industrial disturbances, acts of war, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, drought, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, and inability on part of Abilene to deliver water under, or of Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts as acceding to the demands of the opposing party or parties when such course is unfavorable in the judgement of the party having the difficulty.

H. Paragraph Headings

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

I. Pay Delinquent Accounts

Purchaser agrees that no legally enforceable obligations owed by it to Abilene, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

J. Attorney's Fees

If either party brings legal action to enforce the terms of this Contract, and prevails, that party shall be entitled to reasonable attorney's fees.

K. Violation of Contract

If Purchaser does any of the following, it shall be liable and owe to Abilene a fee of \$1,000 per violation per month that violation continues, in addition to other remedies available to Abilene under this Contract and applicable law:

1. Fails to comply with communicating and enforcing Abilene's Water Conservation Plan, which is attached as Exhibit A and made a part of this Contract. A violation of Exhibit A by a retail customer of the Purchaser does not put Purchaser in violation of the Contract, nor would such a retail customer's violation of Exhibit A subject Purchaser to the provisions of Part I.D. of this Contract regarding termination procedures.
2. Sells or resells water in violation of this Contract.
3. Purchaser fails to prohibit service to any structure existing in a designated floodplain area after the date of public environmental notification. (September 13, 2001).
4. Purchaser fails to scrutinize any service applications in areas where wetlands exist to verify that potential users have obtained, where

applicable, Section 404 permits from the U.S. Army Corps of Engineers, prior to any modification of an aquatic or wetland area.

L. Conflict

In the event any provision of this Contract shall conflict with a State law, the Texas Constitution, or a Federal law or the U.S. Constitution, the State law or the Texas Constitution or Federal law or U.S. Constitution shall control.

II. FURNISHING WATER

A. Delivery Point

Abilene agrees to sell and to provide water to Purchaser at a point of metering which shall be known as the "Delivery Point(s)". The Delivery Point(s) shall be the Master Meter (s), after the water has passed through the Master Meter(s).

Delivery Point No. 1 - Located on North Highway 277 and City Limits.

Delivery Point No. 2 - Located on North Highway 277 and City Limits.

Delivery Point No. 3 - Located near FM 2404 and City Limits.

Delivery Point No. 4 - Located at FM 600 and Highway 1082.

Delivery Point No. 5 - Located near the northeast corner of Lake Fort Phantom Hill.

Delivery Point No. 6 - Located near FM 3034 and Nugent Road.

Delivery Point No. 7 - Located near the intersection of Nugent Road and Beltway North.

Additional "Delivery Points" may be designated as negotiated between Abilene and Purchaser. Each Delivery Point is a connection to Abilene's water distribution system. A new Delivery Point can only be considered if Purchaser presents a written request to Abilene to add a new Delivery Point. Such request must be approved in writing by Abilene before the Delivery

Point is constructed. The Connection Charge for a new Delivery Point is the product of the Connection Charge Rate times the Maximum Delivery Rate in gallons per minute (gpm) designated for the new delivery point plus the cost of necessary infrastructure upgrades to the City's system to accommodate the delivery rate [Calculation: Delivery Point Connection Charge = (Connection Charge Rate times the Maximum Delivery Rate (gpm)) + cost of infrastructure improvements]. The Connection Charge is a one-time charge applicable to each new Delivery Point added and to each increase made to an existing Delivery Point Maximum Delivery Rate. The Purchaser is responsible for the cost of infrastructure improvements including engineering design services, acquisition of land, equipment, and materials, and constructing the new Delivery Point, including all required improvements to the City's distribution system necessary for supplying the new Delivery Point. All infrastructure improvements provided by the purchaser and located prior to the point of delivery including the meter and related appurtenances shall be conveyed to the City upon final completion and acceptance by the City Engineer. The Connection Charge Rate, consistent with this paragraph, may be raised or lowered annually using a maximum escalation rate value of not greater than 25% annually. [Calculation: New Connection Charge Rate $\leq$ (1.25 times Connection Charge Rate prior to time of change)].

Purchaser agrees to purchase and to take delivery of said water at the delivery point(s) for Purchaser's own use. Except as to customers of Purchaser that may exist at the time of the signing of the Contract (which are provided hereto as **Exhibit B**), Purchaser shall not install customer service taps located within Abilene's protected service area or resell the water provided under this Contract.

Abilene shall be obligated to treat and to filter the water to be delivered to and received by Purchaser so that the water is the same quality as that supplied to the customers of Abilene.

Purchaser shall protect its storage and distribution system from cross connections under the specifications required by the health standards, statutes, and laws, of the State of Texas, as same may be amended from time to time.

B. Quantity and Demand

Purchaser represents that its contracted quantity of water available to the Hawley WSC will be 125,000,000 gallons per Water Year which shall be known as the "Base Contract Amount", which Hawley WSC deems adequate to meet its needs. Abilene will not provide water to the Hawley WSC in excess of the Base Contract Amount during any Water Year. The Base Contract Amount can only be increased if Purchaser presents a written request to Abilene to increase the Base Contract Amount. Such a request must be presented prior to the Water Year where the increased Base Contract Amount is required. Such request must be approved by the Abilene City Council before the increased Base Contract Amount will be provided.

The "Maximum Daily Amount" being the sum total of all Delivery Points is 1,857,600 gallons per day (gpd). The "Maximum Delivery Rate" in gallons per minute (gpm) of water that Abilene's system is capable of delivering to Purchaser for each Delivery Point is as follows:

Delivery Point No. 1 – 450 gpm

Delivery Point No. 2 – 120 gpm

Delivery Point No. 3 – 100 gpm

Delivery Point No. 4 – 150 gpm

Delivery Point No. 5 – 50 gpm

Delivery Point No. 6 – 20 gpm

Delivery Point No. 7 – 400 gpm

Abilene will not deliver water to Purchaser at a rate exceeding the “Maximum Daily Amount” and/or the “Maximum Delivery Rate”. The Maximum Daily Amount and/or the Maximum Delivery Rate can only be increased if Purchaser presents a written request to Abilene to increase the Maximum Daily Amount and/or the Maximum Delivery Rate. Such a request must be presented prior to the Water Year where the increased Maximum Daily Amount and/or the Maximum Delivery Rate is required. Such request must be approved in writing by Abilene before the increased Maximum Daily Amount and/or the Maximum Delivery Rate will be provided. Should Abilene approve of an increase in the Maximum Daily Amount and/or Maximum Delivery Rate for an existing delivery point, a one-time “Connection Charge” shall be paid by Purchaser in order to reserve additional capacity in Abilene’s system. The Connection Charge for increasing the Maximum Delivery Rate to an existing Delivery Point is the product of the Connection Charge Rate times the amount of the increase in gallons per minute designated to the existing delivery point plus the cost of necessary infrastructure upgrades to the City’s system to accommodate the additional delivery rate [Calculation: Existing Delivery Point Connection Charge = (Connection Charge Rate times the Increase to the Maximum Delivery Rate (gpm)) + cost of infrastructure improvements]. The Connection Charge is a one-time charge applicable to each new Delivery Point added and to each increase made to an existing Delivery Point Maximum Delivery Rate. The Purchaser is responsible for the cost of infrastructure improvements including engineering design services, acquisition of land, equipment, and materials, and constructing any needed upgrades to the Delivery Point, including all required improvements to the City’s distribution system necessary for supplying the increased flow to the new Delivery Point. All infrastructure improvements provided by the Purchaser and located prior

to the point of delivery including the meter and related appurtenances shall be conveyed to the City upon final completion and acceptance by the City Engineer

Purchaser agrees that Abilene's capability to provide increases of water in quantity above the Base Contract Amount is subject to available supply and deliverability, as determined by Abilene. The availability of supply and deliverability does not obligate Abilene to increase water quantity available to Purchaser above the Base Contract Amount.

"Demand" means the quantity of water used by Purchaser within a water year.

"Water Year" means the year beginning January 1 and ending December 31.

"Base Contract Amount" will be 125,000,000 gallons per water year.

"Demand Charge" represents the cost of reserving the water for the Purchaser.

Abilene will use its best efforts to remain in a position to furnish water sufficient for the reasonable demands of Purchaser but Abilene's obligation under this Contract shall be dependent on the amount of water available to Abilene from its own source of supply. In case of shortages of Abilene's water supply, Abilene and all of Abilene's customers/users will proportionately share shortages, in accordance with the provisions of Texas Water Code Section 11.039.

If unavoidable localized distribution problems arise, such as failure of City's critical infrastructure affecting the quantity of delivery to the Purchaser, Abilene reserves the right to further limit Purchaser's quantity of water to be taken on an hourly, daily, and/or monthly basis as Abilene determines necessary to preserve adequate water for both parties while the City works to address the localized distribution problems. In such a situation the City will not proportionately reduce the long-term availability of water delivered to its customers.

If Stage I, II, or III of the City's Water Conservation Plan becomes in effect which may result in the Purchaser using less water, then the annual demand charge amount will be reduced 1/12 for each month a Water Conservation stage is in effect during the water year.

If there is a change in the City's Water Conservation Plan, written notice of such change shall be mailed to the Purchaser.

C. Water Conservation Plan

Abilene has adopted a Water Conservation Plan that provides for year round Water Conservation measures. The Purchaser hereby agrees to comply with all provisions of Abilene's Water Conservation Plan that is in effect or hereafter adopted. See attached Exhibit A. If there is a change in Abilene's Water Conservation Plan, written notice of such change shall be mailed to the Purchaser. A change in Abilene's Water Conservation Plan cannot impose an additional cost to the Purchaser, as Purchaser water costs are addressed separately and exclusively by the Rate provisions in Part II.D. of this Contract.

D. Rates

Purchaser agrees to purchase water based on the Contract Rate, as described in this section, which shall be the effective rate at the date of execution of this Contract. For purposes of this Contract, references to "Contract Rate" and "Wholesale Water Rate" shall be deemed to carry the same meaning and are used interchangeably. Purchaser agrees that the Abilene City Council has the right to revise the Contract Rate from time to time to cover all reasonable, actual, and expected costs, including the costs of future water supplies. It is specifically understood and agreed that, in increasing or decreasing the Contract Rate, Abilene shall act in good faith, and any such increase or decrease in such standard rate shall be based upon valid economic reasons including the costs of Abilene supplying such water. The most current City of Abilene Fee

Ordinance, as adopted by the Abilene City Council, describes the Wholesale Water rate applicable to all Wholesale Water rate purchasers, including to Purchaser under this Contract. When revising the Contract Rate, consistent with this paragraph, the Wholesale Water rate may not exceed three (3.0) times the then-existing Tier 1 Residential Rate. [Calculation: Wholesale Water Rate $\leq$ (3.0 times Residential Tier 1 Rate)]. Abilene shall give sixty (60) days advance written notice of any Wholesale Water rate change to Purchaser and RUS.

Purchaser agrees to pay a total monthly Ivie Surcharge on all water purchased under this agreement. The Ivie Surcharge rate shall be applied to each 1000 gallons purchased during each month. Purchaser agrees that the Abilene City Council has the right to eliminate, rename and/or restructure the Ivie Surcharge, and to revise the Ivie Surcharge rate from time to time to cover all reasonable, actual, and expected costs associated with financing capital improvement projects of Abilene's Water Utility including but not limited to the original construction, expansion, or improvements to infrastructure of the Ivie System. The Ivie Surcharge, consistent with this paragraph, may be raised or lowered annually for each respective customer class using a maximum escalation rate value of not greater than 25% annually. [Calculation: New Ivie Surcharge $\leq$ (1.25 times Ivie Surcharge prior to time of change)].

Purchaser agrees to pay a total annual demand charge for each water year in which the current water year demand is less than base contract amount. The Demand Charge rate shall be applied to the base contract amount less current water year demand. Purchaser agrees that the Abilene City Council has the right to revise the Demand Charge rate from time to time to cover all reasonable, actual, and expected costs associated with reserving system capacity for Purchaser. The Demand Charge, consistent with this paragraph, may be raised or lowered annually for each respective customer class using a maximum escalation rate value of not greater

than 25% annually. [Calculation: New Demand Charge $\leq$ (1.25 times Demand Charge prior to time of change)].

The following Rate Schedule applies to this Contract:

Wholesale Water Rate*- \$6.80 per 1,000 gallons

Demand Charge - \$ 0. 10 per 1,000 gallons

Ivie Surcharge - \$ 0 .00 per 1,000 gallons

Connection Charge Rate - \$500.00 per gallon per minute

*Note: The Contract Rate will be based on the standard established rate for potable water, established by the Abilene City Council, and published in the City of Abilene Water Utility Department Schedule of Rates and Charges for at least the highest consumption tier of the "Commercial Class" water user customers, unless otherwise revised by the Abilene City Council.

E. Payment

Abilene agrees to render to Purchaser a statement of charges monthly. The Contract Rate and the Ivie Surcharge rate shall be applied to the metered quantity delivered during the previous month. Payment is due upon receipt of the statement. Purchaser agrees to pay promptly. The demand charge shall be billed within sixty (60) days after each Water Year. Payment will be in a lump sum which is due thirty (30) days from receipt of the statement.

F. Additional Surface Water Supplies

If Purchaser develops or acquires additional surface water supplies from any source other than Abilene, resulting in reduced quantity from Abilene, then Abilene is released from the obligation to supply the contract amount mutually established under Part II. B. of this Contract.

In such event, Abilene may adjust its supply obligation to levels commensurate with Purchaser's reduced demand.

If within the term of this Contract, Purchaser totally or partially discontinues taking water from Abilene because such other water supplies have been developed or acquired, Purchaser shall for three (3) years or the balance of this Contract, whichever is less, remain liable for demand charges at the billing level in effect at the date of written notification of such partial or total cessation of Base Contract Amount. However, Abilene may waive Purchaser's obligation in the event of nominal reductions based on Purchaser's plans if Abilene has received prior notice of the plans and concurred in the reduction.

G. Maintain Facilities and Equipment

Purchaser is responsible to construct, install, and maintain its facilities and appurtenances existing beyond the Delivery Point(s). Ownership and maintenance responsibilities of the Master Meter(s) and all pipe, materials, equipment and related appurtenances used in connecting the Master Meter(s) to the Abilene Water Supply System shall be the responsibility of Abilene. All other facilities constructed by Purchaser, in order to meet quantity and demand requirements as set forth in paragraph B of this Section, will be owned and maintained by Purchaser. Purchaser must install and maintain an appropriate air gap or back flow prevention device, located before the first chemical injection point and/or the first customer tap, at each delivery point to prevent backflow contamination of the Abilene Water Supply, and shall comply with state law and Abilene ordinances regarding protections of the water distribution system.

Both parties to this Contract shall have access to such meter equipment at all reasonable times. It shall be the duty of either party to this Contract to notify the other party in the event that the meter(s) is registering inaccurately or malfunctioning so the meter(s) can be promptly

repaired. Each meter will be operated and maintained so as to record with commercial accuracy. Abilene will notify Purchaser prior to any meter tests. Either party has the right to request a meter be tested with the other party having the right to witness such test. If Purchaser requires that an independent testing service be used, Purchaser shall pay the cost of said testing service if the meter(s) is found to be accurate. If the meter(s) is found to be inaccurate, Abilene shall pay the costs of said testing service.

H. Unit of Measurement

The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

I. Title to water

Title to all water supplied hereunder shall remain in Abilene to the delivery point(s). From such point(s) (whether metered there or not), title shall pass to Purchaser. Ownership by Purchaser of facilities and water beyond the delivery point does not relieve Purchaser of the conditions contained in this contract.

J. Hold Harmless

To the extent permitted by law, Purchaser agrees to indemnify, hold harmless, and defend Abilene and its officers, agents, and employees from and against all liability for any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expense, including court costs, attorneys' fees, and other reasonable costs occasioned in connection with the transportation, delivery and disposal of said water while title to the water remains with Purchaser. If the RUS assumes this Contract as provided in Section I.D.(b), this Section II.J shall not apply to the RUS.

K. Relocation of delivery points

If Purchaser moves or abandons the designated delivery point(s), Purchaser shall pay all costs incurred in relocating the delivery point(s).

III. AGREEMENT

Entire Agreement

This Contract is the entire agreement of the parties, and any prior representations, warranties, agreements, promises, or negotiations, verbal or otherwise, pertaining to this agreement not expressly set forth in this written agreement are for no force and effect. This Contract shall be binding upon and shall insure to the benefit of the respective successors and/or assigns of the City and the Purchaser.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed.

CITY OF ABILENE, TEXAS

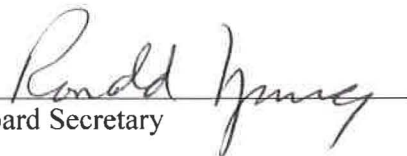
HAWLEY WATER SUPPLY CORPORATION

By: _____
CITY MANAGER

By: 
BOARD PRESIDENT

ATTEST:

Abilene City Secretary (City Seal)


Board Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Abilene City Attorney

Purchaser's Attorney

EXHIBIT A

CHAPTER 32 UTILITIES

ARTICLE VI. WATER CONSERVATION PLAN

DIVISION 1 GENERALLY

Sec. 32-141. Authorization

The Mayor, Mayor Pro Tempore, or the City Manager, if so designated, is hereby authorized, consistent with the Charter of the City of Abilene, Sections 21 and 22, to exercise those powers considered to be reasonable or necessary for the protection of persons or property in assessing the current state of our water supply and directing the City Manager to implement or terminate any stage, phase, or portion of the Water Conservation Plan. In the event that the triggering criteria specified in Section 32-145 of the Plan have been met for Stage 3-Water Emergency, or Stage 4- Water Crisis water shortage conditions, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code §11.039. Implementation and termination of any stage may occur, but is not mandated to occur, when conditions warrant.

Sec. 32-142. Application

The provisions of this Plan shall apply to persons, customers, and property utilizing the Abilene Water Utility System wherever situated, including customers such as water supply corporations, and any others that receive water from the City of Abilene on a contract basis. The City shall include a provision in every wholesale water contract entered into or renewed after adoption of this Plan, including contract extensions, that in case of shortage of water in the City's water supply, the water to be distributed shall be divided by the City in accordance with Texas Water Code §11.039 among all users pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

The City of Abilene utilizes a variety of alternative water sources including an extensive nonpotable reuse program, and an indirect potable water reuse system. The City encourages its customers to utilize alternative water sources during periods of water shortage. These water use restrictions do not apply to the utilization of alternative water sources including nonpotable water and groundwater (well water). Customers using water from private groundwater wells on days other than those designated in this plan, or those watering from private groundwater wells during the hours of 10:00 a.m. and 6:00 p.m., must post a sign stating "WELL WATER." The sign must be properly sized and posted so it is visible from the street. The city strongly encourages the use of alternative water sources from groundwater for landscape purposes.

These water use restrictions do apply to those persons without a reclaimed water contract who divert raw surface water from Lake Kirby or Lake Fort Phantom Hill for landscape irrigation. Whenever the term or reference to water, or potable water or similar and like words are used in this "water conservation plan," it shall be understood to include the use of raw surface water from Lake Kirby and Lake Fort Phantom Hill for landscape irrigation.

These water use restrictions do apply to the time for the use of treated wastewater (reclaimed water) for landscape irrigation. Use of reclaimed water or raw water under a reclaimed water contract for landscape irrigation is only allowed during the hours of 12:00 midnight to 10:00 a.m., and from 6:00 p.m. until 12:00 midnight. All other uses of reclaimed water shall be in accordance with Title 30 Texas Administrative Code, chapter 210 and the City of Abilene's Authorization No. R10334-004, as amended.

Sec. 32-143. Regional Water Planning Groups and Public Involvement and Education

Sec. 32-143.1 Coordination with Regional Planning Groups

The service area of the City of Abilene is currently located within the Brazos G Regional Water Planning Area. The City of Abilene will cooperate and provide information regarding the Plan as needed to all Regional planning area groups.

Sec. 32-143.2 Public Involvement

The adoption of this Plan and any amendments will provide for public input at a public hearing held in conjunction with one of the readings of said ordinance enacting the Plan or amendments thereto.

Sec. 32-143.3 Public Education of Action on Water Conservation Stages

In conjunction with Section 32-141, the initiation and termination of any drought response stage (Water Conservation Stage) shall be announced to the public and wholesale customers at a media conference, and shall become effective immediately upon such announcement. In addition to public announcements of initiation and termination of a Water Conservation Stage and Year Round Water Use Management information, continuing public education and information regarding the Plan shall be publicized via posting on the City's website.

DIVISION 2 WATER CONSERVATION PLAN PROCEDURES

Sec. 32- 145. Water Conservation Stages

WATERING DAYS

1. During Water Conservation Stages, a customer's watering day is determined by the last digit of the house number or property address. Multi-unit properties will use the lowest address number. Customers on rural routes will use the last number of their post office box number or their route number if they do not have a post office box number. Customers at Ft. Phantom Lake will use the last number of their lake lot. Customers in trailer parks will use the last number of their lot number.

If a residential customer's last number is:	Customer's watering day is:
7 or 8	Sunday
9	Monday
0	Tuesday
1	Wednesday
2	Thursday
3 or 4	Friday
5 or 6	Saturday

For example: If an address is 555 Walnut Street, the last number is five (5) and the watering day is Saturday.

For purposes of this section only, residential usage includes single-family residences, multifamily residences and apartment complexes. Non-residential customers shall follow the above

schedule with the exception of the following changes:

7 or 8	Wednesday
5 or 6	Tuesday

2. Bi-weekly watering as prescribed in Stage 2 will occur according to location in East or West sides of the City, bounded on the north side of the City by Grape St. and then Pine St. to the north City Limits (north of Grape St.) and on the south side of the City by Sayles Blvd. to Buffalo Gap Road and then Buffalo Gap Road to the south City Limits.
3. Entities with large, open spaces (e.g., schools, universities, city parks, golf courses) using potable water may submit alternate watering schedules to the Director of Water Utilities except as otherwise prohibited in this ordinance. Upon his/her written approval acknowledged by the entity in question, these entities may follow the approved schedule rather than the calendar system, and will be held responsible for all the provisions of this article, based on the approved schedule.

STAGE 1 WATER ALERT

Implementation Criteria:

Combined treatment plant pumpage in excess of 49.5 MGD for two (2) consecutive days; or, continually falling water storage facility levels which do not refill above fifty (50) percent overnight; or, depletion of the Ft. Phantom Reservoir to the elevation 1625.9 (ten (10) feet below spillway) if Hubbard Creek Reservoir is at sixty (60) percent capacity or less or 1624.9 (eleven (11) feet below spillway) if Hubbard Creek Reservoir is at greater than sixty (60) percent of capacity, or any unforeseen conditions that may occur that cause the City Manager to recommend implementation to the Mayor.

Upon announcement and implementation by the City of Stage 1 Water Alert, the following restrictions shall apply to all persons during Stage 1 Water Alert:

1. Landscape Irrigation
 - a. Irrigation by all commercial, industrial, (including agricultural irrigation), and residential customers utilizing individual sprinklers, or sprinkler systems, of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every seven (7) days and then only during the hours of 12:00 midnight to 10:00 a.m. and from 6:00 p.m. until 12:00 midnight.

Provided, however, irrigation of gardens, flowerbeds, trees and shrubs is permitted at any time of day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used, or
- iii. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto

soil surface or below soil surface without airborne streams or droplets.

Irrigation of LAWNS is permitted at any time on any day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used.

A Drip Irrigation System SHALL NOT be used to irrigate LAWNS except on designated days and at designated times.

- b. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least (50) percent of a new yard.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
- c. Charity car washes are prohibited.

- 3. Water may be added to swimming pools to sustain appropriate maintenance levels only on designated irrigation days.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.
- 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
- 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more

than seventy-five (75) feet from the downgrade of the property line;

- b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
- c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
- d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health and safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

- a. Commercial and industrial users of water shall, in addition to complying with other applicable articles in this ordinance, reduce their monthly consumption of water by a minimum of fifteen (15) percent compared to use during the same month of the previous year.
- b. Industrial users may, in order to justify water use, present a conservation plan for approval by the Director of Water Utilities.
- c. Golf courses will submit a conservation plan for approval by the Director of Water Utilities if potable irrigation water is to be used.

STAGE 2 WATER WARNING

Implementation Criteria:

Combined treatment plant pumpage in excess of 49.5 MGD for two (2) days; or, continually falling water storage facility levels which do not refill above fifty (50) percent overnight or, depletion of the Ft. Phantom Reservoir to the elevation 1618.9 (seventeen (17) feet below spillway); or, major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to recommend implementation to the Mayor.

Upon announcement and implementation by the City of Stage 2 Water Warning, the following restrictions shall apply to all persons during Stage 2 Water Warning:

1. Landscape Irrigation

- a. Irrigation by all commercial, industrial and residential customers utilizing individual sprinklers, or sprinkler systems, of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every two (2) weeks and then only during the hours of 12:00 midnight to 10:00 a.m. and from 6:00 p.m. until 12:00 midnight.

Provided, however, irrigation of gardens, flowerbeds, trees and shrubs is permitted at any time of day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used, or
- iii. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Irrigation of lawns is permitted at any time on any day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used.

A Drip Irrigation System shall not be used to irrigate LAWNS except on designated days and at designated times.

- b. New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseedling of existing lawns shall NOT qualify for new lawn status in this section.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.
 - b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
 - c. Charity car washes are prohibited.
3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation day.
4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water

and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.

5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

- a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

Individual allotments may be adjusted by the Director based on historical water usage conservation practices of customer. The other restrictions of Stage 2 still apply to commercial and industrial users.

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.
- c. Golf courses using potable water will reduce consumption by thirty (30) percent of contracted amount.

STAGE 3 WATER EMERGENCY

Implementation Criteria:

Combined treatment plant pumpage in excess of 30 MGD for three (3) days and depletion of the Ft. Phantom Reservoir to the elevation 1614.9 (twenty-one (21) feet below spillway); or major line

breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to recommend implementation to the Mayor.

Upon announcement and implementation by the City of Stage 3 Water Emergency, the following restrictions shall apply to all persons during Stage 3 Water Emergency:

1. Landscape Irrigation

Irrigation of gardens, flowerbeds, trees and shrubs (Not Lawns) by all commercial, industrial, and residential customers is permitted at any time on any day only if:

- a. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- b. A faucet-filled container of five (5) gallons or less is used, or
- c. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Watering of Lawns is prohibited at any time. No new lawns may be installed.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
- c. Charity car washes are prohibited.

3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation days. New construction of swimming pools is prohibited.
4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day. New construction of ornamental fountains is prohibited.
5. Use of water from fire hydrants shall be limited to fire-fighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.

6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
- a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or a parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

- a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount per 1,000 gallons	\$5.00	\$10.00
Next 5,000 gallons per 1,000 gallons	10.00	20.00
For higher usage per 1,000 gallons	20.00	30.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 3, the customer's water may be turned off and there will be a \$250.00 re-connect fee, in addition to the listed fees.

Individual allotments may be adjusted by the Director of Water Utilities based on historical water usage conservation practices of customer. The other restrictions of Stage 3 still apply to commercial and industrial users.

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.

- c. Each golf course using potable water will reduce consumption by fifty (50) percent of contracted amount.

STAGE 4 WATER CRISIS

Implementation Criteria:

Loss of capability to provide water service or contamination of supply source, or any unforeseen/unexpected conditions that may occur that cause the City Manager to recommend implementation to the Mayor.

Upon announcement and implementation by the City of Stage 4 Water Crisis, the following restrictions shall apply to all persons during Stage 4 Water Crisis:

1. All outdoor irrigation of vegetation including lawns, using potable water is prohibited.
2. Only washing of mobile equipment in the critical interest of the public health or safety shall be allowed.
3. The filling, refilling or adding of water to swimming and/or wading pools is prohibited. The construction of new swimming pools is prohibited.
4. The operation of any ornamental fountain or similar structure is prohibited. The construction of new ornamental fountains is prohibited.
5. Use of water from fire hydrants shall be limited to fire fighting and related activities or other activities necessary to maintain public health, safety and welfare. Water for domestic use only may be purchased from the bulk loading station.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards.

7. Commercial and Industrial Users

- a. Commercial and industrial users of water (for other than drinking water and rest rooms) shall continue to maintain at least a 15 percent reduction of water use compared to use during the same month of the previous year.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount per 1,000 gallons	\$10.00	\$20.00
Next 5,000 gallons, per 1,000 gallons	\$20.00	\$40.00
For higher usage, per 1,000 gallons	\$30.00	\$60.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 4, then after each such overuse these surcharges will be added and the customer's water may be turned off and there will be a \$500.00 re-connect fee, in addition to the listed fees.

Individual allotments may be adjusted by the Director of Water Utilities based on historical water usage and conservation practices of the customer. The other restrictions of Stage 4 still apply to commercial and industrial users.

- b. Water used for industrial purposes not in the immediate interest of the public health, safety and welfare will be curtailed to the extent necessary to effectuate the needs and purposes of this plan.

EXHIBIT B

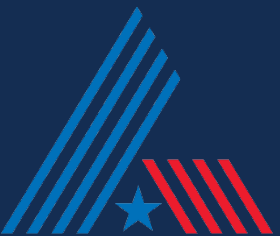
List of Customers of Purchaser existing within the City of Abilene's protected service area on the Effective Date of Contract.

NONE

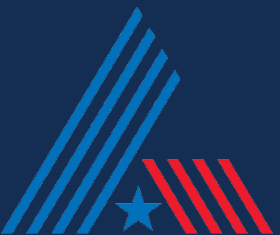
Resolution Authorizing the Renewal of the Water Supply Contract with the Hawley Water Supply Corporation.



- **The City of Abilene has been contracted with the Hawley Water Supply Corporation (HWSC) since 1965.**
- **The current Water Supply Contract was effective January 1, 2004 and has an effective period of 40 years.**
- **The HWSC is planning for infrastructure improvements to increase the capacity of its water supply system that will be funded through the United States Department of Agriculture - Rural Utilities Service (RUS) program.**



- The RUS requires that certain terms and conditions be incorporated into the Water Supply Contract including establishing a new 40-year period that coincides with the period of the RUS funding.
- The renewed water supply contract also incorporates a fixed Base Contract Amount, and establishes a new Connection Charge applicable when adding a new Delivery Point or increasing the Maximum Delivery Rate of an existing Delivery Point.



**Resolution Authorizing the Renewal of the
Water Supply Contract with the
Hawley Water Supply Corporation.**

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Cande Flores, Fire Chief

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion and Take Action on Executing a Professional Services Contract with West Texas Occupational Corporate Health Solutions (WTX-OCHS) and Screening For Life to Conduct Annual Medical Physicals for Employees of the Abilene Fire Department (Cande Flores).

GENERAL INFORMATION

General Information:

National Fire Protection Agency (NFPA) 1582 outlines procedures for annual firefighter medical testing and physicals. NFPA 1582 is a national standard followed by the majority of Texas fire departments, including the Abilene Fire Department.

SPECIAL CONSIDERATIONS

The WTX-OCHS Director, Stacy Garley, has been providing annual medical physicals for the AFD since 2007 and is well acquainted with NFPA 1582 and the physical requirements of AFD personnel. WTX-OCHS previously operated in Abilene under the name of Abilene Diagnostic Clinic.

WTX-OCHS will offer the standard annual physical evaluation that is required each year for AFD employees. Screening For Life will conduct advanced physical screenings specific towards fire service related tumors and cancers.

FUNDING/FISCAL IMPACT

The total cost of these professional services contracts are quoted at \$72,058.00 for WTX-OCHS, and \$7,875.00 for Screening For Life for a total cost of \$79,933.00. Total funding will come

from the AFD FY22 Budget.

STAFF RECOMMENDATION

Staff recommends approval of the Resolution to authorize the execution of the professional services contracts with West Texas Occupational Corporate Health Solutions and Screening For Life to conduct annual medical physicals for all AFD employees.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution - 2022 Annual Physicals
2. Screening4Life Quote
3. WTOCHS Quote
4. 2022 Annual Physicals Presentation

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES CONTRACTS WITH WEST TEXAS OCCUPATIONAL CORPORATE HEALTH SERVICES (WTX-OCHS) AND SCREENING FOR LIFE FOR ANNUAL MEDICAL PHYSICALS FOR EMPLOYEES OF THE ABILENE FIRE DEPARTMENT.

WHEREAS, the Abilene Fire Department (AFD) is guided by the National Fire Protection Agency (NFPA) 1582 to provide annual medical physicals to all fire department employees.

WHEREAS, WTX-OCHS is an approved vendor for the City of Abilene and possesses all the necessary resources to conduct the annual physical process for the AFD since 2007.

WHEREAS, the AFD is required to provide an annual physical evaluation for each firefighter in accordance with the current Meet and Confer Agreement between the City of Abilene and the Abilene Professional Fire Fighters Association, IAFF Local 1044.

WHEREAS, this service contract will provide a medical physical, consistent with NFPA 1582 guidelines, for all AFD personnel.

WHEREAS, \$79,933.00 will be funded through the AFD Fiscal Year 2022 Budget.

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 Professional Services Contracts with WTX-OCHS and Screening For Life for the purpose of providing annual medical physicals to all AFD employees.

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

ADOPTED and approved by the City Council on the 27th of January, 2022.

ATTEST:

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

APPROVED:

Stanley Smith
City Attorney

PROJECT PROPOSAL

COMPANY: Abilene Fire Department

Description of Services: 2022 Annual Physical Screenings

Date: 01/18/2022

TOTAL PROJECT COST: \$7,875.00

SELECT 45:

- Screening Echocardiogram Ultrasound
- Screening Carotid Ultrasound
- Screening Thyroid Ultrasound
- Screening Abdomen Ultrasound
- Screening Pelvis Ultrasound
- Screening Testicular/Scrotum Ultrasound

Rate: \$175.00 per AFD Member

Estimated: \$7,875.00 for 45 AFD Members

CARDIOVASCULAR SCREENING PRICES

- Echocardiogram (heart) Screening
- 12 Lead EKG
- Carotid Artery Screening
- Intima-Media Thickness Measurement (IMT)
- Aortic Aneurysm Screening (AAA)

Rate: \$175.00 per AFD Family Member

CONTACT:

Michele Lee | President
Screening for Life, LLC
6410 Buffalo Gap Road, Suite C, Abilene, Texas 79606
Email: mlee@screening4life.us
PH: (325) 692-4410 CELL: (325) 864-9786



WEST TEXAS OCCUPATIONAL CORPORATE HEALTH SOLUTIONS

PROJECT PROPOSAL

Company: Abilene Fire Department

DESCRIPTION OF SERVICES: 2022 Annual Physicals

DATE: 1/14/2022

TOTAL PROJECT COST: \$72,058.00

BASIC (PRIMARY GROUP)

- PHASE I: LABS – A1C, CBC, CMP, LIP, UA, PSA (≥ 40 yrs or older and/or w/History)
- PHASE II AND PHASE III: OSHA Audio, Pulmonary Function Test w/Respiratory Clearance, Resting EKG, and Physical Exam with Component Review.

RATE: \$264.00 per AFD member
Estimated \$ **40,128** for 152 AFD Members.

SELECT “45”

- PHASE I: **LABS** – A1C, CBC, CMP, LIP, UA, PSA, TSH, Testosterone, AFP, CA 19-9, **CA 15-3** Amylase/Lipase
- PHASE II AND PHASE III: OSHA Audio, Pulmonary Function Test w/Respiratory Clearance, Resting EKG, and Physical Exam with Component Review.

RATE: \$425.00 per AFD member
Estimated **\$19,125** for 45 AFD Members.

CHEST X-RAYS

CXR – Chest Radiographs

- CXR 2-VIEW with INTERPRETATION

RATE: \$ 65.00 per AFD member
Estimated **\$12,805** for 197 AFD Members.

CONTACT:

Stacy L. Garley, BS, TRS , COHC | Director

West Texas Occupational Corporate Health Solutions

1665 Antilley Road, Suite 100, Abilene, Texas 79606

E-Mail: sgarley@abilenedc.com or team@wtx-ochs.com

PH: (325) 437-8618 EXT. 5720 Cell: (325) 260-5606 FAX: (325) 794-5352

Annual Medical Physicals

ABILENE FIRE DEPARTMENT

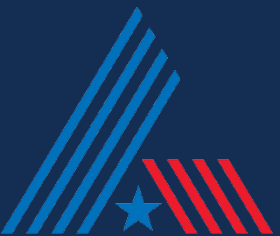
January, 2022



ANNUAL PHYSICALS

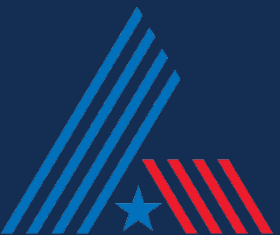
AFD Conducts Annual Medical Physicals For All Employees

- Requirements based on NFPA 1582: Standard on Comprehensive Occupational Medical Program for Fire Departments
- Meet & Confer Contract: Article 11
“an annual physical examination will be conducted for each firefighter at no cost to the firefighter”
- Allows for medical history to be monitored throughout a career
- Identifies abnormalities before they become major issues
- Supports maintaining a healthy workforce
- Assists in reducing risks and improving safety



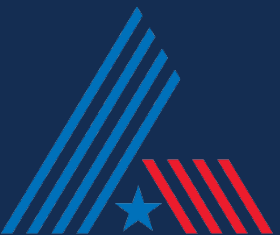
NFPA 1582

- Promotes Annual:
 - Physical Examination
 - Chest X-rays
 - Cancer Screening
- Focus is on early detection of hidden health issues
- Required Medical Testing:
 - Blood Analysis
 - Urinalysis
 - Pulmonary Function Test
 - Chest X-ray (Every 5 years)
 - EKG
 - Infectious Disease Screening
 - Audiometric Exam
 - Vision Testing
- Advanced Screenings
 - One-Quarter of AFD personnel will received advanced screening each year
 - One-quarter rotation results in every firefighter receiving advanced screenings each four years
 - Advanced screenings include ultrasound of major organs and additional blood work to screen for cancer markers



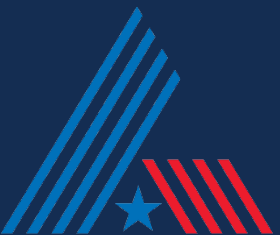
WTX-OCHS

- West Texas Occupational Corporate Health Solutions
 - Formerly Abilene Diagnostic Clinic
 - 1665 Antilley Road, Suite 100
- Specializes in Occupational Medicine
- Current City of Abilene Vendor
- Director, Stacy Garley, has overseen AFD physicals since 2007
- Familiar with the physical demands of firefighting
- Qualified physicians involved with the process



WTX-OCHS PRICING

- Base pricing is set at \$264 per employee
- Advanced Screening is \$425 per employee
 - Select “45”
 - Covers advanced lab screenings for cancer markers and thyroid issues
 - One-fourth of AFD personnel (rotating basis)
- Total quote of \$72,058.00
 - Additional testing may increase the overall price



SCREENING FOR LIFE PRICING

- Rate of \$175 per employee
- Select “45” only
- Advanced Screenings
 - Ultrasound of all major organs
 - 12-lead EKG
 - Echocardiogram Screening
 - Carotid Artery Screening
 - Intima-Media Thickness Measurement (IMT)
 - Aortic Aneurysm Screening (AAA)
- Total Quote of \$7,875.00

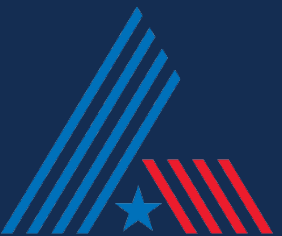


FUNDING

- Total Costs - \$79,933.00
 - Follow-up testing may increase overall costs by a small amount
- Specialized medical services do not require competitive bidding
- Funding will come from the Abilene Fire Department FY22 Budget



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Chief Building Official

SUBJECT: **11. Ordinance (First Reading) Z-2021-38: Receive a Report, Hold a Discussion and Take Action on a request from Exceptional Holdings LP (represented by Michael Burton) to amend terms and conditions of Planned Development District Number 122 (a.k.a. PD 122) specifically to modify the requirement for screening along or near the north and east boundaries of a tract occupied by an existing restaurant building at 3001 South Danville Drive (Tim Littlejohn)**

GENERAL INFORMATION

Amendment to the Terms and Conditions of Planned Development District 122 (PDD 122)

SPECIAL CONSIDERATIONS

The applicant is requesting to amend one section of the PD language that affects Tract 1. This section is specifically listed under Site Development requirements, Screening and Fencing (Part 7; II; D; 2):

“There shall be a solid evergreen hedge along the northern and eastern boundary of Tract 1. Plant materials selected shall be of a variety to achieve a minimum height of 8 feet within 3 years of planting and shall be spaced to provide an effective visual barrier to properties along High Meadows Drive and Wisteria Way. Visibility corners at driver entrances shall be maintained.”

The applicant is now requesting that Part 7; II; D;2 within the Planned Development District ordinance be amended to instead require a 36-inch tall continuous hedge, fence, wall, berm, or combination of these along property boundaries where parking lot areas are visible from residentially zoned districts.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request by a vote of 4-0.

ATTACHMENTS:

1. Z-2021-38 Council Ordinance
2. Z-2021-38 Staff Report
3. Z-2021-38 Council Presentation

ORDINANCE NO. _____

EXHIBIT "A"

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-122, A PLANNED DEVELOPMENT DISTRICT, AND ORDINANCE NUMBER 02-2008; 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 02-2008; 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 27th day of January, 2022.

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 18th day of December, 2021, the same being more than fifteen (15) days prior to a public hearing held at the Abilene Public Library's South Branch in the Mall of Abilene at 4310 Buffalo Gap Road in Abilene, Texas, at 8:30 a.m. on the 10th day of February, 2022, 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 10th day of February, 2022.

ATTEST:

Shawna Atkins,
CITY SECRETARY

Anthony Williams,
MAYOR

APPROVED:

Stanley Smith,
CITY ATTORNEY

Exhibit "A"

1st Amendment to Ordinance No. 02-2008.

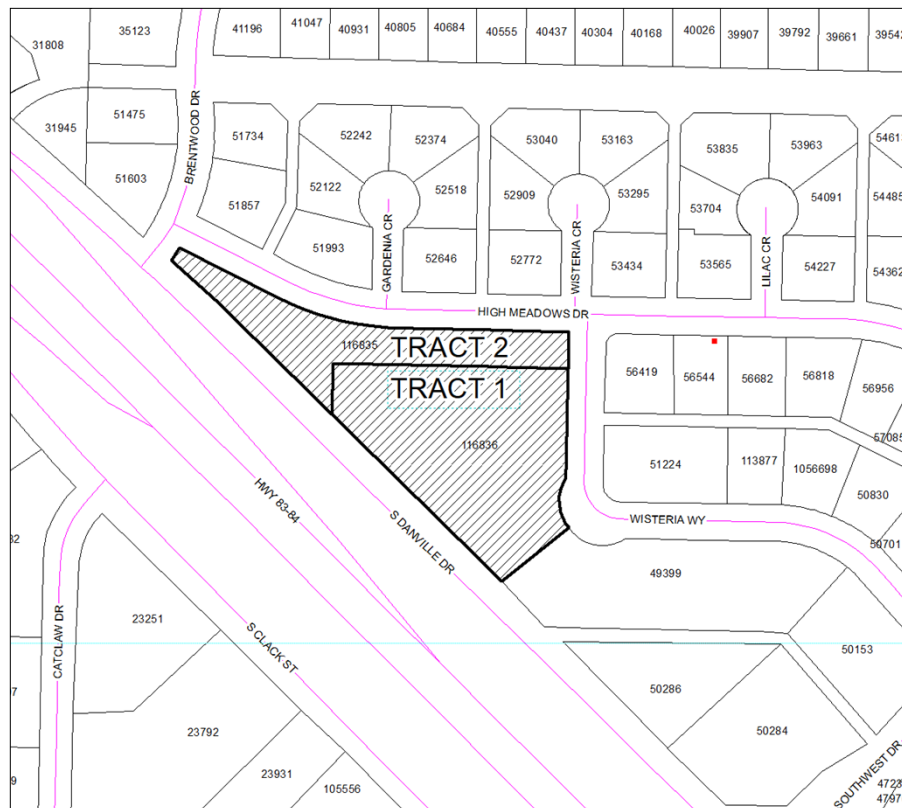
PART 7:Specific Modifications: The following regulations shall govern the use and development of this Planned Development District:

DELETE: D. Screening and Fencing:

(2). There shall be a solid evergreen hedge along the northern and eastern boundary of Tract 1. Plant materials selected shall be of a variety to achieve a minimum height of 8 feet within 3 years of planting and shall be spaced to provide an effective visual barrier to properties along High Meadows Drive and Wisteria Way. Visibility corners at drive entrances shall be maintained.

ADD: D. Screening and Fencing:

(2). Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned properties, whether adjacent or across a street, by a continuous hedge, fence, wall, berm, or combination of these, with a minimum height of 36 inches. Said screening must be provided along the property boundary separating Tract 1 and Tract 2 in the provided exhibit as well as along the eastern property boundary of Tract 1.



Location: 2901, and 3001 S. Danville Drive, Abilene, Texas

END

ZONING CASE Z-2021-38

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: January 4, 2022

City Council 1st Reading: January 27, 2022

City Council 2nd Reading: February 10, 2022

Applicant

Owner: Exceptional Holdings LP

Agent: Michael Burton

Request

Amendment to the Terms and Conditions of Planned Development District 122 (PDD 122)

Location

2901, and 3001 S. Danville Drive, Abilene, Texas.

Background

Planned Development (PD) District 122 was created in 2008 (02-2008). This PD is split into two (2) tracts of land, Tract 1 being Lot 102, Block A, of FD Abilene and Tract 2 being Lot 1, Block A, FD Abilene. The applicant owns both tracts. The current specific modifications of this PD permit Tract 1 to have a base zoning of a General Retail District, whereas Tract 2 is restricted to Residential Single Family (RS-6) district standards, however, this tract it is to remain undeveloped and can only be used as green space for passive recreational purposes.

The applicant is requesting to amend one section of the PD language that affects Tract 1. This section is specifically listed under *Site Development requirements, Screening and Fencing* (Part 7; II; D; 2):

“There shall be a solid evergreen hedge along the northern and eastern boundary of Tract 1. Plant materials selected shall be of a variety to achieve a minimum height of 8 feet within 3 years of planting and shall be spaced to provide an effective visual barrier to properties along High Meadows Drive and Wisteria Way. Visibility corners at driver entrances shall be maintained.”

The applicant is now requesting that Part 7; II; D;2 within the Planned Development District ordinance be amended to instead require a 36-inch tall continuous hedge, fence, wall, berm, or combination of these along property boundaries where parking lot areas are visible from residentially zoned districts.

Criteria Assessment

Section 1.4.1.4 of Abilene's 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.

This requested amendment does not affect the Comprehensive Plan nor the Future Land Use and Development Plan Map.

(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.

This amendment does not affect the permitted uses nor the standards applicable to such uses in the immediate area of the land.

(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 City staff that no other factors are present that would substantially affect the public health, safety, morals, or general welfare.

Staff Recommendation

Staff recommends approval, the requested revisions to the screening requirement are in compliance with the screening standards ordinarily applicable regarding the screening of commercial parking lots from residential zoning districts (LDC Section 4.2.4.2 (c))

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on December 17 of 2021, to the applicant and to other owners of property within a 200-foot radius of this subject property. These property owners and associated parcel identification numbers are identified in Table 1.

TABLE 1

Owner	Parcel ID	Situs	Response
AUGUSTUS ANTHONY & ADRIANNA	51475	2834 BRENTWOOD DR	
BENIVAMONDEZ FABIAN & JACQUELINE	51603	2842 BRENTWOOD DR	
BOYD LINDA JO	52518	15 GARDENIA CR	
BRENNAN RICHARD S SR	51734	2833 BRENTWOOD DR	
BROWNING LARRY & PAULA	52772	10 WISTERIA CR	
CANON TIMOTHY R	52646	5 GARDENIA CR	
CHAPAPOTE INVESTMENTS LLC	31945	2601 S DANVILLE DR	OPPOSED
DUDLEY R MICHAEL	52122	20 GARDENIA CR	OPPOSED
EXCEPTIONAL HOLDINGS LP	116836	3001 S DANVILLE DR	
EXCEPTIONAL HOLDINGS LP	116835	2901 S DANVILLE DR	
LIVING CHIC HOMES LLC	52909	20 WISTERIA CR	
MCBRIDE LISA SHERENE	56544	3933 HIGH MEADOWS DR	
MONHOLLON MICHAEL L & RACHEL	53565	10 LILAC CR	
NEWTON JOSEPH ADAM	51857	2841 BRENTWOOD DR	
PCKC LLC	50286	3117 S DANVILLE DR	
SECHRIST TIMOTHY R & JORI	56419	3949 HIGH MEADOWS DR	OPPOSED
SMITH DAVID & BRENDA	53434	5 WISTERIA CR	
SMITH JERRY DON & SHARON SUE	51993	10 GARDENIA CR	FAVOR
SMITH KYLE & CAROLYN	53295	15 WISTERIA CR	FAVOR
WISTERIA HEALTH HOLDINGS LLC	49399	3917 WISTERIA WY	
WISTERIA HEALTH HOLDINGS LLC	51224	3934 WISTERIA WY	

Attachments

Application

PowerPoint Presentation

Ordinance 02-2008

Land Development Code Section 4.2.4.2 (c)

Zoning Map

N
W E
S

Legend

- Z-2021-37
- RS-8: Residential Single-Family
- MD: Medium Density Residential
- GC: General Commercial
- PD: Planned Development
- Expressway

51945 GC RS-8 51603 51475 BRENTWOOD DR 51734 52242 52374 53040 53163 53635 52122 52618 52909 53295 53704 RS-8 51993 52646 52772 53434 53665

GARDENS DR HIGH MEADOWS DR WISTERIA DR WISTERIA WY

PD 115935 TRACT 2 TRACT 1 PD 115936 55419 RS-8 55444 51224 MD 49399 PD

OTTO NW DR S OAK ST S OAKVILLE DR HWY 55

23251 GC 23792 50286 GC 50284



Development Application

Planning

☐ Conditional Use
 ☐ Easement Release
 ☐ Rezoning
 ☐ Other
☒ PDD - NW
 ☐ Street Name Change
 ☐ Thoroughfare Abandonment
 ☒ PDD Amendment
 Other: _____

Project Name: Miguel's Mex Tex Cafe
 Address: 3001 S Danville Drive Abilene, TX No. of lots: _____ Acreage: _____
 Legal Description: ID 116836, F D ABILENE, BLOCK A, LOT 102 REP, ACRES 2.116 (FROM CITY CODE COMPLIANCE NOTICE)
 Subdivision Name: _____ Block: _____ Lot: _____
 Current Zoning: PDD Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: Exceptional Holdings, LP
 Address: 1902 Industrial Blvd
 City, State, Zip: Abilene, TX 79602 Fax: _____
 Phone: 325-698-2600 Email: mburton@exbrandstx.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) Michael Burton will act as my agent before the Planning and Zoning Commission.

Agent Name: Michael Burton
 Address: 1902 Industrial Blvd
 City, State, Zip: Abilene, TX 79602 Fax: 325-698-2355
 Phone: 325-698-2600 Email: mburton@exbrandstx.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: _____ Date: 10/18/21

FOR OFFICE USE ONLY

Received: 10/18/2021 Fee: \$ 1000 Receipt No.: 0001065383 (11/09/2021)
 Case No.: Z-2021-38 Reviewed By: NW



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.

Reference PDD-122, Ordinance No 02-2008, Exhibit A part 7,II, D, 2

We would like to amend the existing section D. "Screening and Fencing" by removing the requirement of an 8-foot evergreen hedge and instead require a 36-inch continuous hedge, fence, wall, berm or combination of these along all parking lot areas that are visible from residentially zoned districts.

All the reasons for this request were discussed at December 7th Planning & Zoning Meeting. Thank you for your consideration.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, CONCERNING PDD-122 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 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.

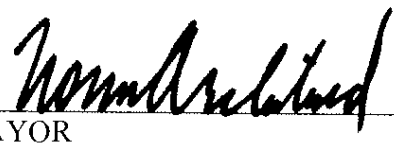
PASSED ON FIRST READING this 20th day of December A.D. 2007.

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 15th day of November, 2007, 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 10th day of January, 2008, 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 10th day of January, A.D. 2008.

ATTEST:

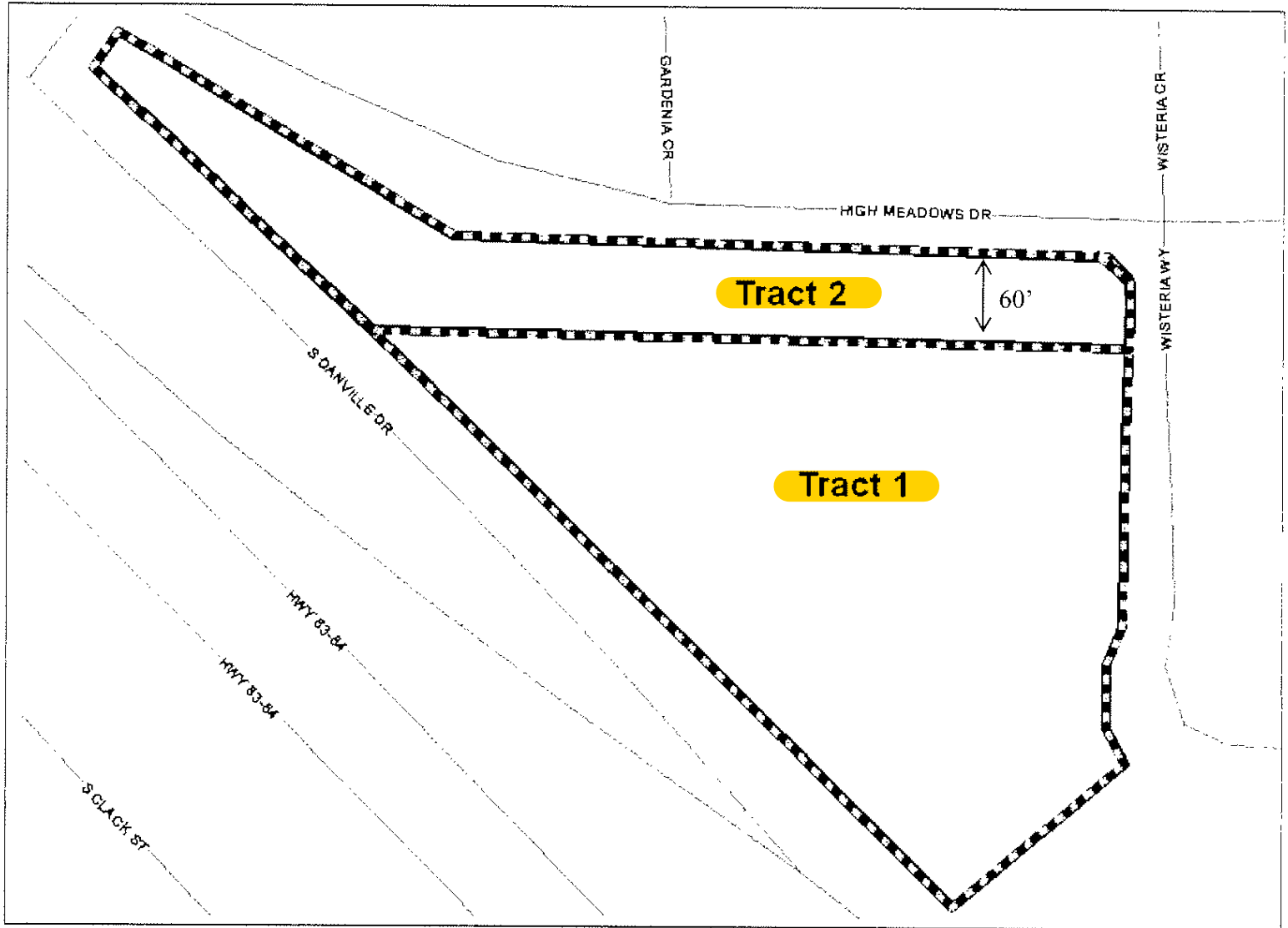

CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

Ordinance No. 02-2008
Exhibit "B"



ORDINANCE NO. 02-2008

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 District 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 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 LC (Limited Commercial) and RM-3 (Multi-Family Residential) to PDD (Planned Development 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:

Hedges Addition, Section 4, Block 3, Lots 320-301, and 208.

Tract 1: See "Exhibit B"

Tract 2: See "Exhibit B"

PART 6: Purpose. The purpose of the Planned Development District (PDD) request is to allow for mix of commercial and residential development: and related activities of a tract, which generally has not developed under present zoning and development procedures.

PART 7: Specific Modifications. The following regulations and the attached concept plan shall govern the use and development of this Planned Development District. Where there is a conflict between the ordinance text and concept plan, the ordinance text shall apply. The standards of the Shopping Center zoning district shall apply within Tract 1 of this Planned Development District and the standards of the RS-8 district shall apply within Tract 2 of this Planned Development District, unless specifically modified below.

I. PERMITTED USES:

A. Tract 1:

All uses allowed within Shopping Center zoning.

B. Tract 2:

Shall be regulated by the RS-6 zoning district standards.

- 1) The tract shall be replatted and remain as a single lot fronting on Wisteria Way.
- 2) This tract shall remain undeveloped except that it may be used as a green space or for passive recreational purposes including such facilities as gazebos, picnic tables and similar uses in no case shall the tract be covered by more than 25% impervious cover.

II. SITE DEVELOPMENT

A. Parking and ingress/ egress:

- 1) Streets and driveways shall comply with all applicable City of Abilene and State of Texas access management regulations, in addition to the following.
- 2) A maximum of one driveway shall be permitted from Wisteria Way to serve the entire PDD, and signage shall be installed to restrict delivery vehicles from using this drive.
- 3) A maximum of two drive connections shall be allowed onto S. Danville Drive.
- 4) There shall be no drive access to High Meadows Drive to/from any tract within this PDD.

B. Signage:

Signage within the PDD must comply with the requirements of the City's Sign Ordinance, except as modified by the following:

1) Freestanding Signs:

- a. There shall be 1 (one) pole sign for the entire PDD with a maximum height of 43' and a maximum of 225 square feet.
- b. Sign lighting shall be shielded from the view of residential properties. In addition, internally lit signs must use lighting and colors to avoid excessive spillover lighting on residential properties.
- c. Temporary signs and freestanding banners, are only permitted for real estate signs, including a "Coming Soon" sign, and a "grand opening" event within 30 days of the issuance of a Certificate Occupancy.
- d. Electronic message boards or movable LED type signage utilizing scrolling or animation are only permitted if the message or text does not change for a minimum of 15 seconds.

2) Wall signs:

Wall signage may not exceed 10% of the area of any wall on which the signs are located.

3) Banners:

- a. Banners shall only be located flat against the face of a building and shall count toward the maximum allowable wall signage.

4) Prohibited signs:

- a. Portable signs
- b. Streamers, pennants, balloons, and similar devices

C. Landscaping:

- 1) Landscaping in the PDD must comply with the requirements of the City's Landscaping Ordinance.

D. Screening and Fencing:

- 1) Facilities for power, air conditioning, mechanical equipment, including rooftop equipment, and solid waste handling shall be screened from view of publicly accessible areas.
- 2) There shall be a solid evergreen hedge along the northern and eastern boundary of Tract 1. Plant materials selected shall be of a variety to achieve a minimum height of 8 feet within 3 years of planting and shall be spaced to provide an effective visual barrier to properties along High Meadows Drive and Wisteria Way. Visibility corners at drive entrances shall be maintained

E. Sidewalks:

All development must comply with the requirements of the Sidewalk Master Plan except that no sidewalk shall be required along Tract 2.

F. Outdoor Storage and Display:

- 1) Outdoor storage and display is prohibited.
- 2) Freight containers are prohibited.
- 3) Outside speakers shall be limited to the building façade(s) facing S. Danville Dr.

G. Lighting:

All site lighting shall comply with the performance standards governing exterior illumination in the City of Abilene Zoning Ordinance. Additionally, all lighting shall be fully shielded and directed away from residential areas.

H. Traffic Control:

- 1) The property owner shall be responsible for the construction of 2 (two) speed humps along High Meadows Dr., if the speed humps are warranted by a traffic analysis conducted by the City of Abilene.
- 2) If the speed humps are not required at the time of development, a second traffic analysis will be conducted within 1 (one) year of the issuance of a Certificate of Occupancy, to determine

whether or not speed humps are warranted at that time. If warranted, the property owner is responsible for the construction costs of the speed humps.

- 3) If speed humps are required, the property owner shall only be responsible for costs up to \$6,000.00 (six thousand dollars) of the construction costs, with the City of Abilene responsible for the remainder, if necessary.

1. Building Materials:

- 1) A minimum of 10% of the exterior face of any building visible from publicly accessible areas, such as streets, driveways, parking lots, and walkways (loading areas are not included) shall be composed of brick, stone, decorative block, or similar materials.
- 2) The remaining area of the building face shall be limited to glass, EIFS, stucco, stucco-like finishes, or other similar materials.
- 3) Elevation plans shall be submitted with the Site Plan for review and approval by the Planning Director prior to site plan approval. Any variation in design or materials will be subject to review and may be permissible at the discretion of the Planning Director.

PART 8:

Development Schedule. If a building permit is not approved within 18 months of the date of this ordinance, the Planning Director may initiate rezoning of the PDD to the previous zoning designation.

- END -

Section 4.2.4.2 Land Use Buffers

(a) Buffer yards consisting of a minimum width landscaping area, landscape plantings, and/or walls or fencing are required between land uses of different intensities for the purpose of mitigating negative impacts such as noise, trash, light, and visual appearance.

(1) Type A Buffer is required between Residential Multifamily (MD and MF), Office (NO and O), College-University (CU), Medical Use (MU), or Neighborhood Retail (NR) districts and any lower intensity residential district. A Type A Buffer shall consist of a 5-foot wide buffer yard plus at least 15 points based on the points listed in subsection (3) below.

(2) Type B Buffer is required between Heavy Commercial (HC), General Commercial (GC), or General Retail (GR) districts and a residential district or between any Industrial district and any other non-industrial district other than Heavy Commercial (HC) and General Commercial (GC). A Type B Buffer shall consist of a 5-foot wide buffer yard plus at least 25 points based on the points listed in subsection (3) below.

(3) Points.

a. Opaque masonry wall with 6 foot minimum height = 15 points.

b. Opaque fence with 6 foot minimum height = 5 points.

c. An existing, continuous fence or wall on the adjacent property = 1/2 the points of a fence or wall on the subject property.

d. Each additional 5 feet of buffer yard = 5 points (maximum of 15 points).

e. One tree with a mature height of at least 20 feet and height of at least 8 feet at time of planting per 25 lineal feet of buffer yard = 10 points.

f. Three smaller trees per 25 lineal feet of buffer yard = 10 points.

(b) Buffer yards are required between adjacent uses as indicated. For purposes of this section adjacent includes properties separated by an alley, but does not include properties separated by a street.

(c) Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned property, whether adjacent or across a street, by a continuous hedge, fence, wall, berm, or combination of these, with a minimum height of 36 inches. This requirement shall not be required on expressways and major arterial roads.

(d) Open space in buffer yards shall be planted in grass or other vegetative ground cover, except for authorized driveways across the buffer yard or approved pedestrian facilities.

(e) Alternative buffering may be allowed through the site plan review process as long as the buffering and aesthetic intent of these requirements are met.

(Ord. No. 8-2010, pt. 1 (Exh. A), 4-22-10; Ord. No. 14-2015, pt. 1 (Exh. A, 4), 3-12-15)



Watts, Nick <nick.watts@abilenetx.gov>

[Planning] #Z-2021-38

4 messages

jerry smith <jd6593@sbcglobal.net>
To: planning@abilenetx.gov

Wed, Dec 1, 2021 at 12:15 PM

Parcel ID51993
Jerry Don & sharon smith
10 gardenia circle

We are not opposed to this, they maintain the area nicely, would like to see employee parking on wisteria and high meadows addressed because Miguel's staff all park on the streets causing congestion

--

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.
To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/636759C1-92A5-4686-8A57-3F73F2A28CAA%40sbcglobal.net>.

Watts, Nick <nick.watts@abilenetx.gov>
To: jerry smith <jd6593@sbcglobal.net>
Cc: Planning Services <planning@abilenetx.gov>

Wed, Dec 1, 2021 at 1:11 PM

Jerry,

Thank you for your response to Z-2021-38. Just for clarification purposes, are you IN FAVOR, IN OPPOSITION, or would you like to provide no opinion?

Nick Watts, MBA, CNU-A

Planner I & Historic Preservation Officer
Planning & Development Services
(325) 437-4585 (Office)
555 Walnut Street, Suite 100
Abilene, Texas 79601-5254

[Quoted text hidden]

jerry smith <jd6593@sbcglobal.net>
To: "Watts, Nick" <nick.watts@abilenetx.gov>

Wed, Dec 1, 2021 at 2:51 PM

In Favor

Sent from my iPhone

On Dec 1, 2021, at 1:12 PM, Watts, Nick <nick.watts@abilenetx.gov> wrote:

[Quoted text hidden]

Watts, Nick <nick.watts@abilenetx.gov>
To: jerry smith <jd6593@sbcglobal.net>

Wed, Dec 1, 2021 at 2:56 PM

Jerry,

Thank you for your timely response.

[Quoted text hidden]

[Quoted text hidden]

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2021-38

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: SMITH KYLE & CAROLYN

Parcel I.D.: 53295

Address: 15 WISTERIA CR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: Kyle H. Smith

I am in favor so long as the residents in this area do not see any good reason why the hedge should not be removed. (I have not lived in Abilene for 13 years so I am not familiar with the pros and cons).

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.

CASE #: Z-2021-38

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: DUDLEY R MICHAEL
Parcel I.D.: 52122
Address: 20 GARDENIA CR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: Mike Dudley

DEC 3 PM 3:33

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.

CASE #: Z-2021-38

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: SECHRIST TIMOTHY R & JORI

Parcel I.D.: 56419

Address: 3949 HIGH MEADOWS DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____

DEC 7 PM12:01

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.

CASE #: Z-2021-38

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: CHAPAPOTE INVESTMENTS LLC

Parcel I.D.: 31945

Address: 2601 S DANVILLE DR

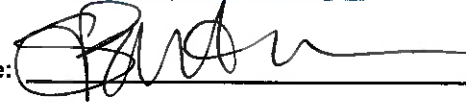
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

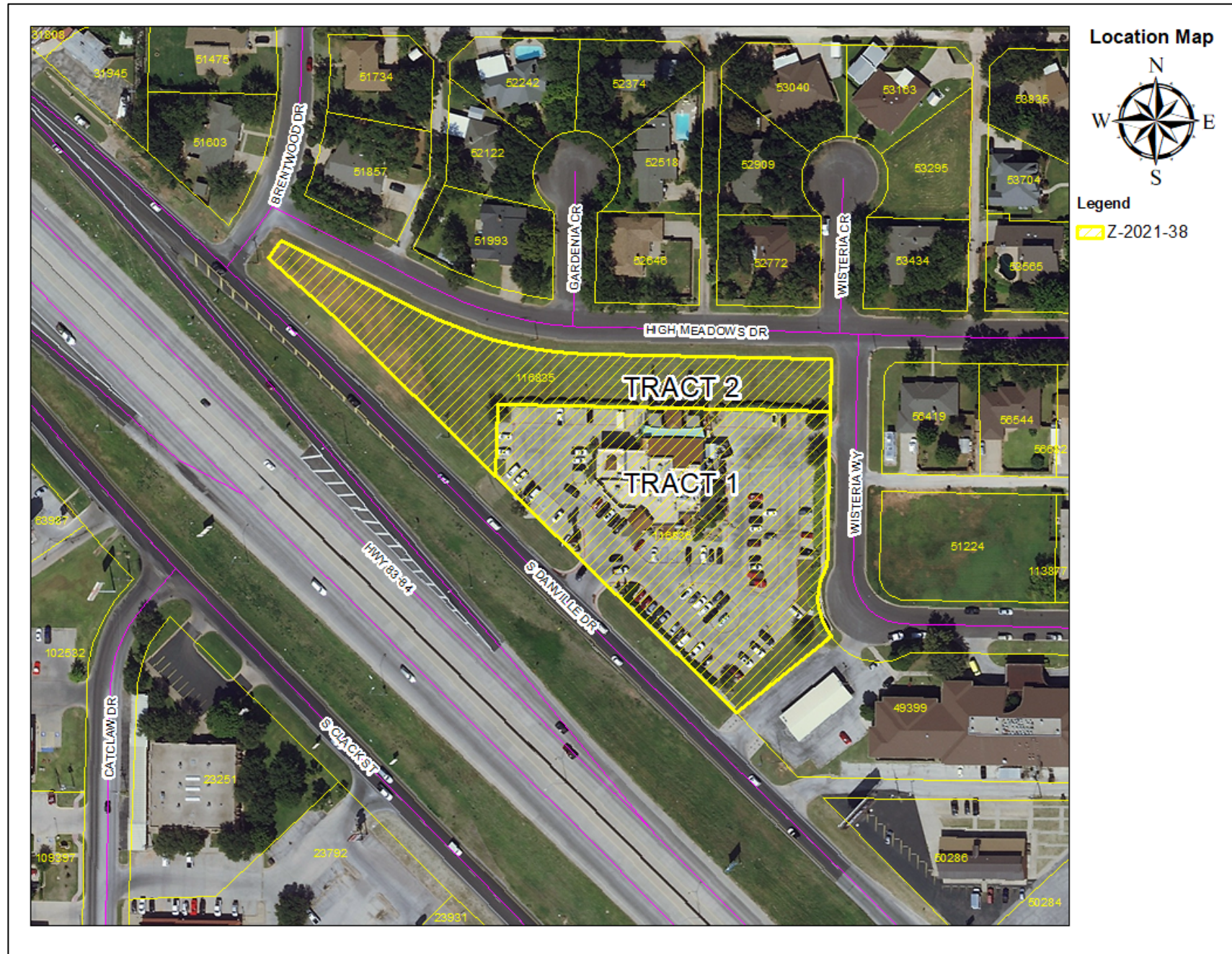
Signature: _____



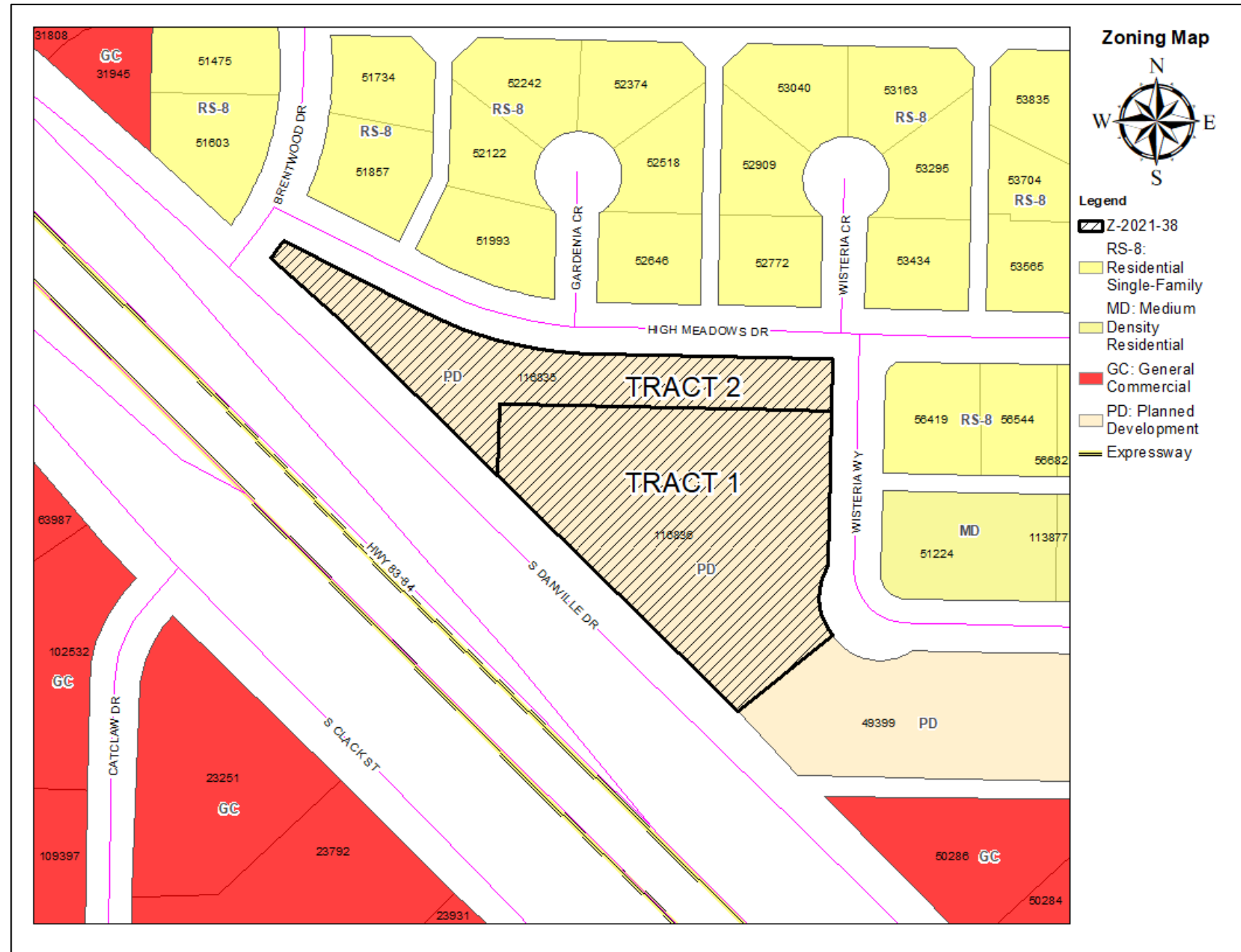
DEC 15 AM 10:26

Case:	Z-2021-38
Owner:	Exceptional Holdings LP
Agent:	Michael Burton
Request:	Amendment to the Terms and Conditions of Planned Development 122
Location:	2901 and 3001 S. Danville Drive
Notification:	2 in Favor, 3 Opposed
Planning & Zoning:	Approval, January 4, 2022

Z-2021-38 LOCATION MAP



Z-2021-38 ZONING MAP



Ordinance 02-2008

PART 7; (II.) SITE DEVELOPMENT; (D.) SCREENING AND FENCING

“There shall be a solid evergreen hedge along the northern and eastern boundary of Tract 1. Plant materials selected shall be of a variety to achieve a minimum height of 8 feet within 3 years of planting and shall be spaced to provide an effective visual barrier to properties along High Meadows Drive and Wisteria Way. Visibility corners at drive entrances shall be maintained”.

PD-122 AMENDMENT:

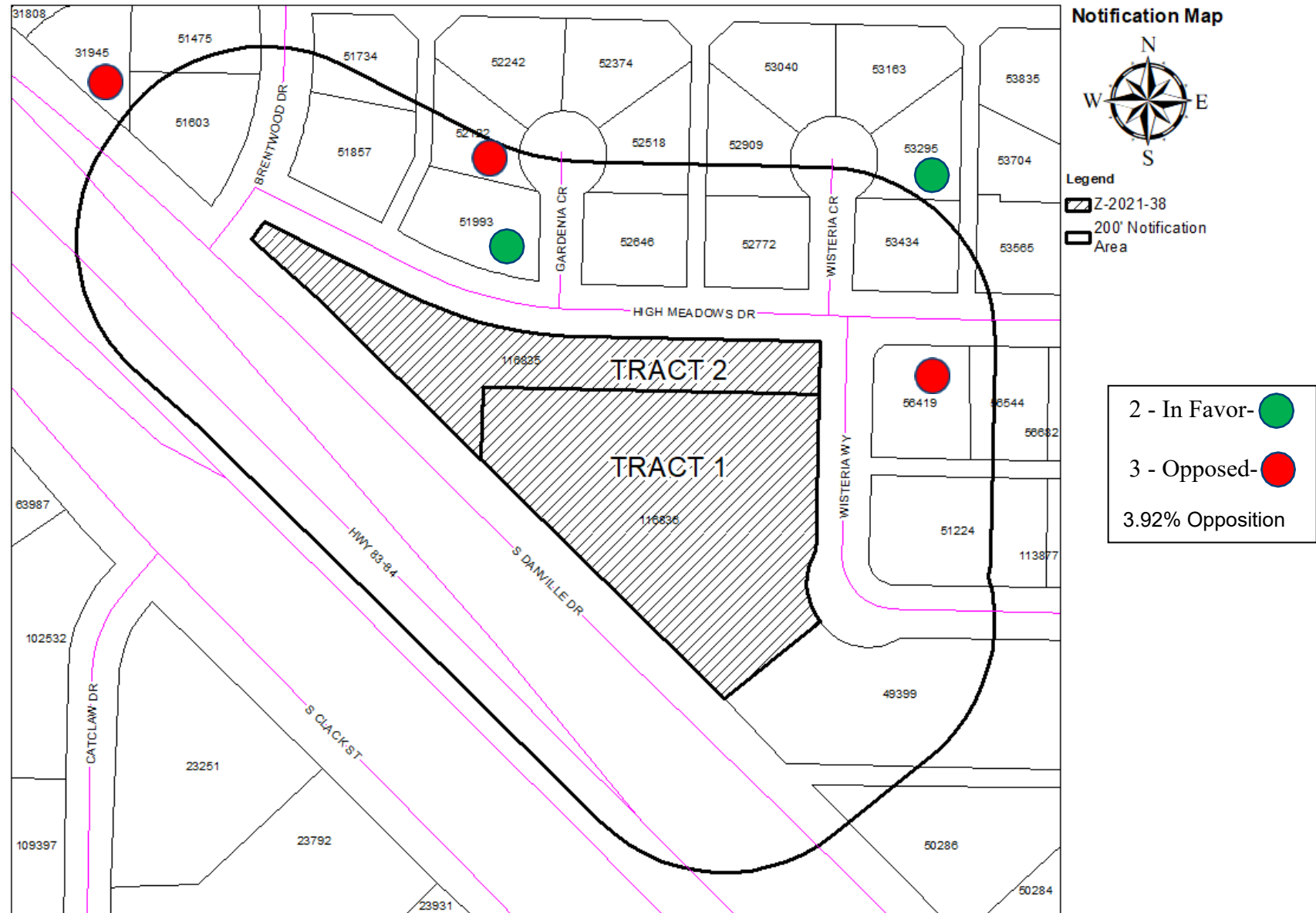
PART 7; (II.) SITE DEVELOPMENT; (D.) SCREENING AND FENCING

“Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned properties, whether adjacent or across a street, by a continuous hedge, fence, wall, berm, or combination of these, with a minimum height of 36 inches. Said screening must be provided along the property boundary separating Tract 1 and Tract 2 in the provided exhibit as well as along the eastern property boundary of Tract 1.”

Z-2021-38 VIEWS OF SUBJECT & ADJACENT PROPERTIES



Z-2021-38 NOTIFICATION AREA MAP



- Consistent with the *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: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Chief Building Official

SUBJECT: **12. Ordinance (First Reading) Z-2022-01: Receive a Report, Hold a Discussion and Take Action on a request from Lien Jung and Yi-Chien (represented by Jacob & Martin LLC) to change zoning from Agricultural Open Space (AO) to a Planned Development (PD) District allowing landscape contractor services, in addition to uses commensurate with General Retail zoning, on approximately 12.94 acres of now-vacant land at the southwest corner of Antilley Road and Fairway Oaks Boulevard in south Abilene *(Tim Littlejohn)***

GENERAL INFORMATION

The request is to rezone from Agricultural Open (AO) to a Planned Development (PD) District allowing uses commensurate with General Retail (GR) zoning as well as landscaping contractor services.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request by a vote of 5-0.

ATTACHMENTS:

1. Z-2022-01 Council Ordinance
2. Z-2022-01 Staff report
3. Z-2022-01 Council presentation

ORDINANCE NO. _____

EXHIBIT "A"

PAGE 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE," OF THE ABILENE CITY CODE, CONCERNING PD-175 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: 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 27th day of January, 2022.

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 18th day of December, 2021, the same being more than fifteen (15) days prior to a public hearing held at the Abilene Public Library's South Branch in the Mall of Abilene at 4310 Buffalo Gap Road in Abilene, Texas, at 8:30 a.m. on the 10th day of February, 2022, 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 10th day of February, 2022.

ATTEST:

Shawna Atkins,
CITY SECRETARY

Anthony Williams,
MAYOR

APPROVED:

Stanley Smith,
CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

PAGE 4

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.

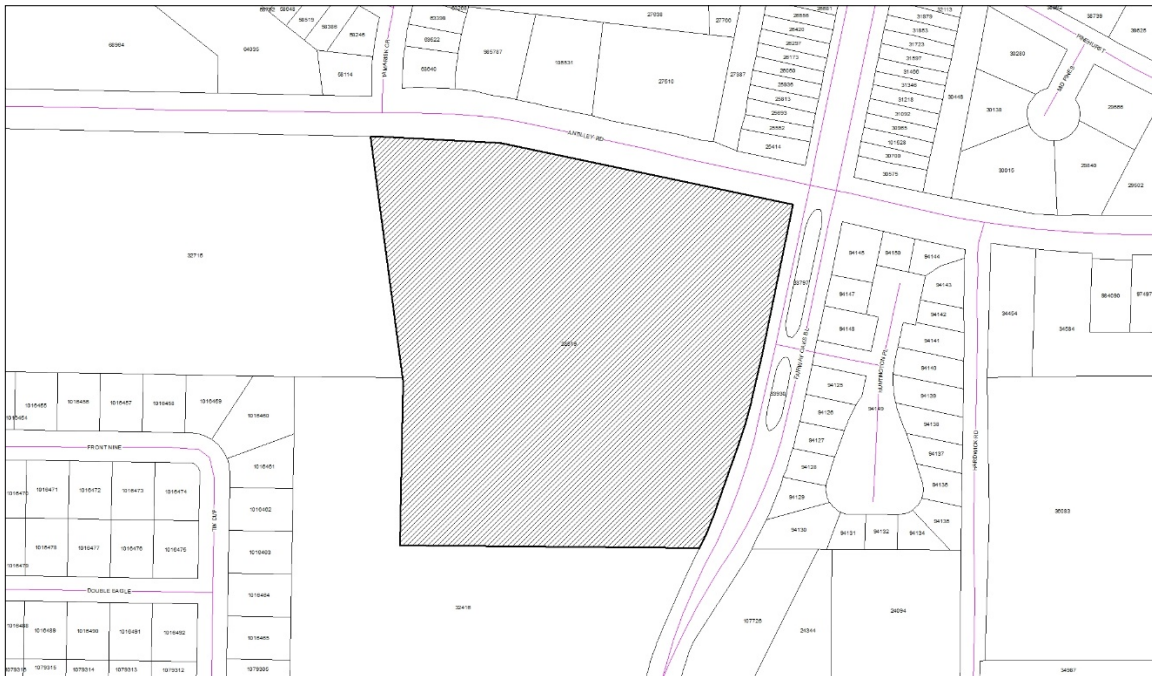
PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which 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 Land Development Code 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 ask hereinafter set forth: from Agricultural Open (AO) to Planned Development (PD) District.

PART 5: Legal Description. The legal description of this PD District is as follows: A tract containing 12.94 acres, more or less, out of a 19.30 acre tract out of Section 11, Lunatic Asylum lands, and the C.A. Donovan Survey, Taylor County, Texas, said 19.30 acre tract being described in a Warranty Deed dated July 17, 1984, from Hollis E. Swofford, Jr. and William F. (Pete) Baker to Paul F. Patterson, Jr. and wife, Connie J. Patterson, and recorded in Volume 1372, Page 805, of the Deed Records of Taylor County, Texas and being all of 19.30 are tract SAVE AND EXCEPT the following:

1. A tract containing 4.622 acres conveyed to Garden Homes at Fairway, Ltd., a Texas limited partnership, in a general warranty deed dated March 26, 1996, recorded in Volume 2147, Page 328, Official Public Records of Taylor County, Texas.
2. A tract containing 1.74 acres conveyed to the City of Abilene, Texas, in a warranty deed dated April 18, 1985, recorded in Volume 1400, Page 210, Official Public Records of Taylor County, Texas.



Location: 12.94 acres at the southwest corner of Antilley Road and Fairway Oaks Boulevard in south Abilene, Taylor County, Texas

PART 6: Purpose. The purpose of this Planned Development District is to allow landscaping contractor services on land which is otherwise reserved for general retail (GR) uses.

PART 7. Specific Modifications. The use and development of land and buildings in this Planned Development District shall generally be subject to requirements of the General Retail (GR) zoning classification, except as modified below:

A. Permitted Uses:

In addition to uses ordinarily allowed by right in General Retail (GR) Districts, landscaping contractor services shall also be permitted:

1. For the purpose of this ordinance, the term “landscaping contractor services” shall be construed to mean a business or enterprise engaged in altering or ornamenting an existing outdoor environment, specifically with living plant material such as lawn, groundcover, trees, shrubs, and flowers; and also including accessory outdoor elements such as fountains, pools, paved or decorative surfaces (excluding driveways, parks, loading or storage areas) as well as sculptural elements. Continued maintenance of all above-described features shall also be embraced by the term “landscaping contractor services”, but not the production of plant material.

B. Screening & Storage Requirements:

All requirements for screening, buffering and fencing (including limitations on outside storage and display) that are ordinarily applicable in General Retail zoning districts shall be applicable in this Planned Development District, as well as the following additional requirements:

1. Storage of tools and equipment (not displayed for sale) commonly associated with landscaping contractor services must be enclosed indoors and out-of-view from beyond the bounds of this district; or completely screened from view outside the bounds of this district, by a solidly opaque fence or wall at least six feet (6') high or higher if necessary for complete screening but, in no circumstance, higher than ten feet (10'). This includes any type of trailer or semi-trailer, any type of motorized equipment for earthmoving or dredging, and any commercial vehicle having a rated capacity of more than two-and-a-half tons.
2. Bulk storage of landscaping ground covers and fillers (including but not to be limited to soil, sand, sod, mulch, gravel, granite, caliche, etc.) shall be screened from view outside the bounds of this district, by a solidly opaque fence or wall at least six feet (6') high or higher if necessary for complete screening but, in no circumstance, higher than ten feet (10'). This restriction is applicable even to temporary and/or staging of such materials, in preparation for individual off-site work efforts.
3. All other outdoor storage of materials and equipment not for sale shall be prohibited.
4. All internal areas utilized for vehicle parking and maneuvering, and which are not screened by a solidly opaque fence or wall, shall have an all-weather surface composed of hot-mix asphaltic or Portland cement binder pavement.
5. Storage of equipment/materials and the construction of solid fencing/walls within the floodway shall be in accordance with City standards.

C. Graphic Concept Plan:

1. Use and development of the land within this Planned Development District shall generally conform to the graphic concept plan shown as Exhibit "B" attached hereto and made a part of this ordinance for all purposes. Subdividing of the subject property in the Planned Development District into lots or tracts smaller than that shown on such graphic concept plan shall be allowed only with an amendment to this ordinance.

EXHIBIT "B" GRAPHIC CONCEPT PLAN



ZONING CASE Z-2022-01

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: January 4, 2022

City Council 1st Reading: January 27, 2022

City Council 2nd Reading: February 10, 2022

Applicant

Owner: Lien Jung C & Yi Chien

Agent: Jacob & Martin

Request

Rezone from Agricultural Open (AO) to a Planned Development (PD) District allowing uses commensurate with General Retail (GR) zoning as well as landscaping contractor services.

Location

6325 Fairway Oaks Blvd, being 12.94 acres of now-vacant land at the southwest corner of Antilley Road and Fairway Oaks Boulevard in south Abilene. Legal description being a certain 12.94 acres (approximately) out of the C.A. Donovan Survey in Abilene, Taylor County, Texas.

Background

This property was annexed to the City limits of Abilene during 1980. This property has remained vacant since being annexed into the City of Abilene. The subject property is intersected by Buttonwillow Creek which subsequently leads to a majority of this property being inundated by flood hazard areas.

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, properties to the north across the width of Antilley Road are residences and office buildings located within Planned Development District 4 (PDD-4); commonly referred to as the Fairways PD. East of the subject property and across Fairway Oaks Boulevard is a subdivision of patio homes within a Patio Home (PH) zoning district. South and west of the subject property are Agricultural Open (AO) zoning districts; west of the subject property is a single-family residence and south of the subject property is currently vacant land.

Criteria Assessment

Section 1.4.1.4 of Abilene's 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.

The Future Land Use and Development Plan Map displayed in Abilene's Comprehensive Plan identifies the subject property and its surroundings to be in a "Gateway/Mixed-Use" area. According to the Comprehensive Plan; mixed-use areas should develop with a mix of mutually supportive and integrated residential and non-residential land uses, allowing an appropriate blend of residential, retail, and employment activities in close proximity to one another. This proposed rezoning will achieve the goal of integrating multiple land uses and encouraging a variety of activities. According to the Comprehensive Plan, this encouragement of mixed land uses will create a more interesting and dynamic urban environment. This proposed PD District seems generally consistent with the land-use policies of Abilene's Comprehensive Plan.

(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.

The vast majority of this site is inundated by the floodway. This presents challenges to development on the majority of the site. Due to the existence of this floodway, the most useful portion of this property is the northeastern most corner of the site, which is located at the intersection of a major arterial street (Antilley Road) and collector street (Fairway Oaks Boulevard.). Traditional planning considers locations such as this to be desirable for commercial activity as it optimizes public access and provides the exposure necessary for success; while providing convenient access to activities that may serve nearby neighborhoods.

Given that allowed nonresidential use will be limited to General Retail (GR) activities, which are customarily appropriate at the intersections of major arterial and collector streets. This proposed PD District seems generally compatible with existing residential land uses east of Fairway Oaks Boulevard, which are separated by a landscaped median, and residences north of Antilley Road, each of these adjacent residential land uses are separated by an approximate 100-foot-wide right-of-way. Furthermore, the commercial activity at this location will not appear out of character due to the existing office buildings located north of Antilley Road.

Additionally, with the allowance of landscaping contractor services in this PD, there will be additional screening requirements for the storage of equipment and materials associated with landscaping contractor services (i.e. equipment must be stored indoors, or by opaque fences/walls). Said screening requirement will apply to all equipment that is not displayed for sale in order to mitigate the appearance of the contractor service activity at this location; all other outdoor storage of materials not for sale will be prohibited. The outdoor display of merchandise for sale shall be subject to the following requirements which are ordinarily applicable within General Retail (GR) zoning. Outdoor display of merchandise is not allowed within 10-feet of a property line adjacent to a street. Outdoor display of merchandise shall be limited to 5% of the total site area, up to 15% if any excess over 5% is completely screened from view from rights-of-way and adjacent properties. Outdoor display of merchandise is limited to the rear and interior side yards or within 20-feet of the front of the principal building.

(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 lies at the intersection of a fully-improved arterial street (Antilley Road) and a fully improved collector street (Fairway Oaks Boulevard). Furthermore, the subject property has direct access to 8" and 6" sanitary sewer mains and a 12" water main. The development of this site will not require additional public improvements.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of City 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 requested zone change to a Planned Development (PD) District incorporating the features described earlier in this report and as shown on an accompanying graphic concept plan.

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on December 17 of 2021, to the applicant and to other owners of property within a 200-foot radius of this subject property. These property owners and associated parcel identification numbers are identified in Table 1.

TABLE 1

Owner	Parcel ID	Situs	Response
ABILENE COUNTRY CLUB INC	64035		
ABILENE HUNTINGTON RIDGE	94149		
ABILENE URBAN PROPERTIES LP	27510	3190 ANTILLEY RD	
ARDOYNO JUSTIN D	25552	80 FAIRWAY OAKS BL	
BRADSHAW DAVID T	58246	81 TAMARISK CR	
BYRD MIKE	32416	6542 FAIRWAY OAKS BL	
CACERES ALFREDO	94148	6326 HUNTINGTON PL	
CAMPBELL BONNIE L	58386	79 TAMARISK CR	
DELAGARZA RUBEN JR & STARLA	94150	6302 HUNTINGTON PL	
DENNIS STEPHEN CHASE &	32715	3469 ANTILLEY RD	
DOBY KYLE R	25414	3152 ANTILLEY RD	
FITZHUGH CINDY G BURLESON	63640	1 TAMARISK CR	
GREEN OAKS TOWN HOMES	27387		OPPOSED
HELMSTADTER JOSHUA L & AIMEE R	94129	6374 HUNTINGTON PL	
LEE JOSHUA & STACY	94145	6310 HUNTINGTON PL	
LIEN JUNG C & YI-CHIEN	33519	6325 FAIRWAY OAKS BL	FAVOR
LIN YEY ENTERPRISES LTD	105531	3210 ANTILLEY RD	
LONG INVESTMENTS LLC	58114	83 TAMARISK CR	
LOYOLA FAMILY LTD	107726		
MILLER JAMES P & BARBARA L	30700	77 FAIRWAY OAKS BL	
MURPHY KENNETH T	30575	79 FAIRWAY OAKS BL	OPPOSED
ONYX PROPERTIES INC	33930		
ONYX PROPERTIES INC	33797		
ORREN SHIRLEY A	63522	3 TAMARISK CR	
POOLE RYAN V	94128	6366 HUNTINGTON PL	
PREMIER PROPERTIES ABILENE LLC	25693	78 FAIRWAY OAKS BL	FAVOR
RAMOLIA PARAS	985787	3226 ANTILLEY RD	
ROBINSON LEAH P	94126	6350 HUNTINGTON PL	
SCOTT WILLIAM V & RHONDA L	94127	6358 HUNTINGTON PL	
THORNQVIST LENORE	101528	75 FAIRWAY OAKS BL	
TINDELL MARY HELEN LIFE ESTATE	25813	76 FAIRWAY OAKS BL	
TULL MATTHEW WARREN &	94130	6382 HUNTINGTON PL	
WILLIAMSON ROBERT A & DONNA	94125	6342 HUNTINGTON PL	
WOOD JERRY W & JOAN E	94147	6318 HUNTINGTON PL	

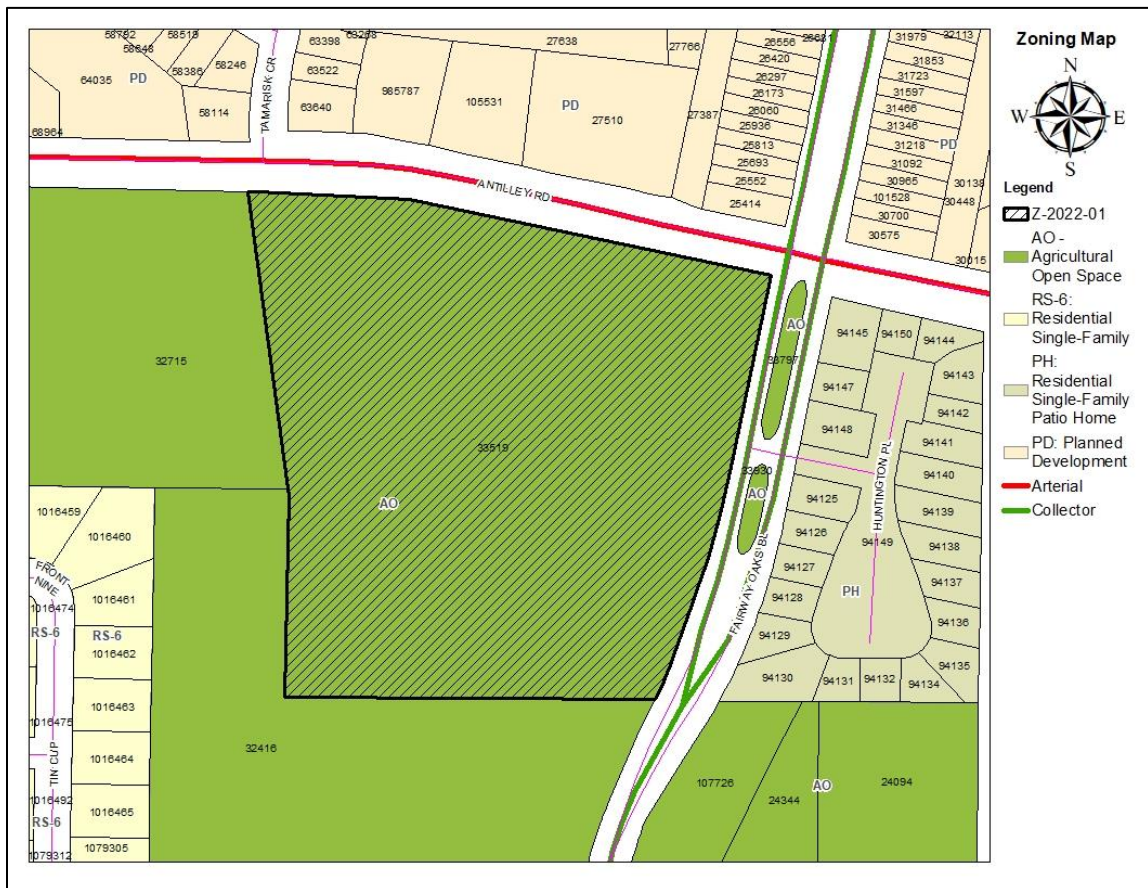
Attachments

Application
PowerPoint Presentation
Graphic Concept Plan
PD Ordinance

LOCATION MAP



ZONING MAP



[illegible]



Development Application

Planning

☐ Conditional Use

☐ Easement Release

☐ Rezoning

☐ Other

☒ PDD

☐ Street Name Change

☐ Thoroughfare Abandonment

☐ PDD Amendment

Other: _____

Project Name: Extreme Exteriors

Address: 6325 Fairway Oaks Blvd No. of lots: 1 Acreage: 12.94

Legal Description: _____

Subdivision Name: _____ Block: _____ Lot: _____

Current Zoning: AO Proposed Zoning (if applicable): PD

OWNER AND AUTHORIZATION

Owner Name: Lien Jung C + Y; Chien

Address: 2404 Piedra Drive

City, State, Zip: Plano TX 75023 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 will act as my agent before the Planning and Zoning Commission.

Agent Name: Tal Fillingim - Jacob + Martin

Address: 3465 Curry Lane

City, State, Zip: Abilene TX 79606 Fax: _____

Phone: 325-695-1070 Email: Tal@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: Dec 02, 2021

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____ Receipt No.: _____

Case No.: _____ 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.

PD – Base zoning as General Retail with an allowance for Landscaping Contractor Services. This Property is located at the intersection of an arterial and a collector with significant buffering on the south and west sides of the property due to existing creek and associated flood plain. Residential development to the east is separated by a boulevard style roadway with a landscaped median. The north property boundary is separated from the existing offices and townhomes, by the 100' Antilley Road right-of-way and a 5 lane paved roadway.



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: _____

Dec 02, 2021
B-SIGNED
0949C1...

DATE: Dec 02, 2021

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2022-01

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: GREEN OAKS TOWN HOMES

Parcel I.D.: 27387

Address:

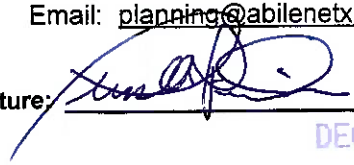
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: 

DEC 23 PM 12:06

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.

CASE #: Z-2022-01

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: MURPHY KENNETH T

Parcel I.D.: 30575

Address: 79 FAIRWAY OAKS BL

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: Kenneth T. Murphy

DEC 28 PM 12:06

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.

planning@abilenetx.gov

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2022-01

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: LIEN JUNG C & YI-CHIEN
Parcel I.D.: 33519
Address: 6325 FAIRWAY OAKS BL

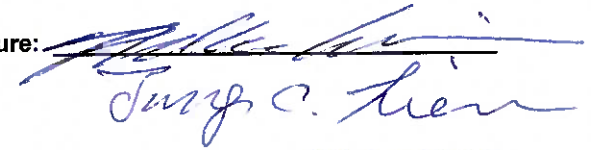
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature:



JAN 3 AM 11:19

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.

CASE #: Z-2022-01

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: PREMIER PROPERTIES ABILENE LLC

Parcel I.D.: 25693

Address: 78 FAIRWAY OAKS BL

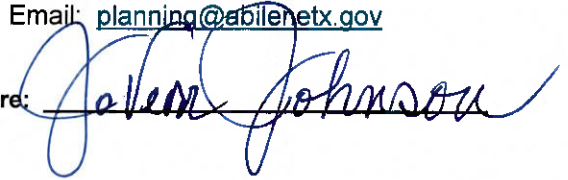
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒
Additional Comments:

I am opposed ☐

Signature:



555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

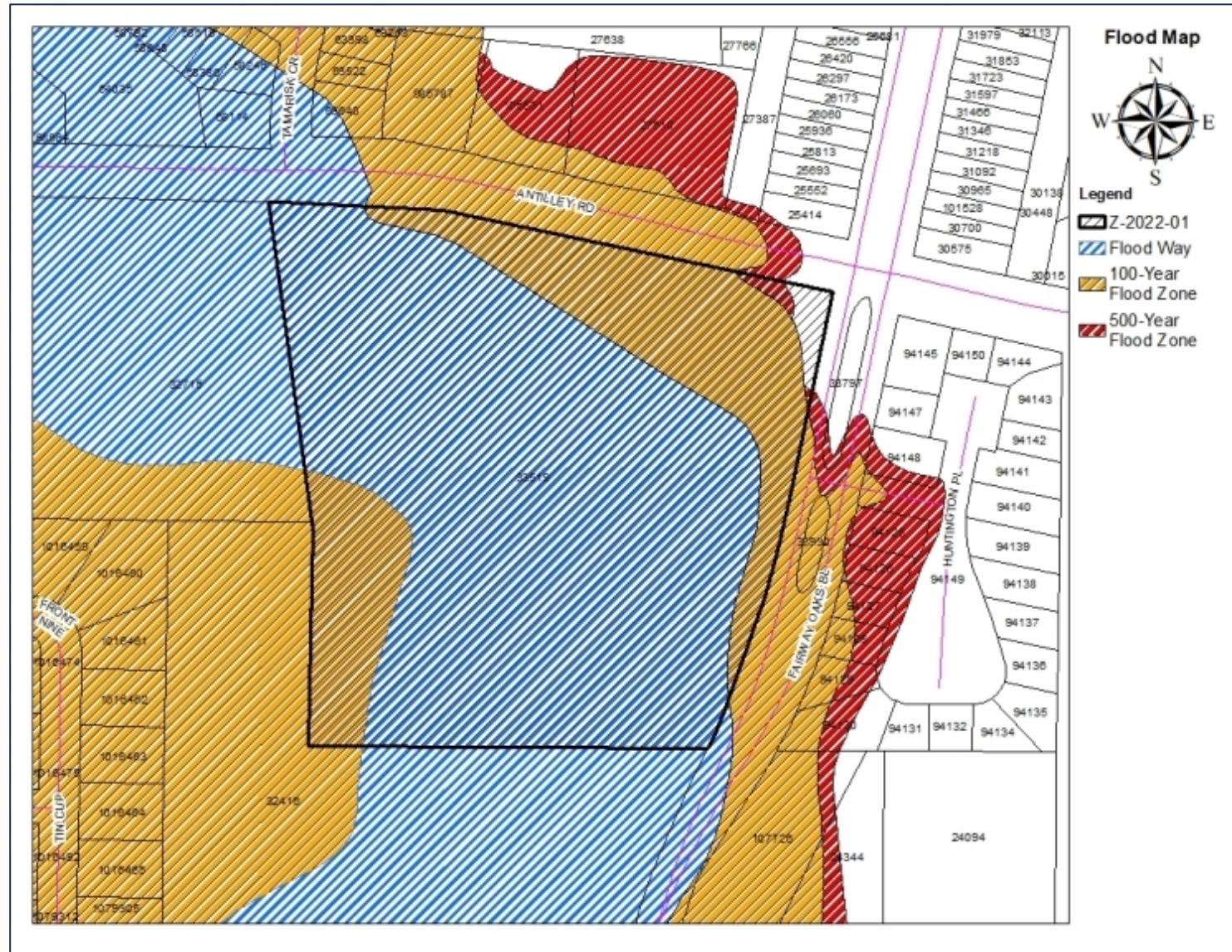
We work together to build and maintain a community of the highest quality for present and future generations.

Case:	Z-2022-01
Owner:	Lien Jung & Yi Chien
Agent:	Jacob & Martin
Request:	Rezone from Agricultural Open (AO) to a Planned Development (PD) District allowing uses commensurate with GR zoning as well as landscaping contractor services
Location:	6325 Fairway Oaks Blvd.
Notification:	2 in Favor, 2 Opposed
Planning & Zoning:	Approval, January 4, 2022

Z-2022-01 LOCATION MAP







Permitted Uses in AO Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems*

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Permitted Uses in GR Zoning

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- C 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/C 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, Brew Pub
- 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 Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Z-2022-01 VIEWS OF SUBJECT & ADJACENT PROPERTIES

Subject Property (south of Antiley Rd.)



South View of Fairway Oaks Blvd.



Neighboring Property (north of Antilley)

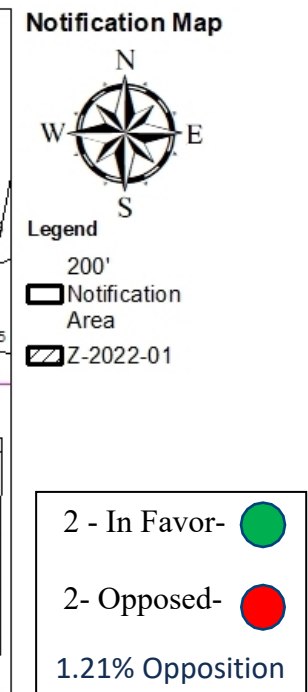


Neighboring Property (north of Antilley)



Neighboring Property (East of Fairway Oaks Blvd.)





- Consistent with the *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: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Chief Building Official

SUBJECT: 13. Ordinance (First Reading) Z-2022-02: Receive a Report, Hold a Discussion and Take Action on a request from Houston Polasek (represented by Heath Polasek) to change zoning from Agricultural Open Space (AO) to a Residential Single-Family Patio Home (PH) District, on 46.25 acres of existing agricultural land at the southwest corner of Maple and East South 27th Streets in southeast Abilene (Tim Littlejohn)

GENERAL INFORMATION

The request is to rezone from Agricultural Open Space (AO) to a Residential Single-Family Patio Home (PH) District.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

City staff generally recommends approving the proposed PH District, except for at least a 250' x 250' portion from the northeast corner of this subject property, adjacent to the intersection of Maple and South 27th Streets.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request by a vote of 4-0.

ATTACHMENTS:

1. Z-2022-02 Staff Report
2. Z-2022-02 Council ordinance
3. Z-2022-02 Council presentation

ZONING CASE Z-2022-02

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: January 4, 2022

City Council 1st Reading: January 27, 2022

City Council 2nd Reading: February 10, 2022

Applicant

Owner: Houston Polasek

Agent: Heath Polasek

Request

Rezone from Agricultural Open Space (AO) to a Residential Single-Family Patio Home (PH) District.

Location

46¼ acres of agricultural land at southwest corner of Maple and South 27th Streets in southeast Abilene

Background

The subject property of 46¼ acres is composed primarily of agricultural land, in the center of which is an approximately 4700-square-foot residence and an equally as large barn. This property was annexed to the City limits of Abilene in 1963 and has been located in an Agricultural Open Space District (or its predecessor, the Residence-Agriculture District) ever since then.

Along its entire western boundary, the subject property adjoins Maxwell Municipal Golf Course, through which Cedar Creek wends its way northward. The designated floodway for Cedar Creek encroaches onto the westernmost five (5) acres of the subject property's complete 46¼ acres.

The subject property has significant frontage on both Maple and South 27th Streets. Each of these thoroughfares is categorized as a major arterial street, according to Abilene's Thoroughfare Plan.

Nearby Zoning and Land Use (Existing)

The current zoning of properties adjacent to (and in the immediate area of) this proposed zone change are illustrated on a map included with this report:

- As mentioned earlier above, all land located directly west of these 46¼ acres is occupied by Maxwell Municipal Golf Course, in the same AO zoning district as the subject acreage of proposed PH zoning.
- To the south of this subject property (and extending for a distance of at least 450 feet) lies more agricultural land and single-family homes on tracts of at least one acre. This land, too, is located in the same AO District as the subject property of proposed PH zoning.
- To the east of this subject property (across Maple Street) is an area of almost one-half square mile, which has long been viewed as suitable for commercial or industrial use. Land located directly across Maple Street from the proposed PH District includes a combination of Light Industrial (LI), Heavy Commercial (HC) and General Commercial (GC) zoning districts, as well

as remnants of AO zoning. Some of the uses located there include sports facilities for baseball practice and soccer competitions.

- To the north of this subject property is a small (1¼-acre) city block of General Commercial zoning occupied by four single-family home sites as well as a vacant tract. An approximately ten-acre home site (in AO zoning) also lies across South 27th Street from the subject property.

Proposed Zoning and Land Use

The owner of these subject 46¼ acres seeks to change this property's zoning to a Residential Single-Family Patio Home (PH) District. PH zoning is potentially more dense than any of several other local zoning classifications intended primarily for detached, single-family residences:

<u>zone</u>	<u>minimum lot size</u>	<u>minimum lot width</u>	<u>min. separation between houses</u>
PH	4,000 sq. ft.	40 feet	10 feet
MH	5,000 sq. ft.	50 feet	15 feet
RS-6	6,000 sq. ft.	60 feet	12 feet
RS-8	8,000 sq. ft.	70 feet	15 feet
RS-12	12,000 sq. ft.	80 feet	20 feet
RR-1	43,560 sq. ft.	100 feet	50 feet

RS-6 Districts comprise the most extensive single-family residential zoning classification in Abilene. Overall densities of 5.5 dwellings/acre are typical of RS-6 Districts. Meanwhile, overall densities of 6.0 dwellings/acre are typical of PH Districts.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and 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.

A 1986 plan* for future land use and development in southeast Abilene identifies the greater part of this subject property to be most suitable for multi-family residential use. Higher densities of residential use may make an effective transition between open space at Maxwell Municipal Golf Course and future industrial use planned to the east, across Maple Street.

That same 1986 plan also designates approximately 1½ acres of this subject property for future commercial use, directly at the intersection of Maple and South 27th Streets. Retail commercial use is most appropriate at or near intersections of such arterial streets, to maximize exposure of retailers to motorists, while minimizing impacts on nearby residences.

The Future Land Use and Development component of Abilene's most recent Comprehensive Plan designates this intersection of Maple and South 27th Streets to be the focus of a local activity center. Within the text of that 2004 plan document, local activity centers are described as *"containing a mix of shopping, employment, entertainment and civic uses for a number of surrounding neighborhoods."* That same text goes on to state that, *"A local activity center*

* adopted by Abilene's City Council as well as the Planning & Zoning Commission

could contain a supermarket, chain retail/discount stores, specialty shops, churches and mid-size offices. Local activity centers should be surrounded by higher-density housing.”

(2) Whether the uses permitted by the proposed change in zoning classification (and standards applicable to such uses) will be appropriate in the immediate area of the land to be reclassified.

While not multi-family in character, proposed PH zoning is the most potentially intensive of all local zoning classifications intended for detached, single-family residences. Construction of patio homes on this particular property can still provide an effective transition (in the intensity of use) between open space at Maxwell Municipal Golf Course and future industrial activity planned farther east, across Maple Street. The 100-foot width of Maple Street's right-of-way can itself offer some measure of buffering between proposed residences (west of Maple Street) and future industrial use (east of Maple Street).

(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.

This subject property has considerable frontage on two major arterial streets:

- 1700+ feet of frontage on Maple Street,
- 750+ feet of frontage on S. 27th Street.

Neither of these adjacent streets is now fully improved to urban arterial standards; however, each now has at least a 40-foot-wide pavement. The City of Abilene has short-term plans to expand and improve pavement on Maple Street, in front of this subject property and for at least one mile in each direction (north and south). These circumstances assure nearby accessibility of proposed patio home sites to Abilene's arterial street system.

City water and sewer mains (each at least six inches wide) lie within adjoining rights-of-way for both Maple and South 27th Streets. Extensions of these mains may be made to and from future development on this subject property, providing access for new home sites there.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of City staff that no other factors are present that would substantially affect the public health, safety, morals, or general welfare of the community.

Staff Recommendation

City staff generally recommends **approving** the proposed PH District, **except** for **at least** a 250' x 250' portion from the northeast corner of this subject property, adjacent to the intersection of Maple and South 27th Streets. This northeast corner of the subject property lies at the intersection of these two arterial streets and is best suited for retail commercial activity.

- As mentioned earlier above, such high-profile locations maximize retailers' exposure, while minimizing impacts on nearby residents.

- Also as mentioned above, Abilene's 2004 Comprehensive Plan recommends a local activity center at this location, "*containing a mix of shopping, employment, entertainment and civic uses.*"
- Such an area reserved for future commercial use should extend at least 250 feet in depth from South 27th Street, to accommodate modern retailers who demand plenty of customer parking and drive-thru service.
- An area reserved for future commercial use should likewise extend at least 250 feet from Maple Street, and, possibly, even the entire approximately 765 feet of this property's frontage on South 27th Street. Even such an extensive area would still remain within the "sphere of commercial attraction" surrounding the intersection of two arterial streets.

Otherwise, proposed patio home development of this subject property will provide an effective transition in the intensity of allowed nearby use. Proposed patio home construction will separate the open environment at Maxwell Municipal Golf Course (to the west) from future industrial use located east of Maple Street.

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on December 17 of 2021, to the applicant and to other owners of property within a 200-foot radius of this subject property. These property owners are identified in the following Table 1.

TABLE 1

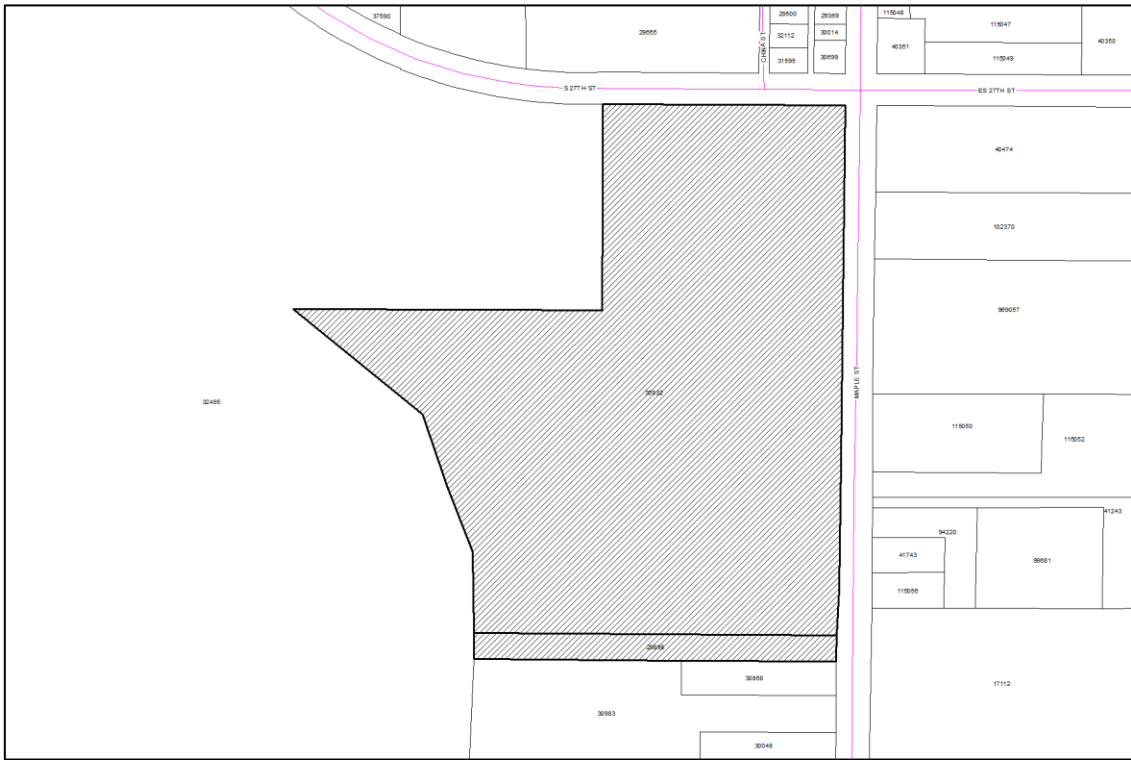
Owner	Parcel ID	Situs	Response
108 REAL ESTATE LLC	115050	3325 MAPLE ST	
108 REAL ESTATE LLC	115052		
ABILENE NATIONAL SOCCER	102370	2717 MAPLE ST	
ABILENE NATIONAL SOCCER	969057	3025 MAPLE ST	
CANO RICHARD	40351	2691 MAPLE ST	
CHAMBERLAIN ERIC DEAN	41243	3359 MAPLE ST	
CITY OF ABILENE	32495	1002 S 32ND ST	
CLARK JAMES ROBERT	30983		
CLARK RUSSELL ANDREW &	30868	3400 MAPLE ST	
DICK L D LF EST	31595	2697 CHINA ST	
HARKINS WARREN	41743		
HARKINS WARREN	94220	3481 MAPLE ST	
HARKINS WARREN	115056	3489 MAPLE ST	
NICHOLS KENNETH R	40474	225 ES 27TH ST	
POLASEK HOUSTON G	29898		
POLASEK HOUSTON G	30832	3210 MAPLE ST	
PRYOR EDWARD	29665	400 S 27TH ST	
SCHOPF WILLIAM & MELISSA	32112	2691 CHINA ST	
TARGET SPORTS INC	17112	3501 MAPLE ST	
VALLEY CREEK HOMES LLC	30699	2698 MAPLE ST	

Attachments

Application

PowerPoint Presentation

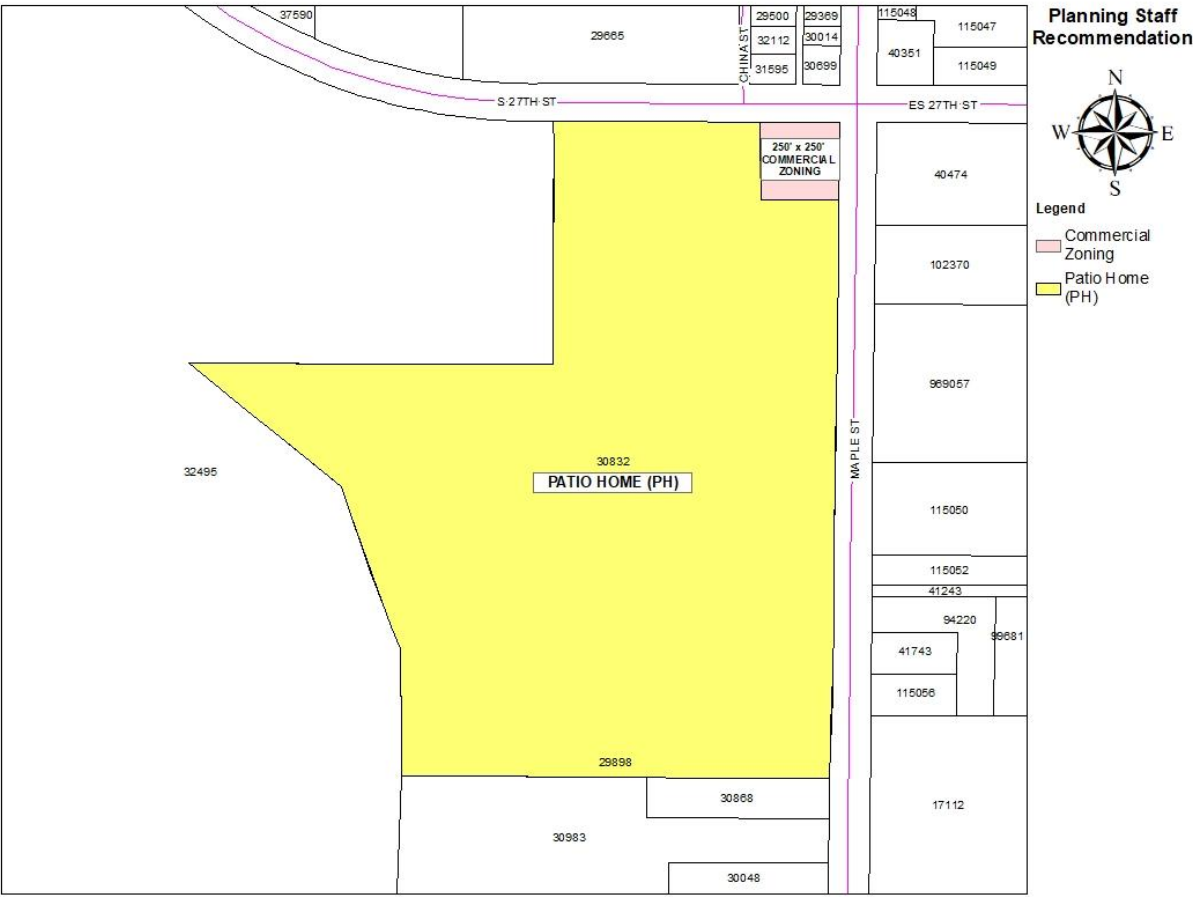
LOCATION MAP



ZONING MAP



PLANNING STAFF RECOMMENDED ZONING MAP





Development Application

Planning

- ☐ Conditional Use ☐ Easement Release ☐ Rezoning ☐ Other
☐ PDD ☐ Street Name Change ☐ Thoroughfare Abandonment ☐ PDD Amendment
Other: _____

Project Name: WATERSIDE @ CEDAR CREEK
Address: 3210 MAPLE No. of lots: _____ Acreage: _____
Legal Description: _____
Subdivision Name: _____ Block: _____ Lot: _____
Current Zoning: _____ Proposed Zoning (if applicable): PH

OWNER AND AUTHORIZATION

Owner Name: HOUSTON POLASEK
Address: 3210 MAPLE
City, State, Zip: Abilene TX 79602 Fax: _____
Phone: 325 439 1856 Email: HEATH @ BCSmetal.net

I am the property owner, and I certify that the information included in this application is true to the best of my knowledge. (Name) HEATH POLASEK will act as my agent before the Planning and Zoning Commission.

Agent Name: HEATH POLASEK
Address: 1357 FM 1750
City, State, Zip: Abilene TX 79602 Fax: _____
Phone: 325 439 1856 Email: HEATH @ BCSmetal.net

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: Houston Polasek Date: 5-2-2007

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____ Receipt No.: _____
Reviewed By: _____

ORDINANCE NO. _____

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 27th day of January, 2022.

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 18th day of December, 2021, the same being more than fifteen (15) days prior to a public hearing at the Abilene Public Library's South Branch in the Mall of Abilene at 4310 Buffalo Gap Road in Abilene, Texas, at 8:30 a.m. on the 10th day of February, 2022, 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 in the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 10th day of February, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land, from an Agricultural Open Space (AO) to a Residential Single-Family Patio Home (PH) District:

BEING 45.5 acres out of Section 63 in Blind Asylum Lands in the City of Abilene, Taylor County, Texas, and being more particularly described by metes-and-bounds as follows:

BEGINNING at a point at the intersection of the south line of right-of-way for South 27th Street and the west line of right-of-way for Maple Street, for the northeast corner of this tract;

THENCE South 0° 49' 44" West for a distance of 1760.56 feet along the west line of right-of-way for Maple Street, to a point for the southeast corner of this tract;

THENCE North 89° 23' 26" West for a distance of 1646.94 feet, to a point on the east bank of Cedar Creek, to a point for the southwest corner of this tract;

THENCE North 55° 04' 10" East for a distance of 92.26 feet;

THENCE North 53° 17' 34" East for a distance of 73.30 feet;

THENCE North 62° 38' 20" East for a distance of 76.26 feet;

THENCE North 88° 21' 45" East for a distance of 50.39 feet;

THENCE South 83° 17' 19" East for a distance of 114.66 feet;

THENCE North 70° 07' 08" East for a distance of 104.76 feet;

THENCE North 57° 24' 15" East for a distance of 45.81 feet;

THENCE North 35° 55' 16" East for a distance of 113.85 feet;

THENCE North 18° 20' 44" West for a distance of 48.38 feet;

THENCE North 39° 17' 56" West for a distance of 167.74 feet;

THENCE North 26° 35' 21" West for a distance of 110.57 feet;

THENCE North 18° 59' 45" West for a distance of 273.82 feet;

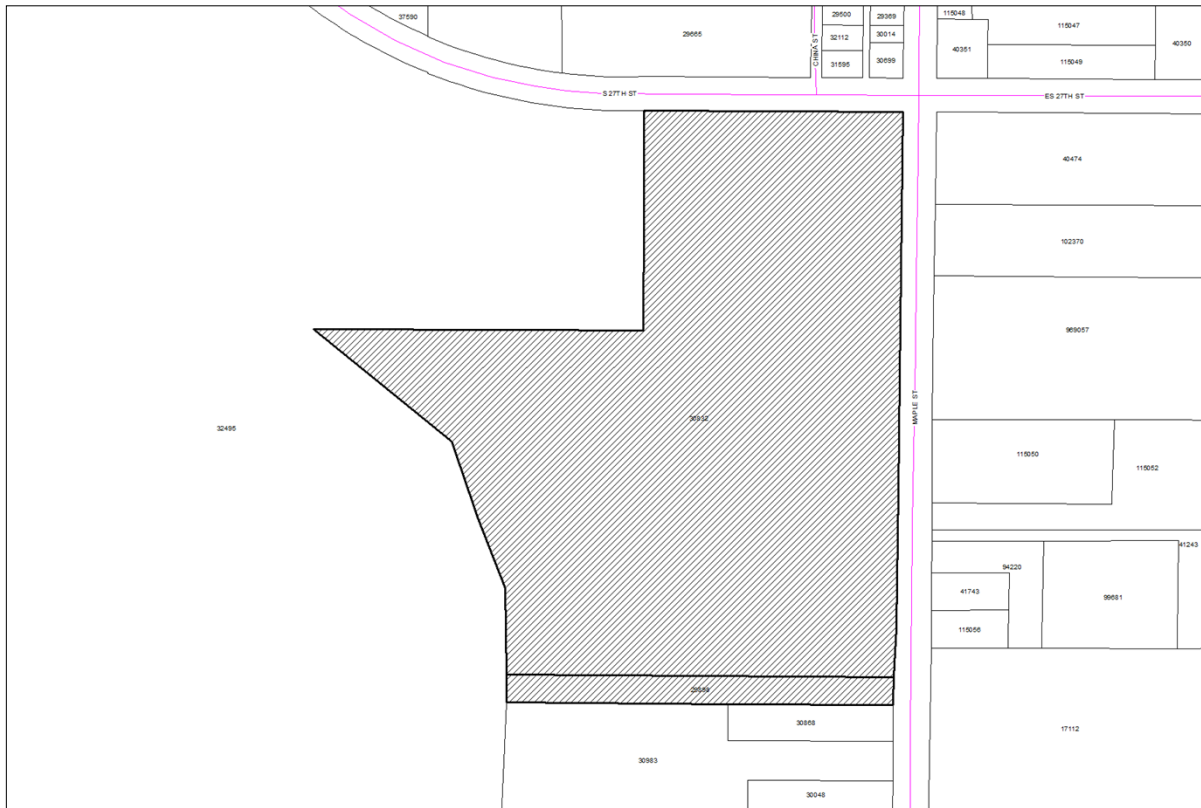
THENCE North 52° 30' 34" West for a distance of 498.29 feet;

THENCE South 88° 54' 29" East for a distance of 986.12 feet, to a point for an interior corner of this tract;

THENCE North 0° 43' 56" East for a distance of 656.45 feet, to a point on the south line of right-of-way for South 27th Street, for the northwest corner of this tract;

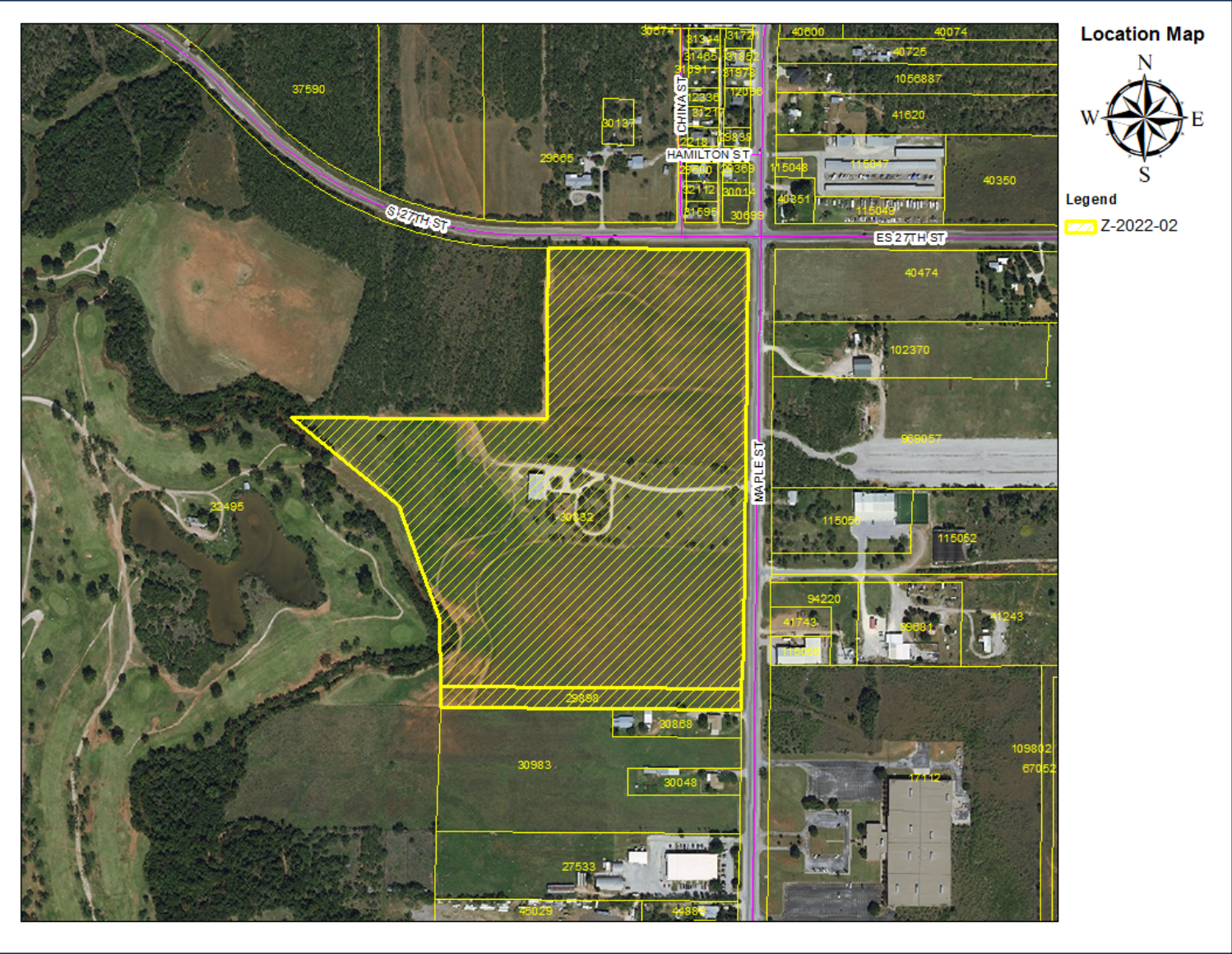
THENCE S. 89° 43' 03" East for a distance of 763.17 feet along the south line of right-of-way for South 27th Street, to the **PLACE OF BEGINNING** and containing 45.5 acres of land.

location: 3210 Maple Street

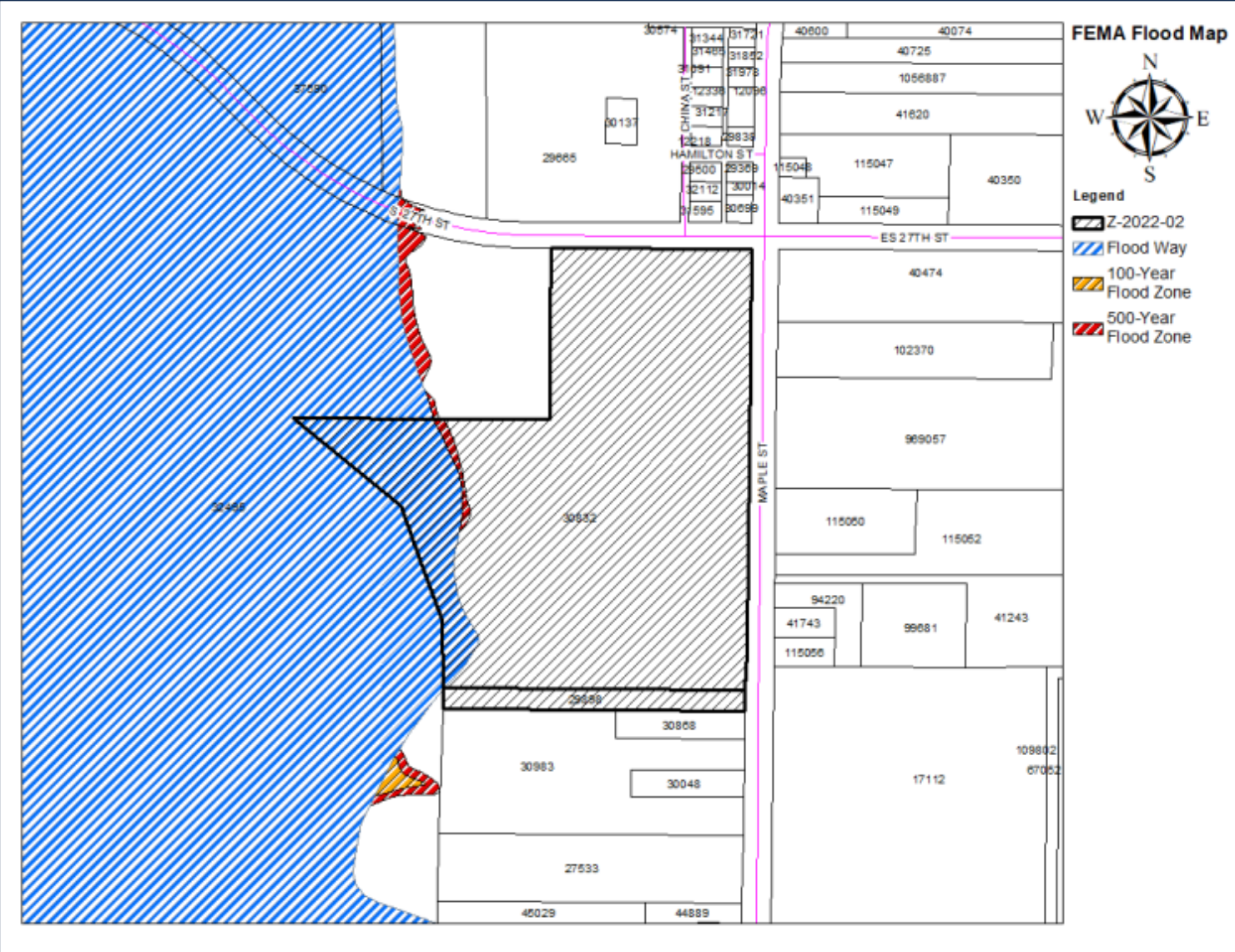


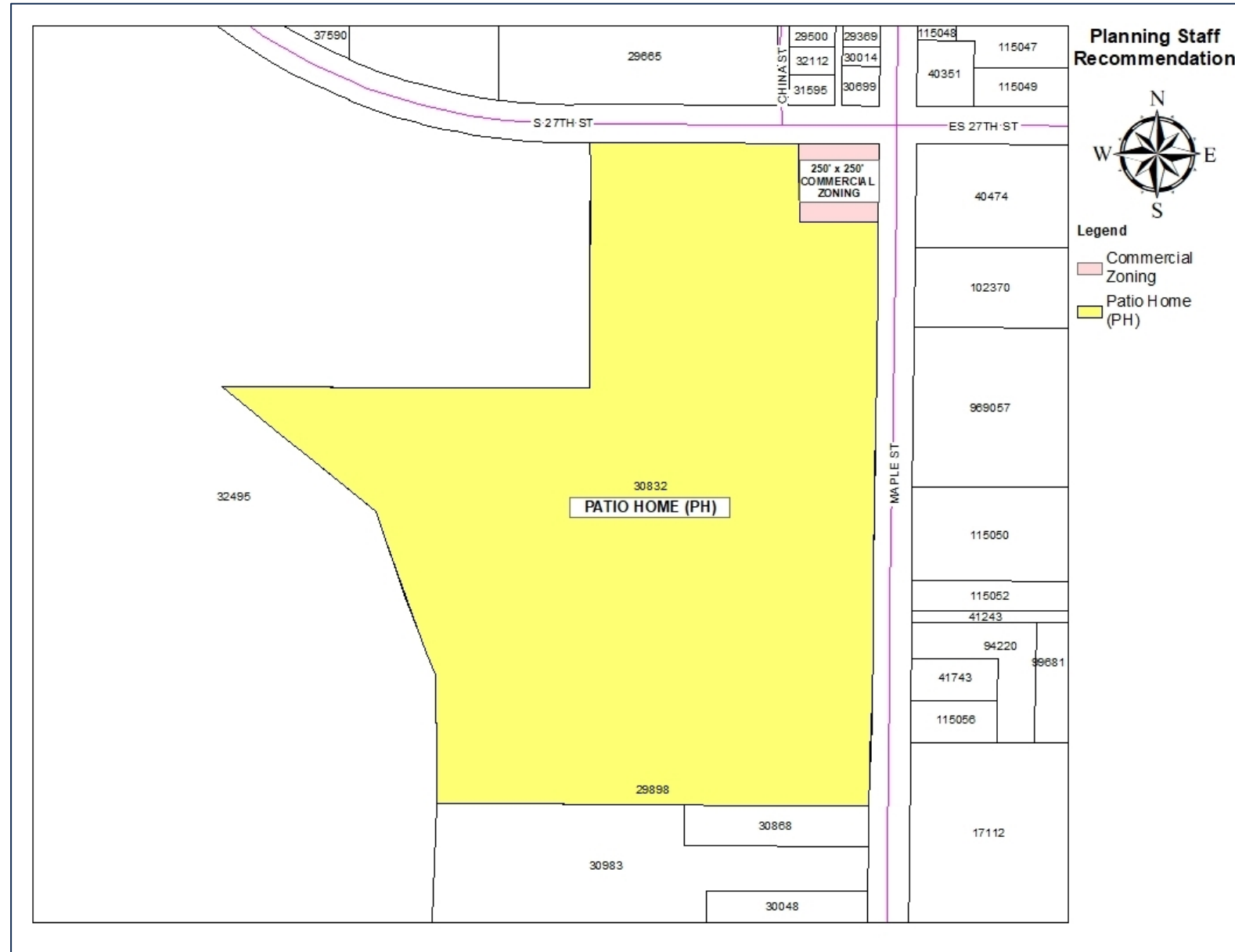
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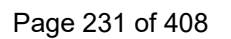
Case:	Z-2022-02
Owner:	Houston Polasek
Agent:	Heath Polasek
Request:	Rezone from Agricultural Open (AO) to Patio Home (PH)
Location:	3210 Maple St.
Notification:	0 in Favor, 0 Opposed
Planning & Zoning:	Approval, January 4, 2022











Permitted Uses in AO Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems*

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Permitted Uses in PH Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Patio Home
- P Dwelling – Single-Family Detached

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P/C Day Care Operation – Home-Based
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage & parking)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- P School: Public/Private

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

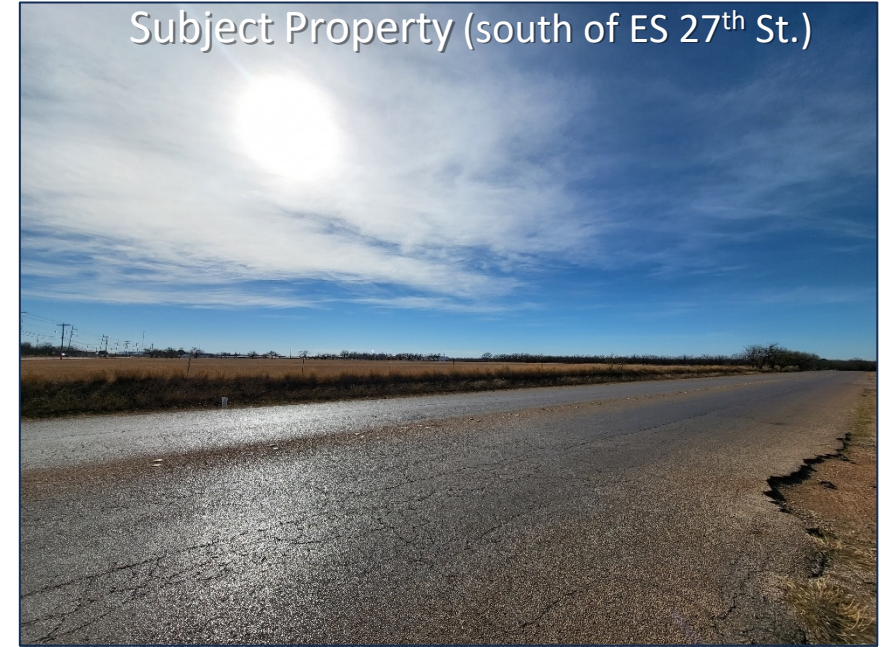
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Subject Property (West of Maple St.)



Subject Property (south of ES 27th St.)



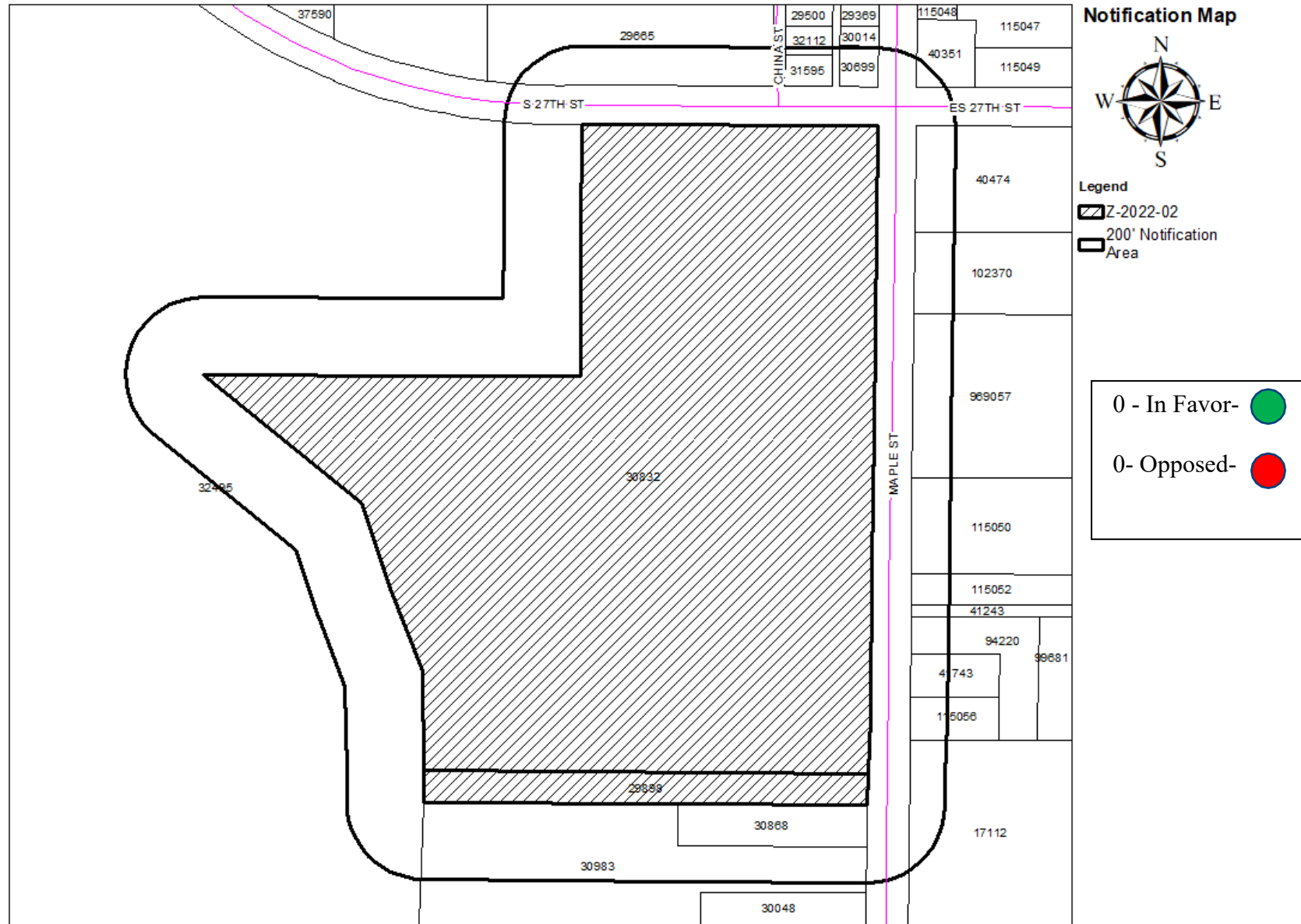
Neighboring Property (north of ES 27th St.)



Neighboring Property (east of Maple St.)



Z-2022-02 NOTIFICATION AREA MAP



- Consistent with the *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 with recommendation of commercial zoning at the Southwest corner of Maple and S.27th Street.
- Planning & Zoning Recommendation: Approval of request by applicant with no commercial dedication.

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Marcus Dudley, Chief of Police

SUBJECT: 14. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving Purchase Agreement with Motorola Solutions for the Body-Worn Camera/In-Car Video Project & Real-Time Intelligence Center Project (Marcus Dudley)

GENERAL INFORMATION

The Abilene Police Department is currently using Body-Worn Camera (BWC) and in-car camera systems from Motorola Solutions. We are outside of the warranty period for our existing BWCs and experiencing battery and functionality issues with their continual use in the field. This purchase will allow us to replace all existing BWCs along with additional needed upgrades to our in-car and interview room cameras.

With this purchase, we will have the ability to upload all evidentiary videos to virtual servers. This will also be able to occur from the patrol vehicles during the officer's shift, which will greatly increase the speed at which evidence videos are available for review and processing. This will reduce staff workload in criminal case filing preparations, as it will eliminate the need for exporting videos to physical media. It will reduce expenses related to the server storage needs previously required. Given that we are an existing customer, the integration will be much easier, as our existing in-car cameras are fully compatible with the newer technology. It is anticipated that live video streaming will be available in the 2nd quarter of 2022 with both the BWCs and in-car cameras that we are purchasing. Additionally, License Plate Reader (LPR) technology will be active on all of the new in-car cameras.

Additionally, this purchase will include a software package that will allow viewable access to existing traffic cameras owned by the City. This software will integrate with our Motorola (Spillman) Flex CAD system that will provide access to video footage should a pole camera be in the area of a call for service. Currently, there are well over 100 of these camera views throughout the City.

SPECIAL CONSIDERATIONS

Pricing in this agreement is from a cooperative purchase program through the Texas Department of

Information Resources (DIR).

FUNDING/FISCAL IMPACT

This purchase will be extended over a 5 year period. The funding from the Police Apparatus Fund will be utilized to cover the costs.

STAFF RECOMMENDATION

Staff recommends this item.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Motorola Camera and RTIC Purchase Agreement 1.27.2022
2. ABILENE BWC-In-Car Video Project-Real-Time Intell Ctr Project_Rev1-14-22 v3
3. 2022 Body Worn camera and RTIC presentation

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO BODY-WORN/IN-CAR CAMERA AND REAL TIME INFORMATION CENTER CONTRACT WITH MOTOROLA SOLUTIONS.

WHEREAS, the current technology used by the Abilene Police Department has been in use for over 5 years; and

WHEREAS, the current technology includes body-worn cameras, in-car cameras, interview room cameras, physical servers, and a digital video management system (DVMS); and

WHEREAS, the current support for the body-worn camera equipment is beyond its life cycle and replacement parts are no longer available, and the current DVMS does not support cloud based transfers of video files, and no existing camera system allows for live streaming or in car uploading of video files; and

WHEREAS, the Abilene Police Department does not currently have access to camera views needed for real time information and has existing camera feeds within the City of Abilene available for use with specific software; and

WHEREAS, after review of several vendors who provide needed software and hardware technology, the product provided by Motorola Solutions offers significant improvements to our current systems and furthers the Abilene Police Department in the formation of a Real Time Information Center.

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

PART 1. That the City Manager is authorized to execute all necessary documents to enter into a Body-Worn/In-Car Camera and Real Time Information Center contract with Motorola Solutions.

PART 2. That this Resolution is effective upon adoption.

ADOPTED this 27th day of January 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

City Attorney



MOTOROLA SOLUTIONS

Proposal

City of Abilene, TX

Body-Worn Camera/In-Car Video Project & Real-Time Intelligence Center Project

21-PS-124956

January 14, 2022

The design, technical, and price information furnished with this proposal is proprietary information of Motorola Solutions, Inc. (Motorola). Such information is submitted with the restriction that it is to be used only for the evaluation of the proposal, and is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the proposal, without the express written permission of Motorola Solutions, Inc.

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Motorola Solutions, Inc.
500 West Monroe Street, Suite 4400, Chicago, IL 60661-3781 U.S.A.
Tel: +1 847-576-5000

January 14, 2022

City of Abilene
ATTN: Assistant Chief Doug Wrenn
555 Walnut Street
Abilene, TX 79601

Re: Proposal 21-PS-124956 for the City of Abilene Body-Worn Camera/In-Car Video Project and Real-Time Intelligence Center ("Proposal")

Dear Assistant Chief Wrenn:

Motorola Solutions, Inc. ("Motorola") is pleased to present the City of Abilene, TX with this quote for quality communications equipment and services. The development of this quote provided us the opportunity to evaluate your requirements and propose a solution to best fulfill your communications needs. This Proposal is valid for 60 days from the date of this letter.

Motorola's Proposal is subject to the terms and condition set forth in the attached Master Customer Agreement ("MCA"), its exhibits and applicable Addenda. You may accept this Proposal by delivering to Motorola a signed copy of the attached MCA, and sending your order to your Motorola Public Safety Solutions Consultant listed below.

Motorola appreciates your consideration of this Proposal and hopes you will find it acceptable. Please feel free to contact your Motorola Public Safety Solutions Consultant with any questions or concerns you might have:

Christina Stephens
Senior Account Manager – West Texas
432-234-9096
christina.stephens@motorolasolutions.com

Sincerely,
Motorola Solutions, Inc.



Micah Applewhite
MSSSI Vice President, Software Sales
122 Waggoner Court
Fort Worth, TX 76108

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Section 1

Solution Description

1.1 Solution Overview

Motorola Solutions presents the following solutions for the City of Abilene, Texas ("Customer").

- Video-as-a-Service Offer
- CommandCentral Aware
- Optional – Vigilant LPR

Application Software and System Components

The solution includes the following elements:

- Video-as-a-Service Offer
 - 143 V300 Body Worn Cameras and Accessories
 - 93 M500 In-Car Cameras and Accessories with Basic ALPR Add-on
 - 93 Sierra MP70 with AMM Cloud Management
 - Unlimited CommandCentral Evidence Storage for V300 and M500 content
 - 50GB of storage per device, per month, averaged across all devices for non-camera data storage
- CommandCentral Aware Plus with 5 Named User Licenses and 5 year subscription.
 - Agency Esri Data Sets Integration.
 - AccuWeather Service.
 - Flex CAD Integration for incident and/or unit location Automatic Vehicle Location (AVL).
 - VESTA Call Handling Integration for 911 Call Data.
 - Vigilant License Plate Recognition Integration.
 - Motorola V300 BWC and M500 ICV Device Integration.
 - 236 V300 Live Streaming
 - 93 M500 Live Streaming
- CommandCentral Evidence Standard 1TB of non-camera data storage for 5 Named User Licenses and 5 year subscription.
- Software Maintenance and Technical Support.
- Services as described in the Statement of Work.
- Optional – Vigilant Investigate Data Platform
 - 5 year subscription for 101 to 200 Sworn – State and Local
 - Commercial LPR Data Access – For 101 to 200 Sworn Officers
 - FaceSearch with Vigilant Image Gallery Access for 101 to 200 Sworn Officers

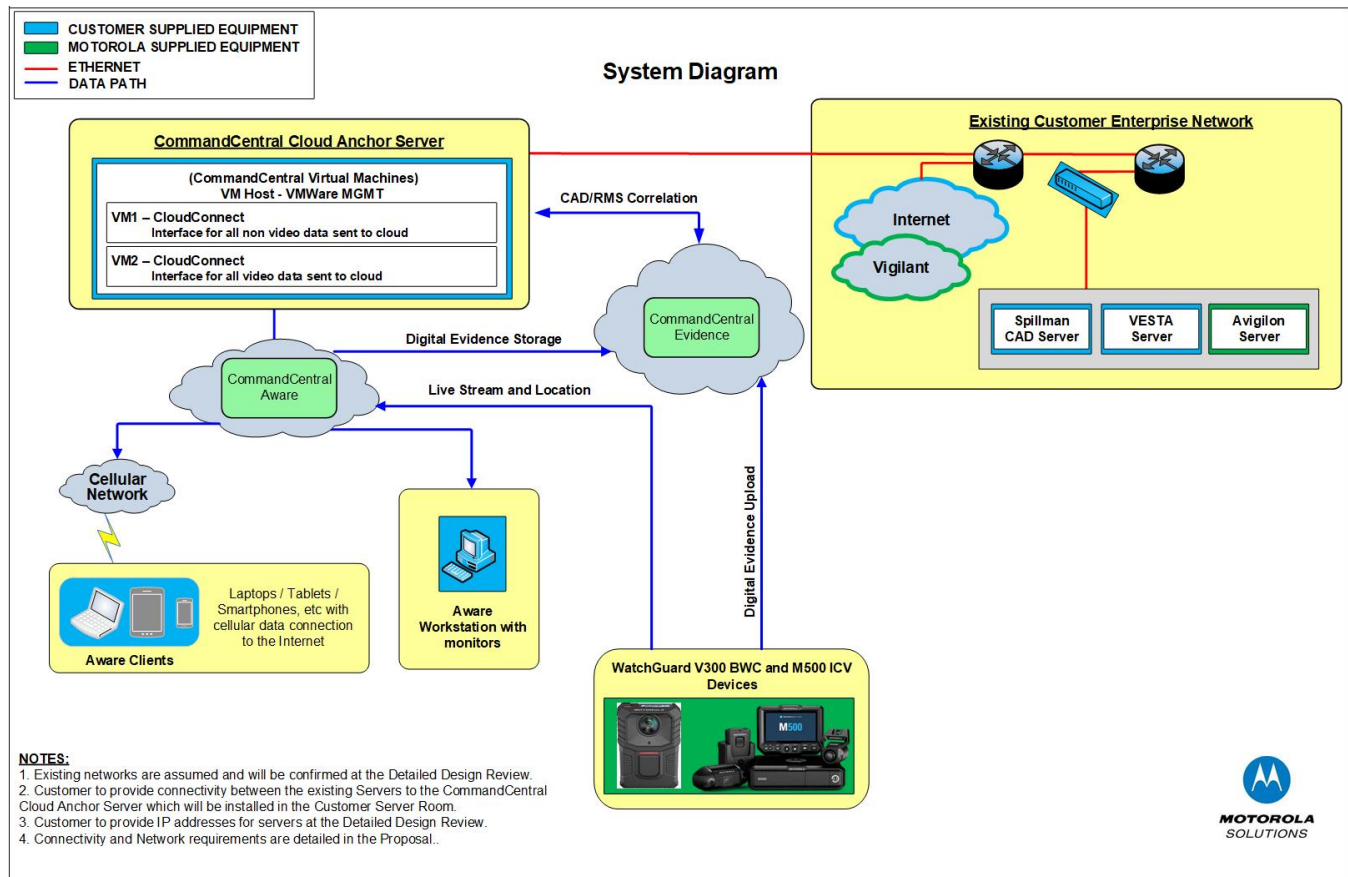


Figure 1-1: System Diagram

1.2 Video-as-a-Service

Video-as-a-Service is a subscription-based solution that enhances video policing programs with a robust camera system and digital evidence management tools. This end-to-end service streamlines the collection, capture, management, and sharing of data to and from multiple sources.



Video-as-a-Service combines features from the CommandCentral platform to remove data silos and streamline access to digital evidence:

- CommandCentral Community allows users to gather evidence via a secure, case-specific agency link.
- CommandCentral Evidence allows users to view, redact, tag, and audit evidence from different sources.
- CommandCentral Records allows users to view and share case-related data from a single user interface.

Video-as-a-Service is available at a monthly service cost, without any upfront investment. The monthly service costs cover the camera system, software, video storage, and maintenance. This price structure enables agencies to quickly deploy a new camera system.

Video-as-a-Service offers three camera system hardware: the Motorola V300 body-worn camera, the M500 in-car video system, and a combined solution that integrates these devices. These options are described more fully below.

1.2.1 Motorola V300 Body-Worn Camera

The Motorola V300 HD body-worn camera provides extended operation during long shifts. To support this continuous operation, officers can easily detach and swap the battery. Charged spares can remain in a docking station for a quick shift change. This enables agencies to pool camera usage by reassigning inbound cameras to outbound officers. This keeps cameras in the field, where they are most needed.

The V300 camera is easy to activate, with four control buttons and single-press recording. If an officer does not trigger a recording, the device still captures important video evidence with the Record-After-the-Fact® technology. This feature ensures important details are captured for post-incident review.

The V300 supports automatic wireless upload of video evidence, allowing officers to stay in contact from the field without distraction. The Motorola V300 uploads to CommandCentral Evidence via a Wi-Fi or broadband network, such as LTE or FirstNet.

The Motorola V300 specifications include the following:

- 4k sensor, 1080p max resolution capture, and high dynamic range.
- 128GB of memory ensures space for a full day of recorded events.
- IP67 rating for all-weather operation.
- Top backlit LCD display to view status updates on the go.
- Dual-microphone noise reduction.
- Lens distortion correction for clear video footage.
- Built-in GPS, Wi-Fi, and Bluetooth.



1.2.2 Motorola M500 In-Car Video System

Overview

The M500 In-Car Video System is the first AI-enabled in-car video solution for law enforcement. This solution combines Motorola's powerful camera technology and digital evidence management software to improve quality of evidence collection and streamlined data sharing. Using this solution, public safety personnel are able to create a reliable record of interactions using cutting-edge technology, all while keeping officers safe in the field. It also prioritizes officer safety, surveying its line of vision to proactively alert personnel of possibly dangerous anomalies.



Key features of the M500 In-Car Video System include:

- **HD Video** - The front and cabin cameras capture 1080p high definition videos of every instance. The front camera is designed to be as small as possible to increase field of view, while the cabin camera is tamper-proof and waterproof, designed to withstand any hostile situation. Audio can be captured with the built-in Hi-Fi microphone, or with an integrated V300 body-worn camera.
- **Resolution Specifications** - The M500 cabin camera has a resolution of 1920x1800. The M500 front camera has a resolution of 3840x1920 pixels, a cropped horizontal field of view of 51°/59.5°, and a wide panoramic field of view of 102°/11°, both with or without dewarp.
- **Visual Intelligence Platform** - The M500 is programmed to detect and alert personnel to potentially dangerous objects in its vision, such as weapons and approaching figures.
- **Record-After-the-Fact®** - Our patented Record-After-the-Fact® technology records even when the recording function isn't engaged. These recordings are uploaded to evidence management software and allows users to go back in time and capture important evidence, even if the incident happened days before.
- **Officer Friendly Interface** - The M500 offers a 5" control panel with a bright, clear display that is easily navigated while maintaining situational awareness. Users can execute any function on the device within three taps of the screen.
- **Core Processor** - Designed specifically for video analytics, this multi-CPU neural-net architecture supports up to 5 cameras. It is equipped with a 1 terabyte automotive-grade solid state drive, and includes a 128 gigabyte detachable USB drive with a lockable access door.
- **Vigilant PlateSearch** - The M500 uses powerful License Plate Recognition technology to read license plates from up to 40 feet away. It also allows users access to a database of over 33 billion detections, where the City can search using insights such as location, year/make/model filtering, associate vehicle analysis, and more for intensive searching for specific vehicles.
- **Backseat Occupancy Detection** - The M500 continuously analyzes the video feed from the cabin camera. Whenever an individual is detected in the backseat of the vehicle, recording is automatically triggered. This ensures all crucial evidence is stored, and eliminates the task of scrolling through footage of empty cabins to collect important evidence.

- **Upload Anywhere** - The M500 has the ability to upload video from any place that has cellular signal, which eliminates the need for continuous travel to police stations.

Integration with V300

The M500 can integrate with the V300 Body-worn Camera for synchronized recording and playback, as well as wireless uploading. Whenever one camera in a group is activated, all other cameras in that group within Wi-Fi range will also be activated. This allows personnel the ability to capture an incident from every point of view through the Group Recording function. Video evidence on a V300 body-worn camera can be uploaded to your evidence management system using the shared cloud upload connection with the M500, or by using an optional docking station in your vehicle.

1.2.3 The CommandCentral Platform

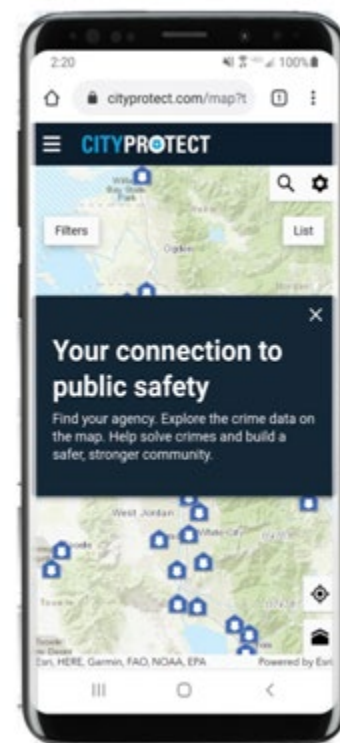
Video-as-a-Service provides capabilities from Motorola Solutions' CommandCentral platform. This platform provides interconnected solutions that unify data and streamline public safety workflows from a tip or call to case closure. Through single sign-on capabilities, your personnel can access all CommandCentral applications with one agency username and password for a more streamlined workflow. The CommandCentral platform puts your agency's information to better use, improves safety for critical personnel, and helps keep your focus on the communities you serve.

CommandCentral is built to evolve over time, maximizing the value of existing investments while adopting new capabilities that better meet your personnel's growing needs. With cloud-based services and an agile development methodology through constant user feedback, Motorola Solutions can rapidly deliver new features and functionality in a more manageable, non-intrusive way.

1.2.4 CommandCentral Community

As part of Video-as-a-Service, Motorola Solutions' CommandCentral Community enhances the partnership between your agency and the community. As the foundation for transparent community engagement, this solution streamlines the flow of information between your agency and the people you serve. CommandCentral Community's toolkit helps build public trust and push your investment further. CommandCentral Community functionality can be integrated with the solutions your agency already uses to reduce the need for headcount and increase the value of community intelligence.

The CommandCentral Community experience centers around CityProtect.com. This mobile-friendly webpage offers citizens a centralized set of tools to contribute to public safety. The tools and forms within CityProtect create a dialogue with your community and promote the value of citizen intelligence. Sharing and receiving important information is streamlined to make engagement easier.



Agency Page

This community solution provides a dedicated, public-facing webpage for your agency. This customizable page offers a unique URL to serve as the hub for community interaction with access to the tools for the public to connect with your agency.

The agency page shows quick, rotating messages—bulletins (up to five 244-character messages)—to keep the public informed. Your agency will control the order, schedule, and expiration date of these bulletins. The page also integrates an agency's social media feeds to further unify communications.

Digital Evidence Collection

CommandCentral Community's Digital Evidence Collection allows your agency to collect case-specific digital material without needing a personal device or physical storage, such as CDs, USBs, or other devices generally checked into physical evidence stores. This can be managed using the CommandCentral digital evidence management tools.



Public Submissions

The public can submit information online with an easy-to-use interface. There are multiple self-service form options for online submissions, including anonymous tipping, non-emergency online submissions, and digital evidence collection. Your agency can decide which of these forms to deploy and how to personalize these forms with built-in form management tools. The public can use these forms on CityProtect to submit tips, or they can use anonymous SMS communication. Together, these submissions help agencies build a more accurate operating picture using information from the community.

These public submissions are managed in one location and can be linked to your records to create a more efficient workflow. Submissions from the community are collected in the Community Inbox, where your agency can review submissions before they are entered into the master tables to avoid duplication. This leads to cleaner incident record data, while preserving the original record for future reference. The consolidated record view shows all linked submissions in one, complete location.

Crime Map

CommandCentral Community's Crime Map is built into the CityProtect home page. Crime Map automatically publishes crime data and incident information from your RMS or CAD system to an interactive, online map. This map keeps the public informed of local crime activity and offers visibility into your operations. CommandCentral Community's Crime Map provides the following:

- Incident data display with up to hourly update.
- Primary Agency shapefile.
- Sex offender options.
- Crime data download option and action link.

Users can customize and manage data published on Crime Map so that only appropriate public information is shared.

Camera Registration

Camera Registration allows citizens to register their residential or commercial security cameras in CityProtect. Each community member can create a free CityProtect user account to manage their camera information. Your agency can then access the location of these cameras and contact the owner for potential video evidence. The data from these accounts is visualized in a variety of CommandCentral applications, such as CommandCentral Aware and CommandCentral Investigate.

1.2.5 CommandCentral Records Starter

As part of Video-as-a-Service, Motorola Solutions' CommandCentral Records Starter is an easy-to-use solution that enables users to quickly and easily search video, audio, images, and other digital content from incidents. This content is centralized in the Cloud, streamlining access and management of this data across your organization. This approach reduces the complexity of records management. As a result, CommandCentral Records Starter saves your personnel valuable time and allows them to focus on their communities.

CommandCentral Records Starter offers users the following features to benefit records management workflows:

- **Consolidated Record View** – Enter and view incident information, officer narrative, and digital evidence with one user interface, allowing officers to spend more time in the field.
- **Task Creation and Assignment** – View, create, and assign tasks or projects for the day as part of the Insights Dashboard. This helps build and close cases faster by tracking progress and assigning ownership to activities.
- **Case Package Sharing** – Enter a recipient's email address and email them a link to share the Consolidated Record View.
- **Dictated Narrative Transcription** – The system enables narratives to be dictated into the CommandCentral Capture app. The audio is transcribed, tagged, associated with the incident, and uploaded to CommandCentral Evidence and CommandCentral Records. This becomes the primary narrative in the Consolidated Record View, providing context for digital evidence. The narrative audio is searchable via Unified Search.
- **Assisted Narrative** – CommandCentral Records is able to identify the names of individuals already associated with a case when they are mentioned in the primary narrative of the incident record. The names in the primary narrative are linked directly to the named record, helping to identify persons of interest faster and expedite investigations by increasing productivity.
- **Data Insights Reporting** – Access critical insight with pre-built reports and dashboards to make data-driven decisions. Reports include law incident summary by offenses, by officer, and by officer with full incident detail. These reports are done through Microsoft Power BI.
- **Master Indexes** – Validate data on persons, vehicles, and organizations against the master indexes, which have been verified. For example, agencies can verify that an arrested person, person of interest, or suspect's information is accurate.

1.2.6 CommandCentral Evidence Integration

CommandCentral Evidence is part of Video-as-a-Service, providing a cloud-based digital evidence management application that streamlines collecting, securing, and managing multimedia evidence content. CommandCentral Evidence helps users build a secure digital evidence library with data from multiple sources. Users create this unified evidence storage framework by uploading digital evidence

from a variety of sources to CommandCentral Evidence to quickly build cases. Evidence stored within CommandCentral Evidence is easy to search, correlate, and review alongside other case-related information from your CAD or RMS database. Relevant content can be marked and intelligently sorted to quickly locate critical information from a centralized touchpoint. This unified storage framework allows personnel to make informed decisions from a more organized and complete case evidence view, while offering an access control system to allow only authorized personnel to view sensitive information.

Store and Manage

CommandCentral Evidence simplifies building a secure digital evidence library by incorporating data from multiple sources into a unified evidence storage framework. Products from Motorola Solutions, such as body-worn cameras, in-car cameras, the CommandCentral Capture application, and other CommandCentral software automatically transmit data to CommandCentral Evidence. This saves the time and effort needed to manually upload files. Once the content is securely stored in CommandCentral Evidence, content management is more efficient.

CommandCentral Evidence streamlines content management workflows, with tags and metadata that make it easier to correlate, search, and manage evidence. The application automatically links evidence based on the tags and metadata attached to those files, helping users find additional contextual information on an incident and build cases quickly. Users can search and filter content to locate additional relevant data to link to a case or incident. To quickly access evidence items that they frequently need to reference, users can group or bookmark files within the CommandCentral Evidence interface.

Video-as-a-Service provides unlimited storage for events captured by the Motorola M500 and V300 systems where the applied data retention period does not exceed one year for non-evidentiary recordings or 10 years for evidentiary recordings (recordings associated with a case). Additionally, the video recording policy must be event-based (policies that require officers to record their entire shift will not qualify for this plan). For non-camera data storage (data not captured by the body camera and/or in-car system), agencies receive 50GB of storage per device, per month, averaged across all devices in the program.

Judicial Sharing and Redaction

With Judicial Sharing, personnel can share validated evidence items with judicial partners for use in court. This allows judicial partners to access digital evidence files as part of the CommandCentral Evidence application's verifiable chain of custody, maintaining the admissibility of shared items.

The application's efficient redaction and sharing capabilities enable personnel to release appropriate items to the community, providing a transparent incident record in urgent and day-to-day circumstances. With these redaction tools, users can obscure personally identifiable information across video frames. This protects the privacy of individuals in the video, while still providing the public with clear incident records.

1.2.7 CommandCentral Capture Application

The CommandCentral Capture Application is an integrated smartphone application with direct, secure upload to CommandCentral Evidence. This allows users to capture multimedia evidence with advanced camera controls. Integrated metadata population and tagging provides immediate access to content in CommandCentral Evidence. Application isolation ensures evidence is not accessible by other apps and ensures an uncompromised chain of custody from the moment of capture.

The CommandCentral Capture App is a capture source for officers, detectives, command staff, supervisors, and other law enforcement personnel. The user interface for the CommandCentral Capture App is in a single ecosystem with CommandCentral Evidence. Users can easily and securely capture and upload digital evidence through CommandCentral Capture to CommandCentral Evidence. The application is available on iOS and Android.

1.2.8 CAD/RMS Correlation Interface

Video-as-a-Service includes a CAD/RMS correlation interface that uses different mechanisms (DB polling, REST, file polling) to extract required data fields. The data fields are then mapped to a corresponding format accepted by CommandCentral Evidence, and sent to the respective applications correlation service. Those fields are accepted by the correlation service, based on the logic applied for your agency.

Data fields include the following:

- AgencyName.
- IncidentID.
- IncidentData.
- Latitude.
- Longitude.
- OfficerID (officer's email address or badge ID).
- CreatedTimestamp.
- UpdatedTimestamp.

This interface supports the following use cases:

- Retrieve data containing required fields from third-party and Motorola Solutions CAD/RMS systems.
- Map fields and send data in payload to the correlation service.
- Correlation based on time + geographic location.
- Correlation based on time + officer ID.

1.3 CommandCentral Aware

Motorola Solutions' CommandCentral Aware solution combines disparate systems and data into an accessible interface. This single interface offers command centers a complete operating picture to support field personnel in real time. CommandCentral Aware unifies data from mapping, correlated event monitoring, analytics, and communications. This interface streamlines public safety workflows and viewpoints, enabling users to access and act on critical information.

The agency can increase the value of current investments by connecting CommandCentralAware to other software platforms. These integrations include Computer Aided Dispatch (CAD) systems, Call Handling, Land Mobile Radio (LMR), or Video Management Systems (VMS). Users can communicate with confidence, knowing their information is hosted in the highly secure Microsoft Azure cloud.

CommandCentral Aware provides location and alert capabilities to improve public safety response, described in the sections below.

Mapping

CommandCentral Aware features a unified interface to display locations and alerts. Users can view all location-based data on the map display to enhance decision making.

CommandCentral Aware Mapping features also include the following:

- **Event Monitors** – View device status and location, CAD incidents, open-source data alerts, and sensors on a map. This map can consist of Esri online, Esri server, or static map layers. This map can be modified with other data layers.
- **Data Layer Panel** – Show or hide data layers to refine the map view.
- **Event Information Display** – View details associated with each icon on the map.
- **Historical Map** – View a 90-day lookback of radio locations, CAD incidents, service requests, or emergencies. An export tool extracts the recreated timeline to KML format to view in Google Earth or ESRI ArcGIS Pro. The Location Replay feature enables the historic path of a device's location. Aware's Historical Map view enables users to interact with video assets that were available during the selected, historical time frame. If the camera (and its relative VMS) has the ability to play recorded footage, the recorded footage of the selected time frame can be played in Aware's Video Module directly from the Historical Map.
- **Breadcrumbs** – Track individual APX user radios. Tracking begins at the time the action is toggled on. Devices can provide up to the last 30 minutes of live movement.

Geographic Information System (GIS) Data Set

CommandCentral Aware integrates with hosted GIS data sets from Esri ArcGIS Server or ArcGIS online. The geospatial information contained within these data sets are core to the intelligent map display. This enhances workflow details driven by geography and the metadata contained within these data sets.

Esri's powerful geospatial engine within CommandCentral Aware is used to automatically invoke spatial queries, including nearby items and geographic boundaries. This geospatial processing enables intelligence-driven analysis in order to focus on the concentrated area of concern and orientate those responding.

Data sets help users to:

- Refine displayed data based on the geographic area defined per user. Data includes area, beat, sector, precinct, zone, or quadrant.
- Find nearby entities by predefined distance. Parameters include closest camera while in route, closest cameras to an event - CAD, gunshot detection, alert.
- Determine road blockages caused by traffic jams, flooded roadways, or other obstacles.

Rules Engine

The Command Central Aware rules engine allows users to create rule-sets to trigger actions based on event types. For example, users can highlight rows in the Event Monitor and customize sound alerts for critical incidents. These visual and audio triggers reduce the number of steps needed to support an incident.

AccuWeather

CommandCentral Aware includes integration with AccuWeather. This integration provides customized weather-driven services. Services include site-specific forecasts, severe-weather warnings, historical data, and custom analytics. AccuWeather also provides the following data:

- Location key for the desired location.
- Forecast information for a specific location.
- Current Conditions data for a specific location.
- Daily index values for a specific location. Index availability varies by location.
- Radar and satellite images.

Floor Plan Integration

CommandCentral Aware allows the ability to view building floor plans in the Map Module enabling users to see detailed building levels, switch between floors, and look for specific rooms or cameras on each floor. Clicking the map opens a floor plan widget at the bottom of the window where users can change the view between floors in a building.

The Indoor Cameras Tool allows users to place cameras on the building floor it is located on, providing more granularity in locations where cameras are installed on multiple floors. Floor plan files must be in AutoCAD DXF format to be supported by CommandCentral Aware. There are twenty-five (25) floors included with CommandCentral Aware. Each additional floor will incur an additional cost.

1.3.1 CommandCentral Aware Integrations

CommandCentral Aware can integrate with various tools and solutions, described in the sections below.

Computer Aided Dispatch (CAD) Integration

CommandCentral Aware integrates with CAD systems to provide CAD status and event monitor capabilities. The CAD status monitor allows users to see a listing of incidents (event type, location incidents, narrative, priority, status, geographic area, and location of devices or units). The application consumes event-driven data from multiple CAD systems, allowing for real time assessment with other relevant data published to the platform, such as officer location, alarms, alerts, tips, tactical information, voice, and video.

VESTA 911 Call Handling Integration

CommandCentral Aware integrates VESTA 911 call data. The CommandCentral Aware application displays key caller events, such as 911 ringing, connects, and disconnects, alongside location updates to monitor the status of wireless callers. This provides essential information to assist personnel responding to an incident. In addition, a view of a call-based heat map helps PSAP resources understand where the volume of calls is coming from and improve the decision making process.

- Authenticates 9-1-1 calls for Hybrid Enhanced Location information.
- Maps Text-to-9-1-1 calls.
- Displays links to building footprints and Automated External Defibrillator (AED) locations.
- Presents user-supplied profiles in the same interface with mapping and display of landline, VoIP, and wireless 9-1-1 calls.

Vigilant License Plate Recognition (LPR) Integration

CommandCentral Aware integrates with the Vigilant LEARN solution, which enables search and analysis of Vigilant LPR detections within the Aware Map Module. When a license plate detection displays in real-time on the Aware map, the license plate can be searched directly from the CommandCentral Aware interface enabling you to see previous historical detections (time, date, location) and additional details associated with the license plate. With an existing Vigilant LEARN subscription, users can analyze and research the LPR hit for more information and research the plate from the LEARN database.

CommandCentral Evidence Integration

CommandCentral Aware integrates with CommandCentral Evidence. This cloud-based digital evidence management application streamlines collecting, securing, and managing multimedia evidence content. This application simplifies building a secure digital evidence library by incorporating data from multiple sources into a unified storage framework. Users can upload digital evidence from a variety of sources to CommandCentral Evidence to quickly build cases.

Evidence is easy to search, correlate, and review alongside other case-related information from the RMS/CAD database. Relevant content can be marked and sorted to quickly locate data information from a centralized touchpoint. This allows personnel to make informed decisions from a more organized and complete case evidence view, while offering an access control system to allow only authorized personnel to view sensitive information.

CommandCentral Aware users can clip videos from live or recorded video streams from CommandCentral Aware, define a start and end time for the video clip, tag the clip with an incident ID, and save a copy of the video directly to CommandCentral Evidence. This workflow is streamlined from the CommandCentral Aware application. Native metadata from the camera source (time, date, GPS location) are automatically copied over to the video evidence within Evidence. CommandCentral Aware users can easily switch over to Evidence to perform redactions, share with external judicial partners or the public, or perform other digital evidence management tasks. Since CommandCentral Aware and Evidence both exist within the CommandCentral ecosystem, Single Sign-on is used avoiding the need for separate login credentials.

1.3.2 Video Management System Component Descriptions

As part of CommandCentral Aware, the Video View module consumes video content from a variety of Video Management Systems (live and recorded, fixed and mobile). Each VMS offers a variety of tools via an SDK. These tools can include, but are not limited to, location, user-controlled Pan Tilt Zoom (PTZ), Digital Zoom, Image Capture, Video rewind and export clip, and historic search of recorded video. These features improve productivity and increase responder safety.

The Video View module can also consume video analytics of automated license plate recognition and object detection. These capabilities refine video feeds to accurately assess detail that the eye may not see, further enhancing the user's experience within CommandCentral Aware. Component configuration within CommandCentral Aware allows for specific use case definition expanding automated intelligence into the application via:

- **Workflow Configuration** – Associate related data from different systems to get a comprehensive view of an incident or threat. Display nearby video sources based on CAD incident, sensor alarms, and provided third-party data alerts.

- **Real-Time Video Streaming** – Patrol the community or view an event in seconds by accessing up to 16 cameras simultaneously from video feeds via VMS. Users can reference the video source, date, time, and location, as well as customize camera groups for quicker access to particular locations.
- **Camera Field of View** – Define FOV and view on the map display. Users can toggle cameras off and on that may or may not be pointed in the direction of the incident.
- **Video Camera Audit Log** – Capture user interactions and record them in a log.

Table 1-1 – Supported Video Capabilities within CommandCentral Aware

Feature	Description
Camera Import	Importing cameras and the directory tree from VMS to CommandCentralAware.
Camera Location	Use coordinates stored in-camera custom fields at the NVR (or) pulls geo-location coordinates from the camera units. Specifically identified during installation.
PTZ	Control of pan, tilt, and zoom (PTZ) functions on capable camera units that have been imported into CommandCentral Aware.
PTZ Presets	PTZ cameras predefined pan, tilt, zoom values are applied to live feed.
PTZ Tours	PTZ cameras execute a scan of its vicinity.
Live Video	Direct feed from the camera as provisioned in the VMS system.
Recorded Video	Playback video from the archive.
Live Snapshots	Perform a screen capture of the live scene to send as an attachment via messaging service.
Recorded Snapshots	Isolate and capture a section of the recorded video to be distributed by the messaging service.
Recorded Fast Forward	Display frame recorded sample at a faster rate playing forward.
Record Fact Backward	Display frame recorded sample at a faster rate playing backward.
Digital Zoom	Magnifies a selected area for live and recorded video.
Video Export	Ability to prepare a video clipping for export to messaging or evidence collection.
Bookmark	On Live View and Recorded Playback, the bookmark automatically captures the camera information, the date, and time stamps for the video, and enables you to input the bookmark author, a name for the bookmark, and an optional description, plus an associated incident identifier. Bookmark fields can be edited later, except for the date, time, and author fields.

Motorola M500 & V300 Live Streaming

The Motorola M500 and V300 to CommandCentral Aware integration provides access to the location and video from the V300 Body Worn Camera and the M500 In-Car Video products. The device location is displayed on the AWARE map while the targeted video feed is displayed in the Video View window. Live streaming and location will begin to be available in Q2 2022.

1.3.3 CommandCentral Aware Technical Discovery Requirements

In order to prevent delay in the implementation, the City should provide the information required in the table below at the time of Project Kickoff for each interface/integrated system.

Table 1–3: Aware Technical Discovery Requirements

	Customer Provided	Motorola Confirmed
Additional Information for Virtual Machine (VM) Access		
Remote access to Cloud Anchor Server		
Data Interface VM requirements		
Video Interface VM requirements		
Interfaces (Required for each Interface)		
Manufacturer and Current Software Version		
Confirm API/SDK Availability		
Provide IP Addresses		
Provide Data format		
Provide Data Frequency (Peak & average events & content)		
Provide Operational aspects (data latency, key fields/information, # inputs)		
Data path factors (bandwidth, NAT, latency, jitter)		
Additional VMS Interface Requirements		
Number of Cameras connected to each VMS		
VMS Archive and Archiver to Aware Client		
Provide GPS Coordinates for each camera		
Integration		
Customer IP Network layout (Traffic segmentation, NAT required?)		
Active Directory and Email policies		
Customer Third-Party IP Network Connections (Schools, Fire, Traffic)		
Remote Access Policy/Procedures		
Who owns/maintains each Customer network/firewalls?		

	Customer Provided	Motorola Confirmed
Additional Information Required for Integration with CAD & ALPR Systems		
Data delivery latency rate		
Data interface type		
• Fileshare/Dump		
• Webservices		
• SOAP/REST		
• SQL Extraction		
Database IP Address, Login Credentials, DB Version		
Data volume (calls per service, peak event rates)		
Data Fields		
• CAD event Geolocation data availability		
• AVL/ARL data available?		
• Event Types		
• Icons		
• Others(?)		
Additional Information Required for Integration with Streaming Servers		
Mobile data terminal types:		
• Manufacturer		
• OS version		
• Wireless Access		
• VPN Connectivity to Core?		
• Validate Data Ingestion (may require system expansion**)		

1.3.4 Hardware Environment Requirements

The Customer provided Virtual Machine will allow CloudConnect to be installed to enable CommandCentral cloud applications to connect to on-premises applications, like CAD/RMS and Video Management systems.

Customer-Provided Cloud Anchor Server (minimum requirements)

- VMware vSphere 6.7 and above installed.

- Windows 2016 and above installed.
- Server must have access to Internet
- Server must have remote access capability for Motorola Solutions to install software
- Server must contain the following Virtual Machine(s):
 - Data Interface Virtual Machine 8GB RAM, 2 virtual CPUs, 20GB disk storage.
 - Video Interface Virtual Machine 16GB RAM, 2 virtual CPUs, 64GB disk storage.

Customer-Provided Aware Workstation (minimum requirements)

- **Processor** - Intel Xeon 6136 @3.0 GHz (12 cores).
- **Memory** - 32 GB.
- **Drive** - One NVMe 512G SSD.
- **NIC** - 1 GB port NIC.
- **OS** - Windows 7 Professional or Windows 10 Professional.
- **Graphics Card** - NVIDIA Quadro P2000.

Customer-Provided Workstation Monitors (minimum requirements)

- 27-inch Narrow Bezel IPS Display, 2560X1440.

1.3.5 Connectivity and Design Requirements

Motorola Solutions will work with the Customer IT personnel to verify that connectivity meets requirements. The Customer will provide the network components.

Network Physical Requirements

- Two static IP addresses, corresponding subnet masks/default gateway, and availableNTP and DNS IP to the Cloud Anchor Virtual Machines.
- One network port for each VMS server.
- One network port for each VMS analytics appliance.

Network Bandwidth Requirements

- Provide network ports that are 1GB capable and network routable.
- Minimum bandwidth needed between the Cloud Anchor Server and the CommandCentral Aware platform is 1.1 Mbps.

Low latency is critical for real-time operations. The speed with which data appears on the CommandCentral Aware display depends in large part on how quickly the information is presented to the CommandCentral Aware interface. Major contributors to the latency are network delays and the delay time from occurrence of an event to when that event information is presented to Aware from the source application (CAD, AVL, ALPR). AlthoughCommandCentral Aware strives to provide near-real-time performance, Motorola Solutions provides no guarantees as to the speed with which an event (or video stream) appears in the application once the event is triggered.

CommandCentral Aware Design Limitations

- A maximum of 3000 Icons viewed on the CommandCentral Aware client at one time, per instance.

- A maximum of 100 updates per second on the CommandCentral Aware client.
- A maximum 5000 radios per server.

Vigilant LPR Requirements

Bandwidth requirements include the following:

- 1-Gbps hardwire switched network between the Vigilant server and Cloud Anchor.
- Upload of ALPR data to the LEARN back office requires approximately 350 Kbps for each scan per second. Depending on maximum scan volume, the maximum bandwidth may need to be adjusted.
- The RTSP video feed from cameras requires a 1Gbps hardwire switched network device to allow for data communications exceeding four connected cameras.

Firewall requirements include the following:

- CommandCentral Aware Workstation will need access to the IP addresses of the Cloud Anchor and Vigilant servers (access to cloud platform endpoints).
- Ports that need to be open are TCP 80, TCP 443, TCP 3310 (or custom SQL Database Engine listening port that might have been configured for security reasons).
- The basic service requirements of the system through a firewalled environment consist of HTTPS web-based calls to a cloud back-office solution (LEARN) with S3 image storage, typically, through a mobile broadband endpoint. A local IP listener for RTSP video stream is used from cameras with TCP communications.
- Ingress requirements (firewall traffic in). For Wireless Broadband communications, we require TCP port 443 to communicate with the LEARN server back office to receive acknowledgement responses from the client. Camera Communications: TCP port 2000, 3000, 4000, 5000 (LAN/DSP).

Egress requirements (firewall traffic out). For Wireless Broadband communications, the ALPR client requires TCP port 443 to communicate with the LEARN server back office. The HTTPS protocol is primarily used to communicate over TLS 1.0, 1.1, or 1.2 with 128-bit encryption ciphers or better. This allows for the upload of ALPR data to the LEARN web services and request for data from the LEARN services and Google Maps.

1.4 CJIS and Compliance

At Motorola Solutions, we believe compliance is a team effort. As our customers' partner in compliance, we employ privacy and security protocols that enable our customers to comply with the most stringent legal and regulatory requirements. In addition, we build on a strong foundation with an Azure architecture designed and managed to meet a broad set of international compliance standards, as well as region-specific and industry-specific standards.

Motorola Solutions understands our customers' critical need to safeguard the lifecycle of Criminal Justice Information. To support that need, Motorola Solutions designs its products and services to support compliance with the FBI's Criminal Justice Information Services (CJIS) Security Policy and we commit to the terms of the CJIS Security Addendum. With a dedicated team of CJIS compliance professionals, we assist our customers through administering and coordinating CJIS-compliant personnel credentialing, providing documentation assistance in connection with CJIS audits, and

advising on how to configure and implement our solutions in a manner consistent with the CJIS Security Policy.

Motorola Solutions employs rigorous third-party audits to verify its adherence to security controls and standards. To demonstrate Motorola Solutions safeguarding of customer data, comprehensive third-party audits of primary Software Enterprise development and support operations have been completed and those operations have achieved ISO/IEC 27001:2013 (information security management systems) certification and AICPA SOC2 Type 2 reports are available. ISO/IEC 27017:2015 (information security controls for cloud services), ISO/IEC 27018:2019 (protection of personal information in public clouds) and ISO/IEC 27701:2019 (privacy information management) are available.

Supplemental SOC2 Type 2 reports and ISO/IEC 27001:2013 certifications for the development and support operations at satellite locations will be complete by the end of 2021.

1.5 Vigilant LEARN Investigate Data Platform (Optional)

Investigate Data Platform – Annual Subscription for 101 to 200 Sworn – State and Local

- **Commercial LPR Data Access – For 101 to 200 Sworn**
 - Access to all Vigilant commercially acquired national vehicle location data.
 - Unlimited use by authorized agency personnel to complete suite of LEARN data analytics.
 - Includes full use of hosted/managed LPR server account via LEARN.
- **FaceSearch with Vigilant Image Gallery Access for 101 to 200 Sworn**
 - Access to all agency/shared images and Vigilant Image Gallery.
 - Unlimited use by authorized agency personnel to all FaceSearch tools.
 - Images Gallery of up to 20,000 images.
 - This Quote covers the LEARN Subscription Period of 5/1/22 through 4/30/27.

Section 2

Statement of Work

2.1 Introduction

In accordance with the terms and conditions of the Agreement, this Statement of Work (“SOW”) defines the principal activities and responsibilities of all parties for the delivery of the Motorola Solutions (“Motorola”) system as presented in this offer to City of Abilene, TX (hereinafter referred to as “Customer”). When assigning responsibilities, the phrase “Motorola” includes our subcontractors and third-party partners.

Deviations and changes to this SOW are subject to mutual agreement between Motorola and the Customer and will be addressed in accordance with the change provisions of the Agreement.

Unless specifically stated, Motorola work is performed remotely. Customer will provide Motorola resources with unrestricted direct network access to enable Motorola to fulfill its delivery obligations.

Motorola and the Customer will work to complete their respective responsibilities in accordance with the mutually agreed upon governing Project Schedule. Any changes to the governing Project Schedule will be mutually agreed upon via the change provision of the Agreement.

The number and type of software or subscription licenses, products, or services provided by Motorola or its subcontractors are specifically listed in the Agreement and any reference within this document as well as subcontractors’ SOWs (if applicable) does not imply or convey a software or subscription license or service that are not explicitly listed in the Agreement.

2.1.1 Award, Administration and Project Initiation

Project Initiation and Planning will begin following execution of the Agreement between Motorola and the Customer.

Following the conclusion of the Project Planning Session, the Motorola Project Manager will conduct twice monthly one-hour remote status meetings with the Customer Project Manager for the purpose of baselining progress of current activities and the planning of future activities. Following the conclusion of the Contract Design Review, the Motorola Project Manager will prepare and submit monthly status reports to the Customer Project Manager. Monthly Status Reports provide a summary of the activities completed in the month, those activities planned for the following month, project progress against the project schedule, items of concern requiring attention as well as potential project risks and agreed upon mitigation actions.

2.1.2 Completion and Acceptance Criteria

Motorola Integration Services are considered complete upon Motorola performing the last task listed in a series of responsibilities or as specifically stated in Completion Criteria.

Customer task completion will occur per the project schedule enabling Motorola to complete its tasks without delay.

Customer will provide Motorola written notification that it does not accept the completion of Motorola responsibilities or rejects a Motorola service deliverable within five (5) business days of completion or receipt of a deliverable.

The Service Completion will be acknowledged in accordance with the terms of Master Customer Agreement and the Service Completion Date will be memorialized by Motorola and Customer. Software System Completion will be in accordance with the terms of the Software Products Addendum unless otherwise stated in this Statement of Work.

2.2 Project Roles and Responsibilities Overview

2.2.1 Motorola Project Roles and Responsibilities

A Motorola team, made up of specialized personnel, will be appointed to the project under the direction of the Motorola Project Manager. Team members will be multi-disciplinary and may fill more than one role. Team members will be engaged in different phases of the project as necessary.

In order to maximize efficiencies Motorola's project team will provide services remotely via teleconference, web-conference or other remote method in fulfilling its commitments as outlined in this Statement of Work. Motorola project team resources will be on site at the Customer location when fulfilling commitments that are crucial to project success as noted in this Statement of Work.

The personnel role descriptions noted below provide an overview of typical project team members. There may be other personnel engaged in the project under the direction of the Project Manager. The following provided descriptions of the primary roles engaged in the delivery of the project. One or many resources of the same type may be engaged as needed throughout the project.

Motorola's project management approach has been developed and refined based on lessons learned in the execution of hundreds of system implementations. Using experienced and dedicated people, industry-leading processes, and integrated software tools for effective project execution and control, we have developed and refined practices that support the design, production, and testing required to deliver a high quality, feature-rich system.

Project Manager

A Motorola Project Manager will be assigned as the principal business representative and point of contact for the organization. The Project Manager's responsibilities include:

1. Manage the Motorola responsibilities related to the delivery of the project.
2. Maintain the project schedule and manage the assigned Motorola personnel and applicable subcontractors/supplier resources.
3. Manage the Change Order process per the Agreement.
4. Maintain project communications with the Customer.
5. Identify and manage project risks.
6. Collaborative coordination of Customer resources to minimize and avoid project delays.
7. Measure, evaluate, and report the project status against the Project Schedule.
8. Conduct remote status meetings on a mutually agreed basis to discuss project status.

9. Prepare and submit a monthly status report that identifies the activities of the previous month, as well as activities planned for the current month, including an updated Project Schedule and action item log.
10. Provide timely responses to issues related to project progress.

Solutions Architect

The Solutions Architect is responsible for the delivery of the technical and equipment elements of the solution. They confirm the delivered technical elements meet contracted requirements. They are engaged throughout the duration of the delivery.

Customer Success Advocate

A Customer Success Advocate will be assigned to the Customer post Go Live event. By being the Customer's trusted advisor, the Customer Success Advocate's responsibilities include:

1. Assist the Customer with maximizing the use of their Motorola software and service investment.
2. Actively manage, escalate, and log issues with Support, Product Management, and Sales.
3. Provide ongoing customer communication about progress, timelines, and next steps.

Customer Support Services Team

The Customer Support Services team will provide ongoing support following commencement of beneficial use of the Customer's System(s) as defined in Customer Support Plan.

2.2.2 Customer Project Roles and Responsibilities Overview

The success of the project is dependent on early assignment of key Customer resources. It is critical these resources are empowered to make provisioning decisions based on the Customer's operational and administration needs. The Customer project team should be engaged from project initiation through beneficial use of the system. The continued involvement in the project and use of the system will convey the required knowledge to maintain the system post completion of the project. In some cases, one person may fill multiple project roles. The project team must be committed to participate in activities for a successful implementation.

Project Manager

The Project Manager will act as the primary Customer point of contact for the duration of the project. In the event the project involves multiple agencies, Motorola will work exclusively with a single Customer assigned Project Manager (the primary Project Manager). This includes the management of any third party vendors that are Customer Subcontractors. The Project Manager's responsibilities include:

1. Communicate and coordinate with other project participants.
2. Manage the Customer project team including timely facilitation of efforts, tasks, and activities.
3. Maintain project communications with the Motorola Project Manager.
4. Identify the efforts required of Customer staff to meet the task requirements and milestones in this SOW and Project Schedule.
5. Consolidate all project-related questions and queries from Customer staff to present to the Motorola Project Manager.
6. Review the Project Schedule with the Motorola Project Manager and finalize the detailed tasks, task dates, and responsibilities.

7. Measure and evaluate progress against the Project Schedule.
8. Monitor the project to ensure resources are available as scheduled.
9. Attend status meetings.
10. Provide timely responses to issues related to project progress.
11. Liaise and coordinate with other agencies, Customer vendors, contractors, and common carriers.
12. Review and administer change control procedures, hardware and software certification, and all related project tasks required to maintain the Project Schedule.
13. Ensure Customer vendors' adherence to overall Project Schedule and Project Plan.
14. Assign one or more personnel who will work with Motorola staff as needed for the duration of the project, including at least one representative(s) from the IT department.
15. Identify the resource with authority to formally acknowledge and approve Change Orders, approval letter(s), and milestone recognition certificates as well as approve and release payments in a timely manner.
16. Provide building access to Motorola personnel to all Customer facilities where system equipment is to be installed during the project. Temporary identification cards are to be issued to Motorola personnel if required for access to facilities.
17. Ensure remote network connectivity and access to Motorola resources.
18. As applicable to this project, assume responsibility for all fees for licenses and inspections and for any delays associated with inspections due to required permits.
19. Provide reasonable care to prevent equipment exposure to contaminants that cause damage to the equipment or interruption of service.
20. Ensure a safe work environment for Motorola personnel.
21. Provide signatures of Motorola-provided milestone certifications and Change Orders within five (5) business days of receipt.

Transformation Lead

The Transformation Lead, who may or may not be your Project Manager, must be able to holistically represent your organization and be able to work cross functionally between Motorola, your organization, and all stakeholders involved in the delivery of your new system. The Transformation Lead must be empowered to acknowledge the resource and time commitments required of your organization and authorize Motorola to proceed with scheduling the Project Kickoff event.

System Administrator

The System Administrator manages the technical efforts and ongoing tasks and activities of their system as defined in the Customer Support Plan (CSP).

IT Personnel

IT personnel provide required information related to LAN, WAN, wireless networks, server, and client infrastructure. They must also be familiar with connectivity to internal, external, and third-party systems to which the Motorola system will interface.

Additional Resources

Additional resources, such as trainers and database administrators may also be required.

User Agency Stakeholders

User Agency Stakeholders, if the system is deployed in a multi-agency environment, are those resources representing agencies outside of the Customer's agency. These resources will provide provisioning inputs to the SMEs if operations for these agencies differ from that of the Customer agency.

General City of Abilene Responsibilities

In addition to the City of Abilene Responsibilities stated elsewhere in this SOW, the Customer is responsible for:

1. All Customer-provided equipment including hardware and third-party software necessary for delivery of the System not specifically listed as a Motorola deliverable. This will include end-user workstations, network equipment, telephone, or TDD equipment and the like.
2. Configuration, maintenance, testing, and supporting the third-party systems the Customer operates which will be interfaced to as part of this project. The Customer is responsible for providing Application Programming Interface (API) documentation to those systems that document the integration process for the level of interface integration defined by Motorola.
3. Initiate, coordinate, and facilitate communication between Motorola and Customer's third-party vendors as required to enable Motorola to perform its duties.
4. Active participation of Customer Subject Matter Experts (SME's) in project delivery meetings and working sessions during the course of the project. Customer SME's will possess requisite knowledge of Customer operations and legacy system(s) and possess skills and abilities to operate and manage the system.
5. The provisioning of Customer GIS data as requested by Motorola. This information must be provided in a timely manner in accordance with the Project Schedule.
6. Electronic versions of any documentation associated with the business processes identified.
7. Providing a facility with the required computer and audio-visual equipment for training and work sessions as defined in the Training Plan.
8. Ability to participate in remote project meeting sessions using Google Meet.

2.2.3 Project Planning and Pre-Implementation Review

A clear understanding of the needs and expectations of both Motorola and the Customer are critical to the successful implementation and on-going operation of CommandCentral. In order to establish initial expectations for system deployment and to raise immediate visibility to ongoing operation and maintenance requirements, we will work with you to help you understand the impact of introducing a new solution and your preparedness for the implementation and support of the CommandCentral system.

Shortly after contract signing, Motorola will conduct a one-on-one teleconference with your designated resource to review the task requirements of each phase of the project and help to identify areas of potential risk due to lack of resource availability, experience or skill.

The teleconference discussion will focus on the scope of implementation requirements, resource commitment requirements, cross-functional team involvement, a review of the required technical resource aptitudes and a validation of existing skills, and resource readiness in preparation for the Project Kickoff meeting.

Motorola Responsibilities

1. Make initial contact with the Customer Project Manager and schedule the Pre-Implementation Review teleconference.
2. Discuss the overall project deployment methodologies, inter-agency/inter-department decision considerations (as applicable), and third party engagement/considerations (as applicable).
3. Discuss Customer involvement in system provisioning and data gathering to understand scope and time commitment required.
4. Discuss the online Learning Management System (LMS) training approach.
5. Obtain mutual agreement of the Project Kickoff meeting agenda and objectives.
6. Discuss the CommandCentral Solution Discovery Requirements checklist and verify Customer has a copy of the checklist.
7. Coordinate enabling designated Customer administrator with access to the LMS and CommandCentral Admin Console.

City of Abilene Responsibilities

1. Provide Motorola with the names and contact information for the designated LMS and application administrators.
2. Collaborate with the Motorola PM and set the Project Kickoff meeting date.

2.2.4 Project Kickoff Teleconference

The purpose of the project kickoff is to introduce project participants and review the overall scope of the project.

Motorola Responsibilities

1. Conduct a project kickoff teleconference.
2. Validate key project team participants attend the meeting.
3. Introduce all project participants.
4. Review the roles of the project participants to identify communication flows and decision-making authority between project participants.
5. Review the overall project scope and objectives.
6. Review the resource and scheduling requirements.
7. Review the teams' interactions (meetings, reports, milestone acceptance) and Customer participation.
8. Request third- party API, SDKs, data schema and any internal and third- party documents necessary to establish interfaces with local and remote systems.
9. Verify Customer Administrator(s) have access to the LMS and CommandCentral Admin Console.

City of Abilene Responsibilities

1. Validate key project team participants attend the meeting.
2. Introduce all project participants.
3. Review the roles of the project participants to identify communication flows and decision-making authority between project participants.

4. Provide VPN access to Motorola staff to facilitate delivery of services described in this Statement of Work.
5. Validate any necessary non-disclosure agreements, approvals, and other related issues are complete in time so as not to introduce delay in the project schedule. Data exchange development must adhere to third-party licensing agreements.
6. Provide all paperwork and/or forms (i.e. fingerprints, background checks, card keys and any other security requirement) required of Motorola resources to obtain access to each of the sites identified for this project.
7. Provide the contact information for the license administrator for the project. I.e. IT Manager, CAD Manager, and any other key contact information as part of this project.
8. Validate access to the LMS and CommandCentral Admin Console.
9. Provide the information required in the CommandCentral Solution Discovery Requirements checklist.

2.3 Contract Design Review (CDR)

2.3.1 Contract Design Review

The objective is to review the contracted applications, project schedule, bill of materials, functional demonstration approach and contractual obligations of each party. The CDR commences upon conclusion of the Project Kickoff session.

Any changes to the contracted scope can be initiated via the change provision of the Agreement.

Motorola Responsibilities

1. Review the Ordering Documents: System Description, Statement of Work and Project Schedule.
2. Review the technical, environmental and network requirements of the system.
3. Review the initial Project Schedule and incorporate Customer feedback resulting in the implementation project schedule. The project schedule will be maintained by Motorola and updated through mutual collaboration. Schedule updates that impact milestones will be addressed via the change provision of the Agreement.
4. Review and order contacted hardware.
5. Review the functional demonstration process for CommandCentral Solution and interfaces.
6. Request shipping address and receiver name.
7. Provide completed paperwork, provided to Motorola during project kickoff that enables Motorola resources to obtain site access.
8. Review the information in the Customer provided CommandCentral Solution Discovery Requirements checklist.
9. Grant Customer Administrator with access to CommandCentral Admin Console.
10. Grant Customer LMS Administrator with access to the LMS.
11. Generate a CDR Summary report documenting the discussions, outcomes and any required change orders.

City of Abilene Responsibilities

1. Project Manager and key Customer assigned designees attend the meeting.
2. Provide network environment information as requested.
3. Providing shipping address and receiver name.
4. Provide locations and access to the existing data and video equipment that will be part of the CommandCentral system per the Agreement.

Completion Criteria

The CDR is complete upon Customer receipt of the CDR Summary report.

2.3.2 Video Management System (VMS) Design Review

The objective of the VMS Design Review is to collect all information required to connect and configure the CommandCentral Aware and VMS Interface(s).

Motorola Responsibilities

1. Identify the specific inputs required from Customer for all VMS interfaces.
2. Add VMS interface details to the CDR Summary report.

City of Abilene Responsibilities

1. Discuss information on third party API, SDKs, data schema and any internal and 3rd party documents necessary to establish interfaces with all local and remote systems and facilities within ten (10) days of the Project Kickoff Meeting so as not to impact the project schedule.
2. Work with the owners of the new and existing data and video equipment to establish network connectivity (where applicable).
3. Gather data required to configure VMS interfaces and provide information as CSV or inExcel spreadsheets.
4. For VMS interfaces that will be configured for each location where Network Video Recorders (NVR) and cameras are installed, the Customer must provide all camera name, coordinates and IP mapping and the network plan in CSV or Excel files prior to Motorola commencing configuration of the VMS interfaces.

Completion Criteria

The VMS Design Review is complete upon Customer receipt of the CDR Summary Report.

2.4 Hardware/Software

Hardware and software activities account for the procurement, staging, and configuration of server hardware.

2.4.1 Installation of Sierra Wireless MP70 and AMM Cloud Management

Motorola Responsibilities

1. Inventory Motorola provided equipment with the Customer's Project Manager.
2. Configure and install the contracted equipment at the locations identified during the CDR.
3. Install the contracted equipment which meet Motorola specifications. Please note the following:
 - A. If specifications cannot be met, a change order will be required to accommodate the new scope or a new location per specifications will be chosen.
 - B. Locations for the installation of cameras and devices may be adjusted per during the CDR via mutual agreement between Customer and Motorola.
 - C. The equipment includes standard mounting brackets. This solution does not include any special mounting brackets. Services required for the installation of non-standard mounting brackets are specifically excluded from this offer and shall be provided the Customer as/if required.

Customer Responsibilities

1. Provide written approval to mount the video equipment on street lights. Site authorizations and approvals, if required, must be completed and provided to Motorola prior to project implementation.
2. Obtain licenses and permits as required for implementation or operation of the new system as described in this SOW.
3. Provide access to all sites identified and agreed upon during the CDR.
4. Provide tags for equipment.
5. Obtain use permits and any other necessary approvals as required for all installation locations (including, but not limited to, easements, impact studies, planning commission approval and variances) before project implementation.
6. Provide all electrical work as required for the scope of this project.
7. Provide traffic lights/pole locations for mounting the cameras and devices, which meet the following design criteria:
 - A. Provides continuous (24x7) 120 VAC power is required within six feet of each Motorola provided wireless equipment and camera devices. As needed, Customer will supply equipment and labor to extend power from the closest electrical panel or other supply source.
 - B. Extend the power cable from the equipment at the top of the pole down to the Traffic Control box (up to cable run of 75 feet). Customer is required to make the final connection within the box, as needed, and to be on site to validate no disruption of existing equipment.
 - C. Provide bonding and a single-point ground connection within six feet of each device per NEC standards.
 - D. Provide fiber backhaul at each of the camera locations.
 - E. Validate sufficient space is available on the mounting location.
 - F. Obtain authorizations and approvals as required for the light pole, traffic light intersections.
 - G. Provide access and AC power at all identified sites included for this project.

Note—If a power pole is not located in the optimum location, a suitable pole in close proximity will be selected. If the change results in the need for a new path survey, the additional costs will be addressed via the change provision of the Agreement. If a suitable power pole cannot be found in a critical location, additional equipment may be required, and/or a suitable pole/fixture will be necessary. If a suitable pole/fixture is not available, a modification to the overall design may take place. Any associated cost will be borne by the Customer.

8. Motorola's demarcation point on the network is the edge router. Customer is responsible for IP connections from this router to any host end servers, routers, or other network devices.
9. Provide the removal or disposal of any existing equipment or hardware if needed.
10. Provide free and open access to all owned or leased sites of work. This includes but is not limited to, the following:
 - A. Provide escort at no charge, if escorts are required at any particular site. The availability of such escort shall not be unreasonably withheld.
 - B. Arrange site permission; provide keys to all the locks at sites and/or temporary identification cards should be issued to Motorola personnel if required for access to Customer facilities.
 - C. Provide a dedicated resource to act as its representative and primary point of contact. The resource shall authorize and/or accept the deliveries, installations, acceptance testing, and user training associated with the system.
 - D. Provide site access to Customer owned and controlled sites for Motorola personnel and Motorola's subcontractors for the purpose of installing, and optimizing Motorola provided equipment, and for testing of the equipment and system operation.
 - E. Provide traffic/pedestrian control for equipment installations which are located on public streets and sidewalks.
 - F. Provide any required parking permits to Motorola personnel for restricted access entry and/or parking.

Completion Criteria

Equipment installation completed and ready for optimization.

2.4.2 Installation of M500 / V300 In-Car Equipment, V300 Transfer Stations, V300 USB Docks, EL4 to CCE Data Migration, Spillman CAD Integration, Interview Rooms

Motorola Responsibilities

1. Inventory Motorola provided equipment with the Customer's Project Manager, which includes items on Exhibit 5.
2. Install the contracted in-car M500 and V300 equipment in customer vehicles per customer specification at the location(s) identified during the CDR.
3. Provide managed software installation service; Complete onsite install, data migration from on-premise to cloud hosted environment, end user and admin training, cloud DEMS system configuration, project management and consultation

Customer Responsibilities

1. Provide locations and proper rack, power and data connections to mount the video equipment at each location as required.

2.5 Interfaces and Integration

The installation, configuration and demonstration of interfaces may be an iterative series of activities depending upon access to third-party systems. Interfaces will be installed and configured in accordance with the project schedule. Integrations of functionality between Motorola developed products will be completed through software installation and provisioning activities in accordance with the Project Schedule dates. Integration activities that have specific requirements will be completed as outlined in this SOW.

2.5.1 Interface Deployment

Connectivity will be established between the Motorola system and the external and/or third-party systems to which the software will interface. Motorola will configure the system to support each contracted interface. The Customer is responsible for engaging third-party vendors if and as required to facilitate connectivity and testing of the interfaces.

Motorola Responsibilities

1. Establish connectivity to external and third party systems.
2. Configure interfaces to support the functionality described in the System Description.
3. Validate each interface can transmit and/or receive data in accordance with the System Description.

City of Abilene Responsibilities

1. Act as liaison between Motorola and third party vendors or systems as required to establish interface connectivity with the Motorola system.
2. Provide personnel proficient with and authorized to make changes to the network and third-party systems to support Motorola's interface installation efforts.
3. Provide network connectivity between CommandCentral and the third-party systems.

Unknown circumstances, requirements, and anomalies at the time of initial design can present difficulties in interfacing to some third-party applications. These difficulties could result in a poorly performing or even a non-functional interface. When information and access to systems is provided, Motorola will be able to mitigate these difficulties. If Motorola mitigation requires additional third-party integration, application upgrades, API upgrades, and/or additional software licenses, those costs will need to be addressed through the Change Order provision of the Agreement.

Completion Criteria

System configured to support the interfaces designated in the solution description.

2.5.2 Integration Activities

Proprietary processes enable the transfer and receipt of data between Motorola systems as described in the System Description.

Motorola Responsibilities

1. Establish and validate connectivity between the Motorola systems.
2. Validate each system can transmit and/or receive data.

City of Abilene Responsibilities

1. Provide personnel proficient with and authorized to make changes to the network and third-party systems to support Motorola's integration efforts.
2. Provide network connectivity between the Motorola systems.

2.5.3 CommandCentral Solution Geospatial Mapping Configuration

Motorola Responsibilities

1. Installation and configuration of the connection to the Customer mapping system, (i.e.ESRI online, ESRI server, or static map layers).
2. Add camera locations to ESRI system map and configure hot links within CommandCentral Solution system.
3. Test mapping layers and links to validate CommandCentral Solution is accessing and utilizing Customer published GIS data.

City of Abilene Responsibilities

1. Provide access to ESRI/GIS system and/or GIS personnel.
2. Provide published GIS map layers.
3. Work with Motorola staff to publish specific maps beneficial to the Customer analysts.

Completion Criteria

CommandCentral Solution Geospatial Mapping configuration is complete.

2.6 CommandCentral Provisioning

2.6.1 CommandCentral Solution

Motorola will discuss industry best practices, current operations environment, and subsystem integration in order to determine the optimal configuration for CommandCentralSolution.

Motorola Responsibilities

1. Using the CommandCentral Admin Console, provision users, groups, rules, and cameras based on Customer Active Directory data.

City of Abilene Responsibilities

1. Supply the access and credentials to Customer's Active Directory for the purpose of Motorola conducting CommandCentral Solution provisioning.
2. Respond to Motorola inquiries regarding users/groups/agency mapping to CommandCentral Solution functionality.

Completion Criteria

CommandCentral Solution provisioning is complete upon Motorola completing provisioning activities.

2.6.2 Develop M500 and V300 Configuration and Configure into CommandCentral

Motorola Responsibilities

1. Provide details on the features and functionality of the Motorola Solutions M500 and V300 equipment/ system.
2. A Motorola Solutions Representative assists the Customer in defining each M500 and V300 configuration into CommandCentral.
3. Program the approved configurations into CommandCentral for Customer Admin.
4. Program sample M500 and V300 with approved templates and deliver for the Customer evaluation.
5. Any changes requested by the Customer, after approval of template definitions, will require updating the contract documents accordingly.

City of Abilene Responsibilities

1. Provision additional users into CommandCentral beyond admin set-up.
2. Program a small sample of M500 and V300 with approved configuration.
3. Evaluate sample configurations.
4. Modify configurations as needed prior to mass deployment.
5. Set-up remaining devices in CommandCentral

Completion Criteria

Configurations completed and approved by the Customer.

2.7 CommandCentral Community

Motorola Solutions enables the CommandCentral Community during the order process.

Motorola Solutions Responsibilities

- Refer to Agency and User Setup section of SOW.
- Connect Customer incident data ingest.

Customer Responsibilities

- Provision policies and procedures, tags, retention periods, and user permissions.
- Configure CommandCentral Community settings (location of agency pin, shape of agency, keywords, agency page, URL, which forms to deploy).
- Provide access to Motorola Solutions' team to connect incident data ingest.

Completion Criteria

CommandCentral Community subscription enabled.

2.8 CommandCentral Records Starter

This document describes the activities required to ensure access to the subscription software and the Customer's provisioning activities.

CommandCentral Records Starter features preconfigured Incident Forms and standard Workflows. As a result, minimal configuration work is required prior to operation.

Motorola Solutions Responsibilities

- Refer to Agency and User Setup section of SOW.

Customer Responsibilities

- Provision all required custom Offence Codes using the CommandCentral user interface.

Completion Criteria

CommandCentral Records Starter enabled and offence codes provisioned.

2.9 CommandCentral Evidence

Motorola Solutions will discuss industry best practices, current operations environment, and subsystem integration in order to determine the optimal configuration for CommandCentral Evidence. The following features are supported.

Motorola Solutions enables the CommandCentral Evidence subscription during the order process.

Note that while CommandCentral Evidence is capable of interfacing with a variety of data sources, and additional interfaces are not included in this implementation.

Motorola Solutions Responsibilities

- Refer to Agency and User Setup section of SOW.
- Connect Customer incident data ingest.
- Configure Evidence Library to CommandCentral Evidence interface(s) to support the functionality described in the Solution Description.
- Integrate CommandCentral Records Starter with CommandCentral Evidence.

Customer Responsibilities

- Provision policies, procedures, and user permissions.
- Configure CommandCentral Evidence settings.
- Provide access to Motorola Solutions' team to connect incident data ingest.

Completion Criteria

CommandCentral Evidence subscription enabled. Configured to provide the end-to-end solution for the Customer.

2.10 CommandCentral Capture Application

The CommandCentral Capture Application provides Android / iOS multimedia capture allowing a smartphone to send data to CommandCentral Evidence.

Motorola Solutions Responsibilities

- None.

Customer Responsibilities

- Download CommandCentral Capture App from App Store.
- Determine if video can be uploaded to CommandCentral Evidence via Wi-Fi and cellular network or Wi-Fi only.
- Set confirmation parameters in CommandCentral Evidence Admin.
- Determine specific video resolution or a range of resolutions.

Completion Criteria

Work is considered complete upon Customer successfully installing application. Capture Application is configured and data is being received in CommandCentral Evidence.

2.11 CommandCentral Online Training

CommandCentral training is made available to via Motorola Solutions Software Enterprise Learning Management System (LMS). This subscription service provides you with continual access to our library of online learning content and allows your users the benefit of learning at times convenient to them. Content is added and updated on a regular basis to keep information current. All Motorola Solutions tasks are completed remotely and enable the Customer to engage in training when convenient to the user.

LMS Administrators are able to add/modify users, run reports, and add/modify groups within the panorama.

Motorola Solutions Responsibilities

1. Initial setup of Panorama and addition of administrators.
2. Provide instruction to the Customer LMS Administrators on:

- A. Adding and maintaining users.
- B. Adding and maintaining Groups.
- C. Assign courses and Learning Paths.
- D. Running reports.

City of Abilene Responsibilities

1. Go to <https://learningservices.Motorola Solutions solutions.com> and request access if you do not already have it.
2. Complete LMS Administrator training.
3. Advise users of the availability of the LMS.
4. Add/modify users, run reports, and add/modify groups.

Completion Criteria

Work is considered complete upon conclusion of Motorola Solutions provided LMS Administrator instruction.

- **Panorama** – A panorama is an individual instance of the Learning Management System that provides autonomy to the agency utilizing.
- **Groups** – A more granular segmentation of the LMS that are generally used to separate learners of like function (i.e. dispatchers, call takers, patrol, firefighter). These may also be referred to as clients within the LMS.
- **Learning Path** – A collection of courses that follow a logical order may or may not enforce linear progress.

2.12 Product Validation

The system is exercised throughout the delivery of the project by both Motorola and the Customer via provisioning and training activities. To solidify Customer confidence in the system and prepare for user operation, Motorola will perform prescribed system validations in accordance with a Product Validation Plan.

2.12.1 Functional Demonstration

The objective of functional demonstration is to validate Customer access to the CommandCentral features and functions and system integration via configured interfaces (as applicable).

Motorola Responsibilities

1. Update functional demonstration script.
2. Provide script to Customer for review and acknowledgement.
3. Conduct functional demonstration.
4. Correct any configuration issues impacting access to cloud based features; i.e. map display, location updates, video display and/or interface and integrations.
5. Create a summary report documenting the activities of the functional demonstration and any corrective actions taken by Customer or Motorola during the demonstration.

6. Provide Customer instruction on using the Customer Feedback Tool for feature/enhancement requests.

City of Abilene Responsibilities

1. Review and agree to the scope of the demonstration script.
2. Witness the functional demonstration and acknowledge its completion.
3. Resolve any provisioning impacting the functional demonstration.
4. Provide Motorola with any requests for feature enhancements.

Completion Criteria

Conclusion of the functional demonstration.

2.12.2 Interface Validation

The objective of Interface Validation is to verify that the installed interfaces perform in accordance with what is presented in the System Description.

Motorola is not responsible for issues arising from lack of engagement of third party and/or Customer resources to perform work required to enable/provision and/or configure an interface to a third-party system, or troubleshooting any issues on the Customer's third-party systems.

Interfaces that cannot be tested due to connectivity issues to external systems, or the unavailability of Customer's third-party system will be demonstrated to show that Motorola's portion of an interface is enabled to send and/or receive data that supports the interface experience. In such cases, Motorola demonstrating the elements within Motorola's control will constitute a successful demonstration and completion of the demonstration task.

Motorola Responsibilities

1. Conduct Interface Validation demonstration.
2. Develop remediation plan for anomalies that do not align with Motorola's stated System Description.

City of Abilene Responsibilities

1. Provide access to a resource with access to the interfacing system to validate functionality.
2. Witness the execution of the demonstration and acknowledge successful completion.
3. Participate in the documentation of anomalies and work with Motorola to develop remediation action(s).

Completion Criteria

Interface Validation demonstration successfully completed or, if necessary, remediation plan/schedule for documented anomalies.

2.13 Completion Milestone

Following the conclusion of delivery of the functional demonstration the project is considered complete and the Software System completion milestone will be recognized.

2.14 Transition to Support and Customer Success

Following the completion of the activation of CommandCentral components, implementation activities are complete. The transition to the Motorola Solutions' support organization completes the implementation activities.

Customer Success is the main point of contact as you integrate this solution into your agency's business processes. Our team will work with you to ensure Video-as-a-Service has met your expectations and that the solution satisfies your goals and objectives. Contact Customer Success at CommandCentralCS@motorolasolutions.com.

Our Customer Support team will be the point of contact for technical support concerns you might have and can be reached either by phone at 1-800-MSI-HELP (option x4, x4, x3) or by emailing support-commandcentral@motorolasolutions.com.

Motorola Solutions Responsibilities

1. Provide the Customer with Motorola Solutions support engagement process and contact information.
2. Gather contact information for the Customer users authorized to engage Motorola Solutions support.

City of Abilene Responsibilities

1. Provide Motorola Solutions with specific contact information for those users authorized to engage Motorola Solutions' support.
2. Engage the Motorola Solutions support organization as needed.

Completion Criteria

Conclusion of the handover to support and the implementation project is complete.

Section 3

Proposal Pricing

Motorola pricing is based on a complete system solution. The addition or deletion of any component(s) may subject the total system price to modifications.

**This proposal has been prepared with the following pricing, valid for 60 days from the date of the proposal.

3.1 Body-Worn Camera/In-Car Video Project

Description	Qty	Years	Total
CommandCentral Evidence	256	5	Included
New Interview Room Solution	10	5	\$103,455
Video-as-a-Service Package for the V300	143	5	\$420,420
Video-as-a-Service Package for the M500	93	5	\$1,143,900
Sierra MP70 with Sharkfin Antenna and 5 Year Warranty and Support and AMM Cloud Management	93	5	\$131,874
M500 Basic ALPR VaaS Add-on	93	5	\$239,940
M500 Device Streaming	93	5	\$83,700
V300 Device Streaming	236	5	\$127,440
Device Streaming Activation Fee	One time cost		\$3,408
TOTAL			\$2,254,137

3.2 Real-Time Intelligence Center Project

Description	Qty	Years	Total
CommandCentral Aware Plus for 5 Named Users with Integration to existing customer systems: Flex CAD, Vesta and Vigilant (optional)	5	5	\$105,000
Deployment Services for CommandCentral Aware	One time cost		\$66,850
TOTAL			\$171,850

3.3 Complete Solution Pricing

Description	\$ Amount
BWC/ICV and Interview Rooms Project	\$2,254,137
Real-Time Intelligence Center Project	\$171,850
TOTAL	\$2,425,987
<i>Technology Incentive (Signed contract and PO by February 15, 2022)</i>	<i>(-\$391,561)</i>
FINAL PRICE	\$2,034,426
Payment Milestones	
Year 1	\$440,666
Year 2	\$398,440
Year 3	\$398,440
Year 4	\$398,440
Year 5	\$398,440

3.4 Optional Vigilant LEARN

Description	Years	5 Year Total Price	Annual Price
Vigilant LEARN Investigate Data Platform Renewal	5	\$87,500.00	\$17,500.00 per year

3.5 Payment Terms

Motorola will invoice Customer annually in advance of each year of the plan as shown in the Yearly Pricing Breakdown above.

Section 4

Master Customer Agreement

Motorola Solutions Master Customer Agreement with Exhibits and Addenda follow this page.

Master Customer Agreement

This Master Customer Agreement (the “**MCA**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below (“**Customer**”). Motorola and Customer will each be referred to herein as a “**Party**” and collectively as the “**Parties**”. This Agreement (as defined below) is effective as of the date of the last signature (the “**Effective Date**”).

1. Agreement.

1.1. Scope; Agreement Documents. This MCA governs Customer’s purchase of Products (as defined below) and Services (as defined below) from Motorola. Additional terms and conditions applicable to specific Products and Services are set forth in one or more addenda attached to this MCA (each an “**Addendum**”, and collectively the “**Addenda**”). In addition, the Parties may agree upon solution descriptions, equipment lists, statements of work, schedules, technical specifications, and other ordering documents setting forth the Products and Services to be purchased by Customer and provided by Motorola and additional rights and obligations of the Parties (the “**Ordering Documents**”). To the extent required by applicable procurement law, a proposal submitted by Motorola in response to a competitive procurement process will be included within the meaning of the term Ordering Documents. This MCA, the Addenda, and any Ordering Documents collectively form the Parties’ “**Agreement**”.

1.2. Order of Precedence. Each Addendum will control with respect to conflicting terms in the MCA, but only as applicable to the Products and Services described in such Addendum. Each Ordering Document will control with respect to conflicting terms in the MCA or any Addenda, but only as applicable to the Products and Services described on such Ordering Document.

2. Products and Services.

2.1. Products. Motorola will (a) sell hardware provided by Motorola (“**Equipment**”), (b) license software which is either preinstalled on Equipment or installed on Customer-Provided Equipment (as defined below) and licensed to Customer by Motorola for a perpetual or other defined license term (“**Licensed Software**”), and (c) license cloud-based software as a service products and other software which is either preinstalled on Equipment or installed on Customer-Provided Equipment, but licensed to Customer by Motorola on a subscription basis (“**Subscription Software**”) to Customer, to the extent each is set forth in an Ordering Document, for Customer’s own use in accordance with this Agreement. The Equipment, Licensed Software, and Subscription Software shall collectively be referred to herein as “**Products**”, or individually as a “**Product**”. At any time during the Term (as defined below), Motorola may substitute any Products at no cost to Customer, if the substitute is substantially similar to the Products set forth in the applicable Ordering Documents.

2.2. Services.

2.2.1. Motorola will provide services related to purchased Products (“**Services**”), to the extent set forth in an Ordering Document.

2.2.2. Integration Services; Maintenance and Support Services. If specified in an Ordering Document, Motorola will provide, for the term of such Ordering Document, (a) design, deployment, and integration Services in order to design, install, set up, configure, and/or integrate the applicable Products at the applicable

locations (“**Sites**”), agreed upon by the Parties (“**Integration Services**”), or (b) break/fix maintenance, technical support, or other Services (such as software integration Services) (“**Maintenance and Support Services**”), each as further described in the applicable statement of work. Maintenance and Support Services and Integration Services will each be considered “Services”, as defined above.

2.2.3. Service Ordering Documents. The Fees for Services will be set forth in an Ordering Document and any applicable project schedules. A Customer point of contact will be set forth in the applicable statement of work for the Services. For purposes of clarity, each statement of work will be incorporated into, and form an integral part of, the Agreement.

2.2.4. Service Completion. Unless otherwise specified in the applicable Ordering Document, Services described in an Ordering Document will be deemed complete upon Motorola’s performance of all Services listed in such Ordering Document (“**Service Completion Date**”); provided, however, that Maintenance and Support Services may be offered on an ongoing basis during a given Ordering Document term, in which case such Maintenance and Support Services will conclude upon the expiration or termination of such Ordering Document.

2.3. Non-Preclusion. If, in connection with the Products and Services provided under this Agreement, Motorola makes recommendations, including a recommendation to purchase other products or services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement standards or other laws, regulations, or policies.

2.4. Customer Obligations. Customer will ensure that information Customer provides to Motorola in connection with receipt of Products and Services are accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to provide the Products and Services and perform its other duties under this Agreement. Unless the applicable Ordering Document states otherwise, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions or Customer information, decisions, or approvals described in this Section. If any assumptions in the Ordering Documents or information provided by Customer prove to be incorrect, or if Customer fails to perform any of its obligations under this Agreement, Motorola’s ability to perform its obligations may be impacted and changes to the Agreement, including the scope, Fees, and performance schedule may be required.

2.5. Documentation. Products and Services may be delivered with documentation for the Equipment, software Products, or data that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information (collectively, “**Documentation**”). Documentation is and will be owned by Motorola, unless otherwise expressly agreed in an Addendum or Ordering Document that certain Documentation will be owned by Customer. Motorola hereby grants Customer a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Products and Services.

2.6. Motorola Tools and Equipment. As part of delivering the Products and Services, Motorola may provide certain tools, equipment, models, and other materials of its own. Such tools and

equipment will remain the sole property of Motorola unless they are to be purchased by Customer as Products and are explicitly listed on an Ordering Document. The tools and equipment may be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Customer will safeguard all tools and equipment while in Customer's custody or control, and be liable for any loss or damage. Upon the expiration or earlier termination of this Agreement, Customer, at its expense, will return to Motorola all tools and equipment in its possession or control.

2.7. Authorized Users. Customer will ensure its employees and Authorized Users comply with the terms of this Agreement and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users' names, passwords and login credentials for access to Products and Services. "**Authorized Users**" are Customer's employees, full-time contractors engaged for the purpose of supporting the Products and Services that are not competitors of Motorola, and the entities (if any) specified in an Ordering Document or otherwise approved by Motorola in writing (email from an authorized Motorola signatory accepted), which may include affiliates or other Customer agencies.

2.8. Export Control. Customer, its employees, and any other Authorized Users will not access or use the Products and Services in any jurisdiction in which the provision of such Products and Services is prohibited under applicable laws or regulations (a "**Prohibited Jurisdiction**"), and Customer will not provide access to the Products and Services to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Authorized Users are not named on any U.S. government list of persons prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it and its Authorized Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Authorized Users to access or use the Products or Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Authorized Users will comply with all applicable laws regarding the transmission of technical data exported from the U.S. and the country in which Customer, its employees, and the Authorized Users are located.

2.9. Change Orders. Unless a different change control process is agreed upon in writing by the Parties, a Party may request changes to an Addendum or an Ordering Document by submitting a change order to the other Party (each, a "**Change Order**"). If a requested change in a Change Order causes an increase or decrease in the Products or Services, the Parties by means of the Change Order will make appropriate adjustments to the Fees, project schedule, or other matters. Change Orders are effective and binding on the Parties only upon execution of the Change Order by an authorized representative of both Parties.

3. Term and Termination.

3.1. Term. The term of this MCA ("**Term**") will commence on the Effective Date and continue until six (6) months after the later of (a) the termination, expiration, or discontinuance of services under the last Ordering Document in effect, or (b) the expiration of all applicable warranty periods, unless the MCA is earlier terminated as set forth herein. The applicable Addendum or Ordering Document will set forth the term for the Products and Services governed thereby.

3.2. Termination. Either Party may terminate the Agreement or the applicable Addendum or Ordering Document if the other Party breaches a material obligation under the Agreement and does not cure such breach within thirty (30) days after receipt of notice of the breach or fails to

produce a cure plan within such period of time. Each Addendum and Ordering Document may be separately terminable as set forth therein.

3.3. Suspension of Services. Motorola may terminate or suspend any Products or Services under an Ordering Document if Motorola determines: (a) the related Product license has expired or has terminated for any reason; (b) the applicable Product is being used on a hardware platform, operating system, or version not approved by Motorola; (c) Customer fails to make any payments when due; or (d) Customer fails to comply with any of its other obligations or otherwise delays Motorola's ability to perform.

3.4. Effect of Termination or Expiration. Upon termination for any reason or expiration of this Agreement, an Addendum, or an Ordering Document, Customer and the Authorized Users will return or destroy (at Motorola's option) all Motorola Materials and Motorola's Confidential Information in their possession or control and, as applicable, provide proof of such destruction, except that Equipment purchased by Customer should not be returned. If Customer has any outstanding payment obligations under this Agreement, Motorola may accelerate and declare all such obligations of Customer immediately due and payable by Customer. Notwithstanding the reason for termination or expiration, Customer must pay Motorola for Products and Services already delivered. Customer has a duty to mitigate any damages under this Agreement, including in the event of default by Motorola and Customer's termination of this Agreement.

4. Payment and Invoicing.

4.1. Fees. Fees and charges applicable to the Products and Services (the "**Fees**") will be as set forth in the applicable Addendum or Ordering Document, and such Fees may be changed by Motorola at any time, except that Motorola will not change the Fees for Products and Services purchased by Customer during the term of an active Ordering Document or during a Subscription Term (as defined and further described in the applicable Addendum). Changes in the scope of Services described in an Ordering Document may require an adjustment to the Fees due under such Ordering Document. If a specific invoicing or payment schedule is set forth in the applicable Addendum or Ordering Document, such schedule will apply solely with respect to such Addendum or Ordering Document. Unless otherwise specified in the applicable Ordering Document, the Fees for any Services exclude expenses associated with unusual and costly Site access requirements (e.g., if Site access requires a helicopter or other equipment), and Customer will reimburse Motorola for these or other expenses incurred by Motorola in connection with the Services.

4.2. Taxes. The Fees do not include any excise, sales, lease, use, property, or other taxes, assessments, duties, or regulatory charges or contribution requirements (collectively, "**Taxes**"), all of which will be paid by Customer, except as exempt by law, unless otherwise specified in an Ordering Document. If Motorola is required to pay any Taxes, Customer will reimburse Motorola for such Taxes (including any interest and penalties) within thirty (30) days after Customer's receipt of an invoice therefore. Customer will be solely responsible for reporting the Products for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income and net worth.

4.3. Invoicing. Motorola will invoice Customer at the frequency set forth in the applicable Addendum or Ordering Document, and Customer will pay all invoices within thirty (30) days of the invoice date or as otherwise specified in the applicable Addendum or Ordering Document. Late payments will be subject to interest charges at the maximum rate permitted by law, commencing upon the due date. Motorola may invoice electronically via email, and Customer agrees to receive invoices via email at the email address set forth in an Ordering Document. Customer

acknowledges and agrees that a purchase order or other notice to proceed is not required for payment for Products or Services.

5. Sites; Customer-Provided Equipment; Non-Motorola Content.

5.1. Access to Sites. Customer will be responsible for providing all necessary permits, licenses, and other approvals necessary for the installation and use of the Products and the performance of the Services at each applicable Site, including for Motorola to perform its obligations hereunder, and for facilitating Motorola's access to the Sites. No waivers of liability will be imposed on Motorola or its subcontractors by Customer or others at Customer facilities or other Sites, but if and to the extent any such waivers are imposed, the Parties agree such waivers are void.

5.2. Site Conditions. Customer will ensure that (a) all Sites are safe and secure, (b) Site conditions meet all applicable industry and legal standards (including standards promulgated by OSHA or other governmental or regulatory bodies), (c) to the extent applicable, Sites have adequate physical space, air conditioning, and other environmental conditions, electrical power outlets, distribution, equipment, connections, and telephone or other communication lines (including modem access and interfacing networking capabilities), and (d) Sites are suitable for the installation, use, and maintenance of the Products and Services. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

5.3. Site Issues. Motorola will have the right at any time to inspect the Sites and advise Customer of any deficiencies or non-conformities with the requirements of this **Section 5 – Sites; Customer-Provided Equipment; Non-Motorola Content**. If Motorola or Customer identifies any deficiencies or non-conformities, Customer will promptly remediate such issues or the Parties will select a replacement Site. If a Party determines that a Site identified in an Ordering Document is not acceptable or desired, the Parties will cooperate to investigate the conditions and select a replacement Site or otherwise adjust the installation plans and specifications as necessary. A change in Site or adjustment to the installation plans and specifications may cause a change in the Fees or performance schedule under the applicable Ordering Document.

5.4. Customer-Provided Equipment. Certain components, including equipment and software, not provided by Motorola may be required for use of the Products and Services ("**Customer-Provided Equipment**"). Customer will be responsible, at its sole cost and expense, for providing and maintaining the Customer-Provided Equipment in good working order. Customer represents and warrants that it has all rights in Customer-Provided Equipment to permit Motorola to access and use the applicable Customer-Provided Equipment to provide the Products and Services under this Agreement, and such access and use will not violate any laws or infringe any third-party rights (including intellectual property rights). Customer (and not Motorola) will be fully liable for Customer-Provided Equipment, and Customer will immediately notify Motorola of any Customer-Provided Equipment damage, loss, change, or theft that may impact Motorola's ability to provide the Products and Services under this Agreement, and Customer acknowledges that any such events may cause a change in the Fees or performance schedule under the applicable Ordering Document.

5.5. Non-Motorola Content. In certain instances, Customer may be permitted to access, use, or integrate Customer or third-party software, services, content, and data that is not provided by Motorola (collectively, "**Non-Motorola Content**") with or through the Products and Services. If Customer accesses, uses, or integrates any Non-Motorola Content with the Products or Services, Customer will first obtain all necessary rights and licenses to permit Customer's and its Authorized

Users' use of the Non-Motorola Content in connection with the Products and Services. Customer will also obtain the necessary rights for Motorola to use such Non-Motorola Content in connection with providing the Products and Services, including the right for Motorola to access, store, and process such Non-Motorola Content (e.g., in connection with Subscription Software), and to otherwise enable interoperation with the Products and Services. Customer represents and warrants that it will obtain the foregoing rights and licenses prior to accessing, using, or integrating the applicable Non-Motorola Content with the Products and Services, and that Customer and its Authorized Users will comply with any terms and conditions applicable to such Non-Motorola Content. If any Non-Motorola Content require access to Customer Data (as defined below), Customer hereby authorizes Motorola to allow the provider of such Non-Motorola Content to access Customer Data, in connection with the interoperation of such Non-Motorola Content with the Products and Services. Customer acknowledges and agrees that Motorola is not responsible for, and makes no representations or warranties with respect to, the Non-Motorola Content (including any disclosure, modification, or deletion of Customer Data resulting from use of Non-Motorola Content or failure to properly interoperate with the Products and Services). If Customer receives notice that any Non-Motorola Content must be removed, modified, or disabled within the Products or Services, Customer will promptly do so. Motorola will have the right to disable or remove Non-Motorola Content if Motorola believes a violation of law, third-party rights, or Motorola's policies is likely to occur, or if such Non-Motorola Content poses or may pose a security or other risk or adverse impact to the Products or Services, Motorola, Motorola's systems, or any third party (including other Motorola customers). Nothing in this Section will limit the exclusions set forth in **Section 7.2 – Intellectual Property Infringement**.

6. Representations and Warranties.

6.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that (a) it has the right to enter into the Agreement and perform its obligations hereunder, and (b) the Agreement will be binding on such Party.

6.2. Motorola Warranties. Subject to the disclaimers and exclusions below, Motorola represents and warrants that (a) Services will be provided in a good and workmanlike manner and will conform in all material respects to the descriptions in the applicable Ordering Document; and (b) for a period of ninety (90) days commencing upon the Service Completion Date for one-time Services, the Services will be free of material defects in materials and workmanship. Other than as set forth in subsection (a) above, recurring Services are not warranted but rather will be subject to the requirements of the applicable Addendum or Ordering Document. Motorola provides other express warranties for Motorola-manufactured Equipment, Motorola-owned software Products, and certain Services. Such express warranties are included in the applicable Addendum or Ordering Document. Such representations and warranties will apply only to the applicable Product or Service that is the subject of such Addendum or Ordering Document.

6.3. Warranty Claims; Remedies. To assert a warranty claim, Customer must notify Motorola in writing of the claim prior to the expiration of any warranty period set forth in this MCA or the applicable Addendum or Ordering Document. Unless a different remedy is otherwise expressly set forth for a particular warranty under an Addendum, upon receipt of such claim, Motorola will investigate the claim and use commercially reasonable efforts to repair or replace any confirmed materially non-conforming Product or re-perform any non-conforming Service, at its option. Such remedies are Customer's sole and exclusive remedies for Motorola's breach of a warranty. Motorola's warranties are extended by Motorola to Customer only, and are not assignable or transferrable.

6.4. Pass-Through Warranties. Notwithstanding any provision of this Agreement to the contrary, Motorola will have no liability for third-party software or hardware provided by Motorola; provided, however, that to the extent offered by third-party providers of software or hardware and to the extent permitted by law, Motorola will pass through express warranties provided by such third parties.

6.5. WARRANTY DISCLAIMER. EXCEPT FOR THE EXPRESS AND PASS THROUGH WARRANTIES IN THIS AGREEMENT, PRODUCTS AND SERVICES PURCHASED HEREUNDER ARE PROVIDED “AS IS” AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE AGREEMENT ARE THE COMPLETE WARRANTIES FOR THE PRODUCTS AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER’S PARTICULAR REQUIREMENTS.

7. Indemnification.

7.1. General Indemnity. Motorola will defend, indemnify, and hold Customer harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual third-party claim, demand, action, or proceeding (“**Claim**”) for personal injury, death, or direct damage to tangible property to the extent caused by Motorola’s negligence, gross negligence or willful misconduct while performing its duties under an Ordering Document or an Addendum, except to the extent the claim arises from Customer’s negligence or willful misconduct. Motorola’s duties under this **Section 7.1 – General Indemnity** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Claim.

7.2. Intellectual Property Infringement. Motorola will defend Customer against any third-party claim alleging that a Motorola-developed or manufactured Product or Service (the “**Infringing Product**”) directly infringes a United States patent or copyright (“**Infringement Claim**”), and Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by Motorola in settlement of an Infringement Claim. Motorola’s duties under this **Section 7.2 – Intellectual Property Infringement** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Infringement Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Infringement Claim.

- 7.2.1. If an Infringement Claim occurs, or in Motorola’s opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer (i) a pro-rated refund of any amounts pre-paid for the Infringing Product (if the Infringing Product is a software Product, i.e., Licensed Software or Subscription Software) or (ii) a credit for the Infringing Product, less a reasonable charge for depreciation (if the Infringing Product is Equipment, including Equipment with embedded software).

7.2.2. In addition to the other damages disclaimed under this Agreement, Motorola will have no duty to defend or indemnify Customer for any Infringement Claim that arises from or is based upon: (a) Customer Data, Customer-Provided Equipment, Non-Motorola Content, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Product or Service with any products or materials not provided by Motorola; (c) a Product or Service designed, modified, or manufactured in accordance with Customer's designs, specifications, guidelines or instructions; (d) a modification of the Product or Service by a party other than Motorola; (e) use of the Product or Service in a manner for which the Product or Service was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to use or install an update to the Product or Service that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the Infringing Product.

7.2.3. This **Section 7.2 – Intellectual Property Infringement** provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. For clarity, the rights and remedies provided in this Section are subject to, and limited by, the restrictions set forth in **Section 8 – Limitation of Liability** below.

7.3. Customer Indemnity. Customer will defend, indemnify, and hold Motorola and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer-Provided Equipment, Customer Data, or Non-Motorola Content, including any claim, demand, action, or proceeding alleging that any such equipment, data, or materials (or the integration or use thereof with the Products and Services) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the Agreement; (b) Customer-Provided Equipment's failure to meet the minimum requirements set forth in the applicable Documentation or match the applicable specifications provided to Motorola by Customer in connection with the Products or Services; (c) Customer's (or its service providers, agents, employees, or Authorized User's) negligence or willful misconduct; and (d) Customer's or its Authorized User's breach of this Agreement. This indemnity will not apply to the extent any such claim is caused by Motorola's use of Customer-Provided Equipment, Customer Data, or Non-Motorola Content in violation of the Agreement. Motorola will give Customer prompt, written notice of any claim subject to the foregoing indemnity. Motorola will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

8. Limitation of Liability.

8.1. DISCLAIMER OF CONSEQUENTIAL DAMAGES. EXCEPT FOR PERSONAL INJURY OR DEATH, MOTOROLA, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE "**MOTOROLA PARTIES**") WILL NOT BE LIABLE IN CONNECTION WITH THIS AGREEMENT (WHETHER UNDER MOTOROLA'S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF

MOTOROLA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

8.2. DIRECT DAMAGES. EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE MOTOROLA PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED THE FEES SET FORTH IN THE ORDERING DOCUMENT UNDER WHICH THE CLAIM AROSE. NOTWITHSTANDING THE FOREGOING, FOR ANY SUBSCRIPTION SOFTWARE OR FOR ANY RECURRING SERVICES, THE MOTOROLA PARTIES' TOTAL LIABILITY FOR ALL CLAIMS RELATED TO SUCH PRODUCT OR RECURRING SERVICES IN THE AGGREGATE WILL NOT EXCEED THE TOTAL FEES PAID FOR SUCH SUBSCRIPTION SOFTWARE OR RECURRING SERVICE, AS APPLICABLE, DURING THE CONSECUTIVE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE.

8.3. ADDITIONAL EXCLUSIONS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, MOTOROLA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO MOTOROLA, OR ANY OTHER DATA AVAILABLE THROUGH THE PRODUCTS OR SERVICES; (B) CUSTOMER-PROVIDED EQUIPMENT, NON-MOTOROLA CONTENT, THE SITES, OR THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, DATA, OR OTHER THIRD-PARTY MATERIALS, OR THE COMBINATION OF PRODUCTS AND SERVICES WITH ANY OF THE FOREGOING; (C) LOSS OF DATA OR HACKING, RANSOMWARE, OR OTHER THIRD-PARTY ATTACKS OR DEMANDS; (D) MODIFICATION OF PRODUCTS OR SERVICES BY ANY PERSON OTHER THAN MOTOROLA; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH OR BY THE PRODUCTS AND SERVICES; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; OR (G) CUSTOMER'S OR ANY AUTHORIZED USER'S BREACH OF THIS AGREEMENT OR MISUSE OF THE PRODUCTS AND SERVICES.

8.4. Voluntary Remedies. Motorola is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed issues in **Section 8.3 – Additional Exclusions** above, but if Motorola agrees to provide Services to help resolve such issues, Customer will reimburse Motorola for its reasonable time and expenses, including by paying Motorola any Fees set forth in an Ordering Document for such Services, if applicable.

8.5. Statute of Limitations. Customer may not bring any claims against a Motorola Party in connection with this Agreement or the Products and Services more than one (1) year after the date of accrual of the cause of action.

9. Confidentiality.

9.1. Confidential Information. “**Confidential Information**” means any and all non-public information provided by one Party (“**Discloser**”) to the other (“**Recipient**”) that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable businessperson would consider non-public and confidential by its nature. With respect to Motorola, Confidential Information will also include Products and Services, and Documentation, as well as any other information relating to the Products and Services. The nature and existence of this Agreement are considered Confidential Information of the Parties. In order to be considered Confidential Information, information that is disclosed orally must be identified as confidential at

the time of disclosure and confirmed by Discloser by submitting a written document to Recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

9.2. Obligations of Confidentiality. During the Term and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (a) not disclose Confidential Information to any third party, except as expressly permitted in this **Section 9 - Confidentiality**; (b) restrict disclosure of Confidential Information to only those employees (including, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must access the Confidential Information for the purpose of, and who are bound by confidentiality terms substantially similar to those in, this Agreement; (c) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (d) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (e) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (f) only use the Confidential Information as needed to fulfill its obligations and secure its rights under this Agreement.

9.3. Exceptions. Recipient is not obligated to maintain as confidential any information that Recipient can demonstrate by documentation (a) is publicly available at the time of disclosure or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality to Discloser; (c) is otherwise lawfully known to Recipient prior to such disclosure without a duty of confidentiality to Discloser; or (d) is independently developed by Recipient without the use of, or reference to, any of Discloser's Confidential Information or any breach of this Agreement. Additionally, Recipient may disclose Confidential Information to the extent required by law, including a judicial or legislative order or proceeding.

9.4. Ownership of Confidential Information. All Confidential Information is and will remain the property of Discloser and will not be copied or reproduced without the express written permission of Discloser (including as permitted herein). Within ten (10) days of receipt of Discloser's written request, Recipient will return or destroy all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain (a) one (1) archival copy of the Confidential Information for use only in case of a dispute concerning this Agreement and (b) Confidential Information that has been automatically stored in accordance with Recipient's standard backup or recordkeeping procedures, provided, however that Recipient will remain subject to the obligations of this Agreement with respect to any Confidential Information retained subject to clauses (a) or (b). No license, express or implied, in the Confidential Information is granted to the Recipient other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. Discloser represents and warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

10. Proprietary Rights; Data; Feedback.

10.1. Data Definitions. The following terms will have the stated meanings: "**Customer Contact Data**" means data Motorola collects from Customer, its Authorized Users, and their end users for business contact purposes, including marketing, advertising, licensing and sales purposes; "**Service Use Data**" means data generated by Customer's use of the Products and Services or

by Motorola's support of the Products and Services, including personal information, product performance and error information, activity logs and date and time of use; "**Customer Data**" means data, information, and content, including images, text, videos, documents, audio, telemetry, location and structured data base records, provided by, through, or on behalf of Customer, its Authorized Users, and their end users through the use of the Products and Services. Customer Data does not include Customer Contact Data, Service Use Data, or information from publicly available sources or other Third-Party Data or Motorola Data; "**Third-Party Data**" means information obtained by Motorola from publicly available sources or its third party content providers and made available to Customer through the Products or Services; "**Motorola Data**" means data owned or licensed by Motorola; "**Feedback**" means comments or information, in oral or written form, given to Motorola by Customer or Authorized Users, including their end users, in connection with or relating to the Products or Services; and "**Process**" or "**Processing**" means any operation or set of operations which is performed on personal information or on sets of personal information, whether or not by automated means, such as collection, recording, copying, analyzing, caching, organization, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

10.2. Motorola Materials. Customer acknowledges that Motorola may use or provide Customer with access to software, tools, data, and other materials, including designs, utilities, models, methodologies, systems, and specifications, which Motorola has developed or licensed from third parties (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, or derivative works of the foregoing, whether made by Motorola or another party) (collectively, "**Motorola Materials**"). The Products and Services, Motorola Data, Third-Party Data, and Documentation, are considered Motorola Materials. Except when Motorola has expressly transferred title or other interest to Customer by way of an Addendum or Ordering Document, the Motorola Materials are the property of Motorola or its licensors, and Motorola or its licensors retain all right, title and interest in and to the Motorola Materials (including, all rights in patents, copyrights, trademarks, trade names, trade secrets, know-how, other intellectual property and proprietary rights, and all associated goodwill and moral rights). For clarity, this Agreement does not grant to Customer any shared development rights in or to any Motorola Materials or other intellectual property, and Customer agrees to execute any documents and take any other actions reasonably requested by Motorola to effectuate the foregoing. Motorola and its licensors reserve all rights not expressly granted to Customer, and no rights, other than those expressly granted herein, are granted to Customer by implication, estoppel or otherwise. Customer will not modify, disassemble, reverse engineer, derive source code or create derivative works from, merge with other software, distribute, sublicense, sell, or export the Products and Services or other Motorola Materials, or permit any third party to do so.

10.3. Ownership of Customer Data. Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. Motorola acquires no rights to Customer Data except those rights granted under this Agreement including the right to Process and use the Customer Data as set forth in **Section 10.4 – Processing Customer Data** below and in other applicable Addenda. The Parties agree that with regard to the Processing of personal information which may be part of Customer Data, Customer is the controller and Motorola is the processor, and may engage sub-processors pursuant to **Section 10.4.3 – Sub-processors**.

10.4. Processing Customer Data.

10.4.1. **Motorola Use of Customer Data.** To the extent permitted by law, Customer grants Motorola and its subcontractors a right to use Customer Data and a royalty-free,

worldwide, non-exclusive license to use Customer Data (including to process, host, cache, store, reproduce, copy, modify, combine, analyze, create derivative works from such Customer Data and to communicate, transmit, and distribute such Customer Data to third parties engaged by Motorola) to (a) perform Services and provide Products under the Agreement, (b) analyze the Customer Data to operate, maintain, manage, and improve Motorola Products and Services, and (c) create new products and services. Customer agrees that this Agreement, along with the Documentation, are Customer's complete and final documented instructions to Motorola for the processing of Customer Data. Any additional or alternate instructions must be agreed to according to the Change Order process. Customer represents and warrants to Motorola that Customer's instructions, including appointment of Motorola as a processor or sub-processor, have been authorized by the relevant controller.

10.4.2. Collection, Creation, Use of Customer Data. Customer further represents and warrants that the Customer Data, Customer's collection, creation, and use of the Customer Data (including in connection with Motorola's Products and Services), and Motorola's use of such Customer Data in accordance with the Agreement, will comply with all laws and will not violate any applicable privacy notices or infringe any third-party rights (including intellectual property and privacy rights). It is Customer's responsibility to obtain all required consents, provided all necessary notices, and meet any other applicable legal requirements with respect to collection and use (including Motorola's use) of the Customer Data as described in the Agreement.

10.4.3. Sub-processors. Customer agrees that Motorola may engage sub-processors who in turn may engage additional sub-processors to Process personal data in accordance with this Agreement. When engaging sub-processors, Motorola will enter into agreements with the sub-processors to bind them to data processing obligations to the extent required by law.

10.5. Data Retention and Deletion. Except as expressly provided otherwise under the Agreement, Motorola will delete all Customer Data following termination or expiration of this MCA or the applicable Addendum or Ordering Document, with such deletion to occur no later than ninety (90) days following the applicable date of termination or expiration, unless otherwise required to comply with applicable law. Any requests for the exportation or download of Customer Data must be made by Customer to Motorola in writing before expiration or termination, subject to **Section 13.9 – Notices**. Motorola will have no obligation to retain such Customer Data beyond expiration or termination unless the Customer has purchased extended storage from Motorola through a mutually executed Ordering Document.

10.6. Service Use Data. Customer understands and agrees that Motorola may collect and use Service Use Data for its own purposes, including the uses described below. Motorola may use Service Use Data to (a) operate, maintain, manage, and improve existing and create new products and services, (b) test products and services, (c) to aggregate Service Use Data and combine it with that of other users, and (d) to use anonymized or aggregated data for marketing, research or other business purposes. Service Use Data may be disclosed to third parties. It is Customer's responsibility to notify Authorized Users of Motorola's collection and use of Service Use Data and to obtain any required consents, provide all necessary notices, and meet any other applicable legal requirements with respect to such collection and use, and Customer represents and warrants to Motorola that it has complied and will continue to comply with this Section.

10.7. Third-Party Data and Motorola Data. Motorola Data and Third-Party Data may be available to Customer through the Products and Services. Customer and its Authorized Users may use Motorola Data and Third-Party Data as permitted by Motorola and the applicable Third-Party Data provider, as described in the applicable Addendum. Unless expressly permitted in the applicable Addendum, Customer will not, and will ensure its Authorized Users will not: (a) use the Motorola Data or Third-Party Data for any purpose other than Customer's internal business purposes; (b) disclose the data to third parties; (c) "white label" such data or otherwise misrepresent its source or ownership, or resell, distribute, sublicense, or commercially exploit the data in any manner; (d) use such data in violation of applicable laws; (e) remove, obscure, alter, or falsify any marks or proprietary rights notices indicating the source, origin, or ownership of the data; or (f) modify such data or combine it with Customer Data or other data or use the data to build databases. Additional restrictions may be set forth in the applicable Addendum. Any rights granted to Customer or Authorized Users with respect to Motorola Data or Third-Party Data will immediately terminate upon termination or expiration of the applicable Addendum, Ordering Document, or this MCA. Further, Motorola or the applicable Third-Party Data provider may suspend, change, or terminate Customer's or any Authorized User's access to Motorola Data or Third-Party Data if Motorola or such Third-Party Data provider believes Customer's or the Authorized User's use of the data violates the Agreement, applicable law or Motorola's agreement with the applicable Third-Party Data provider. Upon termination of Customer's rights to use any Motorola Data or Third-Party Data, Customer and all Authorized Users will immediately discontinue use of such data, delete all copies of such data, and certify such deletion to Motorola. Notwithstanding any provision of the Agreement to the contrary, Motorola will have no liability for Third-Party Data or Motorola Data available through the Products and Services. Motorola and its Third-Party Data providers reserve all rights in and to Motorola Data and Third-Party Data not expressly granted in an Addendum or Ordering Document.

10.8. Feedback. Any Feedback provided by Customer is entirely voluntary, and will not create any confidentiality obligation for Motorola, even if designated as confidential by Customer. Motorola may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users and Customer represents and warrants that it has obtained all necessary rights and consents to grant Motorola the foregoing rights.

10.9. Improvements; Products and Services. The Parties agree that, notwithstanding any provision of this MCA or the Agreement to the contrary, all fixes, modifications and improvements to the Services or Products conceived of or made by or on behalf of Motorola that are based either in whole or in part on the Feedback, Customer Data, or Service Use Data (or otherwise) are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements will vest solely in Motorola. Customer agrees to execute any written documents necessary to assign any intellectual property or other rights it may have in such fixes, modifications or improvements to Motorola.

11. Force Majeure; Delays Caused by Customer.

11.1. Force Majeure. Except for Customer's payment obligations hereunder, neither Party will be responsible for nonperformance or delayed performance due to events outside of its reasonable control. If performance will be significantly delayed, the affected Party will provide notice to the other Party, and the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule.

11.2. Delays Caused by Customer. Motorola's performance of the Products and Services will be excused for delays caused by Customer or its Authorized Users or subcontractors, or by failure of any assumptions set forth in this Agreement (including in any Addendum or Ordering Document). In the event of a delay under this **Section 11.2 – Delays Caused by Customer**, (a) Customer will continue to pay the Fees as required hereunder, (b) the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule, and (c) Customer will compensate Motorola for its out-of-pocket costs incurred due to the delay (including those incurred by Motorola's affiliates, vendors, and subcontractors).

12. Disputes. The Parties will use the following procedure to resolve any disputes relating to or arising out of this Agreement (each, a "**Dispute**"):

12.1. Governing Law. All matters relating to or arising out of the Agreement are governed by the laws of the State of Illinois, unless Customer is the United States Government (or an agency thereof), in which case all matters relating to or arising out of the Agreement will be governed by the laws of the State in which the Products and Services are provided. The terms of the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.

12.2. Negotiation; Mediation. Either Party may initiate dispute resolution procedures by sending a notice of Dispute ("**Notice of Dispute**") to the other Party. The Parties will attempt to resolve the Dispute promptly through good faith negotiations, including timely escalation of the Dispute to executives who have authority to settle the Dispute (and who are at a higher level of management than the persons with direct responsibility for the matter). If a Dispute is not resolved through negotiation, either Party may initiate mediation by sending a notice of mediation ("**Notice of Mediation**") to the other Party. The Parties will choose an independent mediator within thirty (30) days of such Notice of Mediation. Neither Party may unreasonably withhold consent to the selection of a mediator, but if the Parties are unable to agree upon a mediator, either Party may request that the American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute. All in person meetings under this **Section 12.2 – Negotiation; Mediation** will take place in Chicago, Illinois, and all communication relating to the Dispute resolution will be maintained in strict confidence by the Parties. Notwithstanding the foregoing, any Dispute arising from or relating to Motorola's intellectual property rights will not be subject to negotiation or mediation in accordance with this Section, but instead will be decided by a court of competent jurisdiction, in accordance with **Section 12.3 – Litigation, Venue, Jurisdiction** below.

12.3. Litigation, Venue, Jurisdiction. If the Dispute has not been resolved by mediation within sixty (60) days from the Notice of Mediation, either Party may submit the Dispute exclusively to a court in Cook County, Illinois. Each Party expressly consents to the exclusive jurisdiction of such courts for resolution of any Dispute and to enforce the outcome of any mediation.

13. General.

13.1. Compliance with Laws. Each Party will comply with applicable laws in connection with the performance of its obligations under this Agreement, including that Customer will ensure its and its Authorized Users' use of the Products and Services complies with law (including privacy laws), and Customer will obtain any FCC and other licenses or authorizations (including licenses or authorizations required by foreign regulatory bodies) required for its and its Authorized Users' use

of the Products and Services. Motorola may, at its discretion, cease providing or otherwise modify Products and Services (or any terms related thereto in an Addendum or Ordering Document), in order to comply with any changes in applicable law.

13.2. Audit; Monitoring. Motorola will have the right to monitor and audit use of the Products, which may also include access by Motorola to Customer Data and Service Use Data. Customer will provide notice of such monitoring to its Authorized Users and obtain any required consents, including individual end users, and will cooperate with Motorola in any monitoring or audit. Customer will maintain during the Term, and for two (2) years thereafter, accurate records relating to any software licenses granted under this Agreement to verify compliance with this Agreement. Motorola or a third party ("**Auditor**") may inspect Customer's and, as applicable, Authorized Users' premises, books, and records. Motorola will pay expenses and costs of the Auditor, unless Customer is found to be in violation of the terms of the Agreement, in which case Customer will be responsible for such expenses and costs.

13.3. Assignment and Subcontracting. Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Motorola may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.

13.4. Waiver. A delay or omission by either Party to exercise any right under this Agreement will not be construed to be a waiver of such right. A waiver by either Party of any of the obligations to be performed by the other, or any breach thereof, will not be construed to be a waiver of any succeeding breach or of any other obligation. All waivers must be in writing and signed by the Party waiving its rights.

13.5. Severability. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision will be deemed to be modified to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law. The remaining provisions of this Agreement will not be affected, and each such provision will be valid and enforceable to the full extent permitted by applicable law.

13.6. Independent Contractors. Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership, or formal business organization of any kind.

13.7. Third-Party Beneficiaries. The Agreement is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software included in the software Products will be a direct and intended third-party beneficiary of this Agreement.

13.8. Interpretation. The section headings in this Agreement are included only for convenience. The words "including" and "include" will be deemed to be followed by the phrase "without

limitation". This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

13.9. Notices. Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as FedEx, UPS, or DHL), and will be effective upon receipt.

13.10. Cumulative Remedies. Except as specifically stated in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity, by contract, or otherwise. Except as specifically stated in this Agreement, the election by a Party of any remedy provided for in this Agreement or otherwise available to such Party will not preclude such Party from pursuing any other remedies available to such Party at law, in equity, by contract, or otherwise.

13.11. Survival. The following provisions will survive the expiration or termination of this Agreement for any reason: **Section 2.4 – Customer Obligations; Section 3.4 – Effect of Termination or Expiration; Section 4 – Payment and Invoicing; Section 6.5 – Warranty Disclaimer; Section 7.3 – Customer Indemnity; Section 8 – Limitation of Liability; Section 9 – Confidentiality; Section 10 – Proprietary Rights; Data; Feedback; Section 11 – Force Majeure; Delays Caused by Customer; Section 12 – Disputes; and Section 13 – General.**

13.12. Entire Agreement. This Agreement, including all Addenda and Ordering Documents, constitutes the entire agreement of the Parties regarding the subject matter hereto, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment, or other form will not be considered an amendment or modification or part of this Agreement, even if a representative of each Party signs such document.

The Parties hereby enter into this MCA as of the Effective Date.

Motorola: Motorola Solutions, Inc.

Customer: City of Abilene

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Equipment Purchase and Software License Addendum

This Equipment Purchase and Software License Addendum (this “**EPSLA**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below or in the MCA (“**Customer**”), and will be subject to, and governed by, the terms of the Master Customer Agreement entered into between the Parties, effective as of [REDACTED] (the “**MCA**”). Capitalized terms used in this EPSLA, but not defined herein, will have the meanings set forth in the MCA.

1. Addendum. This EPSLA governs Customer’s purchase of Equipment and license of Licensed Software (and, if set forth in an Ordering Document, related Services) from Motorola, and will form part of the Parties’ Agreement.

2. Delivery of Equipment and Licensed Software.

2.1. Delivery and Risk of Loss. Motorola will provide to Customer the Products (and, if applicable, related Services) set forth in an Ordering Document, in accordance with the terms of the Agreement. Motorola will, using commercially reasonable practices, pack the ordered Equipment and ship such Equipment to the Customer address set forth in the applicable Ordering Document or otherwise provided by Customer in writing, using a carrier selected by Motorola. Notwithstanding the foregoing, delivery of Equipment (and any incorporated Licensed Software) will occur, and title and risk of loss for the Equipment will pass to Customer, upon shipment by Motorola in accordance with Ex Works, Motorola’s premises (Incoterms 2020). Customer will pay all shipping costs, taxes, and other charges applicable to the shipment and import or export of the Products and Services, as applicable, and Customer will be responsible for reporting the Products for personal property tax purposes. Delivery of Licensed Software for installation on Equipment or Customer-Provided Equipment will occur upon the earlier of (a) electronic delivery of the Licensed Software by Motorola, and (b) the date Motorola otherwise makes the Licensed Software available for download by Customer. If agreed upon in an Ordering Document, Motorola will also provide Services related to such Products.

2.2. Delays. Any shipping dates set forth in an Ordering Document are approximate, and while Motorola will make reasonable efforts to ship Products by any such estimated shipping date, Motorola will not be liable for any delay or related damages to Customer. Time for delivery will not be of the essence, and delays will not constitute grounds for cancellation, penalties, termination, or a refund.

2.3. Beta Services. If Motorola makes any beta version of a software application (“**Beta Service**”) available to Customer, Customer may choose to use such Beta Service at its own discretion, provided, however, that Customer will use the Beta Service solely for purposes of Customer’s evaluation of such Beta Service, and for no other purpose. Customer acknowledges and agrees that all Beta Services are offered “as-is” and without any representations or warranties or other commitments or protections from Motorola. Motorola will determine the duration of the evaluation period for any Beta Service, in its sole discretion, and Motorola may discontinue any Beta Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies.

3. Licensed Software License and Restrictions.

3.1. Licensed Software License. Subject to Customer’s and its Authorized Users’ compliance with the Agreement (including payment terms), Motorola hereby grants Customer and its

Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Licensed Software identified in an Ordering Document, in object code form only, and the associated Documentation, solely in connection with the Equipment provided by Motorola or authorized Customer-Provided Equipment (as applicable, the “**Designated Products**”) and solely for Customer’s internal business purposes. Unless otherwise stated in an Addendum or the Ordering Document, the foregoing license grant will be limited to the number of licenses set forth in the applicable Ordering Document and will continue for the life of the applicable Designated Product. Except as otherwise permitted in an applicable Addendum or Ordering Document, Customer may install, access, and use Licensed Software only in Customer’s owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Licensed Software remotely from any location.

3.2. Subscription License Model. If the Parties mutually agree that any Licensed Software purchased under this EPSLA will be replaced with or upgraded to Subscription Software, then upon such time which the Parties execute the applicable Ordering Document, the licenses granted under this EPSLA will automatically terminate, and such Subscription Software will be governed by the terms of the applicable Addendum under this Agreement.

3.3. End User Licenses. Notwithstanding any provision to the contrary in the Agreement, certain Licensed Software is governed by a separate license, EULA, or other agreement, including terms governing third-party equipment or software, such as open source software, included in the Products and Services. Customer will comply, and ensure its Authorized Users comply, with any such additional terms applicable to third-party equipment or software.

3.4. Customer Restrictions. Customers and Authorized Users will comply with the applicable Documentation in connection with their use of the Products. Customer will not and will not allow others, including the Authorized Users, to: (a) make the Licensed Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; (b) reverse engineer, disassemble, or reprogram the Licensed Software or any portion thereof to a human-readable form; (c) modify, create derivative works of, or merge the Licensed Software with other software or equipment; (d) copy, reproduce, distribute, lend, lease, or transfer the Licensed Software or Documentation for or to any third party without the prior express written permission of Motorola; (e) take any action that would cause the Licensed Software or Documentation to be placed in the public domain; (f) use the Licensed Software to compete with Motorola; or (g) remove, alter, or obscure, any copyright or other notice.

3.5. Copies. Customer may make one (1) copy of the Licensed Software solely for archival, back-up, or disaster recovery purposes during the term of the applicable Licensed Software license. Customer may make as many copies of the Documentation reasonably required for the internal use of the Licensed Software during such Licensed Software’s license term. Unless otherwise authorized by Motorola in writing, Customer will not, and will not enable or allow any third party to: (a) install a licensed copy of the Licensed Software on more than one (1) unit of a Designated Product; or (b) copy onto or transfer Licensed Software installed in a unit of a Designated Product onto another device. Customer may temporarily transfer Licensed Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Customer provides written notice to Motorola of the temporary transfer and identifies the device on which the Licensed is transferred. Temporary transfer of the Licensed Software to another device must be discontinued when the original Designated Product is returned to operation and the Licensed Software must be removed from the other device.

Customer must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

3.6. Resale of Equipment. Equipment contains embedded Licensed Software. If Customer desires to sell its used Equipment to a third party, Customer must first receive prior written authorization from Motorola and obtain written acceptance of the applicable Licensed Software license terms, including the obligation to pay relevant license fees, from such third party.

4. Term.

4.1. Term. The term of this EPSLA (the “**EPSLA Term**”) will commence upon either (a) the Effective Date of the MCA, if this EPSLA is attached to the MCA as of such Effective Date, or (b) the EPSLA Date set forth on the signature page below, if this EPSLA is executed after the MCA Effective Date, and will continue until the later of (i) three (3) years after the first order for Products is placed via an Ordering Document, or (ii) the expiration of all applicable warranty periods (as set forth in **Section 6.1 – Motorola Warranties** below) under this EPSLA, unless this EPSLA or the Agreement is earlier terminated in accordance with the terms of the Agreement.

4.2. Termination. Notwithstanding the termination provisions of the MCA, Motorola may terminate this EPSLA (and any Ordering Documents hereunder) immediately upon notice to Customer if Customer breaches **Section 3 – Licensed Software License and Restrictions** of this EPSLA, or any other provision related to Licensed Software license scope or restrictions set forth in an Ordering Document, EULA, or other applicable Addendum. For clarity, upon termination or expiration of the EPSLA Term, all Motorola obligations under this EPSLA (including with respect to Equipment and Licensed Software delivered hereunder) will terminate. If Customer desires to purchase additional Services in connection with such Equipment or Licensed Software, Customer may enter into a separate Addendum with Motorola, governing such Services. Customer acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Licensed Software and Documentation, and that Customer’s breach of the Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, in addition to termination, Motorola will be entitled to all available remedies at law or in equity, including immediate injunctive relief and repossession of all non-embedded Licensed Software and associated Documentation.

4.3. Equipment as a Service. In the event that Customer purchases any Equipment at a price below the MSRP for such Equipment in connection Customer entering into a fixed- or minimum required-term agreement for Subscription Software, and Customer or Motorola terminates the Agreement, this EPSLA, or other applicable Addendum (such as the Addendum governing the purchase of such Subscription Software) prior to the expiration of such fixed- or minimum required-term, then Motorola will have the right to invoice Customer for, and Customer will pay, the amount of the discount to the MSRP for the Equipment or such other amount set forth in the applicable Addendum or Ordering Document. This Section will not limit any other remedies Motorola may have with respect to an early termination.

5. Payment. Customer will pay invoices for the Products and Services provided under this EPSLA in accordance with the invoice payment terms set forth in the MCA. Generally, invoices are issued after shipment of Equipment or upon Motorola’s delivery of Licensed Software (in accordance with **Section 2.1 – Delivery and Risk of Loss**), as applicable, but if a specific invoicing or payment schedule is set forth in the applicable Ordering Document, EULA or other Addendum, such schedule will control with respect to the applicable Products and Services

referenced therein. Motorola will have the right to suspend future deliveries of Products and Services if Customer fails to make any payments when due.

6. Representations and Warranties; Liability.

6.1. Motorola Warranties. Subject to the disclaimers and exclusions set forth in the MCA and this EPSLA, (a) for a period of one (1) year commencing upon the delivery of Motorola-manufactured Equipment under **Section 2.1 – Delivery and Risk of Loss**, Motorola represents and warrants that such Motorola-manufactured Equipment, under normal use, will be free from material defects in materials and workmanship; (b) to the extent permitted by the providers of third-party software or hardware included in the Products and Services, Motorola will pass through to Customer any warranties provided by such third parties, which warranties will apply for the period defined by the applicable third party; and (c) for a period of ninety (90) days commencing upon the delivery of Motorola-owned Licensed Software under **Section 2.1 – Delivery and Risk of Loss**, Motorola represents and warrants that such Licensed Software, when used in accordance with the Documentation and the Agreement, will be free from reproducible defects that prevent operation of features critical to the primary functionality or successful operation of the Motorola-developed Licensed Software (as determined by Motorola). The warranty set forth in subsection (c) will be referred to as the “**Motorola Licensed Software Warranty**”. As Customer’s sole and exclusive remedy for any breach of the Motorola Licensed Software Warranty, Motorola will use commercially reasonable efforts to remedy the material defect in the applicable Licensed Software; provided, however, that if Motorola does not remedy such material defect within a reasonable time, then at Motorola’s sole option, Motorola will either replace the defective Licensed Software with functionally-equivalent software, provide substitute software to Customer, or terminate the applicable software license and refund any paid license fees to Customer on a pro-rata basis. For clarity, the Motorola Licensed Software Warranty applies only to the most current version of the Licensed Software issued by Motorola, and issuance of updated versions of any Licensed Software does not result in a renewal or extension of the Motorola Licensed Software Warranty beyond the ninety (90) day warranty period.

6.2. ADDITIONAL EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS FROM DAMAGES SET FORTH IN THE MCA, AND NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) DEFECTS IN OR DAMAGE TO PRODUCTS RESULTING FROM USE OTHER THAN IN THE NORMAL AUTHORIZED MANNER, OR FROM ACCIDENT, LIQUIDS, OR NEGLIGENCE; (B) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN MOTOROLA; (C) CUSTOMER’S OR ANY AUTHORIZED USER’S FAILURE TO COMPLY WITH INDUSTRY AND OSHA OR OTHER LEGAL STANDARDS; (D) DAMAGE TO RADIO ANTENNAS, UNLESS CAUSED BY DEFECTS IN MATERIAL OR WORKMANSHIP; (E) EQUIPMENT WITH NO SERIAL NUMBER; (F) BATTERIES OR CONSUMABLES; (G) FREIGHT COSTS FOR SHIPMENT TO REPAIR DEPOTS; (H) COSMETIC DAMAGE THAT DOES NOT AFFECT OPERATION; (I) NORMAL WEAR AND TEAR; (J) ISSUES OR OBSOLESCENCE OF LICENSED SOFTWARE DUE TO CHANGES IN CUSTOMER OR AUTHORIZED USER REQUIREMENTS, EQUIPMENT, OR SYSTEMS; (K) TRACKING AND LOCATION-BASED SERVICES; OR (L) BETA SERVICES.

6.3. Voluntary Remedies. Motorola is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed or excluded issues in the MCA or **Section 6.2 – Additional Exclusions** above, but if Motorola agrees to provide Services to help resolve such issues, Customer will reimburse Motorola for its reasonable time and expenses, including by paying Motorola any Fees set forth in an Ordering Document for such Services, if applicable.

7. Copyright Notices. The existence of a copyright notice on any Licensed Software will not be construed as an admission or presumption of publication of the Licensed Software or public disclosure of any trade secrets associated with the Licensed Software.

8. Survival. The following provisions will survive the expiration or termination of this EPSLA for any reason: **Section 3 – Licensed Software License and Restrictions; Section 4 – Term; Section 5 – Payment; Section 6.2 – Additional Exclusions; Section 8 – Survival.**

Software Products Addendum

This Software Products Addendum (this “**SPA**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below or in the MCA (“**Customer**”), and will be subject to, and governed by, the terms of the Master Customer Agreement entered into between the Parties, effective as of [REDACTED] (the “**MCA**”), and the applicable Addenda. Capitalized terms used in this SPA, but not defined herein, will have the meanings set forth in the MCA or the applicable Addenda.

9. Addendum. This SPA governs Customer’s purchase of certain Motorola software Products, including Software Systems, and will form part of the Parties’ Agreement. A “**Software System**” is a solution that includes at least one command center software Product and requires Integration Services to deploy such software Product at a Customer Site or onto any Customer-Provided Equipment or Equipment provided to Customer. In addition to the MCA, other Addenda may be applicable to the Software System or other software Products, including the Subscription Software Addendum (“**SSA**”), with respect to Subscription Software, and the Equipment Purchase and Software License Addendum (“**EPSLA**”), with respect to Licensed Software and Equipment, as further described below. This SPA will control with respect to conflicting terms in the MCA or any other applicable Addendum, but only as applicable to the Software System or other software Products purchased under this SPA and not with respect to other Products and Services.

10. Software Systems; Applicable Terms and Conditions.

10.1. On-Premise Software System. If Customer purchases an “on-premises Software System,” where Equipment and Licensed Software are installed at Customer Sites or on Customer-Provided Equipment, then, unless the Ordering Document(s) specify that any software is being purchased on a subscription basis (i.e., as Subscription Software), such Equipment and Licensed Software installed at Customer Sites or on Customer-Provided Equipment are subject to the EPSLA. On-premises Software Systems described in this Section qualify for the System Warranty as described in **Section 5 – On-Premises Software System Warranty** (the “**System Warranty**”). In connection with the on-premises Software System, Customer may also purchase additional Subscription Software that integrates with its on-premises Software System (e.g., CommandCentral Aware) (each, an “**Add-On Subscription**”). Any Add-On Subscription will be subject to the terms and conditions of the SSA and excluded from the System Warranty.

10.2. On-Premise Software System as a Service. If Customer purchases an “on-premises Software System as a service,” where Equipment and software Products are installed at Customer Sites or on Customer-Provided Equipment, and such software is generally licensed on a subscription basis (i.e., as Subscription Software), then such Subscription Software will be subject to the SSA and not the EPSLA. Any (a) Equipment purchased, (b) firmware preinstalled on such Equipment, and (c) Microsoft operating system Licensed Software are subject to the EPSLA. On-premises Software Systems as a service described in this Section are provided as a service and, accordingly, do not qualify for the System Warranty. System completion, however, is determined in accordance with the provisions of **Section 3 – Software System Completion** below.

10.3. Cloud Hosted Software System. If Customer purchases a “cloud hosted Software System,” where the applicable software is hosted in a data center and provided to Customer as a service (i.e., as hosted Subscription Software), including CommandCentral Products, then such

Subscription Software is subject to the SSA. Any Equipment purchased in connection with a cloud Software System is subject to the EPSLA. Cloud hosted Software Systems described in this Section do not qualify for the System Warranty. System completion, however, is determined in accordance with the provisions of **Section 3 – Software System Completion** below.

10.4. Services. Any Integration Services or Maintenance and Support Services purchased in connection with, or included as a part of, a Software System are subject to the MCA, and as described in the applicable Ordering Document.

11. Software System Completion. Any Software System described in an Ordering Document hereunder (including the Products, Integration Services, and all other components thereof) will be deemed completed upon Customer's (or the applicable Authorized User's) Beneficial Use of each Product that is included in the Software System (unless alternative acceptance procedures are set forth in the applicable Ordering Document) (the "**System Completion Date**"). Customer will not unreasonably delay Beneficial Use of any Product within a Software System, and in any event, the Parties agree that Beneficial Use of a Product will be deemed to have occurred thirty (30) days after functional demonstration. For clarity, if a Software System is comprised of more than one Product, Motorola may notify Customer that all Integration Services for a particular Product within the Software System have been completed, and Customer may have Beneficial Use of such Product prior to having Beneficial Use of other Products in the Software System, or of the Software System as a whole. In such case, the Integration Services applicable to such Product will be deemed complete upon Customer's Beneficial Use of the Product ("**Product Completion Date**"), which may occur before the System Completion Date. As used in this Section, "**Beneficial Use**" means use by Customer or at least one (1) Authorized User of the material features and functionalities of a Product within a Software System, in material conformance with Product descriptions in the applicable Ordering Document. This Section applies to Products purchased as part of a Software System notwithstanding the delivery provisions of the Addendum applicable to such Products, such as the SSA or EPSLA, and this Section will control over such other delivery provisions to the extent of a conflict.

12. Payment. Customer will pay invoices for the Products and Services covered by this SPA in accordance with the invoice payment terms set forth in the MCA. Fees for Software Systems will be invoiced as of the System Completion Date, unless another payment process or schedule or milestones are set forth in an Ordering Document or applicable Addendum. In addition to Equipment, Licensed Software, Subscription Software and Integration Services (as applicable) sold as part of a Software System, the Ordering Documents for a Software System may also include post-deployment Integration Services or other Services which are to be provided following the date of functional demonstration ("**Post-Deployment Services**"). Post-Deployment Services will be invoiced upon their completion and paid by Customer in accordance with the terms of the MCA.

13. On-Premises Software System Warranty. Subject to the disclaimers in the MCA and any other applicable Addenda, Motorola represents and warrants that, on the System Completion Date for an on-premises Software System described in **Section 2.1 – On-Premises Software System**, or on the applicable Product Completion Date for a specific Product within such on-premises Software System, if earlier, (a) such Software System or Product will perform in accordance with the descriptions in the applicable Ordering Documents in all material respects, and (b) if Customer has purchased any Equipment or Motorola Licensed Software (but, for clarity, excluding Subscription Software) as part of such on-premises Software System, the warranty period applicable to such Equipment and Motorola Licensed Software will continue for a period of one (1) year commencing upon the System Completion Date for the Software System that

includes such Products, or on the applicable Product Completion Date, if earlier, instead of commencing upon delivery of the Products in accordance with the terms and conditions set forth in **Section 6 – Representations and Warranties; Liabilities** of the EPSLA. The warranties set forth in the applicable Addenda are not otherwise modified by this SPA.

14. Prohibited Use. Customer will not integrate or use, or permit a third party or an Authorized User to integrate or use, any Non-Motorola Content with or in connection with a Software System or other software Product provided by Motorola under this SPA, without the express written permission of Motorola.

15. API Support. Motorola will use commercially reasonable efforts to maintain its Application Programming Interface (“API”) offered sold in connection with any Software System. APIs will evolve and mature over time, requiring changes and updates. Motorola will use reasonable efforts to continue supporting any version of an API for 6 months after such version is introduced, but if Motorola determines, in its sole discretion, determines to discontinue support of an API for any reason, Motorola will provide reasonable advance notification to Customer. If an API presents a security risk, Motorola may discontinue an API without prior notice.

16. Support of Downloaded Clients. If Customer purchases any software Product that requires a client installed locally on any Customer-Provided Equipment or Equipment in possession of Customer, Customer will be responsible for downloading and installing the current version of such client, as it may be updated from time to time. Motorola will use reasonable efforts to continue supporting any version of a client for forty-five (45) days following its release, but Motorola may update the current version of its client at any time, including for bug fixes, product improvements, and feature updates, and Motorola makes no representations or warranties that any software Product will support prior versions of a client.

17. Applicable End User Terms. Additional license terms apply to third-party software included in CAD and Records Products which are available online at: www.motorolasolutions.com/legal-flow-downs. Customer will comply, and ensure its Authorized Users comply, with all such additional license terms.

18. Additional Terms for On-Premise Software System as a Service. The terms set forth in this **Section 10 – Additional Terms for On-Premise Software System as a Service** apply in the event Customer purchases an on-premises Software System as a service under this SPA.

18.1. Transition to Subscription License Model. If the Parties mutually agree that any on-premises Subscription Software purchased under this SPA as part of an on-premises Software System as a service will be replaced with or upgraded to Subscription Software hosted in a data center, then upon such time which the Parties execute the applicable Ordering Document, (a) the licenses granted to such on-premises Subscription Software under the applicable Ordering Document will automatically terminate, (b) Customer and its Authorized Users will cease use of the applicable on-premises copies of Subscription Software, and (c) the replacement hosted Subscription Software provided hereunder will be governed by the terms of the SSA and this SPA.

18.2. Transition Fee. Motorola will not charge additional Fees for Services related to the transition to hosted Subscription Software, as described in **Section 10.1 – Transition to Subscription License Model**. Notwithstanding the foregoing, subscription Fees for the applicable hosted Subscription Software are subject to the SSA and the applicable Ordering Document, and may be greater than Fees paid by Customer for on-premises Subscription Software.

18.3. Software Decommissioning. Upon (a) transition of the on-premises Software System as a service to Subscription Software hosted in a data center or (b) any termination of the Subscription Software license for the on-premises Software System as a service, Motorola will have the right to enter Customer Sites and decommission the applicable on-premises Subscription Software that is installed at Customer's Site or on Customer-Provided Equipment. For clarity, Customer will retain the right to use Licensed Software that is firmware incorporated into Equipment purchased by Customer from Motorola and any Microsoft operating system Licensed Software.

19. Additional Terms for CAD and Records Products. The terms set forth in this **Section 11 – Additional Terms for CAD and Records Products** apply in the event Customer purchases any Computer Aided Dispatch (“**CAD**”) or Records Products under this SPA.

19.1. Support Required. Customer acknowledges and agrees that the licenses granted by Motorola under the Agreement to CAD and Records Products for on-premises Software Systems are conditioned upon Customer purchasing Maintenance and Support Services for such Products during the term of the applicable license. If at any time during the term of any such license, Customer fails to purchase associated Maintenance and Support Services (or pay the fees for such Services), Motorola will have the right to terminate or suspend the software licenses for CAD and Record Products, and this SPA or the applicable Ordering Document.

19.2. CJIS Security Policy. Motorola agrees to support Customer's obligation to comply with the Federal Bureau of Investigation Criminal Justice Information Services (“**CJIS**”) Security Policy and will comply with the terms of the CJIS Security Addendum for the term of the Addendum or Ordering Document for the applicable Product. Customer hereby consents to Motorola screened personnel serving as the “escort” within the meaning of CJIS Security Policy for unscreened Motorola personnel that require access to unencrypted Criminal Justice Information for purposes of Product support and development.

20. Additional Cloud Terms. The terms set forth in this **Section 12 – Additional Cloud Terms** apply in the event Customer purchases any cloud hosted software.

20.1. Data Storage. Motorola will determine, in its sole discretion, the location of the stored content for cloud hosted software. All data, replications, and backups will be stored at a location in the United States for Customers in the United States.

20.2. Data Retrieval. Cloud hosted software will leverage different types of storage to optimize software, as determined in Motorola's sole discretion. For multimedia data, such as videos, pictures, audio files, Motorola will, in its sole discretion, determine the type of storage medium used to store the content. The type of storage and medium selected by Motorola will determine the data retrieval speed. Access to content in archival storage may take up to 24 hours to be viewable.

20.3. Maintenance. Scheduled maintenance of cloud hosted Software will be performed periodically. Motorola will make commercially reasonable efforts to notify customers one (1) week in advance of any such maintenance. Unscheduled and emergency maintenance may be required from time to time. Motorola will make commercially reasonable efforts to notify customers of any unscheduled or emergency maintenance 24 hours in advance.

21. Survival. The following provisions will survive the expiration or termination of this SPA for any reason: **Section 1 – Addendum; Section 2 – Software Systems; Applicable Terms and**

Conditions; Section 6 – Prohibited Use; Section 9 – Applicable End User Terms; Section 13 – Survival.

Subscription Software Addendum

This Subscription Software Addendum (this “**SSA**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below or in the MCA (“**Customer**”), and will be subject to, and governed by, the terms of the Master Customer Agreement entered into between the Parties, effective as of [REDACTED] (the “**MCA**”). Capitalized terms used in this SSA, but not defined herein, will have the meanings set forth in the MCA.

1. Addendum. This SSA governs Customer’s purchase of Subscription Software (and, if set forth in an Ordering Document, related Services) from Motorola, and will form part of the Parties’ Agreement. Additional Subscription Software-specific Addenda or other terms and conditions may apply to certain Subscription Software, where such terms are provided or presented to Customer.

2. Delivery of Subscription Software.

2.1. Delivery. During the applicable Subscription Term (as defined below), Motorola will provide to Customer the Subscription Software set forth in an Ordering Document, in accordance with the terms of the Agreement. Motorola will provide Customer advance notice (which may be provided electronically) of any planned downtime. Delivery will occur upon Customer’s receipt of credentials required for access to the Subscription Software or upon Motorola otherwise providing access to the Subscription Software. If agreed upon in an Ordering Document, Motorola will also provide Services related to such Subscription Software.

2.2. Modifications. In addition to other rights to modify the Products and Services set forth in the MCA, Motorola may modify the Subscription Software, any associated recurring Services and any related systems so long as their functionality (as described in the applicable Ordering Document) is not materially degraded. Documentation for the Subscription Software may be updated to reflect such modifications. For clarity, new features or enhancements that are added to any Subscription Software may be subject to additional Fees.

2.3. User Credentials. If applicable, Motorola will provide Customer with administrative user credentials for the Subscription Software, and Customer will ensure such administrative user credentials are accessed and used only by Customer’s employees with training on their proper use. Customer will protect, and will cause its Authorized Users to protect, the confidentiality and security of all user credentials, including any administrative user credentials, and maintain user credential validity, including by updating passwords. Customer will be liable for any use of the Subscription Software through such user credential (including through any administrative user credentials), including any changes made to the Subscription Software or issues or user impact arising there from. To the extent Motorola provides Services to Customer in order to help resolve issues resulting from changes made to the Subscription Software through user credentials, including through any administrative user credentials, or issues otherwise created by Authorized Users, such Services will be billed to Customer on a time and materials basis, and Customer will pay all invoices in accordance with the payment terms of the MCA.

2.4. Beta Services. If Motorola makes any beta version of a software application (“**Beta Service**”) available to Customer, Customer may choose to use such Beta Service at its own discretion, provided, however, that Customer will use the Beta Service solely for purposes of Customer’s evaluation of such Beta Service, and for no other purpose. Customer acknowledges and agrees that all Beta Services are offered “as-is” and without any representations or warranties or other commitments or protections from Motorola. Motorola will determine the duration of the evaluation

period for any Beta Service, in its sole discretion, and Motorola may discontinue any Beta Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies.

3. **Subscription Software License and Restrictions.**

3.1. Subscription Software License. Subject to Customer's and its Authorized Users' compliance with the Agreement, including payment terms, Motorola hereby grants Customer and its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Subscription Software identified in an Ordering Document, and the associated Documentation, solely for Customer's internal business purposes. The foregoing license grant will be limited to use in the territory and to the number of licenses set forth in an Ordering Document (if applicable), and will continue for the applicable Subscription Term. Customer may access, and use the Subscription Software only in Customer's owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Subscription Software remotely from any location. No custom development work will be performed under this Addendum.

3.2. End User Licenses. Notwithstanding any provision to the contrary in the Agreement, certain Subscription Software is governed by a separate license, EULA, or other agreement, including terms governing third-party software, such as open source software, included in the Subscription Software. Customer will comply, and ensure its Authorized Users comply, with such additional license agreements.

3.3. Customer Restrictions. Customers and Authorized Users will comply with the applicable Documentation and the copyright laws of the United States and all other relevant jurisdictions (including the copyright laws where Customer uses the Subscription Software) in connection with their use of the Subscription Software. Customer will not, and will not allow others including the Authorized Users, to make the Subscription Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; reverse engineer, disassemble, or reprogram software used to provide the Subscription Software or any portion thereof to a human-readable form; modify, create derivative works of, or merge the Subscription Software or software used to provide the Subscription Software with other software; copy, reproduce, distribute, lend, or lease the Subscription Software or Documentation for or to any third party; take any action that would cause the Subscription Software, software used to provide the Subscription Software, or Documentation to be placed in the public domain; use the Subscription Software to compete with Motorola; remove, alter, or obscure, any copyright or other notice; share user credentials (including among Authorized Users); use the Subscription Software to store or transmit malicious code; or attempt to gain unauthorized access to the Subscription Software or its related systems or networks.

4. **Term.**

4.1. Subscription Terms. The duration of Customer's subscription to the first Subscription Software and any associated recurring Services ordered under this SSA (or the first Subscription Software or recurring Service, if multiple are ordered at once) will commence upon delivery of such Subscription Software (and recurring Services, if applicable) and will continue for a twelve (12) month period or such longer period identified in an Ordering Document (the "**Initial Subscription Period**"). Following the Initial Subscription Period, Customer's subscription to the Subscription Software and any recurring Services will automatically renew for additional twelve (12) month periods (each, a "**Renewal Subscription Year**"), unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. (The Initial

Subscription Period and each Renewal Subscription Year will each be referred to herein as a “**Subscription Term**”). Motorola may increase Fees prior to any Renewal Subscription Year. In such case, Motorola will notify Customer of such proposed increase no later than thirty (30) days prior to commencement of such Renewal Subscription Year. Unless otherwise specified in the applicable Ordering Document, if Customer orders any additional Subscription Software or recurring Services under this SSA during an in-process Subscription Term, the subscription for each new Subscription Software or recurring Service will (a) commence upon delivery of such Subscription Software or recurring Service, and continue until the conclusion of Customer’s then-current Subscription Term (a “**Partial Subscription Year**”), and (b) automatically renew for Renewal Subscription Years thereafter, unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. Thus, unless otherwise specified in the applicable Ordering Document, the Subscription Terms for all Subscription Software and recurring Services hereunder will be synchronized.

4.2. Term. The term of this SSA (the “**SSA Term**”) will commence upon either (a) the Effective Date of the MCA, if this SSA is attached to the MCA as of such Effective Date, or (b) the SSA Date set forth on the signature page below, if this SSA is executed after the MCA Effective Date, and will continue until the expiration or termination of all Subscription Terms under this SSA, unless this SSA or the Agreement is earlier terminated in accordance with the terms of the Agreement.

4.3. Termination. Notwithstanding the termination provisions of the MCA, Motorola may terminate this SSA (or any Addendum or Ordering Documents hereunder), or suspend delivery of Subscription Software or Services, immediately upon notice to Customer if (a) Customer breaches **Section 3 – Subscription Software License and Restrictions** of this SSA, or any other provision related to Subscription Software license scope or restrictions set forth in an Addendum or Ordering Document, or (b) it determines that Customer’s use of the Subscription Software poses, or may pose, a security or other risk or adverse impact to any Subscription Software, Motorola, Motorola’s systems, or any third party (including other Motorola customers). Customer acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Subscription Software and Documentation, and that Customer’s breach of the Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Customer breaches this Agreement, in addition to termination, Motorola will be entitled to all available remedies at law or in equity (including immediate injunctive relief).

4.4. Wind Down of Subscription Software. In addition to the termination rights in the MCA, Motorola may terminate any Ordering Document and Subscription Term, in whole or in part, in the event Motorola plans to cease offering the applicable Subscription Software or Service to customers.

5. Payment.

5.1. Payment. Unless otherwise provided in an Ordering Document (and notwithstanding the provisions of the MCA), Customer will prepay an annual subscription Fee set forth in an Ordering Document for each Subscription Software and associated recurring Service, before the commencement of each Subscription Term. For any Partial Subscription Year, the applicable annual subscription Fee will be prorated based on the number of months in the Partial Subscription Year. The annual subscription Fee for Subscription Software and associated recurring Services may include certain one-time Fees, such as start-up fees, license fees, or other fees set forth in an Ordering Document. Motorola will have the right to suspend the Subscription Software and any recurring Services if Customer fails to make any payments when due.

5.2. License True-Up. Motorola will have the right to conduct an audit of total user licenses credentialed by Customer for any Subscription Software during a Subscription Term, and Customer will cooperate with such audit. If Motorola determines that Customer's usage of the Subscription Software during the applicable Subscription Term exceeded the total number of licenses purchased by Customer, Motorola may invoice Customer for the additional licenses used by Customer, pro-rated for each additional license from the date such license was activated, and Customer will pay such invoice in accordance with the payment terms in the MCA.

6. Liability.

6.1. ADDITIONAL EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS FROM DAMAGES SET FORTH IN THE MCA, AND NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (B) DISRUPTION OF OR DAMAGE TO CUSTOMER'S OR THIRD PARTIES' SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (C) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH THE SUBSCRIPTION SOFTWARE OR SERVICES, OR INTERPRETATION, USE, OR MISUSE THEREOF; (D) TRACKING AND LOCATION-BASED SERVICES; OR (E) BETA SERVICES.

6.2. Voluntary Remedies. Motorola is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed or excluded issues in the MCA or **Section 6.1 – Additional Exclusions** above, but if Motorola agrees to provide Services to help resolve such issues, Customer will reimburse Motorola for its reasonable time and expenses, including by paying Motorola any Fees set forth in an Ordering Document for such Services, if applicable.

7. Motorola as a Controller or Joint Controller. In all instances where Motorola acts as a controller of data, it will comply with the applicable provisions of the Motorola Privacy Statement at https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement, as may be updated from time to time. Motorola holds all Customer Contact Data as a controller and shall Process such Customer Contact Data in accordance with the Motorola Privacy Statement. In instances where Motorola is acting as a joint controller with Customer, the Parties will enter into a separate Addendum to the Agreement to allocate the respective roles as joint controllers.

8. Survival. The following provisions will survive the expiration or termination of this SSA for any reason: **Section 4 – Term; Section 5 – Payment; Section 6.1 – Additional Exclusions; Section 8 – Survival.**

Mobile Video Addendum

This Mobile Video Addendum (this “**MVA**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and Customer (as defined in the MCA), and will be subject to, and governed by, the terms of the Master Customer Agreement, available at www.motorolasolutions.com/product-terms (the “**MCA**”), and the applicable Addenda. Capitalized terms used in this MVA, but not defined herein, will have the meanings set forth in the MCA or the applicable Addenda.

22. Addendum. This MVA, available at www.motorolasolutions.com/product-terms, governs Customer’s purchase of any Motorola mobile video Products, including participation in Motorola’s Video-as-a-Service Program (“**VaaS Program**”). A “**Mobile Video System**” is a solution that includes at least one mobile video Product and requires Integration Services to deploy such mobile video Product or the associated evidence management Product at a Customer Site. In addition to the MCA, other Addenda may be applicable to Products offered under this MVA, including the Subscription Software Addendum (“**SSA**”), with respect to Subscription Software, and the Equipment Purchase and Software License Addendum (“**EPSLA**”), with respect to Licensed Software and Equipment, as each of those terms are defined therein, and as further described below. This MVA will control with respect to conflicting or ambiguous terms in the MCA or any other applicable Addendum, but only as applicable to the Mobile Video System or other Products purchased under this MVA and not with respect to other Products or Services.

23. Evidence Management Systems; Applicable Terms and Conditions.

23.1. On-Premise Evidence Management. If Customer purchases a Mobile Video System where Equipment and Licensed Software for evidence management is installed at Customer Sites (an “**On-Premises Evidence Management System**”), then, unless the Ordering Document(s) specify that any software is being purchased on a subscription basis (i.e., as Subscription Software), any (i) Equipment and (ii) Licensed Software installed at Customer Sites or on Customer-Provided Equipment, in each case purchased in connection with the On-Premises Evidence Management System, are subject to the EPSLA. On-Premises Evidence Management Systems described in this Section qualify for the System Warranty as described in **Section 4 – On-Premises Evidence Management System Warranty** (the “**System Warranty**”).

23.2. Cloud Hosted Evidence Management. If Customer purchases Mobile Video System where the software for evidence management is hosted in a data center and provided to Customer as a service (“**Cloud Hosted Evidence Management System**”), including CommandCentral Evidence and EvidenceLibrary.com Products, then such Cloud Hosted Evidence Management System is subject to the SSA. Any Equipment purchased in connection with Cloud Hosted Evidence Management System is subject to the EPSLA. Cloud Hosted Evidence Management System described in this Section do not qualify for the System Warranty. System completion, however, is determined in accordance with the provisions of **Section 7 –System Completion** below.

23.3. Services. Any Integration Services or Maintenance and Support Services purchased in connection with, or included as a part of, a Mobile Video System are subject to the MCA, and as described in the applicable Ordering Document.

24. Payment. Customer will pay invoices for the Products and Services covered by this MVA in accordance with the invoice payment terms set forth in the MCA. Fees for Mobile Video Systems will be invoiced as of the System Completion Date, unless another payment process or schedule or milestones are set forth in an Ordering Document or applicable Addendum. In addition to Equipment,

Licensed Software, Subscription Software and Integration Services (as applicable) sold as part of a Mobile Video System, the Ordering Documents for a Mobile Video System may also include post-deployment Integration Services or other Services which are to be provided following the date of functional demonstration (“**Post-Deployment Services**”). Post-Deployment Services will be invoiced upon their completion and paid by Customer in accordance with the terms of the MCA.

25. On-Premises Evidence Management System Warranty. Subject to the disclaimers in the MCA and any other applicable Addenda, Motorola represents and warrants that, on the System Completion Date (as defined below) for an On-Premises Evidence Management System described in **Section 2.1 – On-Premises Evidence Management** (a) such On-Premises Evidence Management System will perform in accordance with the descriptions in the applicable Ordering Documents in all material respects, and (b) if Customer has purchased any Equipment or Motorola Licensed Software (but, for clarity, excluding Subscription Software) as part of such On-Premises Evidence Management System, the warranty period applicable to such Equipment and Motorola Licensed Software will continue for a period of one (1) year commencing upon the System Completion Date for the On-Premises Evidence Management System that includes such Products, or on the applicable Product Completion Date, if earlier, instead of commencing upon delivery of the Products in accordance with the terms and conditions set forth in **Section 6 – Representations and Warranties; Liabilities** of the EPSLA. The warranties set forth in the applicable Addenda are not otherwise modified by this MVA.

26. Additional Software and Video Terms.

26.1. Unlimited Storage. In the event Customer purchases a Cloud Hosted Evidence Management System with “Unlimited Storage”, including evidence management under the VaaS Program, then “Unlimited Storage” means storage of all data captured using Equipment sold under this MVA, provided that (1) video recordings are recorded in an event-based setting where users are not recording an entire shift under one video footage and (2) Customer’s data retention policies and practices do not result in the retention of data beyond the statutory minimums set forth by the State in which the Customer resides. In the event Customer does not comply with the preceding clauses (1) and (2), Motorola shall have the right to charge Customer for such excess data storage at the prevailing rates. Motorola also has the right to place any data that has not been accessed for a consecutive six (6) month period into archival storage, retrieval of which may take up to twenty-four (24) hours from any access request.

26.2. Applicable End User Terms. Additional license terms apply to third-party software included in certain software Products which are available online at: www.motorolasolutions.com/legal-flow-downs. Customer will comply, and ensure its Authorized Users comply, with all such additional license terms.

26.3. WatchGuard Detector Mobile. Any order by Customer of WatchGuard Detector Mobile is on a subscription basis and subject to the SSA.

26.4. Vigilant Access. Customer may opt for subscription to additional Subscription Software, including use of the Law Enforcement Archival Network (“**LEARN**”), which is subject to the SSA and any additional terms governing the use of LEARN. If Customer purchases a subscription to commercial license plate recognition data, then Customer will execute and agree to the terms of Motorola’s standard Data License Addendum.

26.5. License Plate Recognition Data. License plate recognition (“**LPR**”) data collected by Customer is considered Customer Data (as defined in the MCA) and is therefore subject to the

Customer's own retention policy. Customer, at its option, may share its LPR data with other similarly situated Law Enforcement Agencies ("**LEAs**") which contract with Motorola to access LEARN by selecting this option within LEARN. Other similarly situated LEAs may similarly opt to share their LPR data with Customer using LEARN. Such LPR data generated by other LEAs is considered Third-Party Data (as defined in the MCA), is governed by the retention policy of the respective LEA, and shall be used by Customer only in connection with its use of LEARN. LPR data that has reached its expiration date will be deleted from LEARN. Only individuals who are agents and/or sworn officers of Customer and who are authorized by Customer to access LEARN on behalf of Customer through login credentials provided by Customer ("**User Eligibility Requirements**") may access LEARN. Vigilant in its sole discretion may deny access to LEARN to any individual based on such person's failure to meet the User Eligibility Requirements. Customer will ensure no user logins are provided to agents or officers of other local, state, or Federal LEAs without the express written consent of Vigilant. Customer will be responsible for all individuals' access to, and use of, LEARN through use of Customer login credentials, including ensuring their compliance with this Agreement.

26.6. API Support. Motorola will use commercially reasonable efforts to maintain its Application Programming Interface ("**API**") sold in connection with any Mobile Video System. APIs will evolve and mature over time, requiring changes and updates. Motorola will use reasonable efforts to continue supporting any version of an API for six (6) months after such version is introduced, but if Motorola determines, in its sole discretion, to discontinue support of an API for any reason, Motorola will provide reasonable advance notification to Customer. If an API presents a security risk, Motorola may discontinue an API without prior notice.

26.7. Support of Downloaded Clients. If Customer purchases any software Product that requires a client installed locally on Customer-Provided Equipment or Equipment in possession of Customer, Customer will be responsible for downloading and installing the current version of such client, as it may be updated from time to time. Motorola will use reasonable efforts to continue supporting any version of a client for forty-five (45) days following its release, but Motorola may update the current version of its client at any time, including for bug fixes, product improvements, and feature updates, and Motorola makes no representations or warranties that any software Product will support prior versions of a client.

26.8. CJIS Security Policy. Motorola agrees to support Customer's obligation to comply with the Federal Bureau of Investigation Criminal Justice Information Services ("**CJIS**") Security Policy and will comply with the terms of the CJIS Security Addendum for the term of the Addendum or Ordering Document for the applicable Product. Customer hereby consents to Motorola screened personnel serving as the "escort" within the meaning of CJIS Security Policy for unscreened Motorola personnel that require access to unencrypted Criminal Justice Information for purposes of Product support and development.

27. VaaS Program Terms. All hardware provided by Motorola to Customer under the VaaS Program will be considered "Equipment", as defined in the EPSLA, and constitutes a purchase of such Equipment subject to the terms of the EPSLA. Additionally, the following terms and conditions apply to any Equipment purchased under the VaaS Program:

27.1. Technology Refresh. All body cameras and associated batteries purchased under the VaaS Program ("**Body Cameras**") are eligible for a one-time replacement at no additional cost to the Customer beginning on the date three (3) years following the date of delivery of the initial Body Cameras and associated batteries provided under the VaaS Program. In order to receive any replacement Body Camera applicable under this **Section 6.1 – Technology Refresh**, Customer must return the existing Body Camera to Motorola in working condition. The corresponding

replacement Body Camera will be the then-current model of the Body Camera at the same tier as the Body Camera that is returned to Motorola. For clarity, any other Equipment received by Customer as part of the VaaS Program, other than Body Cameras, will not be eligible for a technology refresh hereunder.

27.2. No-Fault Warranty. Subject to the disclaimers set forth in the MCA and EPSLA, upon delivery of any Equipment purchased as part of the VaaS Program, Motorola will provide a No-fault Warranty to Customer for such Equipment that extends until the end of the Commitment Term (as defined below) applicable to such Equipment; except that the No-fault Warranty will not apply to: (i) any Equipment with intentionally altered or removed serial numbers, (ii) any other damages disclaimed under the MCA or EPSLA, or (iii) any Equipment that Motorola determines was changed, modified, or repaired by Customer or any third party. The **“No-fault Warranty”** means that Motorola will repair or replace any Equipment components or parts that render the applicable Equipment unable to perform its intended purpose. With respect to any batteries in Body Cameras, a battery will be considered faulty and covered under this No-fault Warranty if it falls below sixty percent (60%) of rated capacity.

27.3. Commitment Term. Customer accepts that following the delivery of any Equipment under the VaaS Program, Customer commits to a five (5) year subscription term for such Equipment at the rate provided in the Ordering Document (the **“Initial Commitment Term”**). If Customer, for any reason, terminates any of its obligations to Motorola prior to expiration of the applicable Commitment Term (as defined below), Customer will be subject to the payments described in **Section 6.7.2 – Termination** hereunder.

27.4. Additional Devices. Any additional Equipment, including any accessory items, ordered by Customer after Customers’ initial purchase of Equipment hereunder may be subject to an incremental increase in Fees. In the event Customer orders additional Equipment under the VaaS Program within the ninety (90) days immediately following its initial purchase, such Equipment will be included in and subject to the Initial Commitment Term. Any additional Equipment purchased under the VaaS Program subsequent to such ninety (90) day period, will commence an additional subscription term commitment for such Equipment of five (5) years (a **“Subsequent Commitment Term”**) with respect to the monthly Fee associated with such additional Equipment. For purposes of this Addendum, the Initial Commitment Term and each Subsequent Commitment Term are each also referred to herein as a **“Commitment Term”**.

27.5. Included Subscription Software.

27.5.1. EvidenceLibrary.com. Subject to **Section 6.7.1 – VaaS Term**, the VaaS Program provides Customer with a subscription to the Cloud Hosted Evidence Management System specified in the Ordering Document during the VaaS Term (as defined below), the use of which is subject to the SSA. Customer’s subscription will include unlimited users, Unlimited Storage and unlimited sharing, provided any media or data uploaded to the Cloud Hosted Evidence Management System is done so using Motorola Equipment actively enrolled in the VaaS Program. Following expiration of the applicable Commitment Term, if Customer desires to continue use of expired Equipment with the Cloud Hosted Evidence Management System, Customer must purchase additional access to Cloud Hosted Evidence Management System based on Motorola’s prevailing rates, or Motorola may disconnect connectivity of any expired Equipment to the Cloud Hosted Evidence Management System.

27.5.2. CommandCentral. For each Body Camera, in-car system or integrated system purchased, Customer will receive one user license for Motorola CommandCentral, which provides access to CC Community, CC Capture, CC Vault and CC Records. If the Customer requires additional licenses to CommandCentral they must be purchased for an additional fee.

27.5.3. CarDetector Mobile. If Customer's VaaS Program order includes an in-car system, Customer will receive a subscription to WatchGuard CarDetector Mobile during the VaaS Term, the use of which is subject to the SSA.

27.6. VaaS Program Payment. Unless otherwise provided in an Ordering Document (and notwithstanding the provisions of the MCA), Customer will prepay a subscription Fee quarterly (each a "**Subscription Quarter**"), as set forth in an Ordering Document. If Customer orders any additional Product(s) under the VaaS Program subsequent to the initial purchase by Customer, Fees for such additional Product will be added to the quarterly subscription Fee, and will be payable on the same Fee payment schedule as the initial Product purchased under the VaaS Program; provided, however, that for the first Subscription Quarter during which such additional Product is purchased, the subscription Fee for the applicable additional Product will be pro-rated based on the applicable number of days remaining in the such initial Subscription Quarter.

27.7. VaaS Program Term and Termination.

27.7.1. VaaS Term. Customer's participation in the VaaS Program will commence upon the System Completion Date under this MVA, and will continue through the end of the final Commitment Term hereunder ("the "**VaaS Term**"). Following the end of any Commitment Term, Customer's access to the Cloud Hosted Evidence Management System with respect to the Equipment purchased relative to that Commitment Term will expire, and Customer must download or transfer all Customer Data associated with the applicable Equipment within thirty (30) days following expiration unless Customer purchases extended access to the Cloud Hosted Evidence Management System from Motorola at the prevailing rates. Motorola has no obligation to retain Customer Data for expired Equipment beyond thirty (30) days following expiration of the applicable Commitment Term. For example, if Customer purchases 100 devices on January 1 of Year 1 of the VaaS Term, and then 100 additional devices on January 1 of Year 3, on December 31 of Year 5 (i.e., the conclusion of the Initial Commitment Term), Customer's access to the Cloud Hosted Evidence Management System with respect to the first 100 devices will be discontinued, and Customer must purchase extended storage or transfer all Customer Data associated with the first 100 devices within thirty (30) days of expiration of the Initial Commitment Term. In the foregoing example, the Cloud Hosted Evidence Management System access and data storage for the second 100 devices purchase will extend until December 31 of Year 7.

27.7.2. Termination. The termination provisions applicable to the VaaS Program will be those set forth in the MCA, EPSLA and SSA, as applicable. If Customer's participation in the VaaS Program is terminated for any reason prior to the end of the Initial Commitment Term or any Subsequent Commitment Term, Customer will pay the pro-rated remainder of the aggregate Equipment MSRP price (prevailing as of the time of delivery), calculated by multiplying the MSRP price of all Equipment purchased under the VaaS Program by the percentage resulting from dividing the number of months remaining in the Commitment Term applicable to such Equipment by sixty (60). In the event Customer purchased Equipment on multiple dates, resulting in separate

Commitment Terms for certain Equipment, the preceding calculation will be made relative to the applicable Commitment Term for each Equipment order. For example, if Customer purchased \$1,000 worth of Equipment on January 1 of Year 1 of the VaaS Term, and then \$1,000 worth of Equipment on January 1 of Year 2, and then Customer's VaaS Program terminates on December 31 of Year 3, Customer will be required to repay: $\$1,000 \times (24/60) + \$1,000 \times (36/60)$, which is equal to \$1,000 in the aggregate.

28. System Completion. Any Mobile Video System sold hereunder will be deemed completed upon Customer's (or the applicable Authorized User's) Beneficial Use of the applicable Mobile Video System (the "**System Completion Date**"). Customer will not unreasonably delay Beneficial Use, and in any event, the Parties agree that Beneficial Use will be deemed to have occurred thirty (30) days after functional demonstration. As used in this Section, "**Beneficial Use**" means use by Customer or at least one (1) Authorized User of the material features and functionalities of Mobile Video System, in material conformance with Product descriptions in the applicable Ordering Document. Any additional Equipment sold in connection with the initial Mobile Video System shall be deemed delivered in accordance of the terms of the EPSLA. Any additional Subscription Software purchased under the VaaS Program will be deemed delivered upon Customer's receipt of credentials required for access to the Cloud Hosted Evidence Management System or upon Motorola otherwise providing access to the Cloud Hosted Evidence Management System. This Section applies to Products purchased under the MVA notwithstanding the delivery provisions of the Addendum applicable to such Products, such as the SSA or EPSLA, and this Section will control over such other delivery provisions to the extent of a conflict.

29. Additional Cloud Terms. The terms set forth in this **Section 8 – Additional Cloud Terms** apply in the event Customer purchases any cloud hosted software Products under this MVA, including a Cloud Hosted Evidence Management System.

29.1. Data Storage. Motorola will determine, in its sole discretion, the location of the stored content for cloud hosted software Products. All data, replications, and backups will be stored at a location in the United States for Customers in the United States.

29.2. Data Retrieval. Cloud hosted software Products will leverage different types of storage to optimize software, as determined in Motorola's sole discretion. For multimedia data, such as videos, pictures, audio files, Motorola will, in its sole discretion, determine the type of storage medium used to store the content. The type of storage and medium selected by Motorola will determine the data retrieval speed. Access to content in archival storage may take up to twenty-four (24) hours to be viewable.

29.3. Availability. Motorola will make reasonable efforts to provide monthly availability of 99.9% for cloud hosted software Products with the exception of maintenance windows. There are many factors beyond Motorola's control that may impact Motorola's ability to achieve this goal.

29.4. Maintenance. Scheduled maintenance of cloud hosted software Products will be performed periodically. Motorola will make commercially reasonable efforts to notify customers one (1) week in advance of any such maintenance. Unscheduled and emergency maintenance may be required from time to time. Motorola will make commercially reasonable efforts to notify customers of any unscheduled or emergency maintenance twenty-four (24) hours in advance.

30. Survival. The following provisions will survive the expiration or termination of this MVA for any reason: **Section 1 – Addendum; 2 – Evidence Management Systems; Applicable Terms**

and Conditions; Section 3 – Payment; Section 5.2 – Applicable End User Terms; Section 6.5.1 – EvidenceLibrary.com; Section 6.7 – VaaS Program Term and Termination; Section 9 – Survival.

ECH Add-on Cloud Interface Software Addendum

This ECH Add-on Cloud Software as a Service Addendum (this “**Interface Addendum**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL

60661 (“**Motorola**”) and the entity set forth in the signature block below or in the Subscription Software Agreement (“**Customer**”), and will be subject to, and governed by, the terms of the Subscription Software Agreement entered into between the Parties, effective as of _____ (the “**Subscription Software Agreement**”), and the applicable Addenda. Capitalized terms used in this Interface Addendum, but not defined herein, will have the meanings set forth in the Subscription Software Agreement or the applicable Addenda.

31. Scope. This Interface Addendum covers certain add-on cloud products listed in EXHIBIT 1 (the “**Add-on Cloud Products**”) and will control with respect to conflicting terms in the Subscription Software Agreement or any other applicable Addendum, but only as applicable to the products and Services purchased under this Interface Addendum. A list of the on-premise software available for license under this Interface Addendum is attached hereto as EXHIBIT 2 (collectively, the “**Cloud Interface Software**”). In connection with the Add-on Cloud Products, Customer may also purchase certain Add-On Cloud Services as described in **Section 2.2 Services** hereto.

32. Applicable Terms and Conditions.

32.1. Cloud Interface Software

32.1.1. Software License. Subject to Customer’s and its Authorized Users’ compliance with the Subscription Software Agreement (including payment terms), Motorola hereby grants Customer and its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Cloud Interface Software identified in an Ordering Document, in object code form only, and the associated Documentation, solely in connection with the equipment provided by Motorola, or Customer-Provided Equipment (as applicable, the “**Designated Products**”) and solely for Customer’s internal business purposes. Unless otherwise stated in an Addendum or the Ordering Document, the foregoing license grant will be limited to the number of licenses set forth in the applicable Ordering Document and will continue for the life of the applicable Designated Product. Except as otherwise permitted in an applicable Addendum or Ordering Document, Customer may install, access, and use Cloud Interface Software only in Customer’s owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Cloud Interface Software remotely from any location.

32.1.2. End User Licenses. Notwithstanding any provision to the contrary in the Subscription Software Agreement, certain Cloud Interface Software is governed by a separate license, end-user license agreement, or other agreement, including terms governing third-party equipment or software, such as open source software, included in the Cloud Interface Software. Customer will comply, and ensure its Authorized Users comply, with any such additional terms applicable to third-party equipment or software.

32.1.3. Customer Restrictions. Customers and Authorized Users will comply with the applicable Documentation in connection with their use of the Cloud Interface Software. Customer will not and will not allow others, including the Authorized Users, to: (a) make the Cloud Interface Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; (b) reverse engineer, disassemble, or reprogram the Cloud Interface Software or any portion thereof to a human-readable form; (c)

modify, create derivative works of, or merge the Cloud Interface Software with other software or equipment; (d) copy, reproduce, distribute, lend, lease, or transfer the Cloud Interface Software or Documentation for or to any third party without the prior express written permission of Motorola; (e) take any action that would cause the Cloud Interface Software or Documentation to be placed in the public domain; (f) use the Cloud Interface Software to compete with Motorola; or (g) remove, alter, or obscure, any copyright or other notice.

32.1.4. Copies. Customer may make one (1) copy of the Cloud Interface Software solely for archival, back-up, or disaster recovery purposes during the term of the applicable Cloud Interface Software license. Customer may make as many copies of the Documentation reasonably required for the internal use of the Cloud Interface Software during such Cloud Interface Software's license term. Unless otherwise authorized by Motorola in writing, Customer will not, and will not enable or allow any third party to: (a) install a licensed copy of the Cloud Interface Software on more than one (1) unit of a Designated Product; or (b) copy onto or transfer Cloud Interface Software installed in a unit of a Designated Product onto another device. Customer may temporarily transfer Cloud Interface Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Customer provides written notice to Motorola of the temporary transfer and identifies the device on which the Cloud Interface Software is transferred. Temporary transfer of the Cloud Interface Software to another device must be discontinued when the original Designated Product is returned to operation and the Cloud Interface Software must be removed from the other device. Customer must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

32.1.5. Motorola Warranties. Subject to the disclaimers and exclusions set forth in this Interface Addendum, (a) to the extent permitted by the providers of third-party software included in the Add-on Cloud Products and Services, Motorola will pass through to Customer any warranties provided by such third parties, which warranties will apply for the period defined by the applicable third party, and (b) for a period of ninety (90) days commencing upon delivery of Motorola-owned Cloud Interface software, Motorola represents and warrants that such Cloud Interface Software, when used in accordance with the Documentation and the Interface Addendum, will be free from reproducible defects that prevent operation of features critical to the primary functionality or successful operation of the Motorola-developed Cloud Interface Software (as determined by Motorola). The warranty set forth in subsection (b) will be referred to as the "**Motorola Licensed Software Warranty**". As Customer's sole and exclusive remedy for any breach of the Motorola Licensed Software Warranty, Motorola will use commercially reasonable efforts to remedy the material defect in the applicable Cloud Interface Software; provided, however, that if Motorola does not remedy such material defect within a reasonable time, then at Motorola's sole option, Motorola will either replace the defective Cloud Interface Software with functionally-equivalent software, provide substitute software to Customer, or terminate the applicable software license and refund any paid license fees to Customer on a pro-rata basis. For clarity, the Motorola Licensed Software Warranty applies only to the most current version of the Cloud Interface Software issued by Motorola, and issuance of updated versions of any Cloud

Interface Software does not result in a renewal or extension of the Motorola Licensed Software Warranty beyond the ninety (90) day warranty period.

32.1.6. WARRANTY DISCLAIMER. EXCEPT FOR THE EXPRESS AND PASS THROUGH WARRANTIES IN THIS INTERFACE ADDENDUM, PRODUCTS AND SERVICES PURCHASED HEREUNDER ARE PROVIDED “AS IS” AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE INTERFACE ADDENDUM ARE THE COMPLETE WARRANTIES FOR THE SOFTWARE AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER’S PARTICULAR REQUIREMENTS.

32.1.7. ADDITIONAL EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS FROM DAMAGES SET FORTH IN THIS AGREEMENT, AND NOTWITHSTANDING ANY PROVISION OF THE SUBSCRIPTION SOFTWARE AGREEMENT AND THIS INTERFACE ADDENDUM TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN MOTOROLA, OR (B) TRACKING AND LOCATION-BASED SERVICES

32.2. Services.

32.2.1. Motorola will provide services related to purchased Add-on Cloud Products (“**Add-on Cloud Services**”), to the extent set forth in an Ordering Document.

32.2.2. Service Ordering Documents. The Fees for Add-on Cloud Services will be set forth in an Ordering Document and any applicable project schedules. A Customer point of contact will be set forth in the applicable statement of work for the Add-on Cloud Services. For purposes of clarity, each statement of work will be incorporated into, and form an integral part of, the Interface Addendum.

32.2.3. Integration Services. If specified in an Ordering Document, Motorola will provide, for the term of such Ordering Document, (a) design, deployment, and integration Services in order to design, install, set up, configure, and/or integrate the applicable Add-on Cloud Products at the applicable locations, agreed upon by the Parties (“**Integration Services**”) as further described in the applicable statement of work.

32.2.4. Completion of Integration Services. Unless otherwise specified in the applicable Ordering Document, Integration Services described in an Ordering Document will be deemed complete upon the earlier of Customer’s (or the applicable Authorized User’s) (i) Beneficial Use (as defined below) of the applicable Add-on Cloud Products or (ii) Motorola’s functional demonstration to Customer of the installation and integration of the Add-On Services. For clarity, if the Add-On Cloud Products are comprised of more than one product, Motorola may notify Customer that the installation and integration for a

particular product have been completed, and Customer may have Beneficial Use of such Add-On Product prior to having Beneficial Use of other Add-On Products. In such case, the installation and integration applicable to such product will be deemed complete upon Customer's Beneficial Use of the product. As used in this Section, "**Beneficial Use**" means the ability to use the material features and functionalities of a product in material conformance with product descriptions in the applicable Ordering Document.

32.2.5. Post-Installation Support and Maintenance Services. Motorola agrees to provide Customer support services, if purchased, as identified in the applicable accepted Order Document and in accordance with the applicable Motorola support documentation. Support for Motorola proprietary software and firmware is available pursuant to Motorola's Next Generation 9-1-1 Software Support Program, a copy of which is attached hereto as **EXHIBIT 3** and incorporated herein by reference. Motorola's Managed Services such as Remote Monitoring, AntiVirus Definition Update Services, Disaster Recovery Services and Patch Management Services are available, if purchased, pursuant to the terms and conditions of the Motorola's Managed Services Offerings Policy which is attached hereto as **EXHIBIT 4** and incorporated herein by reference. The purchase of Add-on Cloud Products includes Cloud Interface Software that allows connectivity to the cloud services. If Customer currently has or purchases a new Monitoring and Response agreement for VESTA 9-1-1, technical support will be included for Add-on Cloud Products. Monitoring of Add-on Cloud Products events will be included as long as additional appropriate application licenses have been acquired and installed.

EXHIBIT 1 – ADD-ON CLOUD PRODUCTS

CommandCentral Citizen Input (“**Citizen Input**”)

CommandCentral Smart Transcription (“**Smart Transcription**”)

CommandCentral Aware (“**Aware**”)

EXHIBIT 2 –CLOUD INTERFACE PRODUCTS

Console Transcription Application (CTA)

VESTA API

VESTA Edge

EXHIBIT 3 - NEXT GENERATION 9-1-1 SOFTWARE SUPPORT PROGRAM

[see attached]

EXHIBIT 4 - MANAGED SERVICES OFFERINGS POLICY

[see attached]

EXHIBIT 5 – M500 AND V300 PRODUCT SCOPE

Managed Software Installation Service; Complete On-Site Install, Training, Configuration, Project Management, Consultation

WGW00122-402

CommandCentral Evidence Standard - Five (5) Year Subscription – Extra User Licenses

SSV00S02600A-05

Digital Evidence Management

Field Response Application

Records Management

Five (5) Year Subscription Duration

Priced Per Named User (Qty = # of Users)

20 qty

Body-worn camera and evidence management software - 5 Year Video-as-a-Service Package @ \$49 per Month

AAS-BWC-5YR-001 (*PaaS*)

Video-as-a-Service includes CommandCentral Evidence, the cloud-based evidence management system with unlimited device storage and unlimited cloud sharing. 1 User License per Body Worn Camera.

50 GB of non-device storage included per device, averaged across all devices in the program

CommandCentral Evidence, Records, Redaction, Sharing, Community Engagement capabilities and capture application included.

Body-worn camera (battery + choice of mount included)

Third year technology (Hardware) refresh.

5-year agreement billed Annually

Advanced hardware replacement service & 24/7 support

No-Fault hardware warranty

143 qty

V300, Battery, Removable and Rechargeable, 3.8V, 4180mAh

WGP02614

236 qty

Pre-Configured V300 Transfer Station II with Power Supply and Cables.

BW-ACK-V3-TSC

V300 Transfer Station II

TS02, D350, 8-Slot Rack Mount Charge/Upload Dock, 10GB

includes kit with Power Supply and Cables.

19 qty

V300 Base Assembly, USB Desktop Dock

WGA00640-KIT1

18 qty

M500 In-car video system with Integrated V300 Body-worn camera and Command Central Evidence - 5 Year Video-as-a-Service Package @ \$205 per Month

AAS-M5-BWC-5YR (*PaaS*)

Video-as-a-Service Bundle includes the cloud-based evidence management system, with unlimited storage and unlimited cloud sharing. 1 User License per bundle.

CommandCentral Evidence, capture, records, redaction and community engagement capabilities included.

V300 Body-worn camera (choice of mount)

M500 In-Car Video System

M500 with 1TB DVR, 5" touch display, front camera with 4k sensor, infrared cabin camera,

Smart Power Switch

5-year agreement, billed Annually

No-Fault hardware warranty

Advanced hardware replacement service & 24/7 support

93 qty

Video System Removal (Per Unit Charge)

WGW00119

93 qty

4RE / M500 System Installation, In-Car (Per Unit Charge)

WGW00121

93 qty

**Sierra MP70 with sharkfin antenna and 5 year warranty and support and AMM
cloud management**

93 qty

M500 Basic ALPR VaaS

AAS-M5-ALPR-01

\$43 / month + \$500 remote commissioning (up to 5 units) CarDetector Mobile, Vigilant PlateSearch (agency data only) Includes free 90-day trial to Investigative Data Platform (IDP)

93 qty

New Interview Room Solution - Qty 10

The interview room subscription is per interview room, and that covers the interview room live streaming application, its features, and storage

Interview Room Subscription - 5 Year Subscription and includes:

Interview Room Video Solution - \$169 Monthly per Room (CCE Suite Add On)

Available for 4RE cameras and associated microphones

Transcription (post interview w/ CCE Plus)

Video Streaming for remote viewers (up to 10)

Prosecutor Portal functionality through CC Evidence

Five (5) Year Subscription Duration

Requires CCE Subscription for each Interview Room user

Priced per Interview Room

Data Migration and Transfer * Requires: Migration Quote Checklist to be completed *****

WGW00166

Data Migration between EL On Prem & Cloud versions (Either direction)

Sold on a per Terabyte basis

30 qty

Integration between Spillman and CC Evidence

Spillman Integration

New judicial sharing service.

Judicial Sharing Service

WatchGuard Premier Support Service (Annual Subscription)

WGW00164 (***PaaS***)

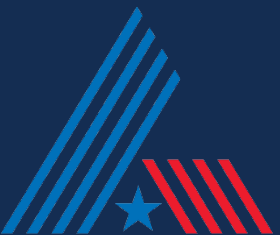
5 years

Resolution:
**Authorizing Purchase Agreement for Body
-Worn, In-Car cameras and Real Time
Information Center**

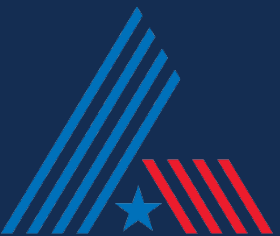


Body-Worn / In-Car and Interview Room Cameras

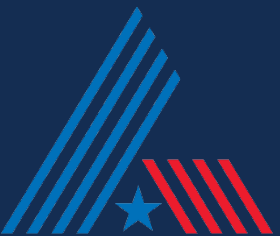
- We are currently using Motorola Solutions for our existing body-worn cameras (BWC) and in-car cameras, and our interview rooms.
- The BWC have exceeded their 5 year warranty and are in need of replacing. We are consistently experiencing battery failures.
- The need for new technology in how we store digital video evidence and a desire to create a Real-Time-Information-Center allowed us to take a holistic approach in how we sought a camera system upgrade.



- Other vendors were contacted and field tests done with their product(s) to assess capabilities and properly evaluate differences.
- Motorola Solutions was ultimately the vendor chosen.
- With the package that we are recommending for purchase, we will be able to outfit all officers with upgraded BWCs with a better battery solution to ensure full shift functionality.
- The in-car cameras will utilize License Plate Reader technology.

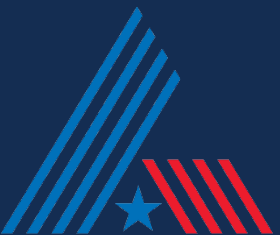


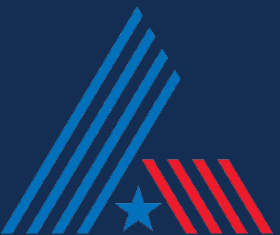
- Through use of in-car Wi-Fi, we will also be able to start mobile uploads from any location. This will greatly improve our historically long delays in video processing.
- Additionally, with this technology we will soon be able to live stream video from any location. This is a distinct advantage during critical in-progress incidents.



Real-Time-Information-Center (RTIC)

- An RTIC is an intelligence/crime reduction public safety approach that incorporates cameras along with analytics to provide “real time” information to officers in the field and video to support investigations.



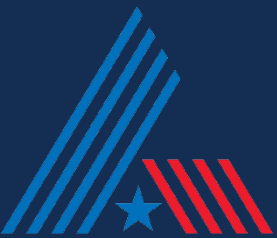
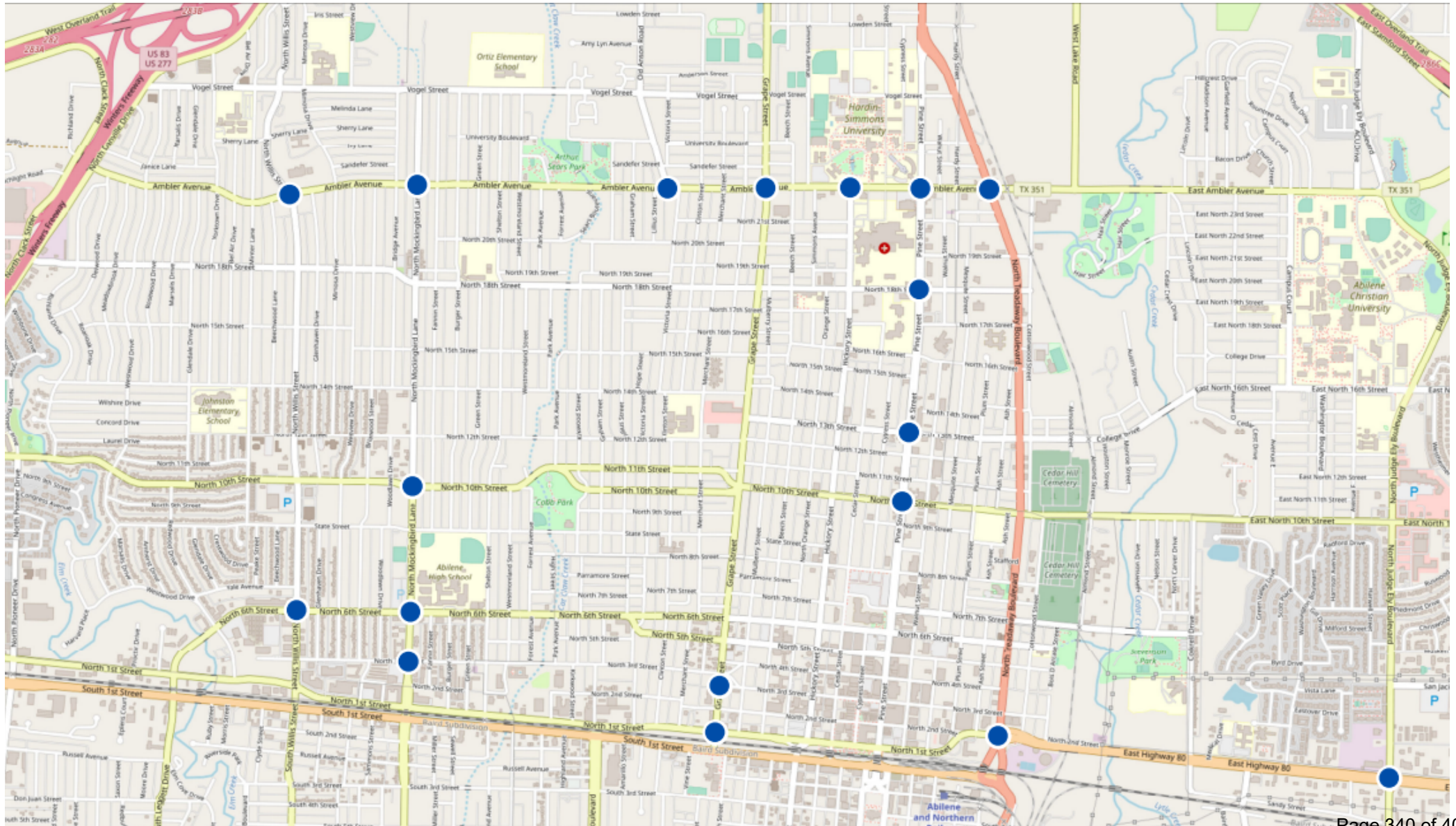


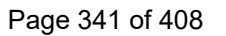
Real-Time-Information-Center (RTIC)

- The desire to start a RTIC was initially thought to be something that would start small. However, this purchase would drastically speed up the formation of a RTIC.
- The Motorola Solution Command Central Aware product, included in this purchase, will afford us the ability to leverage existing camera equipment in the City and gain viewable access to all of the traffic signal cameras (upwards of 120 cameras).



Traffic Camera Locations – North Abilene





Vendor Purchase Cost

- \$2,034,426 Motorola Agreement Total Costs
- Payment spaced out over 5 years:
 - Year 1 - \$440,666
 - Year 2, 3, 4, and 5 - \$398,440
- Police Apparatus Funds available:
 - FY22 - \$1,450,000 (Includes \$1.1 mil Apparatus & \$350k RTIC MIP)
 - FY22 – Remaining in Apparatus Fund after Year 1 payment - \$1,009,334

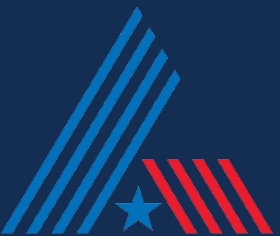
(Apparatus Fund established as a funding source for high dollar critical equipment needs. It receives contributions annually. Projected at \$1.1 mil yearly.)



Vendor Purchase Cost

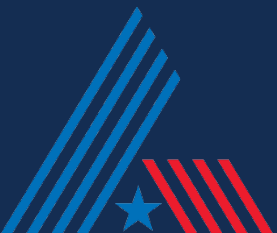
Purchase includes:

- All of the BWCs, in-car cameras, and the interview rooms.
- The Command Central Aware Plus for the RTIC components and access to City owned traffic signal cameras.
- CAD integration (already a Motorola CAD client).
- The in-car Wi-Fi hotspot environment technology.
- Cloud based evidence storage.

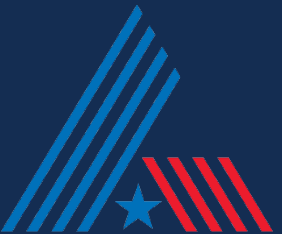


Items Included in Purchase

Description	Qty
CommandCentral Evidence	256
New Interview Room Solution	10
Video-as-a-Service Package for the V300	143
Video-as-a-Service Package for the M500	93
Sierra MP70 with Sharkfin Antenna and 5 Year Warranty and Support and AMM Cloud Management	93
M500 Basic ALPR VaaS Add-on	93
M500 Device Streaming	93
V300 Device Streaming	236



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 15. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Approve a Task Order with Corgan for Design and Construction Management of an Airport Terminal Interior Improvements Project (Don Green)

GENERAL INFORMATION

City Council approved a master contract with Corgan (Resolution 119-2018) on July 26, 2018, which included Terminal Interior Renovations. Corgan has submitted a task order to begin the first (enabling) phase of Airport Terminal updates and improvements.

This task order is for design and construction management of the lower level restrooms improvements, painting the interior of the terminal, and removing the empty gift shop area in the lobby. There are also design elements for construction bid alternates based on bid pricing to include the upper level restrooms in the lobby and expansion of the administrative office space.

The task order is for \$168,190.00, which uses funds available from the 2015 General Obligation Bond, Proposition 9.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Uses funds available from the 2015 General Obligation Bond, Proposition 9.

STAFF RECOMMENDATION

Airport staff worked with Corgan to develop this task order. The scope and cost have undergone a satisfactory Independent Fee Estimate from Kutchins & Groh to ensure the fee is competitive.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board approved its recommendation at its December 8, 2021 meeting.

ATTACHMENTS:

1. Terminal Interior Design-Project Management Resolution 1-27-22
2. Revised Enabling 211028_ABI Task Order 004r1 ABI Modernization_Signed
3. Corgan Terminal Interior Design TO Presentation 1-27-22pptx

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING A TASK ORDER FOR DESIGN AND CONSTRUCTION MANAGEMENT
OF AIRPORT TERMINAL IMPROVEMENTS**

WHEREAS, the City of Abilene (City) owns and operates Abilene Regional Airport; and

WHEREAS, Corgan submitted a task order for design and construction management of the Terminal Improvements under its Master Agreement for Architectural Services; and

WHEREAS, such improvements must be done in phases to meet budget constraints; and

WHEREAS, this task order represents design of the initial, or enabling phase, that will make the greatest impact to passenger services and terminal modernization; and

WHEREAS, this task order is funded by the 2015 General Obligation Bond, Proposition 9 Funds; and

WHEREAS, the Airport Development Board approved its recommendation for this task order at its December 8, 2021 meeting.

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

- I. That City Council accepts and approves this design and construction management task order with Corgan for \$168,190.00.
- II. That this action is effective immediately upon Council approval.

ADOPTED this 27th day of January 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

TASK ORDER # 004R1

PROJECT NAME: Abilene Regional Airport Modernization – Phase 1

1. SCOPE OF WORK:

Base Bid Scope of Work:

The following areas list the base scope of work to be performed in the Airport. In general, the base scope of work option will include all areas with exposed aggregate to be painted.

Public Restrooms Level 1:

- Remove existing restroom fixtures and accessories and provide new.
- Provide enclosed toilet partitions and shelves at urinal and toilets. Review plumbing code to see if quantity of urinals can be reduced to provide 3'-0" clear at each.
- Provide individualized washing areas in millwork with places to locate bags and purses.
- Provide (2) options for the baby changing station to be incorporated in millwork or provide stainless steel wall mounted option.
- Provide new floor finish over existing floor finish. Include one tile option.
- Provide new wall finishes and ceiling.
- Review and update existing HVAC and plumbing systems as required.

All Terminal Interior

- Resurface exposed aggregate surfaces.
- Conceal exposed surface mounted conduit.
- Paint wall and ceilings of Terminal.
- Remove existing wall paper and refinish.

Concessions –

- Remove existing gift shop.
- Partially remove concessions to provide for an extended administration office.

Alternate 1 Scope of Work:

Public Restrooms Level 2:

- Remove existing restroom fixtures and accessories and provide new.
- Provide enclosed toilet partitions and shelves at urinal and toilets. Review plumbing code to see if quantity of urinals can be reduced to provide 3'-0" clear at each.
- Provide individualized washing areas in millwork with places to locate bags and purses.
- Remove existing floor finish and provide new floor finish to match lower level restrooms.
- Provide new wall finishes and ceiling.
- Review and update existing HVAC and plumbing systems as required.

Alternate 2 Scope of Work:

Administration Offices -

- Provide an open multi-use space in administration offices with divider wall and power/data.
- Replace all carpet in the administration offices with new finishes.
- Paint all administration offices.
- Investigate need for HVAC modification to new spaces.

2. FEES AND EXPENSES:

Fees are based on a lump sum as dictated below and include consultant services. Please note reimbursable expenses, while shown separate will be considered a part of our lump sum fee.

Corgan	\$120,590.00
Jacob Martin - Structural, MEP,IT	\$41,600.00
Sub-Total	\$162,190.00
Reimbursable Cost (Travel/Printing/Misc.)	\$6,000.00
Lump Sum Total:	\$168,190.00

3. SCHEDULE FOR COMMENCEMENT / DELIVERABLES / COMPLETION OF PROFESSIONAL SERVICES:

- Notice to Proceed
- 2 weeks - Kick Off Meeting/Design Workshop 1 at Airport – (1) Site Visit
 - Design Workshop 1 will be a Visioning Session with the Airport and Stakeholders
 - Finalize goals/objectives with Airport and Stakeholders
 - Project Setup/Field Verification – (1) Site Visit
 - Incorporate field verification into backgrounds.
- 1 month - Finalize Programming/Develop Schematic Design
 - Develop basis of design document for proposed materials and equipment
 - Issue proposed schematic design plan for Airport review and approval. (Review period of 1 week)
 - Airport approval of schematic design concept w/ page turn of drawings – (1) Site Visit
 - Meet with City of Abilene to discuss code impact to proposed plan.
- 3 weeks – Design Development
 - Incorporate comments from page turn w/ Airport
 - Develop Sections/Details
 - Develop Specifications
 - Page turn with Consultants and Airport
- 1 month – Construction Documents
 - Finalize Documents
 - QA/QC Review
 - Page Turn with Consultants and Airport
 - 95% Cost Estimation.
- 3 weeks – Issue 95% Construction Documents for Permitting
 - City of Abilene Review
 - Plans will be reviewed 2nd Wednesday after submission
 - 1 Week - Attend plan review with City of Abilene - (1) Site Visit
 - Issue for FAA Review
- 1 week – Issue 100% Construction Documents and Specifications
 - Incorporate comments from Permit Review
 - Deliver in PDF and CAD backgrounds.
 - Provide (2) physical copies of the drawings and specification books delivered to the Airport.
- 1 month – Bidding/Negotiation when receive funding from FAA
 - On Site Meeting for Pre-Bid Meeting (1) Site Visit
 - Answering and distributing bid questions
 - PDF of drawings to be posted to Jacob Martin's plan room for distribution
- 12 months – Construction Administration
 - Preconstruction Meeting held at the Airport
 - Submittal/RFI Review and Responses
 - Pay Application Review and Approval
 - Biweekly OAC progress meetings via teleconference
 - 8 site visits

- A final punch list visit
- 2 weeks – Project Closeout
 - O&M Manual Review and Issue
 - Record Document Review and Issue
 - Post substantial completion punch list at 11 months

4. OTHER TERMS AND CONDITIONS [if applicable]:

Assumptions:

- The design team will be provided an escort on site as required.
- The schedule may vary due to complications presented by company policies for COVID 19.

Exclusions:

- Geotechnical Engineering services are not included.
- Lease negotiations
- Specialty lighting designer
- Signage design (by vendor)
- A detailed cost estimate
- Asbestos report
- Construction means and methods
- Construction life safety
- LEED and/or Green Building programs, documentation and analyses are not included.
- Fees do not include City review fees, filing fees, taxes, TAS review fees and COM Check fees.
- The fee below includes an assessment of the existing HVAC system to understand if additional equipment is required. If new equipment is required, additional services will be requested for the design.

Additional Services:

- Fees do not include a resident project representative. This person will be made available hourly upon request at \$90 per hour.
- Fees to not include a structural engineer. This service will be available as required hourly.
 - Structural Engineer at \$175 per hour
 - Engineering Technician at \$90 per hour

5. ATTACHMENTS:

N/A

Upon execution of this Task Order by authorized representatives of the City of Abilene and Corgan Associates, Inc., this Task Order is incorporated as a part of the Professional Services Contract, dated July 27, 2018 ("PSA"). In the event of a conflict between the PSA and Task Order terms and conditions, the terms and conditions contained in this PSA shall govern only if this PSA includes a clear and express modification of the PSA.

City of Abilene

Signature

Printed Name and Title

Date

Corgan Associates, Inc.



Signature

Ross Payton - Principal

Printed Name and Title

10/28/2021

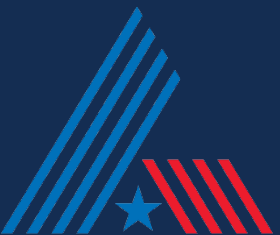
Date

City Council Meeting

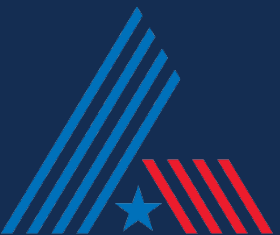
January 27, 2022



Abilene Regional Airport Terminal Interior Design Task Order with Corgan



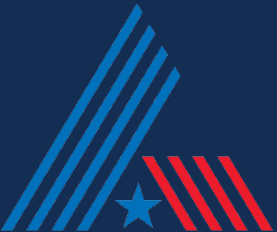
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- The task order is for \$168,190.00.





TOP 10 THINGS
to do in the
ARIZONA
restroom

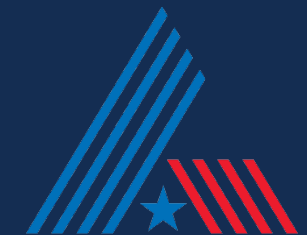
- 1. Wash your hands thoroughly with soap and water for at least 20 seconds.
- 2. Use paper towels to dry your hands.
- 3. Avoid touching surfaces in the restroom.
- 4. Do not touch your face, eyes, nose, or mouth.
- 5. Avoid touching surfaces in the restroom.
- 6. Do not touch your face, eyes, nose, or mouth.
- 7. Avoid touching surfaces in the restroom.
- 8. Do not touch your face, eyes, nose, or mouth.
- 9. Avoid touching surfaces in the restroom.
- 10. Do not touch your face, eyes, nose, or mouth.

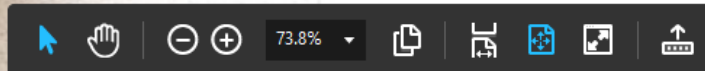
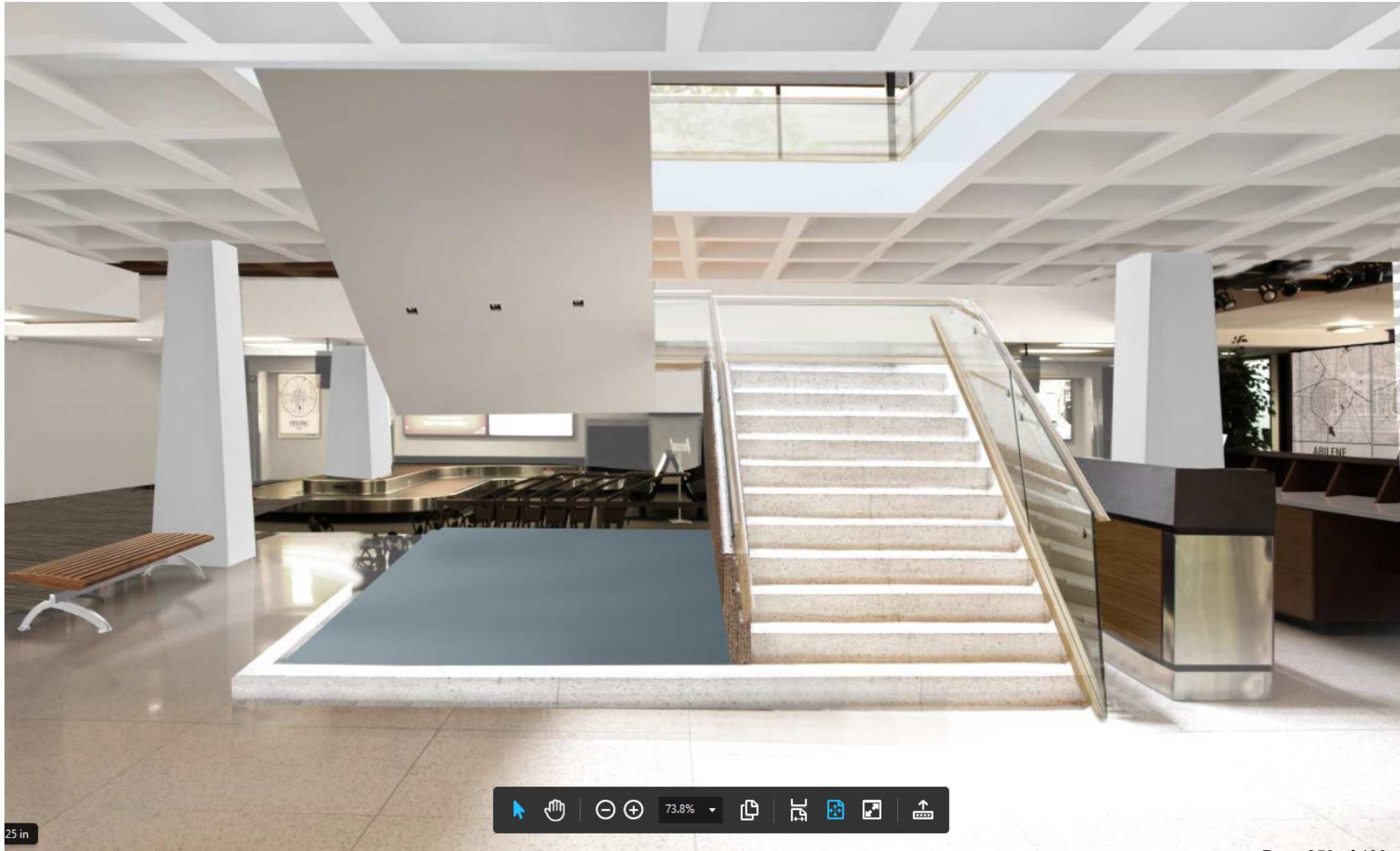


RESTROOMS

ABI – RESTROOM CONCEPT ONE | MENS ROOM







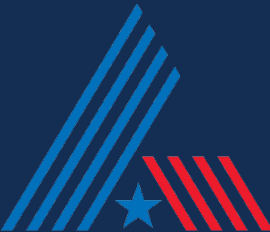
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AIRPORT INTERIORS

ABI – ENTRY CONCEPT | RESURFACE RENOVATION





AIRPORT INTERIORS

ABI – HOLDROOM CONCEPT | RESURFACE RENOVATION





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Cande Flores, Fire Chief

SUBJECT: 16. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Amend Chapter 10, Article III, “Fire Prevention Code”, Division 1, Sec. 10-46 of the Abilene Municipal Code (Cande Flores).

GENERAL INFORMATION

The Fire Prevention Code was last updated in 2009.

The 2021 version of the International Fire Code has been reviewed and is proposed as an amendment to the Abilene Municipal Code.

SPECIAL CONSIDERATIONS

A review committee was organized to review the 2021 version of the International Fire Code and to suggest possible amendments to this code. The committee was chaired by the Abilene Fire Marshal and included five (5) other members. The additional members represented fire protection systems, architecture, and construction.

Language has been adjusted since the First Reading to meet recommendations from City Council members.

FUNDING/FISCAL IMPACT

There is no fiscal impact to the ordinance amendment.

STAFF RECOMMENDATION

Staff recommends amending Chapter 10, Article III, “Fire Prevention Code”, Division 1, Sec. 10-46 to adopt the 2021 International Fire Code in its entirety, with the amendments outlined in Attachment “A”.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Amended Ordinance 2
2. Attachment A
3. Fire Code Presentation

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE III, “FIRE PREVENTION CODE”, FOR THE CITY OF ABILENE; SEC. 10-46 OF THE ABILENE MUNICIPAL CODE BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SERVERABILITY CLAUSE; AND DECLARING A PENALTY.

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

- PART 1:** That Chapter 10, Article III, Division I, Sec. 10.46 of the Abilene Municipal Code be amended as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.
- PART 2:** That if any provisions of any section of this ordinance shall be held to be 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.
- PART 3:** 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 punishable as provided in section 1-9 of this Code. Each day such violation shall continue or permitted to continue, shall be deemed a separate offense. 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 FIRST READING this 9th day of September, 2021.

After passage on first reading, 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 January, 2022, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 27th day of January, 2022, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 27th day of January, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

ATTACHMENT “A”

ABILENE FIRE CODE

The following chapters and appendices of the 2021 International Fire Code are adopted in their entirety:

Chapters: 2, 4, 7, 8, 10, 11, 12, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 80.

Appendices: B, C, D, E, F, G, H, I, K, M, N.

Appendices A, J, and L are deleted in their entirety.

Chapters 1, 3, 5, 6, 9, 33 and Appendix D of the 2021 International Fire Code are adopted with the following amendments:

Chapter 1 ADMINISTRATION

SECTION 101 GENERAL

101.1 Title. *{Amend to read as follows.}* These regulations shall be known as the *Fire Code* of the City of Abilene, hereinafter referred to as “this code”

{Amend Section 103 heading as follows.} SECTION 103 DIVISION OF FIRE PREVENTION

103.1 Creation of Agency. *{Amend to read as follows.}* The division of Fire Prevention is established within the Fire Department under the direction of the fire code official. The function of the division shall be the implementation, administration and enforcement of the provisions of this code.

103.2 Appointment. *{Amend to read as follows and add sentence at the end.}* The fire code official shall be appointed by the fire chief. The fire code official shall also be known as fire marshal.

103.3 Deputies. *{Amend to read as follows.}* In accordance with the prescribed procedures of the Fire Department and with the concurrence of the fire chief, the fire code official shall have the authority to appoint two deputy fire marshals, other related technical officers, inspectors, and other employees.

{Amend Section 111 heading as follows}

SECTION 111

APPEALS

111.1 Appeals. *{Delete in its entirety and add the following.}* The Board of Building Standards as established in Chapter 8, Sec. 8-361, et. seq. of the City Code of the City of Abilene, Texas is charged with hearing appeals arising from any decision of the fire code official concerning this code, determining the suitability of alternate materials and methods of construction and providing reasonable interpretation of this code.

Any reference to the board of appeals in this code shall be construed to mean and does mean the Board of Building Standards as established in Chapter 8, Sec. 8-361, et. seq. of the City Code of the City of Abilene, Texas. In the event the board should be of the opinion that any provisions of this code needs to be amended, it shall make such recommendation to the City Council for consideration.

SECTION 112

VIOLATIONS

112.4 Violation penalties. *{Amend to read as follows.}* Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be guilty of a Class C Misdemeanor, punishable by a fine of not more than five hundred dollars (\$500).

SECTION 113

STOP WORK ORDER

113.4 Failure to comply. *{Amend to read as follows.}* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to

remove a violation or unsafe condition, shall be liable for a fine of not more than five hundred dollars (\$500).

Chapter 3

GENERAL PRECAUTIONS AGAINST FIRE

SECTION 308

OPEN FLAMES

308.1.4 Open-flame cooking devices. *{Amend to read as follows.}* Charcoal burners and other open-flame cooking devices shall not be operated or located on combustible balconies or within 10 feet (3048 mm) of combustible construction.

308.1.7 Religious ceremonies. *{Delete the last sentence.}* Where, in the opinion of the fire code official, adequate safeguards have been taken, participants in religious ceremonies are allowed to carry hand-held candles.

SECTION 319

MOBILE FOOD PREPARATION VEHICLES

319.1 General. *{Amend to read as follows.}* Mobile food preparation vehicles that are equipped with appliances that produce smoke or grease-laden vapors shall comply with this section. The extinguishing system is only required over the cooking surface areas. Existing vehicles will be afforded a grace period of 24 months to become compliant with Sections 319.3 and 319.4.1. This period shall begin with the initial adoption of the 2021 IFC.

Chapter 5

FIRE SERVICE FEATURES

SECTION 503

FIRE APPARATUS ACCESS ROADS

503.2.1 Dimensions. *{Amend to read as follows.}* Fire apparatus access roads shall have an unobstructed width of not less than 24 feet, exclusive of shoulders, except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 14 feet.

503.2.2 Authority. *{Amend to read as follows.}* The fire code official shall have the authority to require an increase in the minimum access widths and vertical heights where they are inadequate for fire or rescue operations.

503.2.3 Surface. *{Amend to read as follows.}* An engineered road shall be constructed of asphalt, concrete, processed road base material or other approved driving surface capable of supporting the imposed loads of a fire apparatus. The road shall be properly graded to drain so as to prevent the road from failing to support the fire apparatus imposed load during a rainfall event.

503.3 Identification. *{Amend to read as follows.}* Where required by the fire code official, approved markings and/or signs shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Markings and signs shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility. Marking shall consist of a red stripe not less than six inches wide along both borders of a fire apparatus access road. The words “FIRE LANE NO PARKING” shall be marked on the stripes in white letters not less than four inches high at intervals of not more than 25 feet. The stripe and words shall consist of traffic paint or other city approved equal. The markings shall be applied to the vertical face of curbs if adjacent to the fire apparatus access road. If curbs are not present, then the markings shall be applied to the pavement.

{Add Subsection 503.3.1}

503.3.1 Signs. Signs shall be not less than 12 inches wide and 18 inches high. Signs shall consist of a white background bordered by a red stripe not less than 3/8 inch wide with the words “FIRE LANE NO PARKING” in red letters not less than two inches high. The sign face shall be retro-reflective. Signs shall be permanently affixed to stationary posts or, where approved by the fire code official, buildings or walls. The bottom of signs shall be not less than seven feet above grade. Signs shall be placed at intervals of not more than 50 feet.

SECTION 506 KEY BOXES

506.1 Key Boxes. *{Add following sentence.}* Any structure that is 12,000 square feet or more, or contains a fire protection or detection device will be required to have a key box installed.

506.1 Installation. *{Add following sentences.}* Where required, a key box will be installed on the right hand side not less than 60 inches (5feet) from the main entrance of the structure. The key box placement is required to be between 60 inches and 72 inches (between 5 and 6 feet) above the finished floor or as approved by the fire code official.

SECTION 507 FIRE PROTECTION WATER SUPPLIES

507.5.4 Obstruction. *{Amend to read as follows.}* Unobstructed access to fire hydrants, fire department inlet connections, or fire protection system control valves shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

SECTION 510 EMERGENCY RESPONDER COMMUNICATION COVERAGE

510.1 Emergency responder communication coverage in new buildings. *{Amend Exception to read as follows.}*

Exceptions:

2. Where it is determined by the fire code official that the radio coverage system is not needed. This occurs when the fire department radio system provides adequate coverage throughout the building.

510.2 Emergency responder communication coverage in existing buildings. *{Add Exception to read as follows.}*

Exception:

1. Where it is determined by the fire code official that the radio coverage system is not needed. This occurs when the fire department radio system provides adequate coverage throughout the building.

Chapter 6 BUILDING SERVICES AND SYSTEMS

SECTION 605 FUEL-FIRED APPLIANCES

605.5 Portable unvented heaters. *{Amend to read as follows.}* Rooms or areas where listed and approved portable unvented fuel-fired heating equipment is allowed shall be provided with a means of

ventilation capable of supplying required combustion air and preventing the accumulation of toxic products of combustion. **Exceptions:** *{Delete exception1}*

Chapter 9 FIRE PROTECTION SYSTEMS

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

903.2.8 Group R *{Add following.}*

Exception: 1 and 2 Family Dwellings.

903.3.1.1.1 Exempt locations. *{Amend first sentence to read.}* Where approved by the fire code official, automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion.

Exception 3. *{Amend to read as follows.}* Generator and transformer rooms under the direct control of a public utility and separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours.

Exception 4. *{Delete Number 4 in its entirety.}*

907.6.6.2 MIY Monitoring. *{Amend to read as follows.}* Direct transmission of alarms associated with Monitor it Yourself (MIY) transmitters to a public safety answering point (PSAP) shall not be permitted.

SECTION 3305 PRECAUTIONS AGAINST FIRE

3305.5.1.1 Fire Watch during Construction. *{Amend to read as follows.}* A Fire Watch shall begin once the structure has exceeded the 50,000 square footage and 40 foot height above lowest adjacent grade threshold and shall be provided during non-working hours. Fire Watch shall remain in effect until acceptance tests meet NFPA requirements for the fire alarm system, and has been approved by the fire code official.

Exceptions:

1. Fire Watch will not be required for buildings of Type I and Type II construction.
2. Buildings of Type III, Type IV, and Type V construction that provide equivalent protection to a Fire Watch, including, but not limited to:
 - a. secured perimeter fencing, nighttime lighting, limited access to the site at all times, posted warning signs, and
 - b. monitored camera surveillance or contracted security with hourly perimeter checks

APPENDIX D – SECTION D107

ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments. *{Add Exception}*

Exceptions:

3. The number of dwelling units accessed from a single fire apparatus access road shall not be increased unless fire apparatus access roads will be increased in width, as determined by the fire code official. A minimum of 24' of unobstructed clearance shall be maintained for fire apparatus. Dwelling increases of up to 99 units are authorized under this exception.

2021 Abilene Fire Code

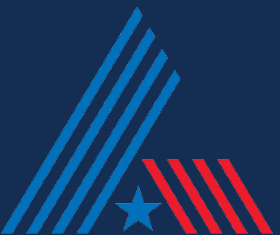
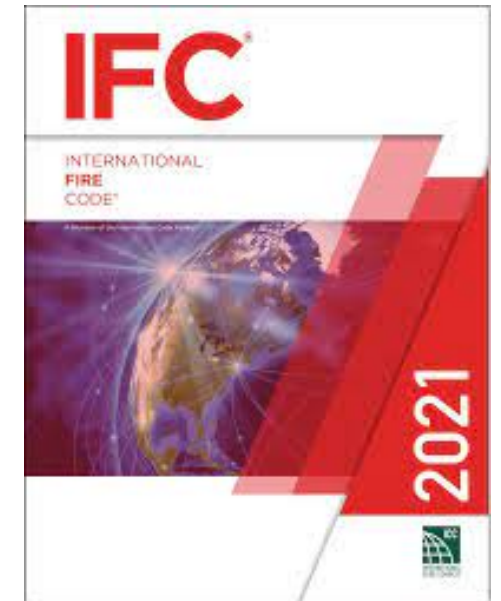
ABILENE FIRE DEPARTMENT

January, 2022



ABILENE FIRE CODE

- Local adoption of the International Fire Code (IFC)
 - Includes local amendments that only apply to the City of Abilene
- IFC is published by the International Code Council
 - Establishes minimum requirements for fire prevention and fire protection systems
 - Updated every 3 years
- The Abilene Fire Code has not been updated since 2009



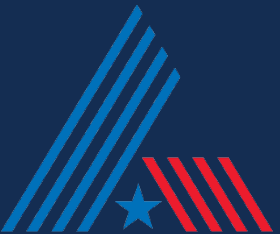
AMENDMENT PROCESS

- The AFD Fire Marshal created a committee to review the latest edition of the International Fire Code
 - Comprised of:
 - Fire Marshal (chair)
 - Jim Bob Barbee (Fire Protection Systems)
 - Alfredo Gunderson (Fire Protection Systems)
 - Ruppert Rangel (Architect)
 - Will Duncan (Architect)
- The IFC Committee met several times and decided which parts of the Code would be adopted in whole and which parts required amendments
- The amendments, in conjunction with the IFC resulted in the Abilene Fire Code



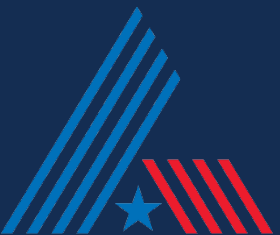
APPLICABILITY

- The Abilene Fire Code is applicable to all commercial structures within the city limits of Abilene
- Buildings that are pre-existing will be labeled as “Existing – Non-Compliant”
- It does not apply to family residences

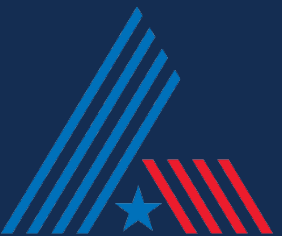


RECOMMENDATION

- The Abilene Fire Marshal's Office recommends amending Article II "Fire Prevention Code" of the City Ordinance to include the 2021 version of the Abilene Fire Code.
 - 2021 IFC
 - Attachment "A"



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Robert Hanna, City Manager

FROM: Max Johnson, Assistant Director of Public Works

SUBJECT: 17. Presentation: Receive a Report, Hold a Discussion and Public Hearing on the City of Abilene Pavement Evaluation, 2021 (Max Johnson)

GENERAL INFORMATION

At a City Council meeting on July 29, 2021, Council approved the award of a contract to the consultant, Fugro, for Abilene's roadway network inventory evaluation. On September 17, 2021, Fugro initiated data collection on the network. The consultant then collected and analyzed roadway conditions throughout the City.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

FUGRO will be presenting different future funding options. These options are not recommendations, but the options are provided to show the City Council the expected improvement to the Street System based upon different future funding possibilities.

STAFF RECOMMENDATION

Discussion only.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

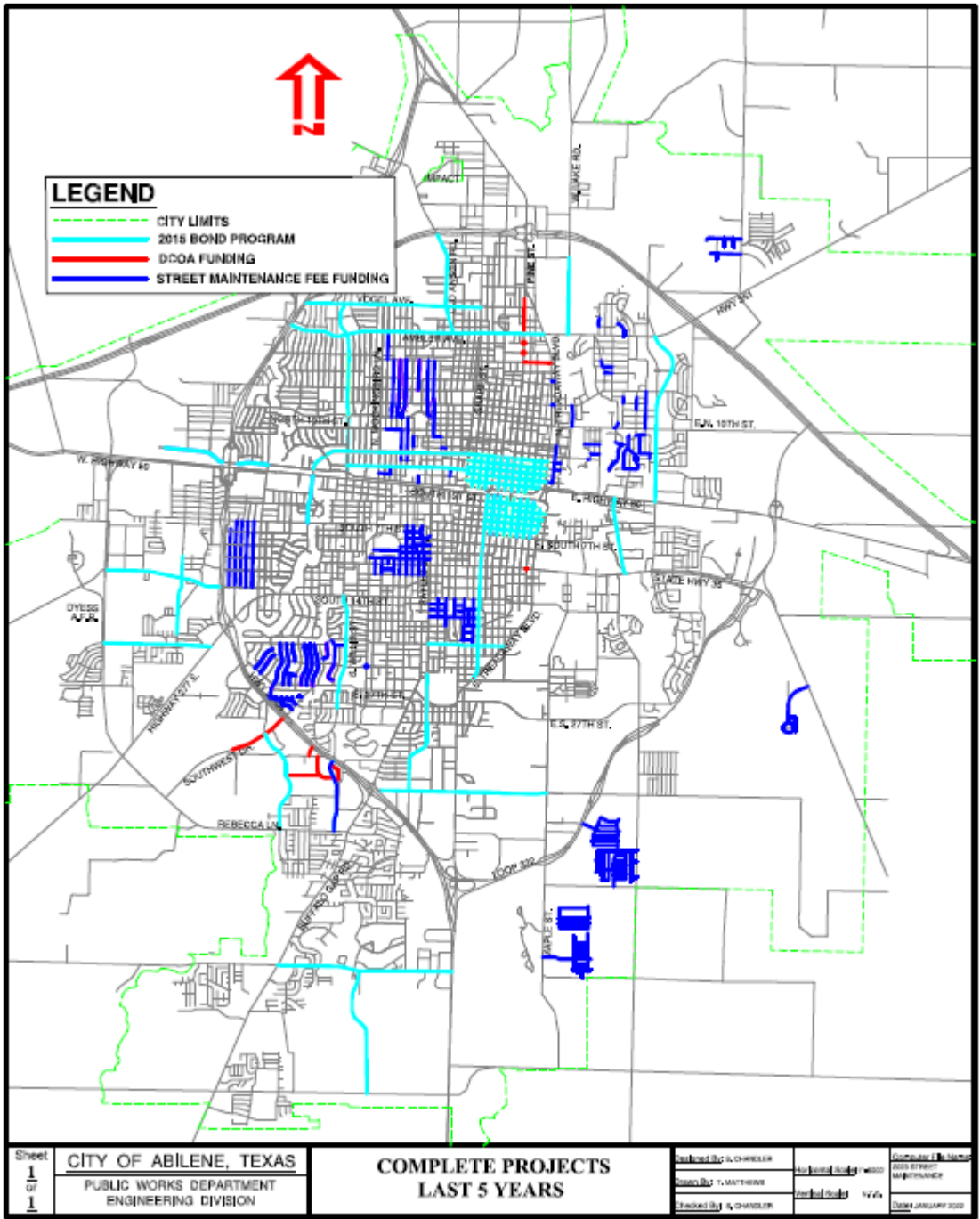
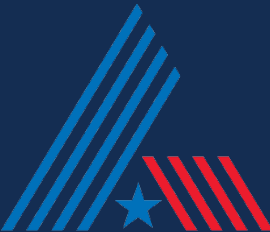
1. Pavement Evaluation 2021

Agenda Item:

City of Abilene Pavement Evaluation, 2021

Presentation: City of Abilene's Roadway Inventory
Network and Pavement Management System
(Johnson)







Roadway Network Inventory and Pavement Management System

City of Abilene, Texas
January 27, 2022

Sirous Alavi, Ph.D., P.E., PTOE
Fugro Pavement Engineering Manager

Topics of Discussion

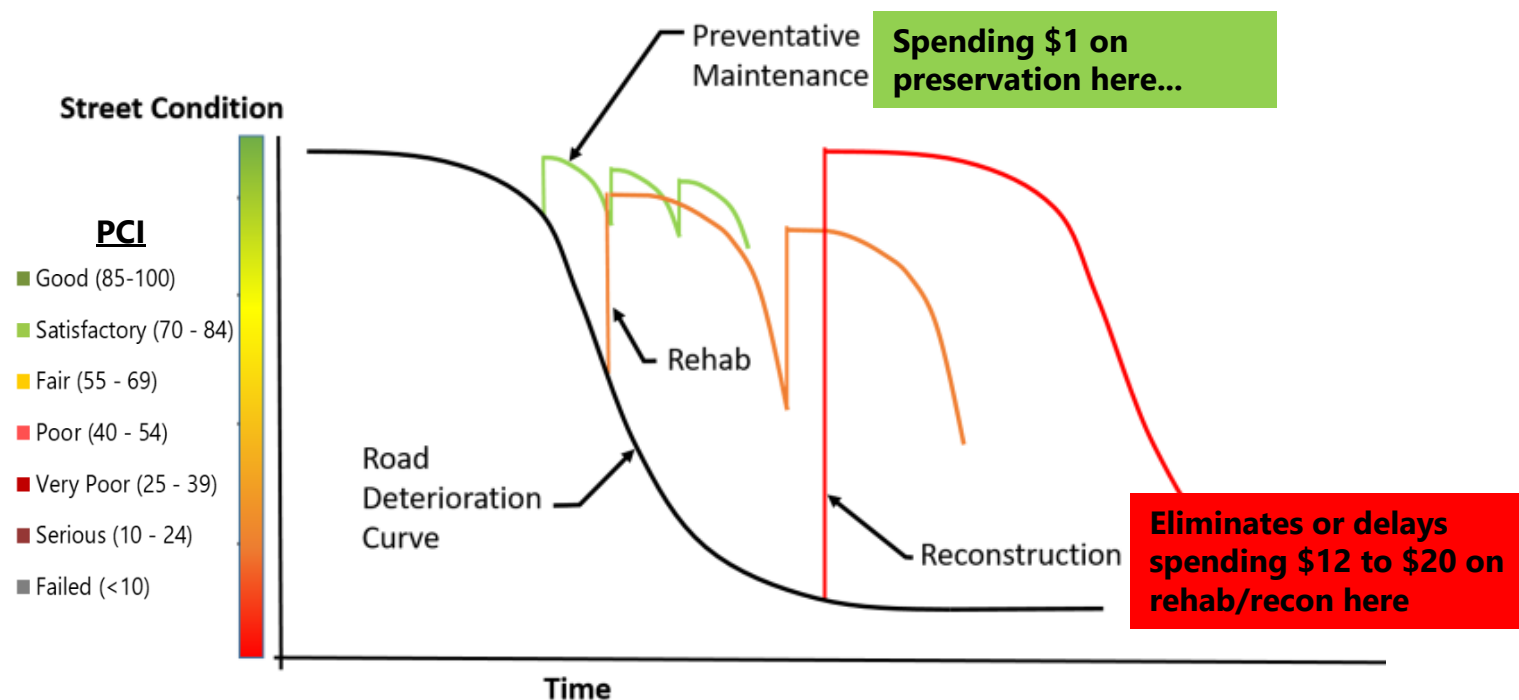
- Project Objective
- Scope of Work
- Roadway Network
- Pavement Data Collection
- Data Processing & Review
- Pavement Performance
- Funding Scenarios
- Future Revenue Discussion



Project Objective



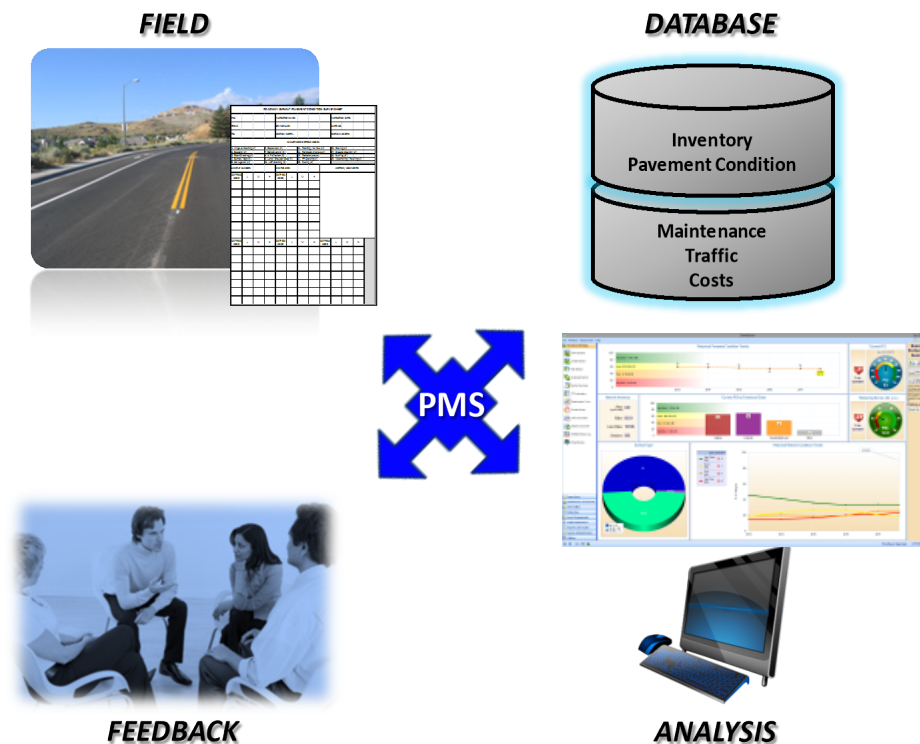
Develop maintenance and rehabilitation (M&R) strategies for preserving existing pavement infrastructure by optimizing the use of available budget



RIGHT treatment at the
RIGHT time to the
RIGHT pavement.

Scope of Work

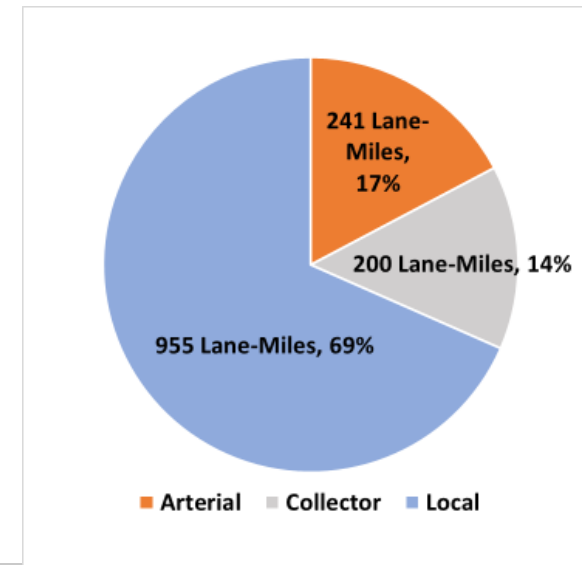
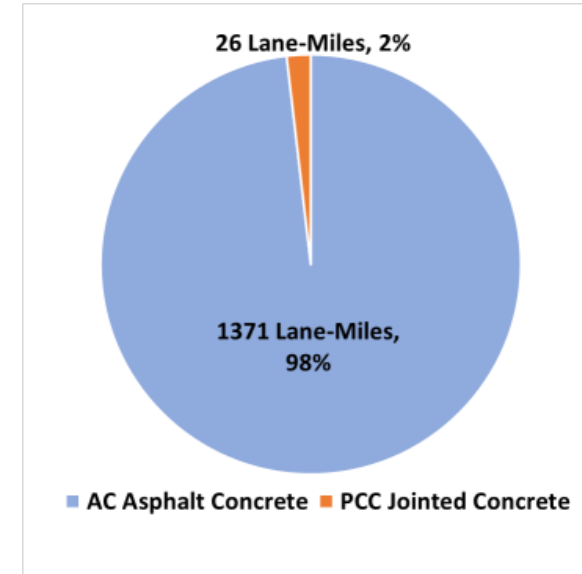
- Review City's network inventory
- Develop distress collection plan
- Conduct pavement condition surveys
- Develop multi-year M&R plans
- Report findings



Abilene Roadway 2021 Network *Inventoried*

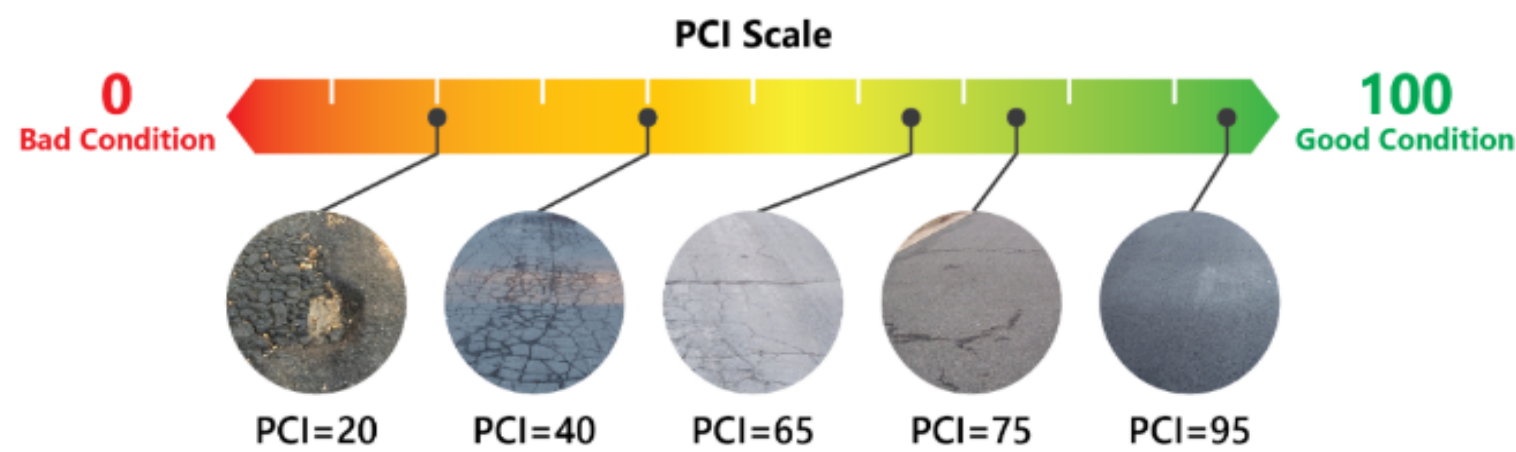


Category	Functional Class	Centerline Miles	Lane-Miles	Percentage of the Entire Network
AC	Arterial	64	239	17%
	Collector	84	190	14%
	Local	471	941	67%
PCC	Arterial	1	2	0%
	Collector	3	10	1%
	Local	7	14	1%
Network	All	630	1,396	100%



Pavement Condition Index (ASTM D6433)

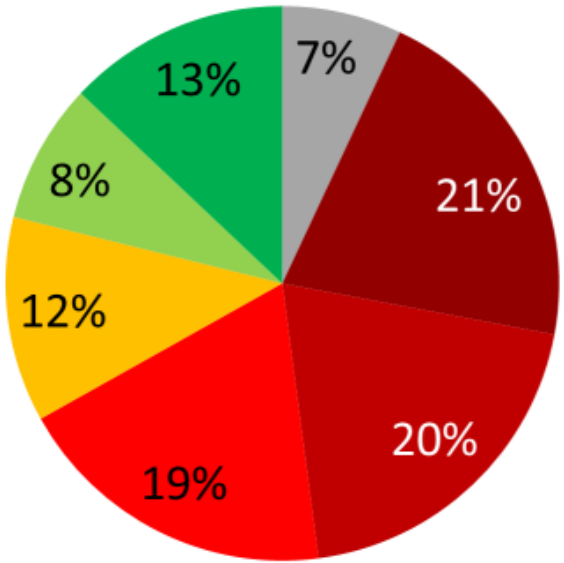
- PCI is state of practice
- Index from 0 to 100, where 0 is completely failed and 100 is perfect condition



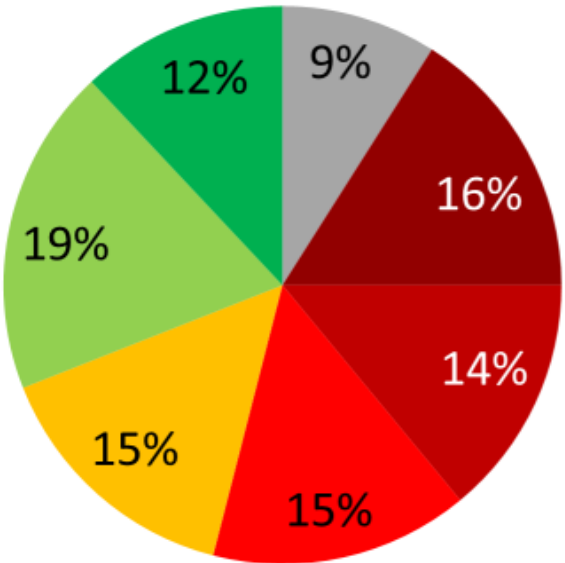
Condition	Failed	Serious	Very Poor	Poor	Fair	Satisfactory	Good
PCI Range	< 10	10 - 24	25 - 39	40 - 54	55 - 69	70 - 84	85 - 100

2021 PCI Distribution

Condition	Failed	Serious	Very Poor	Poor	Fair	Satisfactory	Good
PCI Range	< 10	10 - 24	25 - 39	40 - 54	55 - 69	70 - 84	85 - 100
Network	7%	21%	20%	19%	12%	8%	13%
Arterial/Collector	2%	14%	19%	18%	16%	12%	19%
Local	9%	24%	20%	19%	11%	7%	11%



2021 Overall Network

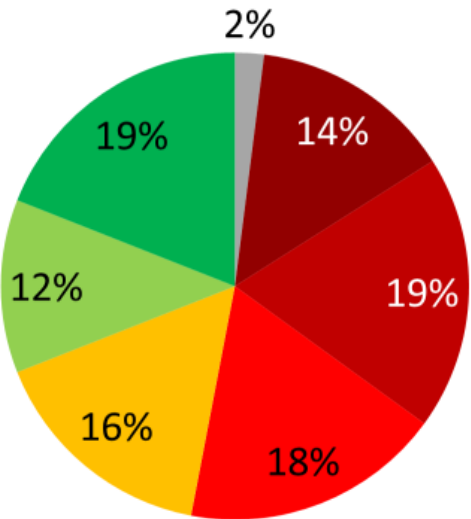


2016 Overall Network

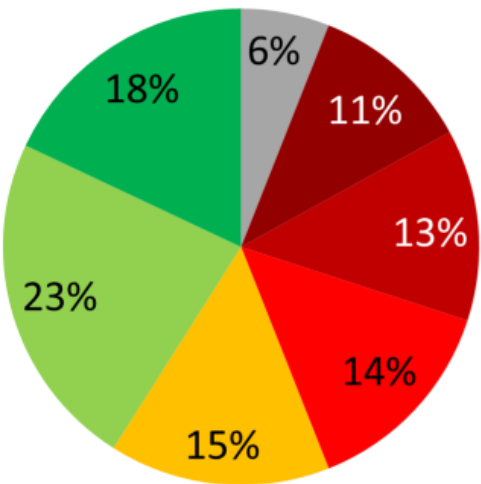
- Failed (PCI < 10)
- Serious (PCI 10-24)
- Very Poor (PCI 25-39)
- Poor (PCI 40-54)
- Fair (PCI 55-69)
- Satisfactory (PCI 70-84)
- Good (PCI 85-100)

PCI Distribution

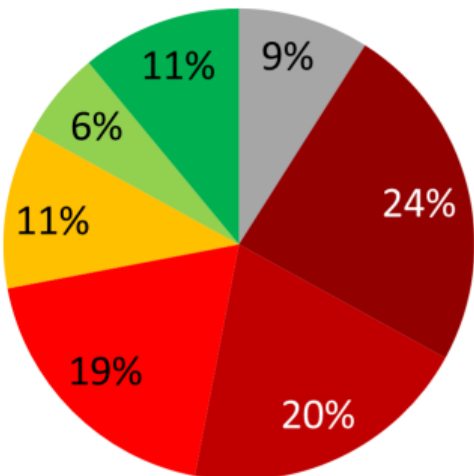
- Failed (PCI<10)
- Serious (PCI 10-24)
- Very Poor (PCI 25-39)
- Poor (PCI 40-54)
- Fair (PCI 55-69)
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- Good (PCI 85-100)



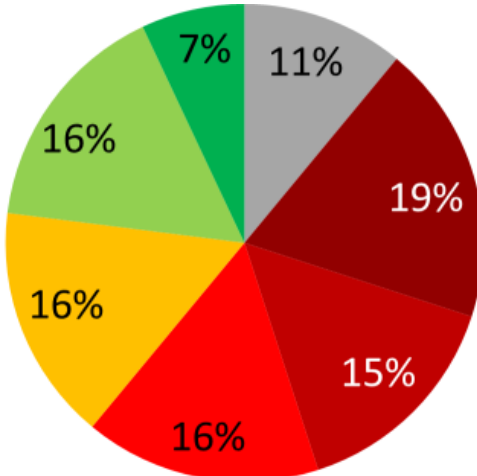
2021 Arterial/Collector



2016 Arterial/Collector



2021 Local



2016 Local

PCI - Asphalt Road Examples

Satisfactory to Good PCI=87	Fair PCI=60	Poor PCI=43	Serious to Failed PCI=11
			
A Section on Santos Street	A Section on Pine Street	A Section Near Washington Blvd and Vista Lane	A Section on Jennings Drive
			

Network Condition

2021
Overall Network PCI

46

Poor

2016
Overall Network PCI

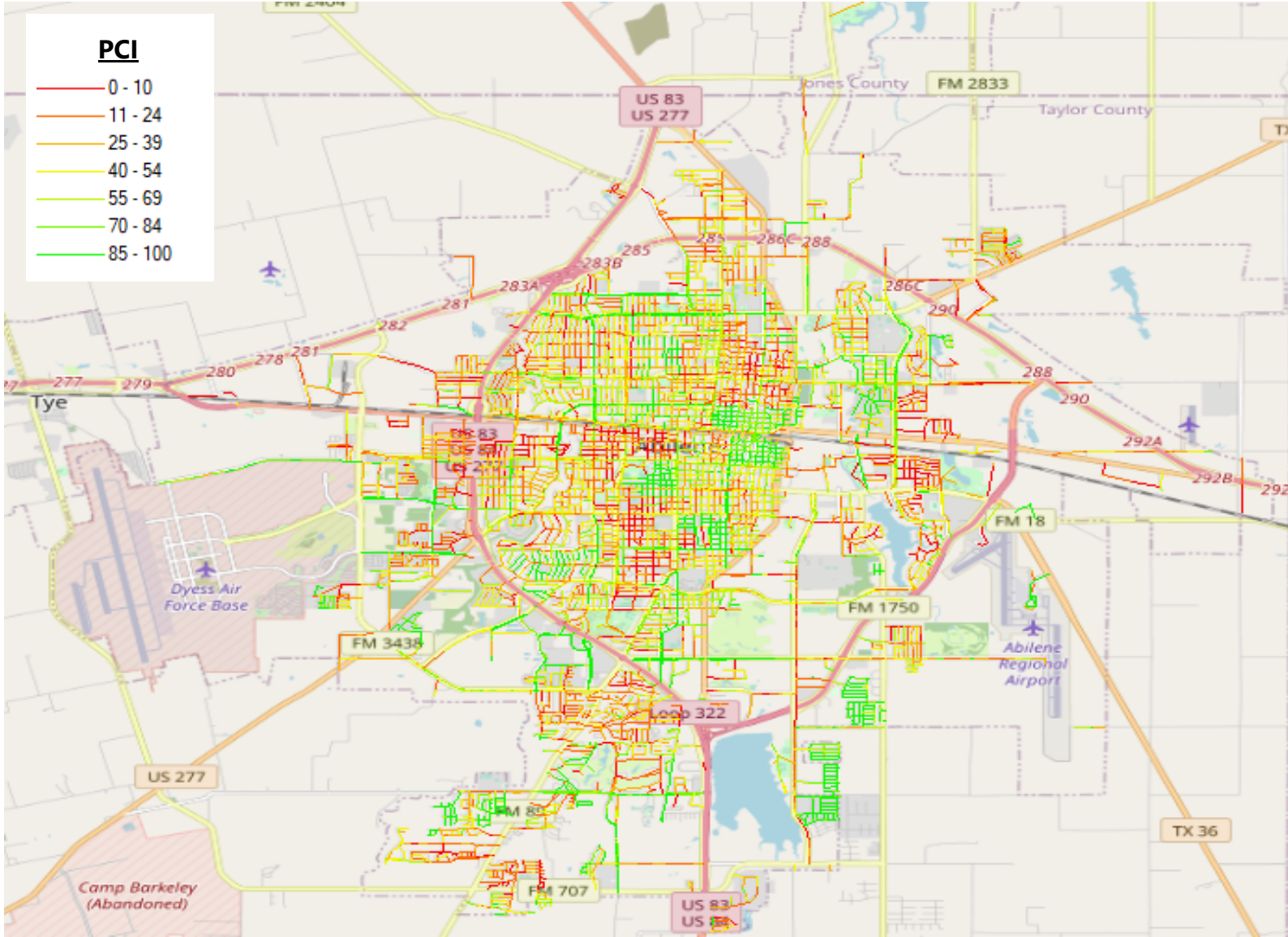
50

Poor

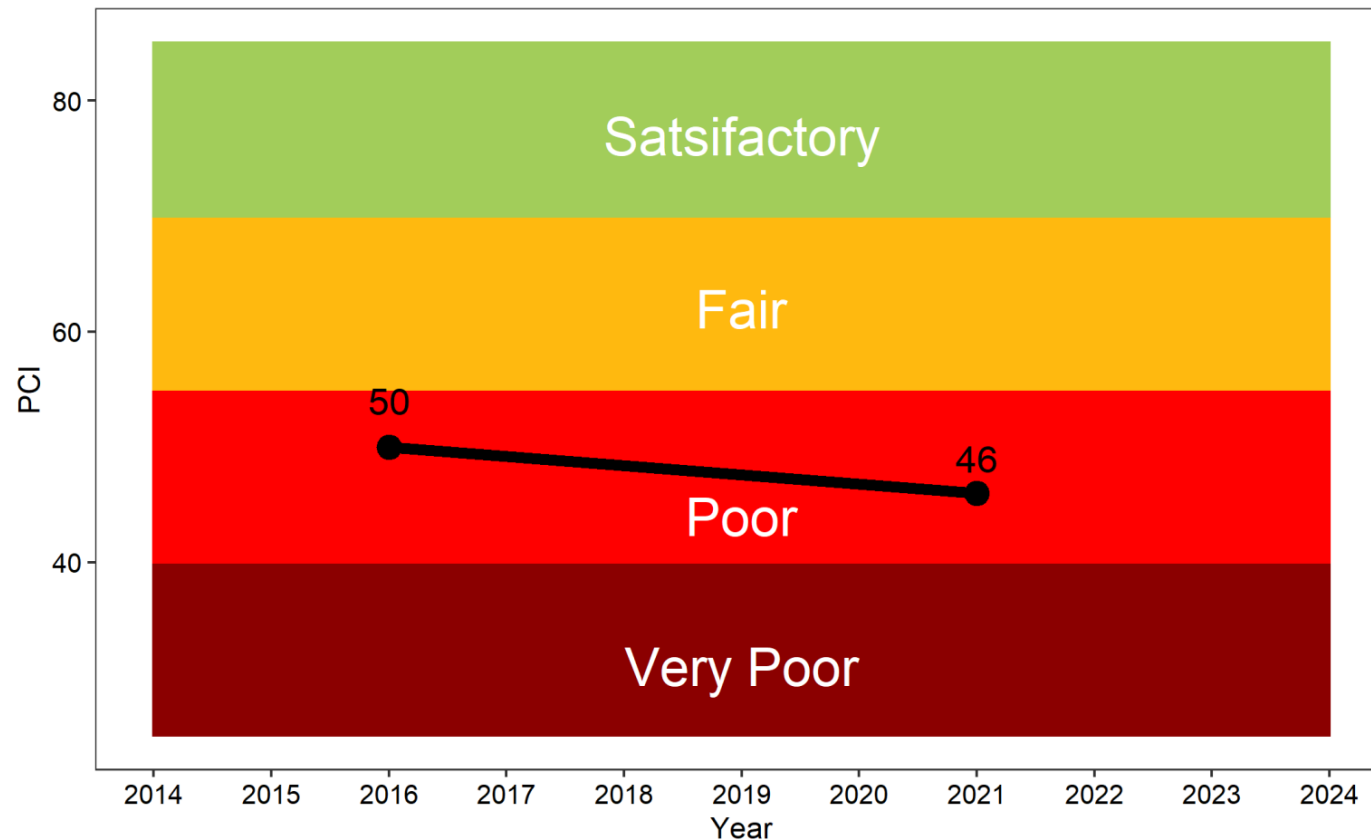
Category – Pavement Type	PCI	Network Lane Miles
AC - Asphalt Concrete	46	1,370.5
PCC - Jointed Concrete	76	25.7

Category – Functional Class	PCI	Network Lane Miles
Arterial	57	241.1
Collector	52	200
Local	43	955.1

Network Condition



Historical Abilene Overall PCI Scores



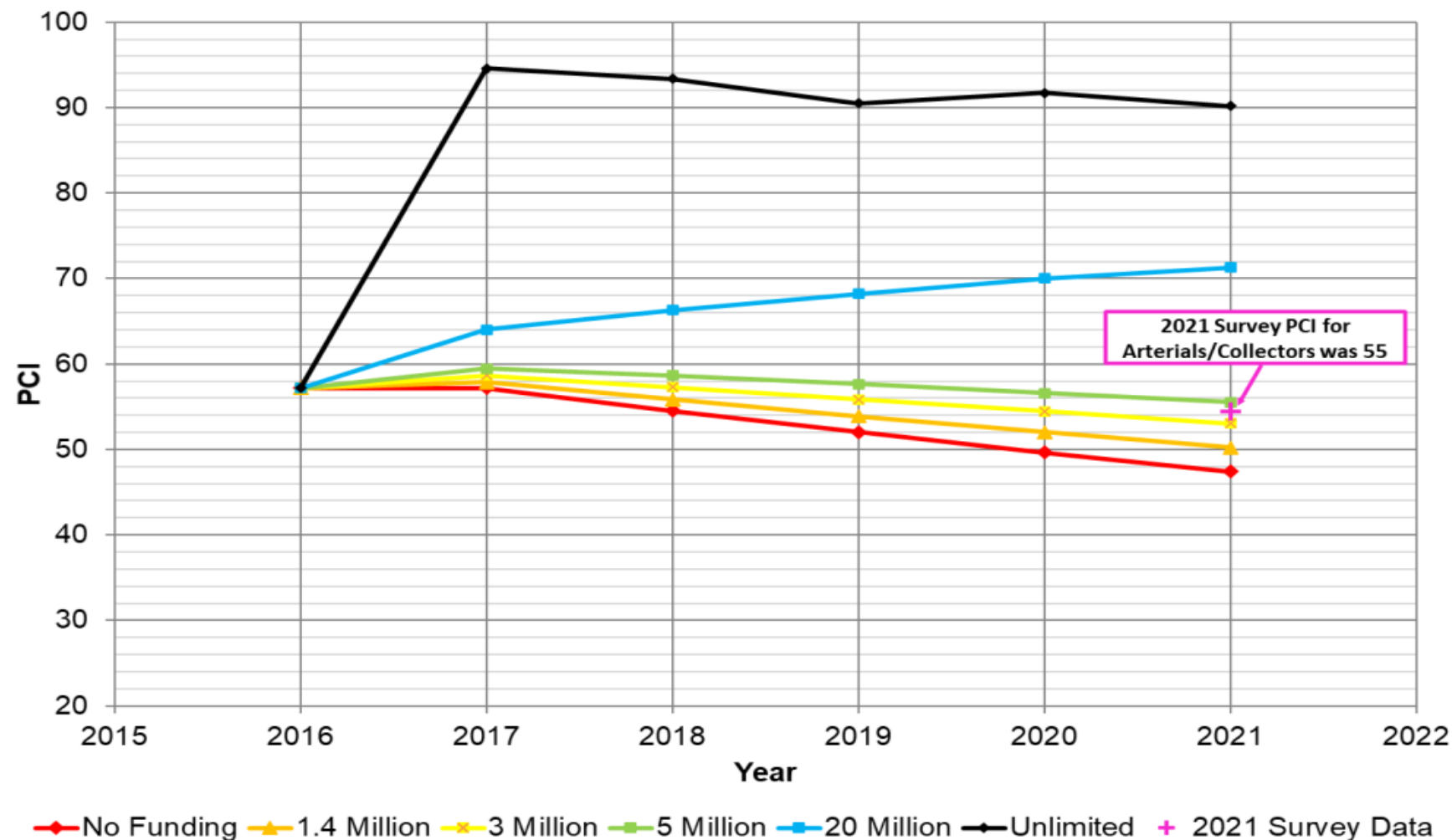
Comparison of Abilene PCI with Other Cities

City	Cycle 1		Cycle 2	
	Year	PCI	Year	PCI
Abilene	2015	50	2021	46
Waco	2015	51	*	*
San Angelo	2015	46	*	*
Killeen	2013	84	2019	76
Lubbock	*	*	*	*
Odessa	*	*	*	*
Wichita	*	*	*	*
Midland	*	*	*	*
Grand-Prairie	*	*	*	*
Carrolton	*	*	*	*
Denton	*	*	*	*

**No data available.*

Fugro 2017 Study - Budget Scenarios

Results Comparison – Collectors and Arterials



Scenarios

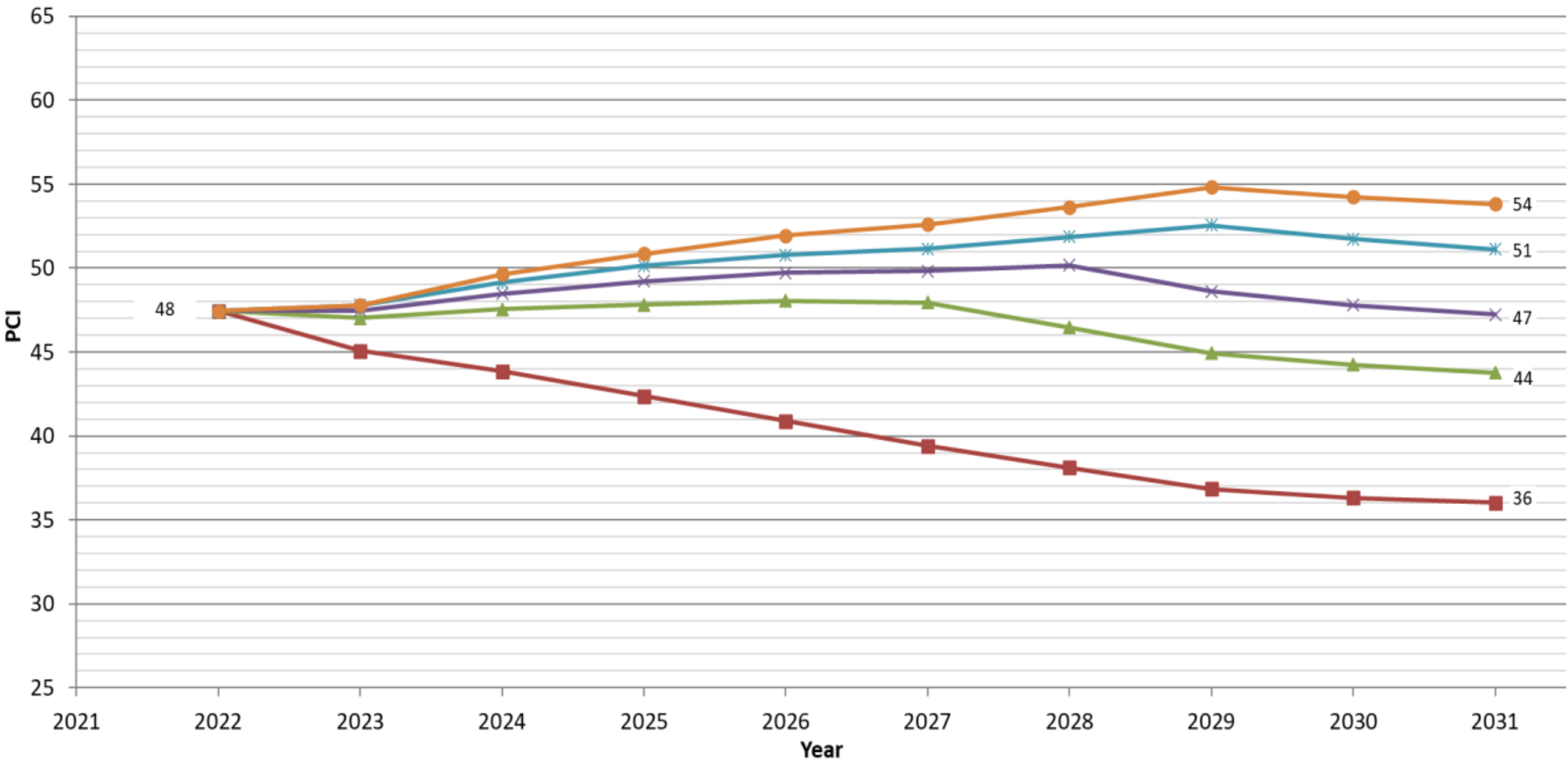
- Scenario 1 - \$6.6M per year
- Scenario 2 - \$6.6M per year + \$50M Bond (over five years: 2023-2027)
- Scenario 3 - \$6.6M per year + \$75M Bond (over six years: 2023-2028)
- Scenario 4 - \$6.6M per year + \$100M Bond (over seven years: 2023-2029)
- Scenario 5 - (\$6.6M+30%) per year + \$100M Bond (over seven years)



PCI Comparisons for Different Budget Scenarios



Overall Network



Scenario 5 – (\$6.6M+30%) + \$100M Bond

Scenario 4 - \$6.6M+\$100M Bond

Scenario 3 - \$6.6M+\$75M Bond

Scenario 2 - \$6.6M+\$50M Bond

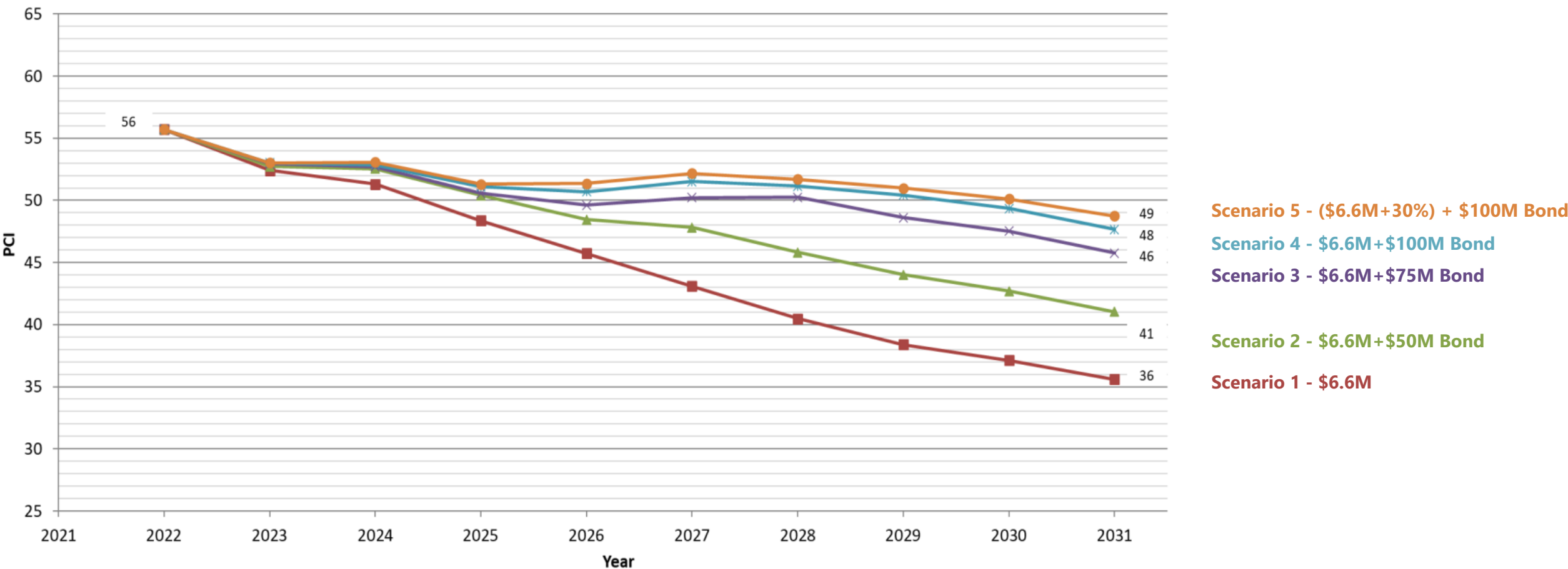
Scenario 1 - \$6.6M



PCI Comparisons for Different Budget Scenarios



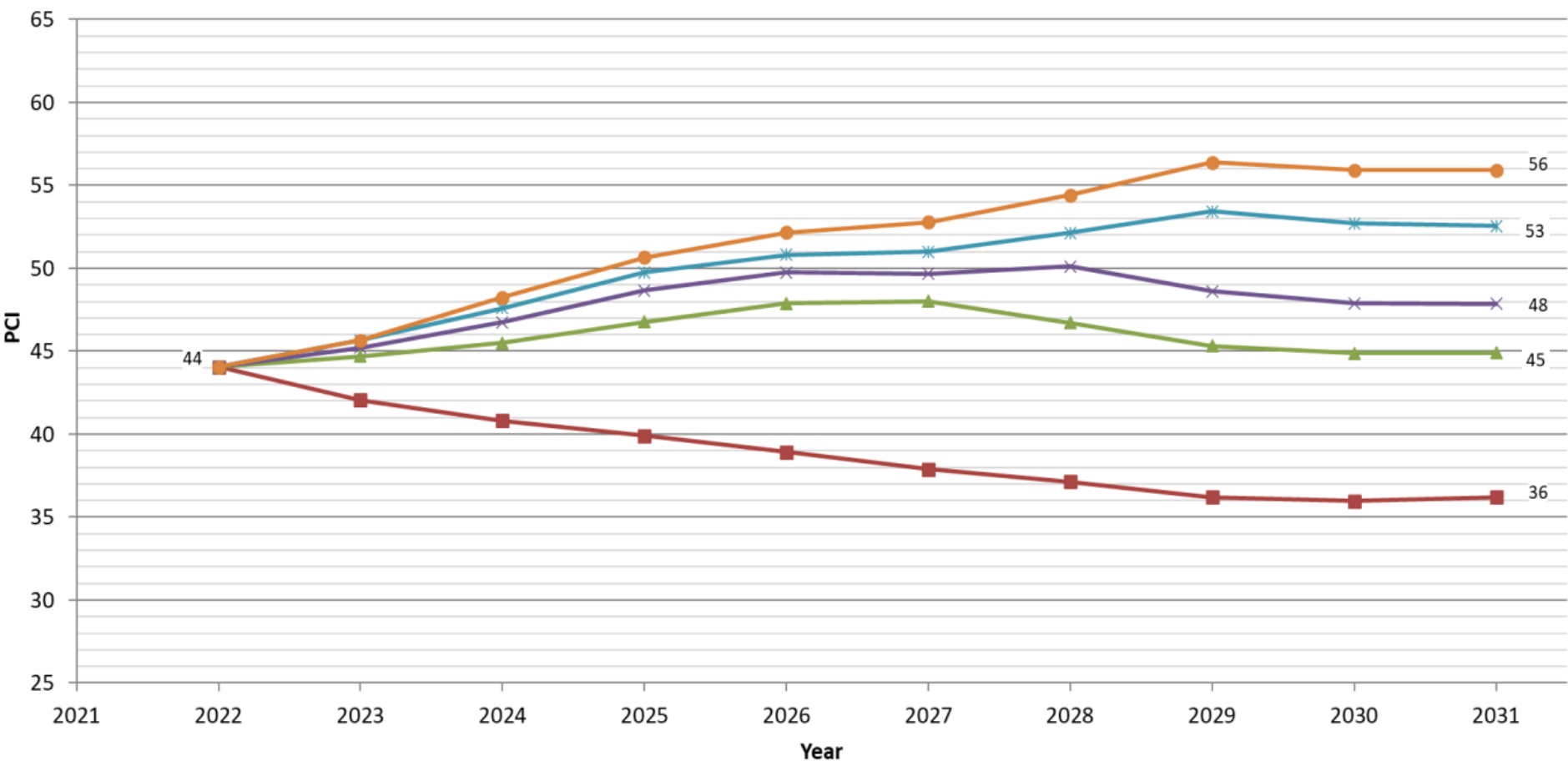
Arterials and Collectors



PCI Comparisons for Different Budget Scenarios



Local Functional Class



Scenario 5 - (\$6.6M+30%) + \$100M Bond

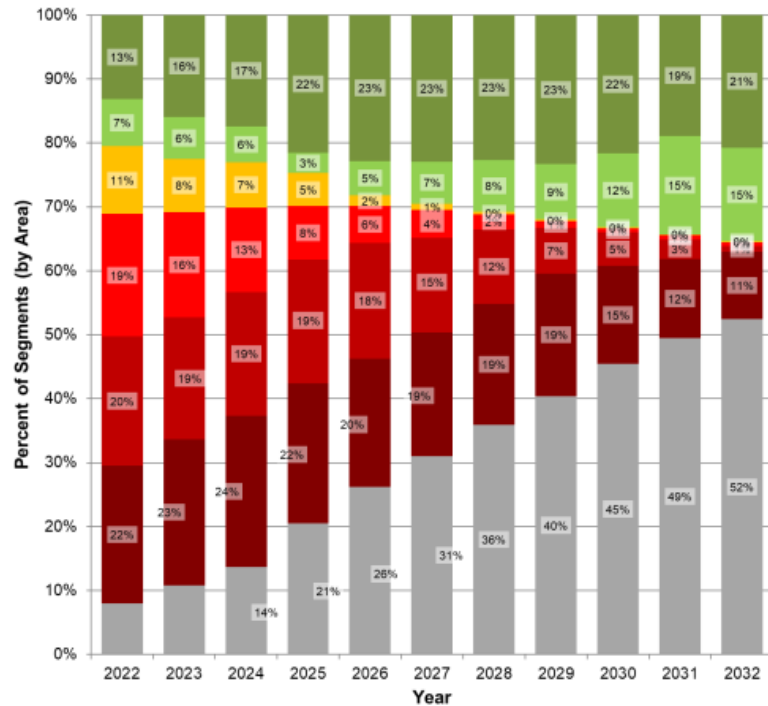
Scenario 4 - \$6.6M+\$100M Bond

Scenario 3 - \$6.6M+\$75M Bond

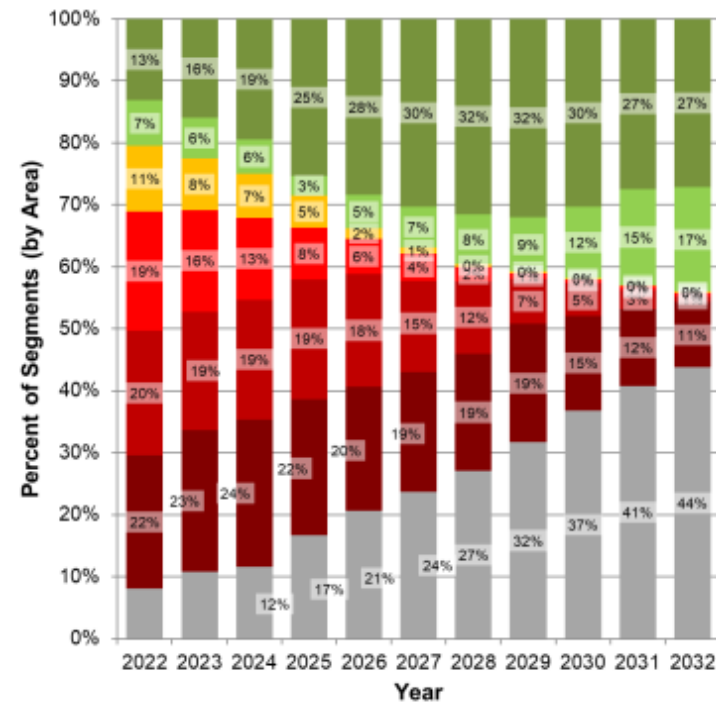
Scenario 2 - \$6.6M+\$50M Bond

Scenario 1 - \$6.6M

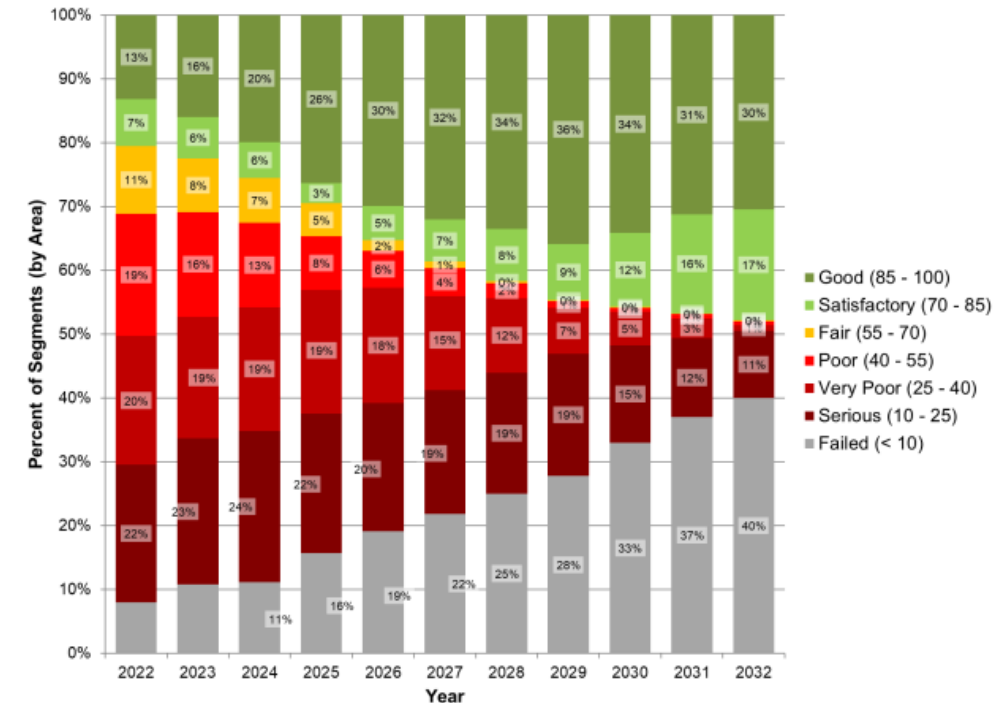
Road Condition for Budget Scenarios



PCI Distribution- Scenario 1
Current Budget (\$6.6M/yr)

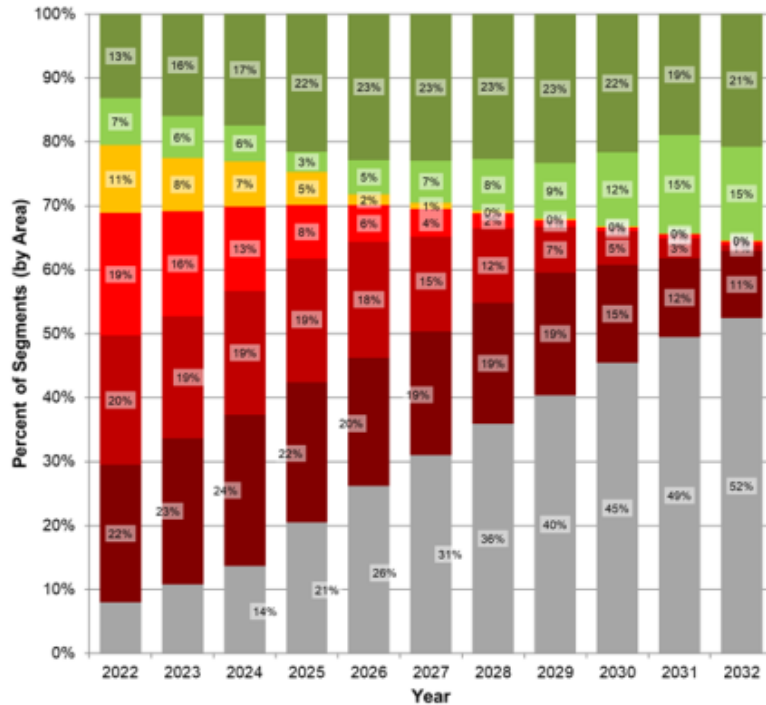


PCI Distribution- Scenario 2
Current Budget + \$50M Bond

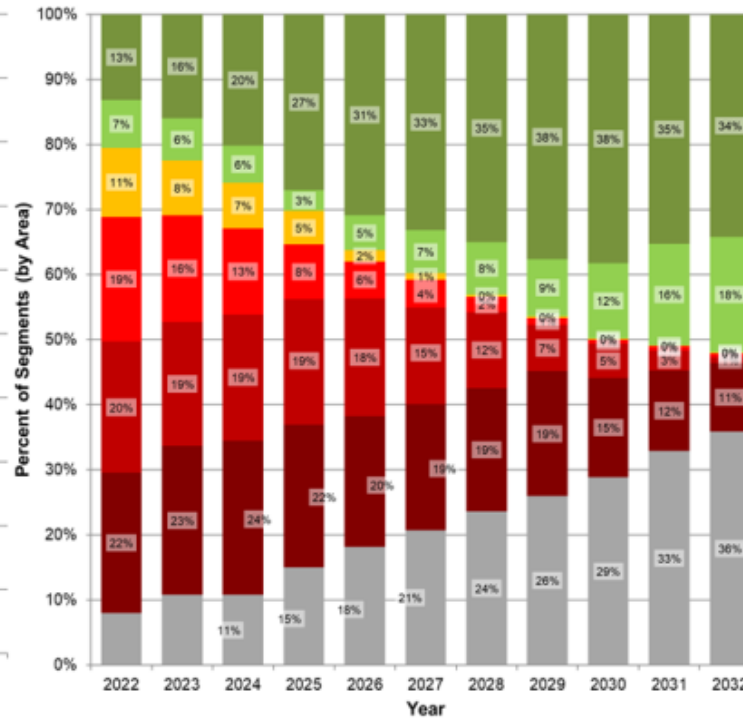


PCI Distribution- Scenario 3
Current Budget + \$75M Bond

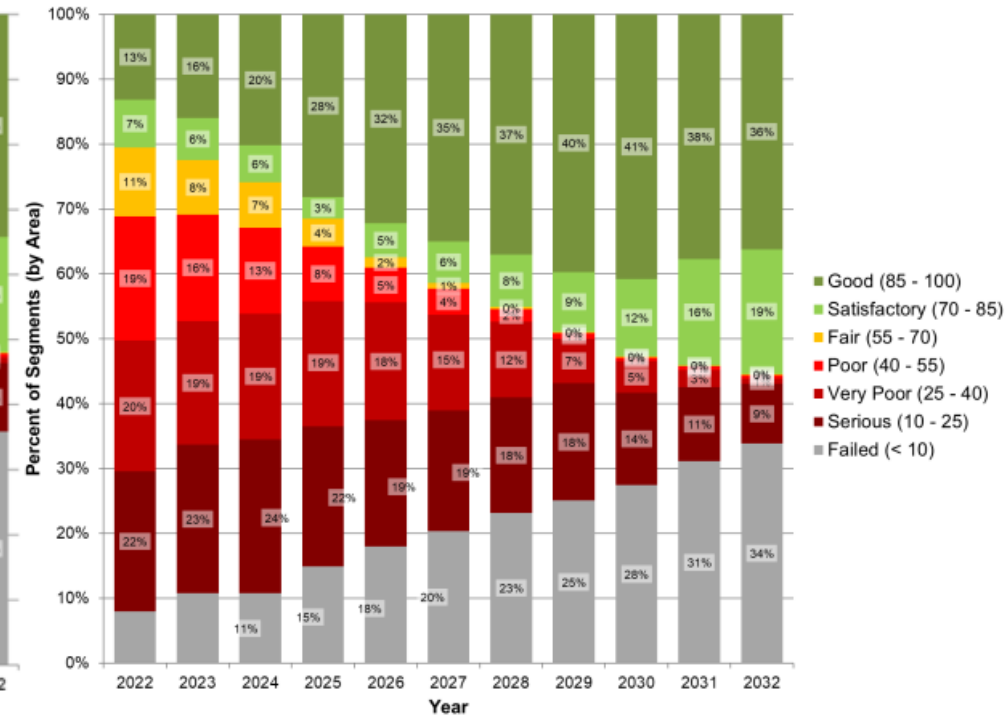
Road Condition for Budget Scenarios



PCI Distribution- Scenario 1
Current Budget (\$6.6M/yr)



PCI Distribution- Scenario 4
Current Budget + 100M Bond



PCI Distribution- Scenario 5
(Current Budget+30%) +
\$100M Bond

Summary



- Overall PCI at inspection in Fall of 2021 was 46.
- With an annual budget of \$6.6M, the overall PCI will drop to 36 in ten years.
- Additional bond is necessary to maintain/improve the road conditions.
- It would be beneficial to increase the Street Maintenance Fee.
- Additional analysis can be performed based on direction provided by City Council.



Thank you

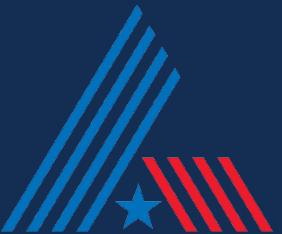
Sirous Alavi, Ph.D., P.E., PTOE

 512-977-1800

 salavi@fugro.com

 www.fugro.com

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/27/2022

TO: Honorable Mayor & Members of City Council

FROM: Stanley Smith, City Attorney

SUBJECT: 18. 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. 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
3. 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
4. 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
5. 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
6. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
7. 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
8. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
9. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
10. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
11. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No.

P827783CV, in the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020

12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021

13. James Easley v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed September 22, 2021

14. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

15. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

16. Governor's Executive Orders COVID-19

B. 551.072 (Deliberations about Real Property)

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)

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None