



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 February 24, 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 Weldon Hurt

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

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.

2. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on February 10, 2022, and the Special Retreat Meeting Held on

February 11, 2022 (Shawna Atkinson)

3. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter (Shawna Atkinson)
 - Airport Development Board
 - Board of Building Standards
4. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approval of Contract with Brandstetter Carroll, Inc. for \$85,000 for a Parks and Recreation Master Plan (Lesli Andrews)
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Awarding Bid No. 2224 to Bontke Brothers Co. Inc., for Street Resurfacing Project Work Zones S11C and S9D (Max Johnson)
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing Additional Professional Services Expenditure to Enprotec/Hibbs & Todd, Inc. for the 2020 Baylor Drive Lift Station Replacement Contract Management (Rodney Taylor)
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Authorize the City Manager to Execute a Purchase Contract with FarrWest Environmental Supply for the Purchase of a ThreatID GLS Spectrometer, and an R425-GN Radiological Monitor for the Abilene Fire Department (Cande Flores)
8. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving Financing by Newark Higher Education Finance Corporation for the Benefit of Abilene Christian University and Related Matters (Mike Rains)
9. **Ordinance (First Reading) Z-2022-03:** Receive a Report, Hold a Discussion and Take Action on a Request from the Collective Owners of Properties Within the Subdivision Known as Airmen's Landing (Represented by Jacob & Martin LLC) to Change the Zoning from Planned Development District (PDD 160) to a Residential Medium Density (MD) District (Tim Littlejohn)

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

10. **Discussion:** Receive a Report, Hold a Discussion and Public Hearing on Funding for a Train Sculpture in the Front of City Hall (Robert Hanna)

EXECUTIVE SESSION

11. **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

REGULAR AGENDA

12. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving Participation in the Attorney General's Endo & Teva Opioid Settlements (**Stanley Smith**)

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 18th day of February, 2022, at 3:20 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 2. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on February 10, 2022, and the Special Retreat Meeting Held on February 11, 2022 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on February 10, 2022, and the Special Retreat Meeting Held on February, 11, 2022

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 02-10-2022 Minutes - Regular - Morning
2. 02-11-2022 Minutes - Special - Retreat

CITY COUNCIL MEETING
February 10, 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 February 10, 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, Lynn Beard, Donna Albus, and Weldon Hurt. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Deputy Mayor Pro-tem Travis Craver delivered the invocation.

Kaysen Smith, 4th grader at Martinez Elementary, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Presentation:
 - Mayor Williams recognized City Secretary Shawna Atkinson, for her recent Abilene Young Professional's Top 20 Under 40 Award
 - Mayor Williams recognized Misty Mayo and the Development Corporation of Abilene staff for winning the 2022 CiCi Award
- Service Awards:
 - Lois Woods – Public Health – 30 Years
 - Cody Davis – Fire – 20 Years
 - Richard Fuentes – Fire – 20 Years
 - J Sanders – Fire – 20 Years
 - Martin Sanders – Fire – 20 Years
 - Jeremy Williams – Fire – 20 Years

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 3-12. No items were pulled for individual consideration.

PUBLIC COMMENTS

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

- Marcus Wiley – introduced himself as the new program director for 2-1-1 Texas, A Call for Help. Spoke about 2-1-1 Day, thanked his staff and gave helpful facts about 2-1-1 and what they do.
- Tammy Fogle – spoke in favor of making Abilene a sanctuary city for the unborn.
- David Swart – spoke about the micro-grid for water utilities and thinks it is unnecessary. He thinks that money should go towards a new fire station instead. Also gave a brief history of President's Day.
- Dorothy Clay – spoke in favor of making Abilene a sanctuary city for the unborn.
- Samuel Garcia – spoke about the DCOA, specifically the CEO's salary and bonuses. Encouraged citizens to research the DCOA and the money going there.
- Cynthia Alvidrez – spoke about the DCOA board meetings not being accessible to the public and questioned what different councilmembers and their spouses salaries are at Abilene Christian University. Also spoke about the playground at Rose Park and its need for updates.

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 3-12. Deputy Mayor Pro-tem Craver seconded the motion. Motion carried.

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

Councilmember Hurt voted differently on item 6 only. The vote for item 6 was as follows:

AYES (6): Mayor Williams, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver, and Councilmembers Price, Beard and Albus
NAYS (1): Councilmember Hurt

3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on January 27, 2022
4. Resolution: Receive a Report, Hold a Discussion and Take Action on Ordering a City of Abilene General Election to be Held on Saturday, May 7, 2022, for the Purpose of Electing Members to City Council Places 5 and 6
[ASSIGNED RESOLUTION NO. 18-2022]
5. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing a Joint Election Agreement and Contract for Election Services with Taylor County for a General Election to be Held on Saturday, May 7, 2022, and Authorizing the Extension of this Contract to Cover a Runoff Election, if Needed
[ASSIGNED RESOLUTION NO. 19-2022]
6. Resolution: Receive a Report, Hold a Discussion and Take Action on Modifying and Extending the Declaration of Local Disaster (COVID-19)
[ASSIGNED RESOLUTION NO. 20-2022]
7. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Contract with Child's Play, Inc. for the Purchase and Installation of a New Playground in Oscar Rose Park
[ASSIGNED RESOLUTION NO. 21-2022]
8. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding Bid No. 2221 to Bontke Brothers Co. Inc., for Street Resurfacing Project Work Zone N15A
[ASSIGNED RESOLUTION NO. 22-2022]
9. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing a Professional Services Contract for the Design of the Second Pressure Plane Pump Station - Phase 3
[ASSIGNED RESOLUTION NO. 23-2022]
10. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding the Bid for the Ivie Booster Pump Station Ground Storage Tank Silt Removal and Butterfly Valve Installation Project
[ASSIGNED RESOLUTION NO. 24-2022]

11. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the First Amendment to Services Contract Between the City of Abilene and Smith Pump Company, Inc. for the Repair of the Raw Water Intake Pump #1
[ASSIGNED RESOLUTION NO. 25-2022]
12. Resolution: Receive a Report, Hold a Discussion and Take Action on the Approval of the Use of the DEAAG grant funds for the Dyess Air Force Base Security Gate Project
[ASSIGNED RESOLUTION NO. 26-2022]

REGULAR AGENDA

13. Presentation: Receive a Report, Hold a Discussion and Public Hearing on the Development Corporation of Abilene FY 2021 Annual Report

Misty Mayo, CEO of the Development Corporation of Abilene, presented the item. Ms. Mayo went over the DCOA's Mission and Vision Statement, as well as their core goals, 2021 accomplishments and major projects. Ms. Mayo thanked the DCOA staff and board, and gave a brief overview of the various projects from the last year.

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

- David Swart – thinks the report should have included profits and losses. Mr. Swart is concerned that we are not getting the full story.
- Cynthia Alvidrez – requested that the DCOA meetings be available online. Ms. Alvidrez also spoke about the poverty rates in Abilene and how this information provided is manipulative and changes are needed.
- Rosten Callerman – stated that Cynthia Alvidrez is an advocate for vulnerable citizens, and that Ms. Mayo was engaged while she was talking. He would like to encourage a conversation between the DCOA and the nonprofits in town that represent the vulnerable.

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

This item was for presentation only. No votes or action were taken.

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
[ASSIGNED RESOLUTION NO. 27-2022]

Marcus Dudley, Chief of Police, presented the item. Adoption of the item would approve the purchase of replacement body-worn cameras, and needed upgrades to in-car and interview room cameras, from Motorola Solutions.

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

- David Swart – questioned if this is a lease or a purchase, and if it will be installed by Motorola themselves?
- Cynthia Alvidrez – questioned if APD is able to release body-worn camera footage. Ms. Alvidrez stated that she has requested officer-involved shooting footage several times and has been denied. She would like Council to release the footage.

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

Council and staff discussed the various details of the agreement in detail.

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

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

NAYS (0): None

15. 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

[ASSIGNED ORDINANCE NO. 06-2022]

Cande Flores, Fire Chief, presented the item. Adoption of the item would approve the 2021 version of the International Fire Code with amendments as the Abilene Fire Prevention Code.

Councilmember Beard discussed the changes he would like made to the exhibit. Council and staff discussed the various changes at length.

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

- Cade Browning – representing the Expo Center. Spoke about keeping the ratio of crowd managers at what the current code lists.

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

Councilmember Beard moved to approve the item as presented with the following changes: Section 111 not adopted at this time; Section 403.11.3 – Change 500 to 1000; Section 403.11.3.1 – Change 250 to 1000 and add "Employees or volunteers of the entity responsible for the event may serve as crowd managers even if they are performing other duties consistent with their employment or appointment as volunteers at the event" to the end; and Section 3107.17.2 – Change 250 to 1000. Councilmember Price seconded the motion; motion carried.

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

NAYS (0): None

16. Ordinance (Final Reading) Z-2021-38: Receive a Report, Hold a Discussion and Public Hearing, 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

[ASSIGNED ORDINANCE NO. 07-2022]

Tim Littlejohn, Interim Director of Planning and Development Services, presented the item. Adoption of the item would amend the terms and conditions of Planned Development District 122.

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

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

AYES (6): Mayor Williams, Mayor Pro-tem McAlister and Councilmembers Price, Beard, Albus and Hurt
NAYS (0): None

ABSENT (1): Deputy Mayor Pro-tem Craver

17. Ordinance (Final Reading) Z-2022-01: Receive a Report, Hold a Discussion and Public Hearing, 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

[ASSIGNED ORDINANCE NO. 08-2022]

Mayor Pro-tem McAlister had a conflict of interest on this item and abstained from voting. A conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office.

Tim Littlejohn, Interim Director of Planning and Development Services, presented the item. Adoption of the item would rezone the above referenced property from Agriculture Open Space (AO) to a Planned Development District (PD), allowing uses commensurate with General Retail (GR) zoning, as well as landscaping contractor services.

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

- Tal Filingham – represents the applicant. Stated that this will be the new headquarters for Extreme Exteriors and it is an appropriate use. Any material stored or heavy equipment will be hidden behind landscaping at the back of the property.

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

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

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

ABSTAIN (1): Mayor Pro-tem McAlister

18. Ordinance (Final Reading) Z-2022-02: Receive a Report, Hold a Discussion and Public Hearing, 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

[ASSIGNED ORDINANCE NO. 09-2022]

Tim Littlejohn, Interim Director of Planning and Development Services, presented the item. Adoption of the item would rezone the above referenced property from Agriculture Open Space (AO) to a Residential Single-Family Patio Home (PH) District.

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

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

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

NAYS (0): None

EXECUTIVE SESSION

Mayor Williams recessed into Executive Session at 10:43 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. 551.071 (Consultation with Attorney)

1. City of Abilene, Texas v. Ken Paxton, Attorney General of Texas Cause No. D-1-GN-21-006299
2. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner
3. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner

The Executive Session ended at 11:07 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 11:07 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____

CITY COUNCIL SPECIAL MEETING
February 11, 2022 at 9:00 a.m.

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

The City Council of the City of Abilene, Texas met in a Special Called Work Session (Retreat) on February 11, 2022, at 9:00 a.m. at the South Branch Library, Mall of Abilene, 4310 Buffalo Gap Road. Mayor Anthony Williams was present and presiding with Mayor Pro-tem Kyle McAlister, Deputy Mayor Pro-tem Travis Craver, Councilmembers Shane Price, Weldon Hurt, Lynn Beard, and Donna Albus. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, City Secretary Shawna Atkinson, and various members of the City staff.

Deputy Mayor Pro-tem Travis Craver delivered the invocation.

Jackson Richardson, Sophia Richardson and Parker Richardson, all from Bonham Elementary, led the pledges to the United States Flag and the Texas Flag.

The special called meeting was held for the purpose of holding the annual city council retreat to provide the city manager the opportunity to present certain issues and obtain input from the city council on the direction desired in specific service areas as well as any new areas members of the city council felt needed to be reviewed/included for staff follow up, research, strategy development, and/or project analysis.

PUBLIC COMMENTS

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

- David Swart – spoke about the Fugro street study that was done, gave his support for both a public/private partnership for a new animal adoption center, and Fire Station 9.
- Bob Thomas – would like to see CARES & ARPA Funds used for better purposes. Mr. Thomas also spoke about the decline in our streets and how much money we’ve spent trying to build them up. He thinks the philosophy of town needs to change, and we need to be a single community and not a North/South rivalry.

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

AGENDA ITEMS

2. Review of Council Priorities

City Manager Robert Hanna reviewed the City’s core values and mission statement, then did a brief review of the Council’s priorities. Council expressed interest on removing Council Priority #2 – the Downtown Hotel, and replacing it with Downtown Redevelopment. The other priorities were left alone.

Mr. Hanna spoke about the potential of a Main-Street Program, in partnership with the Chamber of Commerce, and would potentially be bringing a new position up in the budget process.

For infill development, groundwork is still being done, but it is a priority and will be brought to Council soon.

3. Street Maintenance:

a. Street Maintenance Review:

Mr. Hanna gave an overview of street projects from 2015 to 2022, along with the budget.

b. Street Maintenance Fee

Mr. Hanna gave a breakdown of the Street Maintenance Fee and how it's been used over the years. Part of the Fugro discussion was a potential increase to the Street Maintenance Fee and he asked Council if they would like to see an increase. Discussion was held on this in the next section under bond election.

4. 2022 Bond Election

a. Street Improvements:

Mr. Hanna addressed the possibility of holding a bond election and gave three options for a street bond: \$50 million, that results in a 5.15 cent tax increase, \$60 million, that results in a 6.19 cent tax increase, and \$100 million, that results in a 8.25 cent tax increase. These are three possible options, along with raising the Street Maintenance Fee, and potentially reducing expenditures in other areas.

Council discussed these options at length. Having both a bond election and raising the Street Maintenance Fee was not an option anyone wanted to consider. Possible options for expenditure cuts were discussed, as well as using the \$5 million that will be received from the Lancium PILOT program for streets.

b. Parks & Recreation – Recreation Centers:

Lesli Andrews, Parks & Recreation Director, went over the findings of a survey of area stakeholders, in regards to a wish list for parks. GV Daniels, Cesar Chavez, and Kirby Lake were the top three options.

For the two recreation centers, the total cost to demolish both and build new facilities would be \$25,167,600. Demolishing and rebuilding is more cost effective than trying to remodel and fix them up. Both facilities would not be done at the same time. Ms. Andrews went over the various education classes, sports, and programming that is available at these facilities, that could potentially be improved on.

c. Parks & Recreation – Kirby Lake Trail Improvements:

The Kirby Lake Trail project can be done several ways for anywhere from \$5 million to \$7 million, depending on the types of amenities provided. The idea would be to build a 10k concrete track around the entirety of Kirby Lake, with branches that connect to schools and homes in the area. A feasibility study done recently said that the Kirby Trail was the number one thing people in the area wanted to see.

Options for the potential trail were discussed at length, with the possibility of partnering with agencies in town to sponsor certain parts of the trail, or amenities. Parks Bucks were discussed, as well as the potential to raise the amount of money someone can give to Parks Bucks. Starting a Parks Foundation was also discussed.

Council is amenable to both the Recreation Center improvements and the Kirby Trail system, and they would like to see what the voters have to say. They would like to have a brochure or some type of education on the potential improvements so everyone can see what is being proposed.

Mayor Williams recessed the meeting into a short break at this point, from 10:20 am to 10:30 am.

d. Fire Station Number 9:

Cande Flores, Fire Chief, presented Council with a breakdown of the cost for a new fire station. It will be \$7,684,000, and comes out to \$557 per square foot. The land it would be built on would be land the City already owns, so no expense there.

There are several options for personnel: additional 12 persons for \$1,184,619, 9 new persons for \$888,462, or 6 new persons for \$592,308. Mr. Hanna's preference is 9. That option and the 6 persons option would remove the field resource medic. Chief Flores would like 12, so as not to remove anyone from other stations.

Council and staff discussed the options at length. Council is supportive of a bond election for Fire Station 9.

To proceed with a bond election, Council would like to see a blue ribbon committee and staff work on marketing and education for a potential bond election. It would potentially be held in May or November of 2023. Council would each recommend someone for the committee.

5. Water Utilities:

Rodney Taylor, Director of Water Utilities, gave Council a brief presentation on the winter weather event last year that led to these required changes. Every city in Texas is required to submit an emergency preparedness plan. Staff recommends moving forward with backup generation for 5 critical sites, which would be about \$1 million a year, purchased in installments. If purchased all together now, it would be about \$12.7 million. Other energy sources were discussed, as well as the state's requirements and if this meets them. This installment plan recommendation meets the state's requirements.

6. Animal Services:

Mr. Hanna gave an overview of the current public/private partnership with All Kind Animal Initiative for the design of the animal shelter. Architect Tim Rice McClarty is finishing up the design work currently. Originally, the plan was to have the new shelter at Grover Nelson Park, but there was concern that it was not a good fit there so we are looking at other parcels. We have identified one option that we are currently investigating. We do need the private sector's help to bring this forward.

Council discussed different options for funding, including fundraising and a bond, but a bond was not something anyone was in favor of. Councilmember Price expressed interest in putting up the City's portion of the funds to a public vote, but Mr. Hanna already set aside \$4 million of MIP funds for our contribution. Everyone else was in favor of keeping that as is, and not going for a vote.

Adding a backup plan to the charge of the blue ribbon bond committee for this project, in case any funding falls through, was also discussed, and everyone was okay with that.

7. Infill Development:

Staff is looking at the Sears and Carver neighborhoods and identifying buildings that are occupied or vacant, any code concerns, possible condemnations, and lots that are undeveloped or with abandoned structures. We will begin to approach the building and banking community soon, after we have a game plan setup. Partnerships with non-profits and programs like Habitat for Humanity were discussed.

Other neighborhoods were also discussed, but it was the consensus to stick with the two already identified, and then move forward with more after everything gets set up and running. We will have to find the right recipe for Abilene and will need to enforce things better.

8. Administration:

a. Charter Amendments:

Mr. Hanna refreshed everyone on the proposed charter amendments that were discussed at last year's retreat. He recommended changing language to gender neutral language, and correcting some of the reporting structures to reflect our actual practice. City Attorney Stanley Smith went over the amendments in further detail. Staff will work to bring an ordinance to Council for the proposed changes at a later date.

b. Financial Overview:

Mike Rains, Finance Director, went over the General Fund assumptions and analysis, including different scenarios for property tax increases, sales tax adjustments, meet and confer adjustments and salary adjustments. He did the same breakdown for both the Water Utilities Fund and the Self-Insurance Fund.

c. Front Lot Utilities:

Mr. Hanna went over a request from AEP to have us consider adopting an ordinance that require front lot utilities. Mr. Hanna went on to describe what front lot utilities are – easements in the front yards of homes instead of the back, that make it easier and safer for utility workers to access. They do pose an aesthetic issue, as they can be bulky and hard to hide. Council discussed the proposal in detail, and since this would open the door for all utilities, not just AEP, it was decided not to consider this option, as there are no guarantees that poles would not be put up in peoples' front yards.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:03 p.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 3.

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

- **Airport Development Board**
- **Board of Building Standards**

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 24th day of February, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____ EXHIBIT "A"	
<i>Airport Development Board</i>	
Steve Shinkle [New]	November 2023 [unexpired term]
Cindy Ramsay [New]	November 2024
<i>Board of Building Standards</i>	
Clay Thomas [Alternate] [New]	November 2023

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

- Airport Development Board
- Board of Building Standards





**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 4. Resolution: Receive a Report, Hold a Discussion and Take Action on Approval of Contract with Brandstetter Carroll, Inc. for \$85,000 for a Parks and Recreation Master Plan (Lesli Andrews)

GENERAL INFORMATION

The City of Abilene's last Parks and Recreation Master Plan (Plan) was completed in November of 2014. Since then, the City has made more than \$10 million dollars in improvements to the parks system. Staff are in the planning process for additional enhancements to the system. To continue moving forward and further developing what the citizens of Abilene would like to see, it is time for a new plan. The Plan will also make the City of Abilene eligible for Parks and Wildlife grants in addition to other funding opportunities. The plan evaluates the full park, recreation, senior, and aquatics system, including trails and other amenities.

The City issued a request for proposals in December of 2021. There were three companies that responded. A committee of 7 members from both the Parks and Recreation Department and the Planning and Zoning Department evaluated the responses and selected Brandstetter Carroll, Inc. The Plan will take approximately 9-10 months to complete. The majority of the time will be spent on the evaluation and engagement phase.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Funds in the amount of \$85,000 were approved in the FY22 general fund budget.

STAFF RECOMMENDATION

Staff recommends approval of the contract with Brandstetter Carroll, Inc. for the Parks and Recreation Master Plan.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution park system master plan 2242022
2. BCI Contract Parks Rec Master Plan Signed by BCI
3. Scope of Services-Abilene Parks and Rec Master Plan-Revised 2-9-2022
4. Presentation Parks and Rec Master Plan

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO ENTER INTO A CONTRACT WITH BRANDSTETTER CARROLL, INC. FOR THE DEVELOPMENT OF A PARKS AND RECREATION SYSTEM MASTER PLAN.

WHEREAS, the City Council of the City of Abilene recognizes the need for a Parks and Recreation Master Plan “the Plan” to provide recommendations for implementation over a twenty-year period in an effort to provide for and continually improve park and recreational facilities, provide trail opportunities, preserve open spaces in the City of Abilene; and

WHEREAS, on December 15, 2021, the City of Abilene issued a Request for Proposals for the purpose of creating “the Plan”; and

WHEREAS, three companies submitted proposals and were evaluated by a committee of seven; and

WHEREAS, Brandstetter Carroll, Inc. was selected; and

WHEREAS, the primary objective of "the Plan" is to provide parks and recreational services desired by the citizens of Abilene; and

WHEREAS, in order to address parks and recreational needs in the future, the City of Abilene will seek input from the citizens of Abilene, the Parks and Recreation Board, key stakeholders, and the Parks and Recreation staff as well as the Planning and Zoning staff, and that input will be incorporated into "the Plan"; and

WHEREAS, "the Plan" complies with Texas Parks and Wildlife Department master plan guidelines which require parks and recreation needs to be prioritized and addressed in an action plan format; and

WHEREAS, the City Council approved the funding for “the Plan” in the FY22 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 enter into a contract with Brandstetter Carroll, Inc, in the amount of \$85,000 for a Parks and Recreation Master Plan.

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

ADOPTED this 24th day of February 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT (Not Architect or Engineer)

This contract, dated the 24 day of February, 2022, is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and Brandstetter Carroll Inc. (“Professional”).

The City is engaged in conducting a Parks and Recreation Master Plan for the City of Abilene and desires to engage the services of Professional, as an independent contractor and not as an employee, to assist in the project and to render his or her services on the terms and conditions provided in this Contract.

The Professional is a[n] qualified designate kind of professional properly licensed/certified to practice in the State of Texas. Professional desires to render professional services as further described in Attachment A 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 professionals 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 professional.

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

I. TERM

In consideration of the compensation stated in Paragraph II and further described in Attachment B., the Professional must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Professional must complete all services by one year or 365 calendar days.

II. PAYMENT

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

III. ASSIGNMENT

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

IV. STATUS OF PROFESSIONAL

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

V. 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.

VI. OWNERSHIP OF DOCUMENTS AND MATERIALS

Ownership of Documents and Materials is according to Attachment C.

VII. NONDISCLOSURE

The Professional may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other materials which Professional prepares or acquires in performing this contract, including any duplicate copies kept by Professional. The Professional 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.

VIII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

“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.

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

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

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

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

B. Indemnity

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

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

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

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

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

IX. INSURANCE

A. GENERAL REQUIREMENTS

The Professional agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Professional is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Professional 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 Professional 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 Professional 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>
X1.	Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
X2.	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)
X3.	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)

X4. Professional Liability \$500,000 combined single limit
(per occurrence)

___ 5. See Addendum for Special
Coverages and/or revisions

___ 6. No Insurance Required

X. VENUE, CHOICE OF LAW AND INTERPRETATION

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

XI. TERMINATION

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

If, through any cause, the Professional fails to fulfill his obligations under this contract, or if the Professional 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 Professional. The Professional will be compensated for work satisfactorily performed before the termination date.

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

XII. PROJECT REPRESENTATION

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Professional 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 Professional. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Professional's control.

XIII. 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: Lesli Andrews, Director
633 Walnut
Abilene, TX 79606**

**Professional - ATTN: Pat Hoagland, ASLA
17300 Preston Rd., Suite 310
Dallas, TX 75252**

XIV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

XV. NO INDEBTEDNESS

Professional 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. Professional 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.

XVI. 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.

XVII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XVIII. 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.

XIX. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Professional. The Professional 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 Professional 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.

XX. 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.

XXI. 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.

XXII. 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.

XXIII. COUNTERPARTS

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

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

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

CITY OF ABILENE

PROFESSIONAL

By:

Title:

By: Benjamin E. Brandstetter

Title: President

Address: 17300 Preston Road, Dallas TX
75252

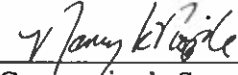
Phone Number: 859-268-1933

Federal Tax ID#: 61-1011570

ATTEST:

City Secretary

ATTEST: (if corporation)



Corporation's Secretary

APPROVED:

By: _____
City Attorney

Corporate Seal (if available)

ATTACHMENT A

Scope of Services

Conduct a Parks and Recreation Master Plan for the City of Abilene. See attached for details.

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 \$Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subprofessionals, 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 must execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subprofessionals, 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.

OPTION 3 X

Payment is a fixed fee amount of \$85,000.00 payable per month based upon the percent complete of the project phases 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 subprofessionals, 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

OWNERSHIP OF DOCUMENTS AND MATERIALS

Parties to initial option chosen

(Option 1) X

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

(Option 2)

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

ATTACHMENT D

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

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

f. The Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.

g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

h. The Professional shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

i. The Professional shall contractually require each person with whom it contracts to provide services on a project to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the Professional, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;

(3) provide the Professional, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the Professional:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

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

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

ATTACHMENT E
NOTICE TO PROCEED

Click or tap here to enter text.

ATTACHMENT F
CHANGE IN SCOPE OF SERVICES

Click or tap here to enter text.

SCOPE OF SERVICES

Brandstetter Carroll Inc. (BCI) will perform the following tasks to complete the Abilene Parks and Recreation Master Plan.

EVALUATE PHASE

A. Planning Context

1. **Steering Committee** – The City will appoint a Steering Committee to work with the Consultants throughout the process. The Consultants will meet with them regularly with updates of the findings and the Committee will assist in establishing the future vision, goals and objectives, and priorities. The Committee may include the Parks and Recreation Department Staff, Park and Recreation Board, Seniors Advisory Board, Planning and Zoning Commission, Stakeholders, and others as will be appointed by the City.
2. **Previous Study Review** – Review previous, current, and on-going Abilene Parks and Recreation planning efforts including but not limited to:
 - a. 2014 Abilene Parks and Recreation Master Plan
 - b. Currently ongoing City of Abilene Comprehensive Plan
 - c. Previous 15 years' Parks and Recreation Capital Improvement Plan
 - Identify previous projects from the past 15 years, including intended and realized goals from some of these projects.
 - d. All other previous or current planning studies relating to the delivery of parks and recreation services
3. **Demographic Analysis** – Using information provided by Abilene and other sources, perform an analysis of the demographic and population characteristics of Abilene.
 - a. **Using ESRI Business Analyst Software** and by coordinating with the Abilene Staff, identify the demographic and land use trends and characteristics within the City limits. Information may include:
 - Demographic characteristics (quantity, ages, race, etc.)
 - Five-year population projections
 - Household size
 - Average or median household income and per capita income
4. **Social Needs and Conditions Analysis** – Using a copyrighted process developed by BCI and used in Austin, Grand Prairie, and Garland, Texas; Charleston, South Carolina; Cincinnati, Ohio; and Lexington, Kentucky; and other cities, rank the social needs by census tracts using 11 (or more) socio-economic indicators. Factors include population density, poverty, educational attainment, income, unemployment, single-parent households, and crime. The process identifies those areas which will benefit most from parks, recreation, and other City services and programs.
5. **Programs and Services Analysis** – Prepare an inventory and evaluation of existing recreation programs and services which identifies the locations, target markets, ages served, geographical distribution, program category, and more and compare these findings with the community's needs as identified in the public engagement. Review current permitting processes.
6. **Funding Analysis** – Review the past five years' budgets and the proposed future operating and capital budgets.

7. **Benchmarking Comparisons to Similar Systems** – Compare Abilene park facilities condition and CIP spending with that of other peer cities based on population.
 - a. Benchmarking Comparisons to Similar Systems – Using the NRPA ParkMetrics (formerly PRORAGIS) program to compare facilities, programs, operating budgets, etc., with other like agencies. Communities throughout Texas and surrounding states with similar populations and characteristics will be included in the analysis.
8. **Trends Analysis** – Provide a summary of current and projected local, regional, and national park trends.
 - a. Provide a summary listing and narrative for the local and regional trends concerning park and site development. This will entail trends in construction, stormwater mitigation, green infrastructure, accessibility, materials, maintenance, and land use behaviors.
9. **Maintenance Standards and Schedule** – Review the current maintenance standards and schedule.
10. **Administrative and Operations System** – Review the current and historic staffing levels, marketing and public information efforts, volunteer initiatives, and partnerships.
11. **Policy and Ordinance Review** – Review the existing policies and ordinances related to the delivery of parks, recreation, trail, programs, and open space use.

B. Existing Conditions Analysis

1. **Asset Quality and Management** – Complete a full assessment of existing Abilene park facilities:
 - a. Review the City's current asset management system for parks, facilities, trails, and open space which includes detailed facility, system, and condition data.
 - b. Review the condition of amenities, structures, wayfinding, furnishings, accessibility, and overall maintenance of existing facilities with emphasis on the quality, significance, and functionality of the assets. Utilize the inventory listings, conditions, and GIS data provided by PR staff.
 - c. Prioritize the future investment based on the qualitative assessment for:
 - Park-specific buildings and community centers
 - Dog Parks
 - Trail Heads
 - Trail System
 - Multi-use Sports Complex
 - Park/Trail/Natural Areas/Open Space categories and priority levels
 - Athletic Facilities – indoors and outdoors
 - Natural Areas and management
2. **Geographic Distribution – Service Gap Analysis** – Prepare an analysis of the current service gaps by mapping the locations of current parks by park-type categories using walk and drive times. Specific facilities also will be mapped to compare the household locations with the facility locations. Individual maps will be prepared for recreation centers, picnic shelters, trails, playgrounds, soccer fields, aquatic facilities, baseball/softball diamonds, and more to identify the distribution of the specific facilities throughout the community. A Composite Service Areas Map will be prepared which identifies the overall service delivery throughout the city.

3. **Analysis of Underserved Markets** – Through the exercise of mapping and demographic socioeconomic analysis, identify the gaps and recommend improvements for services with regard to geographic, demographic, socioeconomic, usage, and public transportation corridors.
4. **Missing Facilities/Amenities** – Identify facilities/amenities that may be missing within the park system.
 - a. Use the Benchmarking Analysis, Service Area Gaps Analysis, Needs Assessment Survey, and Trends Analysis to identify facilities and amenities missing within the park system.
5. **Level of Service** – Assess the level of service for Abilene park facilities.
 - a. Provide input on the local perspective of service level intended and perceived on various park facilities.
 - b. Analyze the level of service by planning areas of the City to analyze the equity of facilities.

ENGAGE PHASE

C. Needs Assessment

1. **Pop-Up In-Park Engagement** – To be performed by the City . Our Team members will prepare tools to be used by City staff to interview from tents or meet park users on trails to discuss their thoughts. For best results, the pop-ups should be advertised on social media and yard signs in the parks to let people know they can visit at their convenience.
2. **Initial Public Open House** – Conduct an interactive public open house at a convenient location to identify the public perception of park facilities and programming needs. The purpose of the workshop will be to solicit input from the citizens and users regarding their concerns and opinions about existing facilities and programs, and their desires for future facilities and programs. The workshop will be interactive and involve all participants in a variety of methods. In the event COVID restrictions limit in-person contact, BCI successfully has used web-based polling (Mentimeter) to gauge public sentiment through a variety of methods.
3. **Staff Input** – Conduct meetings, surveys, and interviews with the Abilene staff members regarding their perceptions of the public's needs and concerns, and the potential for improved services, facilities, programs, and public access. Identify the strengths, weaknesses, service needs and impediments (SWOT) to current operations. Staff will be invited from the following City Departments: Parks and Recreation, Public Works, Planning and Zoning, Engineering, Administration, Police, and Economic Development. The public input process will assist in this exercise.
4. **Web-Based Survey** – Conduct a web-based survey asking pertaining to the respondents' use of parks and programs, assessment of the condition of those facilities and programs, desired programs and facilities, and more. The survey will utilize the BCI subscription to Survey Monkey. Questions will be approved by the Master Plan Steering Committee. Abilene will promote the web survey through email blasts, newsletter announcements, placement on their web page, and other methods. A printed version also will be available which can be printed and/or handed out at City buildings and program sites.
5. **Stakeholder Meetings** – Conduct up to 5 Stakeholder group meetings and round table discussions with various special interest and user groups. Abilene P&R will provide invitations and meeting space for these meetings. Anticipated groups may include internal and external stakeholders, municipal partners, Parks and Recreation Advisory Board, and other local and regional organizations. Questions will be prepared in advance to be approved by the Parks and Recreation Department. The questions will be sent to the Stakeholder group participants for discussions with their organizations before the actual focus group. Both in-person and virtual meetings may be held to accomplish this task.

ENVISION PHASE

D. Vision, Goals, and Objectives – Working with the Master Plan Steering Committee and Abilene Parks and Recreation Department Staff:

Vision, Goals, & Objectives – Using all the previous findings, identify the following:

- Develop/update the mission statement for the Parks and Recreation Department
 - Identify the Future Vision for Parks and Recreation in Abilene
 - Identify Proposed Level-of-Service Standards for park land and specific recreation facilities
 - Identify Short Term Goals and Objectives
 - Identify Long Term Goals and Objectives
- 1. Level-of-Service Guidelines** – Develop Level-of-Service Guidelines for Abilene based on the public input, the Benchmarking Comparison Survey, and with standards and guidelines developed by the Consultant based on previous experience. The standards will identify guidelines and definitions for park types and their respective service areas and characteristics, facility types and criteria, facility per population standards, and geographic distribution criteria.

PLAN PHASE

1. Physical Planning, Program, and Services Recommendations

- a. City-Wide Park and Facility Improvement Recommendations** – Prepare a City-wide map illustrating proposed general locations of new parks by park type categories (mini-park, neighborhood, community, special use, nature, or linear park).
- b. Individual Park Recommendations and Costs** – Identify the specific needed improvements at each park or recreation facility. Prepare level-of-magnitude costs for each capital improvement recommended in the plan.
- c. Capital Improvement Priorities** – Work with Abilene staff and the Master Plan Steering Committee to prioritize, by selected facility type, the capital improvements. This process will identify the short range (0-2 years), mid-range (3-5 years), and long-range (6-10 years) recommendations. Facilities and services will be prioritized by neighborhood, region, natural areas, etc.
- d. Programs and Operations Recommendations** – Provide recommendations for improving the delivery and equity for recreational programs. Identify methods for future analysis to keep the offerings fresh and relevant.
- e. Report** – Prepare a summary report of the Plan Phase.
- f. Presentations** – Present the plan and recommendations to the Steering Committee and the Parks and Recreation Advisory Board.

2. Equity Strategies

– Develop a process to achieve social and geographic equity with current and future park facilities.

- a.** Provide supporting information to the team to help develop a process for social and geographic equity for access and service to and from the parks system.

3. Action Plan

– Develop:

- a. Phased Implementation Plan** with specific strategies and recommendations for:
 - Guidelines for prioritization of future capital improvements
 - Trail recommendations

- Improved connectivity/access to parks and facilities
 - Parks, greenway, and open space land acquisition
 - Facility recommendations
 - Strategic opportunities to leverage community and non-profit organizations to deliver operational and programming services
 - Recommendations for permitting, including various types, process and policies, locations, and comparisons to what other communities have successfully done.
 - Park and facility operations recommendations
 - Programs and services recommendations
 - Budgeting and funding/financial management recommendations and priorities
 - Other specific issues to be identified in the planning process that impact the park system
 - This process will identify the short range (0-2 years), mid-range (3-5 years) and long-range (6-10 years) action steps along with the responsible party and potential funding sources
 - The strategies will be referenced to the City Comprehensive Plan
- b. Funding Recommendations** – Identify potential funding sources and their applicability for the recommendations in the Master Plan.
- c. Draft Master Plan** – Prepare a Draft Master Plan for review by the City staff and Master Plan Steering Committee.
- d. Action Plan Presentation** – Make a presentation of the Draft Action Plan and Final Needs Assessment recommendations to the Master Plan Steering Committee and other groups as identified.
- e. Final Master Plan** – Following the reviews of each of the separate reports, prepare a Final Master Plan that includes all components of the planning process.
- f. Final Presentation** – Make a presentation of the Final Master Plan to the Master Plan Steering Committee, the public, Parks and Recreation Advisory Board, and City Council.
- g. Executive Summary** – Prepare an Executive Summary that summarizes the findings, recommendations, and actions.

E. Deliverables

1. **Final Deliverables** – The consultant shall compile all project information into a report document in both digital and hard copy format. All maps, graphics, images, data, and other imagery developed as a part of the document will be shared in digital format.
2. **Executive Summary** – Prepare an Executive Summary of the document.

F. Client Coordination

1. **Bi-Weekly Meetings** – The BCI Team will conduct bi-weekly meetings with key Parks and Recreation Department Staff to monitor the progress, schedule, and upcoming tasks. Meetings will be conducted by phone or virtual meeting methods (Zoom or Microsoft Teams).

PROJECT SCHEDULE

The following page shows the proposed schedule for the project.

SCOPE OF SERVICES

Project Schedule

Task	Months									
	1	2	3	4	5	6	7	8	9	10
EVALUATE PHASE										
A Planning Context										
1 Initial Coordination Meeting	■									
2 Steering Committee Meetings		●								
3 Demographics Analysis			●		●	●		●	●	
4 Social Needs & Conditions Index										
5 History/Mission Summary										
6 Programs & Services Analysis										
7 Management Analysis										
8 Maintenance Standards & Schedule Review										
9 Administration & Operations Review										
10 Review Previous Studies										
11 Funding Analysis										
12 Benchmarking Analysis										
13 Trends Analysis										
14 Technical Report and Review Meeting			▲ ■							
B Existing Parks, Facilities, and Programs Analysis										
1 Parks, Facilities, & Open Space Inventory										
2 Site Visits - Qualitative Assessments										
3 Geographic Distribution Analysis										
4 Parks Facilities Map										
5 Analysis of Underserved Markets										
6 Missing Facilities & Amenities										
7 Level of Service Analysis										
8 Technical Report and Review Meeting				▲ ■						
ENGAGE PHASE										
C Needs Assessment										
1 Public Open Houses		☆☆								
2 Staff Input										
3 Stakeholder Groups										
4 Household Needs Survey										
5 MindMixer Online Engagement Forum										
6 Web/Handout Survey										
7 Technical Report and Review Meeting					▲					
8 Needs Assessment Presentation					★					
ENVISION PHASE										
D Strategic Plan, Vision, Goals and Objectives										
1 Strategic Plan - Mission, Vision, Goals & Objectives										
2 Level of Service Guidelines										
3 Technical Report and Meeting						▲				
PLAN PHASE										
E Physical Planning, Programs, and Service Recommendations										
1 City-wide Recommendations Mapping										
2 Park & Facility Concept Plans										
3 Park & Facility Improvements/Costs										
4 Capital Improvement Priorities										
5 Programs & Operations Recommendations										
6 Equity Strategies										
7 Technical Report & Review Meeting								▲ ■		
F Action Plan										
1 Phased Implementation Plan										
2 Funding Recommendations										
3 Draft Action Plan										
4 Action Plan Presentation										
5 Final Master Plan										
6 Executive Summary										
7 Final Presentations										★

● Steering Committee Meeting ■ Review / Progress Meeting ▲ Technical Memo ★ Public Presentation / Workshop

SCOPE OF SERVICES

Parks and Recreation Master Plan



Scope:

1. Evaluation of previous studies/plans, demographic analysis, social needs and conditions analysis, program and services analysis, funding analysis, benchmarking comparisons to similar systems, trends analysis, maintenance standards and schedule, administrative and operations system, and policy and ordinance review.
2. Asset quality and management, geographical distribution/service gap analysis, analysis of underserved markets, missing facilities/amenities, and level of service.
3. Needs assessment consisting of public open house, staff input, Parks and Recreation Board input, web-based surveys, and stakeholder meetings
4. Envision phase will consist of vision, goals, objectives and level of service guidelines.
5. Planning phase will consist of City-Wide parks and facility improvement recommendation, individual park recommendations on costs, capital improvement priorities, and programs /operations recommendations.
6. Final report for adoption and approval by the Parks and Recreation Board, Planning and Zoning Commission, and City Council.



Timeline:

- March Kick off meeting / Analysis Gathering
- March and April Evaluation Phase / Existing Parks, Facilities, and Programs Analysis
- April Needs Assessment
- April-June Engagement Phase
- July Envision Phase
- August-Sept Planning Phase
- October-Nov Action Plan Development
- November-Dec Adoption Phase



Brandstetter Carroll, Inc. Contract Information:

- Approved in the FY22 Budget
- Brandstetter Carroll, Inc. contract amount of \$85,000





**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Robert Hanna, City Manager

FROM: Max Johnson, Assistant Director of Public Works

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding Bid No. 2224 to Bontke Brothers Co. Inc., for Street Resurfacing Project Work Zones S11C and S9D (Max Johnson)

GENERAL INFORMATION

This Project was advertised as a Public Notice on January 30, 2022, and on February 6, 2022 with a bid opening dated February 8, 2022. This contract includes the mill and overlay of streets located within work zones S11C and S9D.

SPECIAL CONSIDERATIONS

This project has a contract completion time of 60 working days (approx. 3 months, weather permitting)

FUNDING/FISCAL IMPACT

Funding for this project is allocated through Street Maintenance Fee funds.

STAFF RECOMMENDATION

Staff recommends bid award to Bontke Brothers Co., Inc. for \$2,889,423.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. S11C and S9D Resolution
2. Bontke-S11C & S9D
3. CB2224 TABSHEET
4. Scope of Work
5. Location Map
6. S11C and S9D ppt

RESOLUTION NO. _____

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

WHEREAS, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the mill and overlay of streets located within work zones S11C and S9D.; and

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

WHEREAS, the following bids were received and opened on the February 8, 2022:

Bontke Brothers Construction, Inc., Abilene, Texas	\$ 2,889,423.00
Nobles Road Construction, Inc., Abilene, Texas	\$ 2,889,644.51
Raydon, Inc., Abilene, Texas	\$ 2,921,717.30
J.H. Strain & Sons, Inc., Tye, Texas	\$ 3,164,120.45

WHEREAS, Bontke Brothers Construction, Inc., Abilene, Texas submitted the best value bid in the amount of \$2,889,423.00 with the bid meeting specifications. Staff recommends awarding the bid to the best value bidder, Bontke Brothers Construction, Inc., Abilene, Texas.

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

PART 1: That the City Council approves this bid in the amount of \$ 2,889,423.00.

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

ADOPTED this 24th day of February, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made on the 24th day of February, 2022 is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Bontke Brothers Construction Co., Inc. of the City of Abilene, State of Texas. ("Contractor").

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

THE AGREEMENT

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

STREET RESURFACING PROJECT WORK ZONES S11C AND S9D

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

In consideration of this Work, the City will pay the Contractor the sum of \$2,889,423.00 (Two million eight hundred eighty-nine thousand four hundred twenty-three dollars and zero cents).

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

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

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

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

6. **Indemnity.**

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

B. Indemnity

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

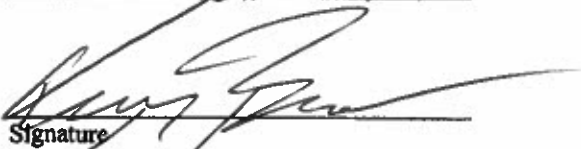
13. **Contract Copies.** Each of the two executed copies is an original.

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

CONTRACTOR

Name of Contractor:

Bontke Brothers Construction



Signature

Kenneth Bontke

Name - Typed or Printed

President

Title - Typed or Printed

Business Address:

102 College Dr
Abilene, TX 79601

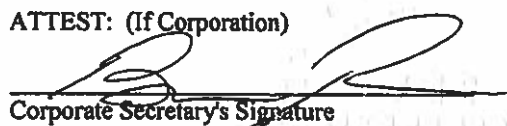
325-677-6276

Business Phone No.

75-1331325

Federal Tax I.D.#

ATTEST: (If Corporation)



Corporate Secretary's Signature

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

CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal: |

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

PAGE 1 OF 1

DEPARTMENT: ENGR BID NO.: CB-2224 TIME OF OPENING: 11:00 A.M. DATE OF OPENING: FEBRUARY 8, 2022				BONTKE BROTHERS CONSTRUCTION ABILENE, TX		NOBLES ROAD CONSTRUCTION, INC. ABILENE, TX		RAYDON, INC. ABILENE, TX		J.H. STRAIN & SONS, INC. TYE, TX					
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	STREET RESURFACING PROJECT ZONES S11C AND S9D				2,889,423.00		2,889,644.51		2,921,717.30		3,164,120.45				
	BASE BID				2,889,423.00		2,889,644.51		2,921,717.30		3,164,120.45				
	DISCOUNT														
	TOTAL BID				2,889,423.00		2,889,644.51		2,921,717.30		3,164,120.45				

*NOTES: INDICATES RECOMMENDED AWARD

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

PAGE
1 OF 1

DEPARTMENT: ENGR
BID NO.: CB-2224
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: FEBRUARY 8, 2022

BONTKE BROTHERS
CONSTRUCTION
ABILENE, TX

NOBLES ROAD
CONSTRUCTION, INC.
ABILENE, TX

RAYDON, INC.
ABILENE, TX

J.H. STRAIN & SONCS, INC.
TYE, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	STREET RESURFACING PROJECT ZONES S11C AND S9D				2,889,423.00		2,889,644.51		2,921,717.30		3,164,120.45				
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DISCOUNT															
TOTAL BID					2,889,423.00		2,889,644.51		2,921,717.30		3,164,120.45				

*NOTES: INDICATES RECOMMENDED AWARD

SCOPE OF PROJECT

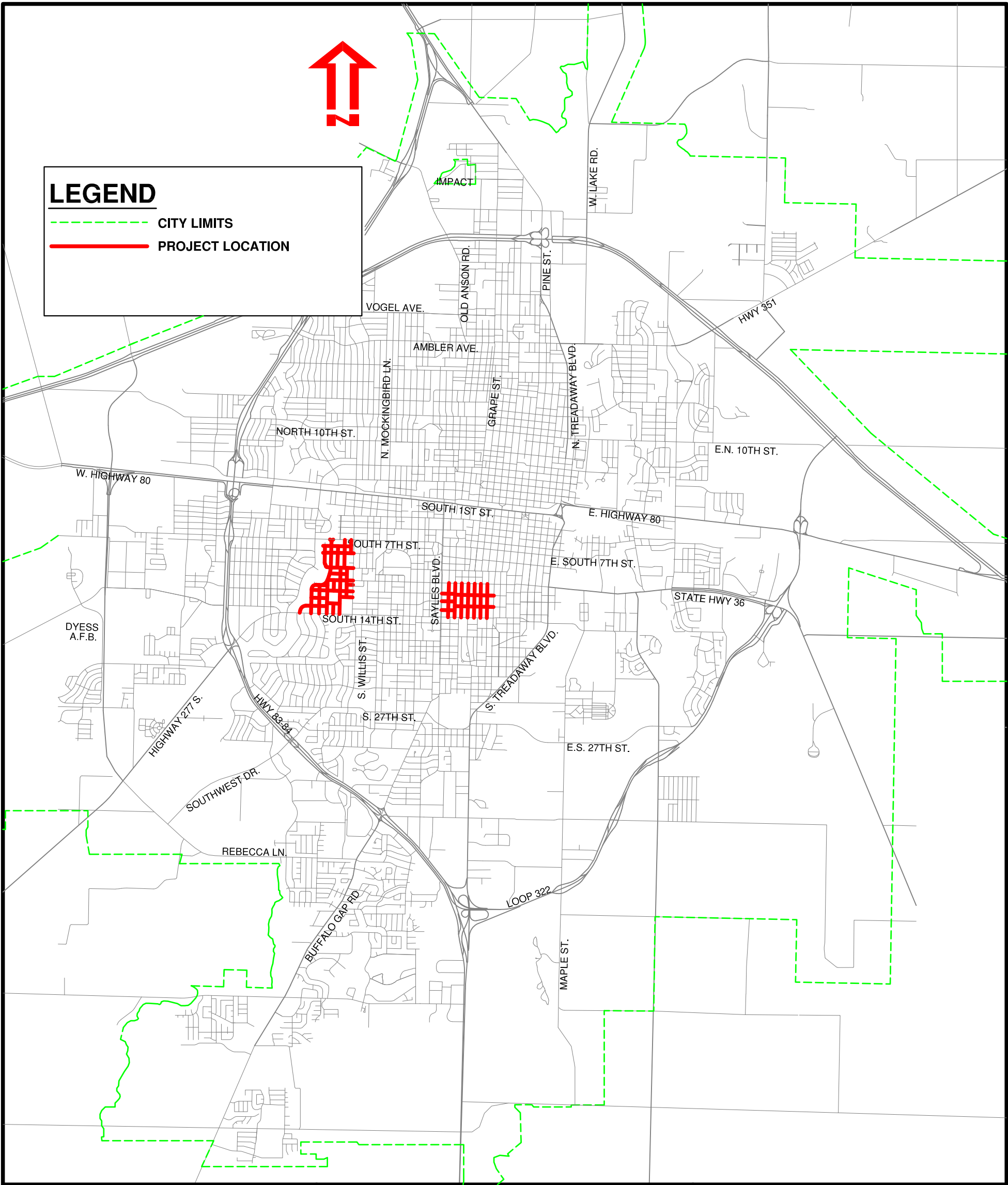
This construction contract involves the mill and overlay of streets located within work zones S11C and S9D.



LEGEND

CITY LIMITS

PROJECT LOCATION



Sheet 1 Of 1	CITY OF ABILENE, TEXAS	STREET RESURFACING PROJECT WORK ZONES S11C & S9D	Designed By: S. CHANDLER	Horizontal Scale: N.T.S.	Computer File Name: 2022 STREET MAINTENANCE
	PUBLIC WORKS DEPARTMENT ENGINEERING DIVISION		Drawn By: T. MATTHEWS		
			Checked By: S. CHANDLER	Vertical Scale: N.T.S.	

Agenda Item: Street Resurfacing Project Work Zones S11C and S9D

**Resolution: Bid Award #CB-2224 Street
Resurfacing Project Work Zones S11C and S9D**

(Johnson)



Street Resurfacing Project Work Zones S11C and S9D

S11C

Streets

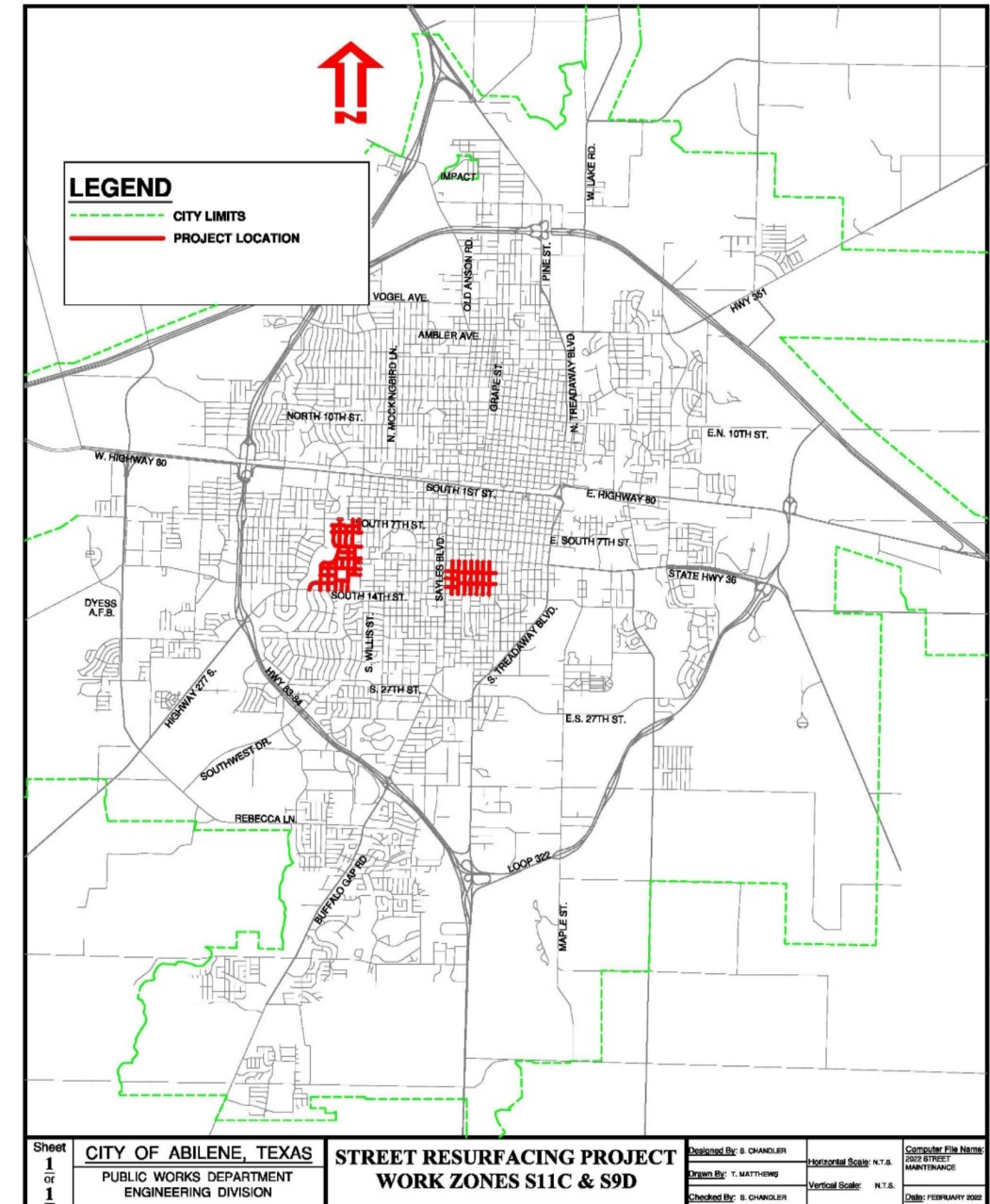
Rivercrest Dr
Elmwood Dr
Grove St
Davis Dr
Blair St
Sylvan Dr
Hollis Dr
Glenwood Dr
Albany St
Ward Dr
S 8th St
S 9th St
S 10th St
S 11th St
S 12th St
Edgewood Dr
Bickley St

From

Ward Dr
S 7th St
Ward Dr
S 7th St
S 7th St
Elmwood Dr
Elmwood Dr
S 11th St
S 9th St
Dead end
Dead end
Rivercrest Dr
Elmwood Dr
Elmwood Dr
Elmwood Dr
Elmwood Dr
Albany St

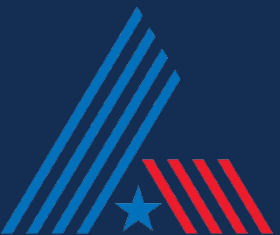
To

S 9th St
S 14th St
S 9th St
S 9th St
Bickley St
S 14th St
S 14th St
S 14th St
S 14th St
S Willis St
S Willis St
S Willis St
Blair St
S Willis St
S Willis St
Hollis Dr
S Willis St

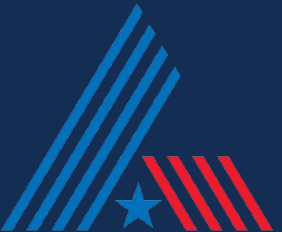


Agenda Item: Street Resurfacing Project Work Zones S11C and S9D

- Construction Contract includes the mill and overlay of streets located within work zones S11C and S9D.
- Project Advertised January 30th 2022 & February 6th 2022, Bids Opened February 8th 2022.
- Four bids were received.
- Staff recommends award of bid to Bontke Brothers Construction, Inc., in the amount of \$2,889,423.00.



Questions?





City Council Agenda Memo

City Council Meeting Date: 2/24/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing Additional Professional Services Expenditure to Enprotec/Hibbs & Todd, Inc. for the 2020 Baylor Drive Lift Station Replacement Contract Management (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is recommending that the Abilene City Council authorize additional professional services expenditure to Enprotec/Hibbs & Todd, Inc. (EHT) for the 2020 Baylor Drive Lift Station Replacement Contract Management in the amount of \$19,788.36. EHT is the design engineer of record, and it is contractually responsible for administering the construction contract. EHT has earned and is due the amount of \$19,788.36 for additional administrative work not anticipated nor included in the original professional services contract.

There are three professional services contracts with EHT related to this project. The first was the Baylor Drive Lift Station Improvements in the amount of \$68,840.00 for site acquisition and final design. The second was the 2020 Baylor Drive Lift Station Replacement Contract Management for bidding assistance and contract management in the amount of \$49,940.00. The third was the Baylor Drive Lift Station RPR Services in the amount of \$49,500 for providing a very experienced and highly qualified Resident Project Representative on the work site to encourage a high level of quality and timely work by the contractor. The three professional services contracts related to the Baylor Drive Lift Station Replacement, along with the current amount of \$19,788.36, result in a total amount of \$188,068.36 expended on professional services for the project.

SPECIAL CONSIDERATIONS

The bid for the Baylor Drive Lift Station Replacement Project in the amount of \$1,030,096.74 was awarded to Lupe Rubio Construction Company, Inc. in March 2020. The contract notice to proceed listed the start date as May 4, 2020, and the final completion date of December 20, 2020 (230 calendar days). There were extensive delays in accomplishing the work. The contractor requested additional time, and the City agreed in good faith to extend the contract completion date to June 21, 2021. The contractor did not complete the work within the time extension. The Engineer determined the project's final completion date was December 7, 2021. The prolonged period of construction far exceeded the budgeted allocation of time in the professional services

contract with EHT resulting in additional expenditure of \$19,788.36.

FUNDING/FISCAL IMPACT

The additional expense of \$19,788.36 will come from Fund 575 designated for Capital Improvement Projects.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council authorize the additional expenditure of \$19,788.36 to Enprotec/Hibbs & Todd, Inc. for the 2020 Baylor Drive Lift Station Replacement Contract Management as described above.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Authorize Expenditures to EHT-Baylor Drive LS-2-24-2022
2. Invoices-Additional Professional Services Expenditures-EHT-Baylor Drive LS Contract Managment-2-24-2022
3. Presentation-Authorize Additional Expenditure-PS Contract-EHT-Baylor Drive LS-2-24-2022

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING ADDITIONAL PROFESSIONAL SERVICES EXPENDITURE TO ENPROTEC/HIBBS & TODD, INC. FOR THE BAYLOR DRIVE LIFT STATION REPLACEMENT CONTRACT MANAGEMENT.

WHEREAS, the City of Abilene (City) owns and operates the publicly owned treatment works including the Baylor Drive Lift Station, which was recently upgraded by Lupe Rubio Construction Company, Inc. (Rubio); and

WHEREAS, the City hired Enprotec/Hibbs & Todd, Inc. (EHT) to design the relocation and replacement of the Baylor Drive Lift Station and the engineers work was performed under three professional service contracts, and the unforeseeable length of project construction has resulted in the depletion of the \$168,280.00 previously approved for engineering services, contract management, and resident project representation services by EHT; and

WHEREAS, the contract notice to proceed with Rubio established the project start date of May 4, 2020 and final completion date of December 20, 2020 (230 calendar days); and at the request of Rubio the City agreed in good faith to extend the contract completion date to June 21, 2021; and

WHEREAS, the Engineer determined that Rubio achieved project final completion on December 7, 2021, and the prolonged period of construction far exceeded the budgeted allocation of time in the professional services contract with EHT resulting in the additional expenditure of \$19,788.36; and

WHEREAS, staff is requesting that the Abilene City Council authorize additional professional services expenditure to Enprotec/Hibbs & Todd, Inc. for the 2020 Baylor Drive Lift Station Replacement Contract Management in the amount of \$19,788.36; and

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

That the City Manager is authorized to pay an additional professional services expenditure to Enprotec/Hibbs & Todd, Inc. in the amount of \$19,788.36.

ADOPTED this 24th day of February, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney

RECEIVED

OCT 20 2021

Water Administration

Invoice Number: 2109173
Project Number: 7209
Invoice Date: 10/20/21
Invoice Period: 2021-09

City of Abilene

Mr. Rodney Taylor
P. O. Box 60
Abilene, Texas 79604

RE: Baylor Drive
Wastewater Lift Station Improvements

Task	Budgeted Amount	% Complete	Earned Amount	Previously Billed	Current Invoice
01: Bidding Phase Services	\$ 6,320.00	100.00%	\$ 6,320.00	\$ 6,320.00	\$ -
02: Construction Phase Services	\$ 25,600.00	100.00%	\$ 25,600.00	\$ 25,600.00	\$ -

Tasks with a Maximum Fee	Units	Unit Rate	Amount
04: Inspection: \$62,300.00			
Sr. Project Manager	10.00 Hr.	\$ 170.00	\$ 1,700.00
Project Manager	16.00 Hr.	\$ 145.00	\$ 2,320.00
Project Engineer	2.00 Hr.	\$ 130.00	\$ 260.00
Engineering Tech I	16.00 Hr.	\$ 130.00	\$ 2,080.00
EXPENSES			
Clois Versyp (21-09)	\$ 375.00 L S	1.10	\$ 412.50
Mileage	506.00 Mi.	\$ 0.56	\$ 283.36

Sub-Total: 04: Inspection \$ 7,055.86
Total Billed To-Date, Including This Invoice: \$72,581.37

05: Regulatory Support: \$2,720.00

Sub-Total: 05: Regulatory Support \$ -
Total Billed To-Date, Including This Invoice: \$2,610.00

06: Construction Materials Testing: \$ 2,801.25

EXPENSES			
Geotec Labs (GA0921-34)	\$ 280.00 L S	1.00	\$ 280.00
			\$ 280.00

Total Billed To-Date, Including This Invoice: \$2,906.25

TOTAL DUE THIS INVOICE \$ 7,335.86

Original Contract Amount: \$68,840.00
Amendment #1: \$49,940.00
Amendment #2: \$49,500.00
Total Contract Value: \$168,280.00
Total Billed To-Date, Including This Invoice: \$175,405.62

NOTE: Amount beyond contracted NTE \$7,125.62.

Remit to: Enprotec/Hibbs & Todd, Inc.
P.O. Box 3097
Abilene, Texas 79604

Telephone: (325) 698-5560
Federal Tax ID# 75-2258512

THANK YOU FOR YOUR BUSINESS!

Invoice Number: 2110201
 Project Number: 7209
 Invoice Date: 12/1/21
 Invoice Period: 2021-10

RECEIVED

DEC 03 2021

Water Administration

City of Abilene

Mr. Rodney Taylor
 P. O. Box 60
 Abilene, Texas 79604

RE: Baylor Drive
 Wastewater Lift Station Improvements

Task	Budgeted Amount	% Complete	Earned Amount	Previously Billed	Current Invoice
01: Bidding Phase Services	\$ 6,320.00	100.00%	\$ 6,320.00	\$ 6,320.00	\$ -
02: Construction Phase Services	\$ 25,600.00	100.00%	\$ 25,600.00	\$ 25,600.00	\$ -

Tasks with a Maximum Fee	Units	Unit Rate	Amount
04: Inspection: \$62,300.00			
Sr. Project Manager	18.00 Hr.	\$ 170.00	\$ 3,060.00
Project Manager	18.00 Hr.	\$ 145.00	\$ 2,610.00
Project Engineer	0.00 Hr.	\$ 130.00	\$ -
Engineering Tech I	0.00 Hr.	\$ 130.00	\$ -
EXPENSES			
Clois Versyp	\$ - L S	1.10	\$ -
Mileage	0.00 Mi.	\$ 0.56	\$ -

Sub-Total: 04: Inspection \$ 5,670.00
 Total Billed To-Date, Including This Invoice: \$78,251.37

05: Regulatory Support: \$2,720.00

Sub-Total: 05: Regulatory Support \$ -
 Total Billed To-Date, Including This Invoice: \$2,610.00

06: Construction Materials Testing: \$ 2,801.25

EXPENSES			
Geotec Labs	\$ - L S	1.00	\$ -
			\$ -

Total Billed To-Date, Including This Invoice: \$3,081.25

TOTAL DUE THIS INVOICE \$ 5,670.00

Kdt

Original Contract Amount: \$68,840.00
 Amendment #1: \$49,940.00
 Amendment #2: \$49,500.00
 Total Contract Value: \$168,280.00
 Total Billed To-Date, Including This Invoice: \$181,075.62

NOTE: Amount beyond contracted NTE \$12,795.62

Remit to: Enprotec/Hibbs & Todd, Inc.
 P.O. Box 3097
 Abilene, Texas 79604

Telephone: (325) 698-5560
 Federal Tax ID# 75-2258512

THANK YOU FOR YOUR BUSINESS!



City of Abilene

Attn: Mr. Rodney Taylor
P. O. Box 60
Abilene, TX 79604

Baylor Drive
Wastewater Lift Station Improvements

RECEIVED
DEC 28 2021
Water Administration

Invoice Number: 2111108
Project Number: 7209
Invoice Date: December 22, 2021
Invoice Period: 2021-11

Task	Budgeted Amount	% Complete	Earned Amount	Previously Billed	Current Invoice
<u>01: Bidding Phase Services</u>	\$ 6,320.00	100.00%	\$ 6,320.00	\$ 6,320.00	\$ 0.00
<u>02: Construction Phase Services</u>	\$ 25,600.00	100.00%	\$ 25,600.00	\$ 25,600.00	\$ 0.00

Tasks Billed on a Time & Materials Basis	Units	Unit Rate	Amount
<u>04: Inspection</u>			
Administrative Assistant	0.50 Hr	\$ 65.00	\$ 32.50
Project Manager	24.00 Hr	\$ 145.00	\$ 3,480.00
Senior Project Manager	4.00 Hr	\$ 170.00	\$ 680.00
Sub-Total: Task 04: Inspection			\$ 4,192.50

Total Billed To-Date, Including This Invoice: \$82,443.87

05: Regulatory Support

Sub-Total: Task 05: Regulatory Support	\$ 0.00
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Total Billed To-Date, Including This Invoice: \$2,610.00

06: Construction Materials Testing

Sub-Total: Task 06: Construction Materials Testing	\$ 0.00
--	---------

Total Billed To-Date, Including This Invoice: \$3,081.25

Total Amount Due This Invoice **\$ 4,192.50**

Rdt

Original Contract Amount: \$68,840.00
Amendment #1: \$49,940.00
Amendment #2: \$49,500.00
Total Contract Value: \$168,280.00
Total Billed To-Date, Including This Invoice: \$185,268.12

NOTE: Amount beyond contracted NTE: \$16,988.12

PAYMENT TERMS: NET DUE UPON RECEIPT OF INVOICE
ANY AMOUNT LEFT UNPAID 30 DAYS AFTER BILLING IS SUBJECT TO A 1.5% PER MONTH LATE PAYMENT FEE

Remit to: Enprotec/Hibbs & Todd, Inc.
P. O. Box 3097
Abilene, Texas 79604

Telephone: (325) 698-5560
Federal Tax ID# 75-2258512

THANK YOU FOR YOUR BUSINESS!



Enprotec / Hibbs & Todd

City of Abilene

Attn: Mr. Rodney Taylor
P. O. Box 60
Abilene, TX 79604

Baylor Drive
Wastewater Lift Station Improvements

RECEIVED

JAN 25 2022

Water Administration

Invoice Number: 2112044
Project Number: 7209
Invoice Date: January 21, 2021
Invoice Period: 2021-12

Task	Budgeted Amount	% Complete	Earned Amount	Previously Billed	Current Invoice
01: Bidding Phase Services	\$ 6,320.00	100.00%	\$ 6,320.00	\$ 6,320.00	\$ 0.00
02: Construction Phase Services	\$ 25,600.00	100.00%	\$ 25,600.00	\$ 25,600.00	\$ 0.00

Tasks Billed on a Time & Materials Basis	Units	Unit Rate	Amount
04: Inspection			
Administrative Assistant	0.00 Hr.	\$ 65.00	\$ 0.00
Project Manager	12.00 Hr.	\$ 145.00	\$ 1,740.00
Senior Project Manager	5.00 Hr.	\$ 170.00	\$ 850.00
Sub-Total: Task 04: Inspection			\$ 2,590.00

Total Billed To-Date, Including This Invoice: \$85,033.87

05: Regulatory Support

Sub-Total: Task 05: Regulatory Support \$ 0.00

Total Billed To-Date, Including This Invoice: \$2,610.00

06: Construction Materials Testing

Sub-Total: Task 06: Construction Materials Testing \$ 0.00

Total Billed To-Date, Including This Invoice: \$3,081.25

Total Amount Due This Invoice \$ **2,590.00**

Original Contract Amount: \$68,840.00

Amendment #1: \$49,940.00

Amendment #2: \$49,500.00

Total Contract Value: \$168,280.00

Total Billed To-Date, Including This Invoice: \$187,858.12

NOTE: Amount beyond contracted NTE: \$19,578.12

PAYMENT TERMS: NET DUE UPON RECEIPT OF INVOICE
ANY AMOUNT LEFT UNPAID 30 DAYS AFTER BILLING IS SUBJECT TO A 1.5% PER MONTH LATE PAYMENT FEE

Remit to Enprotec/Hibbs & Todd, Inc.
P.O. Box 3097
Abilene, Texas 79604

Telephone: (325) 698-5560
Federal Tax ID# 75-2258512

THANK YOU FOR YOUR BUSINESS!

Authorize Additional Professional Services Expenditure to
Enprotec/Hibbs & Todd, Inc. for the
Baylor Drive Lift Station Replacement Contract Management.



- Enprotec/Hibbs & Todd, Inc. (EHT) was hired to design the relocation and replacement of the Baylor Drive Lift Station, and the engineers design work, project management, and resident project representation was performed under three professional services contracts totaling \$168,280.00.
- Lupe Rubio Construction Company, Inc. was awarded the bid for constructing the Baylor Drive Lift Station Replacement Project in March 2020, and the contract notice to proceed established the project start date of May 4, 2020 and final completion date of December 20, 2020.



- The project fell significantly behind schedule.
- At the request of Lupe Rubio the City agreed in good faith to extend the contract completion date to June 21, 2021.
- EHT determined the project final completion date to be December 7, 2021.
- The prolonged period of construction far exceeded the budgeted allocation of time in the professional services contract with EHT resulting in an additional expenditure of \$19,788.36.



New location of Baylor Drive Lift Station



Authorize Additional Professional Services Expenditure to
Enprotec/Hibbs & Todd, Inc. for the
Baylor Drive Lift Station Replacement Contract Management.

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Robert Hanna, City Manager

FROM: Cande Flores, Fire Chief

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action to Authorize the City Manager to Execute a Purchase Contract with FarrWest Environmental Supply for the Purchase of a ThreatID GLS Spectrometer, and an R425-GN Radiological Monitor for the Abilene Fire Department (Cande Flores)

GENERAL INFORMATION

The Abilene Fire Department (AFD) assigns the responsibilities of preparing for and responding to hazardous materials incidents to the personnel of Fire Station 5. This Team uses specialized monitoring equipment to assist in identifying hazardous materials and atmospheres. This purchase will upgrade AFD's capability to handle hazardous materials incidents by identifying the material involved and then formulating the proper response for mitigation.

SPECIAL CONSIDERATIONS

The Abilene Fire Department's current hazardous materials monitor is 14 years old and contains outdated technology. The current monitor is considered a "Legacy Device" and the manufacturer no longer provides updates or support for this monitor. The ThreatID GLS is a full spectrum monitor capable of identifying involved solids, liquids, and gases.

AFD currently does not possess a radiological monitor. The R425-GN is a handheld monitor capable of identifying radioactive material as well as the level of radiation present.

Training is also included for both monitors.

This purchase is a procurement necessary to preserve or protect the public health or safety of the

residents of Abilene, and is therefore exempt from competitive bidding requirements.

FUNDING/FISCAL IMPACT

The total cost of this purchase is \$93,395.20. Funding will come from the AFD Apparatus Replacement Fund.

STAFF RECOMMENDATION

Staff recommends approval of the Resolution to authorize the City Manager to execute a purchase contract with FarrWest Environmental Supply for the purchase of two specialized hazardous materials monitors for the Abilene Fire Department.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution - HazMat Monitors Purchase
2. Farrwest Quote
3. Redwave Sole Source Letter
4. Hazmat Detectors Presentation

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE CONTRACT WITH FARRWEST ENVIRONMENTAL SUPPLY FOR THE PURCHASE OF (2) SPECIALIZED HAZARDOUS MATERIALS MONITORS FOR THE ABILENE FIRE DEPARTMENT.

WHEREAS, the Abilene Fire Department (AFD) utilizes hazardous materials monitors whenever the Hazardous Materials Team is dispatched to a related incident.

WHEREAS, FarrWest Environmental Supply is an approved vendor for the City of Abilene and is a Sole Source Vendor for Redwave Technology.

WHEREAS, the AFD's current hazardous materials monitor is fourteen (14) years old, out of warranty, utilize outdated technology, and is in need of replacement.

WHEREAS, \$93,395.20 will be funded through the AFD Apparatus Replacement Fund.

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

Part 1: The City Manager is hereby authorized to execute a Purchase Contract with FarrWest Environmental Supply for the purchase of (2) specialized hazardous materials monitors.

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

ADOPTED and approved by the City Council on the 24th of February, 2022.

ATTEST:

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

APPROVED:

Stanley Smith
City Attorney

**FARRWEST**

Estimate

Date	Estimate #
1/18/2022	13275

**108 Commercial Place
Schertz, TX 78154**

Ph: 210-566-1857
Fax 210-566-1897

CITY OF ABILENE FIRE DEPARTMENT
ACCOUNTS PAYABLE
PO BOX 60
ABILENE, TX 79604

P.O. No.

Rep

Project/Event

JWC

Item	Description	Qty	Cost	Total
200-00-0021	ThreatID GLS - Includes: Full spectrum FTIR spectrometer with hot-swappable batteries. Upgradeable sample interface for solids and liquids, gases or all. Integrated video beneath interface for ease of sample placement/verification of solids/liquids interface cleanliness. Large, hardened touch screen compatible with gloved hands. ThreatAssist™ Chemical Properties Database -proprietary on-board chemical properties database provides instant access to actionable data on ALL library spectra including: Common name, physical appearance and common uses, IDLH and Vapor pressure as well as ghs hazard class pictograms and NFPA diamonds. Reachback 1 Year Support Package - free software and library upgrades for life of support package. Full warranty on all parts and labor to repair system. Free loaner system during repair.	1	35,450.15	35,450.15
			Subtotal	
			Sales Tax (0.0%)	
			Total	

Phone #	Fax #
210-566-1857	210-566-1897

Web Site
www.farrwest.com

**FARRWEST**

Estimate

Date	Estimate #
1/18/2022	13275

**108 Commercial Place
Schertz, TX 78154**

Ph: 210-566-1857
Fax 210-566-1897

CITY OF ABILENE FIRE DEPARTMENT
ACCOUNTS PAYABLE
PO BOX 60
ABILENE, TX 79604

P.O. No.

Rep

Project/Event

JWC

Item	Description	Qty	Cost	Total
200-00-2001	Solids/Liquids sample interface consisting of a diamond crystal, pressure device and liquids well. This allows the instant analysis of solids, liquids, pastes and gels with no preparation. The interface is positioned over pins and locked into position with no need for alignment. The Solids/liquids interface is provided with more than 23,000 library spectra including TICS, TIMS, Drugs (including fentanyl derivatives), WMD agents including blister, nerve and next generation agents, pesticides, common consumer products and common mixtures.	1	14,775.00	14,775.00
200-00-2010	4 meter gas cell in a 6 inch body. Infrared light passes through the sample 24 times for maximum sensitivity. This allows the instant analysis of gases and vapor with no pre-concentration. The gas interface is positioned over pins and locked into position with no need for alignment. The gas cell is accompanied by a 5,500 spectra library of gases and vapors.	1	24,625.00	24,625.00
			Subtotal	
			Sales Tax (0.0%)	
			Total	

Phone #	Fax #
210-566-1857	210-566-1897

Web Site
www.farrwest.com

**FARRWEST**

Estimate

Date	Estimate #
1/18/2022	13275

**108 Commercial Place
Schertz, TX 78154**

Ph: 210-566-1857
Fax 210-566-1897

CITY OF ABILENE FIRE DEPARTMENT
ACCOUNTS PAYABLE
PO BOX 60
ABILENE, TX 79604

P.O. No.	Rep	Project/Event
	JWC	

Item	Description	Qty	Cost	Total
R425-GN	identiFINDER R425-GN Standard R425 with a 1.75" cubic NaI(Tl) detector utilizing Silicon photomultipliers and (2) ZnS solid-state neutron detectors. Features internal rechargeable batteries, user hot-swappable batteries, direct sunlight readable color display, web server, Bluetooth, USB connectivity, and Reach back capability. Does NOT require stabilization source.	1	14,845.05	14,845.05
FW-SAMPL-08	FARRWEST TRAINING- CHEMICAL SAMPLING CLASS. - COVERS PROPER USE OF EQUIPMENT AND SAMPLING WITH THE LATEST IN COLORIMETRIC PAPERS, GAS SENSOR, PID, FT-IR, RAMAN AND GC/MS TECHNOLOGIES 1-DAY, 8HR CLASS	1	0.00	0.00

Subtotal	
Sales Tax (0.0%)	
Total	

Phone #	Fax #
210-566-1857	210-566-1897

Web Site
www.farrwest.com



Date	Estimate #
1/18/2022	13275

CITY OF ABILENE FIRE DEPARTMENT
ACCOUNTS PAYABLE
PO BOX 60
ABILENE, TX 79604

P.O. No.	Rep	Project/Event
	JWC	

Item	Description	Qty	Cost	Total
FW-SAMPL-08	FARRWEST TRAINING- CHEMICAL SAMPLING CLASS. - COVERS PROPER USE OF EQUIPMENT AND SAMPLING WITH THE LATEST IN COLORIMETRIC PAPERS, GAS SENSOR, PID, FT-IR, RAMAN AND GC/MS TECHNOLOGIES 1-DAY, 8HR CLASS	2	1,850.00	3,700.00

	Subtotal	\$93,395.20
	Sales Tax (0.0%)	\$0.00
	Total	\$93,395.20

Phone #	Fax #
210-566-1857	210-566-1897

Web Site
www.farrwest.com



41 Eagle Road Unit E Danbury CT 06810 888.326.8186

October 27, 2021

To: Whom it may concern
From: Jim Fitzpatrick

Re: Sole Source of the ThreatID GLS

Please be informed that Redwave Technology of 41 Eagle Rd, Unit E Danbury CT 06810 is the sole manufacturer of the ThreatID GLS spectrometer. The spectrometer is the first of its kind in that it identifies hazardous solids, liquids and gases with minimal effort and training. There is no other spectrometer available for field use that has this capability.

FarrWest is our exclusive partner for supplying a system to Abilene, Texas.

Please do not hesitate to contact me at 203-456-4423 if you have any questions or concerns.

Sincerely

A handwritten signature in black ink that reads "Jim Fitzpatrick". The signature is written in a cursive, flowing style.

Jim Fitzpatrick

VP Sales and Marketing

HazMat Detectors Purchase

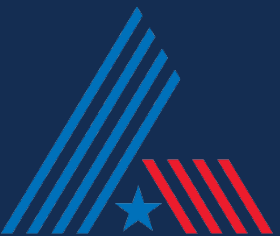
ABILENE FIRE DEPARTMENT

February, 2022



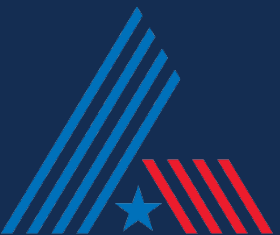
HAZMAT TEAM

- The Abilene Fire Department Hazardous Materials (HazMat) Team consists of all personnel assigned to Fire Station #5
 - Station #5 – 1250 EN 10th
 - Personnel are trained and certified to the level of Hazardous Materials Technician
- Team is tasked with responding to any incident involving hazardous materials
 - Liquids
 - Solids
 - Gases
- Team is equipped to handle several types of HazMat incidents but they are limited by their detection equipment



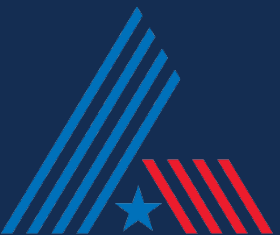
DETECTION EQUIPMENT

- Used to identify the involved material during an incident
 - This will dictate the required level of protection for the firefighter and the public – PPE and Isolation distances
 - Also directs the plan of operation for mitigation
- Current Equipment – AHURA
 - 14 years old
 - Legacy Device due to age
 - Manufacturer will not update, support, or carry parts for this device



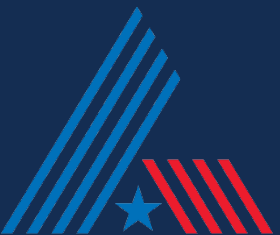
ThreatID GLS

- Full Spectrum FTIR (infrared) spectrometer
 - Instant Analysis of Solids, Liquids, Pastes, and Gels
- Access to ThreatAssist™ Chemical Properties Database
- Lifetime software and library upgrades
- 1-year parts and labor warranty
- Includes 8-hour In-person Training



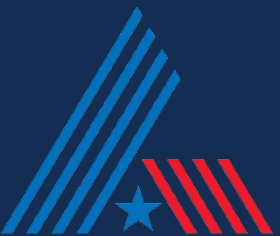
identiFINDER R425-GN

- FLIR Radionuclide Identification Device (RID)
- Measures Gamma and Neutron sources
- Simple operating procedures
- Quickly identifies material and threat level
- Remote data viewing and operation capable

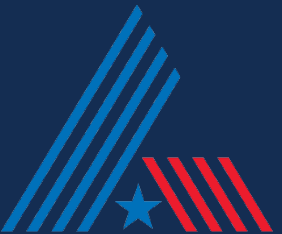


PURCHASE DETAILS

- FarrWest Environmental Supply
 - Sole Source Dealer of RedWave Technology
 - Schertz, Texas
- Total quote of \$93,395.20
- Funds will come from the Fire Apparatus Replacement Fund



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Robert Hanna, City Manager

FROM: Mike Rains, Finance Director

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving Financing by Newark Higher Education Finance Corporation for the Benefit of Abilene Christian University and Related Matters (*Mike Rains*)

GENERAL INFORMATION

Abilene Christian University is proposing to issue bonds for refinancing existing debt and financing the costs for acquisition, construction, renovation and/or equipment of academic and administration buildings, athletic facilities and dormitories in the principal amount of \$125,000,000.

Internal Revenue Code of 1986 section 147(f) requires that issuance of any qualified 501(c)(3) obligations be approved by either the governing body of the City or the chief elected executive officer of the City after a public hearing.

Abilene Christian University is scheduled to hold a public hearing on February 22, 2022 and will supply the publisher's affidavit and certificate of public hearing by the date of the Council meeting.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The City shall have no liabilities for the payments of the bonds nor shall any of the City's assets be pledged to secure the payments.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Approving Financing for ACU
2. Publisher's Affidavit - Abilene Reporter-News - Abilene Christian University
3. TEFRA Hearing Certification - Lori Herrick ACU
4. Powerpoint - Resolution Approving Financing by Newark Higher Education Finance Corp for the Benefit of ACU

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF TAYLOR §
CITY OF ABILENE §

We, the undersigned officers of the City Council (the “City Council”) of the City of Abilene, Texas (the “City”), hereby certify as follows:

1. The City Council convened in regular meeting on the 24th day of February, 2022, at the designated meeting place, and the roll was called of the duly constituted officers and members of said City Council, to wit:

Anthony Williams	Mayor
Shane Price	Council, Place 1
Lynn Beard	Council, Place 2
Donna Albus	Council, Place 3
Weldon W. Hurt	Council, Place 4
Kyle McAlister	Council, Place 5
Travis Carver	Council, Place 6

and all of said persons were present, except _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

RESOLUTION RELATING TO A PUBLIC HEARING AND APPROVING FINANCING BY FOR THE BENEFIT OF ABILENE CHRISTIAN UNIVERSITY AND RELATED MATTERS

was introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: ____ NOES: ____ ABSTENTIONS: ____

2. That a true, full, and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said City Council’s minutes of said Meeting; that the above and foregoing paragraph is true, full, and correct excerpt from said City Council’s minutes of said meeting pertaining to the adoption of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of said City Council as indicated therein; and that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the

aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose; and that said Meeting was open to the public, and public notice of the time, place, and purpose of said Meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED THIS February 24, 2022.

City Secretary

Mayor

(SEAL)

**RESOLUTION RELATING TO A PUBLIC HEARING AND APPROVING
FINANCING BY FOR THE BENEFIT OF ABILENE CHRISTIAN UNIVERSITY
AND RELATED MATTERS**

THE STATE OF TEXAS §
COUNTY OF TAYLOR §
CITY OF ABILENE §

WHEREAS, the City of Abilene, Texas (the “*City*”) has been informed that the Newark Higher Education Finance Corporation (the “*Corporation*”) created pursuant to Chapters 53 and 53A, Texas Education Code, as amended (the “*Act*”) and specifically Sections 53.35(b) and 53A.35(b) thereof (“*State Law*”), will issue the Newark Higher Education Finance Corporation Revenue Improvement and Refunding Bonds (Abilene Christian University Project), Series 2022A and the Newark Higher Education Finance Corporation Revenue Improvement and Refunding Bonds (Abilene Christian University Project), Taxable Series 2022B (collectively, the “*Bonds*”) in the maximum aggregate principal amount of \$125,000,000, whereby the proceeds of the Bonds will be loaned to Abilene Christian University (the “*Borrower*”) to assist in financing and refinancing the Project (the “*Financing*”);

WHEREAS, the Corporation is authorized by State Law to provide Financing for cultural and/or educational facilities by contractual arrangement, and the Bonds issued to the Corporation constitute contractual arrangements in which the Corporation is authorized by State Law to participate in;

WHEREAS, the Bonds are being issued for the following purposes: (a) refinancing existing debt the proceeds of which were used to finance or refinance all or a portion of the cost of acquisition, construction, renovation and/or equipment of academic and administration buildings, athletic facilities and dormitories including (1) the purchase of property located at 916 East North 13th Street, Abilene, Texas 79601 to be used for the new Science and Engineering Research Center, (2) the Bullock Residence Hall and (3) Wildcat Stadium and Anthony Field, all located on or contiguous to the Borrower’s campus at 1600 Campus Court, Abilene, Texas 79699 (the “*Campus*”); (b) financing the costs for the acquisition, construction, renovation and/or equipment of academic and administration buildings, athletic facilities and dormitories including but not limited to (1) the Cullen Auditorium, (2) a new residence hall, (3) the new Science and Engineering Research Center, and (4) the Moody Coliseum, all located on the Campus (collectively, the “*Project*”); and (c) paying a portion of the costs of issuance of the Bonds;

WHEREAS, the Borrower has agreed to make payments in amounts sufficient to pay debt service required to be made under the Bonds (the “*Payments*”);

WHEREAS, section 147(f) of the Internal Revenue Code of 1986, as amended (the “*Code*”) requires that the issuance of any qualified 501(c)(3) obligations be approved by either the governing body of the City or the chief elected executive officer of the City after a public hearing following reasonable public notice;

WHEREAS, the publication of the Notice of Public Hearing (the “*Public Notice*”) is evidenced by a Publisher’s Affidavit (a copy of which is attached hereto as Exhibit A);

WHEREAS, attached hereto as Exhibit B is Certificate of Public Hearing regarding the conduct of the Public Hearing;

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

Section 1. The City hereby specifically approves the Financing and the Project solely for the purpose of satisfying the requirements of section 147(f) of the Code; provided that the City shall have no liabilities for the Payments nor shall any of the City’s assets be pledged to secure the Payments.

Section 2. This Resolution shall become effective immediately upon its passage adoption.

ADOPTED AND APPROVED on February 24, 2022.

ATTEST:

City Secretary

Mayor

(City Seal)

Approved:

City Attorney

EXHIBIT A

PUBLISHER'S AFFIDAVIT

EXHIBIT B

CERTIFICATE OF PUBLIC HEARING

Abilene Reporter-News

PART OF THE USA TODAY NETWORK

Certificate of
Publication

ORRICK
609 MAIN STREET

HOUSTON, TX 770023106

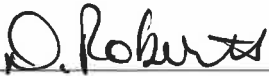
STATE OF WISCONSIN)
))
COUNTY OF BROWN)

Before me, the undersigned authority, on this day
personally appeared representing the Abilene
Reporter-News being duly sworn deposes and says that the
following notice(s) published in said newspaper generally
circulated in Brown, Callahan, Coleman, Comanche,
Eastland, Erath, Fisher, Haskell, Jones, Knox, Mitchell,
Nolan, Runnels, Scurry, Shackelford, Stephans, Stonewall,
Taylor counties, Texas by:

ORRICK

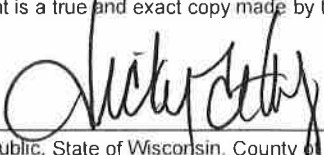
On the following issue(s) dated to wit:

02/14/2022



Legal Notice Clerk

On this February 17, 2022, I certify that the attached
document is a true and exact copy made by the publisher.:



Notary Public, State of Wisconsin, County of Brown

919.25

My Commission Expires

Publication Cost: \$543.35
Ad No: 0005124096
Customer No: 7136586433
PO #: 0005124096

of Affidavits: 1

This is not an invoice

VICKY FELTY
Notary Public
State of Wisconsin

NOTICE OF PUBLIC
HEARING

NOTICE IS HEREBY GIVEN of a public hearing to be held on behalf of the Newark Higher Education Finance Corporation (the "Corporation"), a nonprofit corporation created by the City of Newark, Texas pursuant to Chapter 53 and 53A, Texas Education Code, as amended, on February 22, 2022, at 11:00 a.m., in the Finance Conference Room of the Hardin Administration Building, Room 211C, Abilene Christian University, 1600 Campus Court, Abilene, Texas 79601, to provide an opportunity for all interested persons to be heard with respect to the proposed issuance of bonds, loans or other obligations for the benefit of Abilene Christian University (the "Borrower") in an aggregate principal amount not to exceed \$125,000,000 (the "Obligations"), to be issued as qualified 501(c)(3) bonds as defined in Section 145 of the Internal Revenue Code of 1986.

The Obligations are being incurred for the following purposes: (a) refinancing existing debt the proceeds of which were used to finance or refinance all or a portion of the cost of acquisition, construction, renovation and/or equipment of academic and administration buildings, athletic facilities and dormitories including (1) the purchase of property located at 1719 East North 10th Street, Abilene, Texas 79601 to be used for the new Science and Engineering Research Center, (2) the Bullock Residence Hall and (3) Wildcat Stadium and Anthony Field, all located on or contiguous to the Borrower's campus at 1600 Campus Court, Abilene, Texas 79699 (the "Campus"); (b) financing the costs for the acquisition, construction, renovation and/or equipment of academic and administration buildings, athletic facilities and dormitories including but not limited to (1) the Cullen Auditorium, (2) two new residence halls, (3) the new Science and Engineering Research Center, and (4) the Moody Coliseum, all located on the Campus (collectively, the "Project"); and (c) paying a portion of the costs of issuance of the Obligations. The Project will be owned and operated by the Borrower. The Obligations are not payable out of taxes and are secured by and payable solely from funds provided by the Borrower.

The public hearing will be conducted by Lori Herrick or her designee. All interested persons are invited to attend such public hearing to express their views with respect to the above-described project and the Bonds. Any interested persons unable to attend the hearing may submit their views in writing to the President of the Board of Directors of the Corporation c/o Orrick, Herrington & Sutcliffe LLP, Attn: Hoang Vu, 609 Main Street, 40th

Floor, Houston, Texas 77002,
prior to the date scheduled
for the hearing. This notice
is published and the hearing
is held in satisfaction of the
requirements of Section
147(f) of the Internal Reve-
nue Code of 1986, as amend-
ed.

**CERTIFICATE OF PUBLIC HEARING OFFICER
REGARDING PUBLIC HEARING (INTERNAL REVENUE CODE § 147(f))**

NEWARK HIGHER EDUCATION FINANCE CORPORATION
EDUCATION REVENUE BONDS
(ABILENE CHRISTIAN UNIVERSITY)
SERIES 2022A

I, the undersigned, do hereby make and execute this certificate for the benefit of all persons interested in the issuance of the above-referenced bonds (the "Bonds").

I hereby certify as follows:

1. I am the duly appointed hearing officer for the public hearing which was held in connection with the issuance of the Bonds at the time and place indicated in the Notice of Public Hearing included in **Exhibit A** attached hereto.
2. Notice of the public hearing was published no less than seven (7) days before the date of the public hearing in the *Abilene Reporter-News*, as evidenced by the Affidavit of Publication of the Notice of Public Hearing attached hereto as **Exhibit A**.
3. All persons appearing at the public hearing were given an opportunity to comment on the proposed issuance of the Bonds and the project to be financed with proceeds of the Bonds. No such persons appeared or made comments except as is set forth on **Exhibit B** attached hereto.
4. After giving all interested persons an opportunity to appear and comment, the public hearing was declared closed.

WITNESS MY HAND this 22nd day of February, 2022.

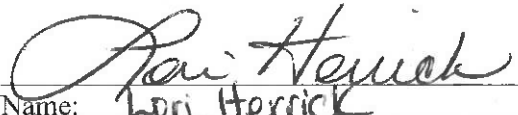

Name: Lori Herrick
Title: Hearing Officer

Exhibit A - Affidavit of Publication of the Notice of Public Hearing

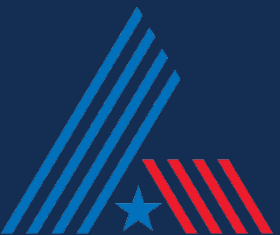
Exhibit B - Names and Comments of Persons Attending Public Hearing - NONE

Resolution Approving Financing by Newark Higher Education Finance Corporation for the Benefit of Abilene Christian University

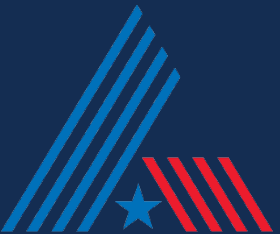


Resolution Approving Financing by Newark Higher Education Finance Corporation for the Benefit of Abilene Christian University

- Newark Higher Education Finance Corporation is proposing to issue bonds for the benefit of Abilene Christian University in the amount of \$125,000,000 for refinancing existing debt and financing costs for acquisition, construction, renovation and/or equipment of academic and administration buildings, athletic facilities and dormitories.
- Internal Revenue Code of 1986 Section 147(f) requires that the issuance of any qualified 501(c)(3) obligations be approved by either the chief elected officer or governing body of the City with jurisdiction over the facility, after a public hearing following reasonable public notice.
- Abilene Christian University held a public hearing on February 22, 2022 after posting notice in the Abilene Reporter News.
- The City shall have no liabilities for the payments of the obligations nor shall any of the City's assets be pledged to secure the obligations.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Chief Building Official

SUBJECT: 9. Ordinance (First Reading) Z-2022-03: Receive a Report, Hold a Discussion and Take Action on a Request from the Collective Owners of Properties Within the Subdivision Known as Airmen's Landing (Represented by Jacob & Martin LLC) to Change the Zoning from Planned Development District (PDD 160) to a Residential Medium Density (MD) District *(Tim Littlejohn)*

GENERAL INFORMATION

The request is to rezone from Planned Development District 160 (PDD-160) District to Medium-Density (MD) District.

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 four (4) to zero (0).

ATTACHMENTS:

1. Z-2022-03 Ordinance
2. Z-2022-03 Council Staff Report
3. Z-2022-03 Council presentation

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 24th day of February, 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 15th day of January, 2022, 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 March, 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 March, 2022.

ATTEST:

Shawna Atkinson
CITY SECRETARY

Anthony Williams
MAYOR

APPROVED:

Stanley Smith
CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Change the zoning classification of the following described land, from a Planned Development District (PDD-160) to a Residential Medium Density (MD) District:

BEING 18.128 acres of land out of a 135.99-acre tract, recorded on Page 783 in Volume 1374 of Deed Records for Taylor County, Texas, out of a 100- and a 120-acre tract recorded on Pages 604 and 605, respectively, in Volume 190 of Deed Records for Taylor County, Texas, out of the Samuel Ricker Survey No. 45 in Abilene, Taylor County, Texas, and being more particularly described by metes-and-bounds as follows:

BEGINNING at a 3/8-inch iron rod found for the southeast corner of said 135.99-acre tract, on the north line of right-of-way for Tumble Weed Lane (formerly Church Road) from which the called for southeast corner of the Samuel Ricker Survey Number 45 bears South 0° 00' East 15 feet and North 90° 00' East 2119.3 feet;

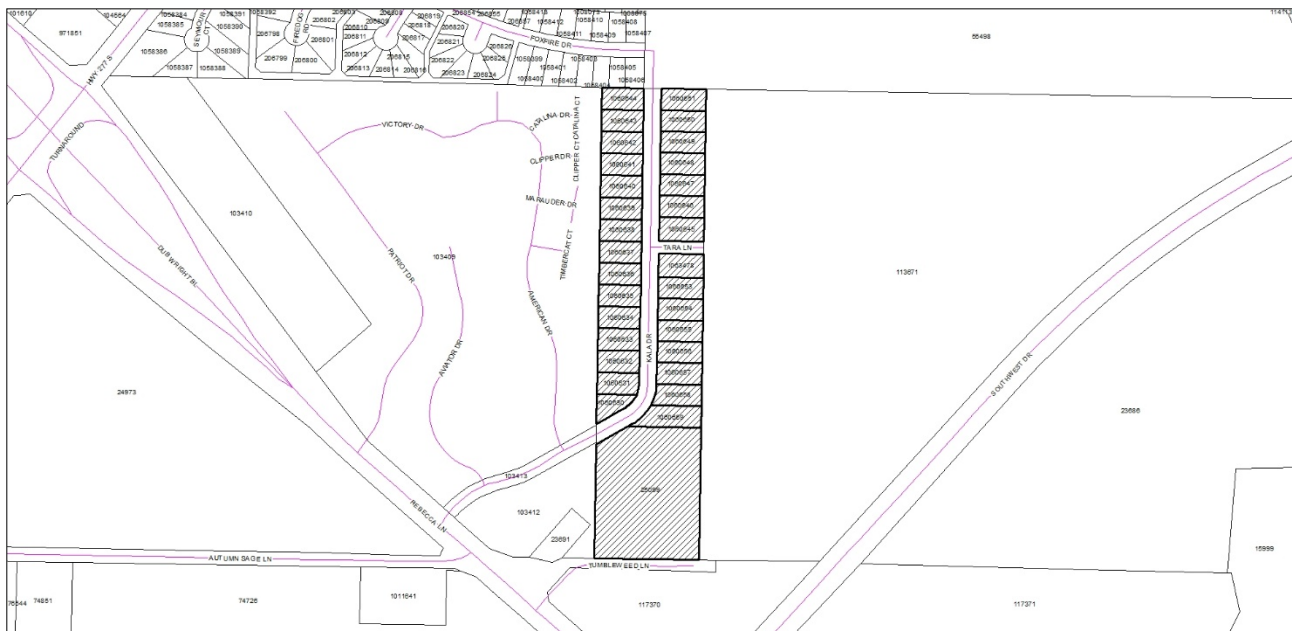
THENCE North 90° 00' West for a distance of 420.23 feet to a 1/2-inch rod set for the southwest corner of this tract, on the south boundary line of said 135.99-acre tract, same being the called-for southeast corner of a certain 18.21-acre tract recorded on Page 605 in Volume 1430 of Deed Records for Taylor County, Texas;

THENCE North 0° 00' East for a distance of 1895.55 feet to a 1/2-inch iron rod set on the reestablished north boundary line of the Samuel Ricker Survey No. 45, same being the north boundary line of said 135.99-acre tract and being the called-for northeast corner of said 18.21-acre tract;

THENCE North 90° 00' East for a distance of 412.94 feet to a 1/2-inch iron rod set for the northeast corner of said 135.99-acre tract;

THENCE South 0° 13' 13" East for a distance of 1895.56 feet, more or less along an existing fence, to the POINT OF BEGINNING.

[NOTE: These 18.128 acres of land encompass Lots 1 thru 15 in Block A, Lots 1 thru 7 in Block B, and Lots 1 thru 8 in Block C, all of which are in the subdivision known as Airmen's Landing, the plat of which is recorded on Slide 487 in Cabinet 4 of the Taylor County Clerk's Plat Records.]



-END-

ZONING CASE Z-2022-03

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: February 1, 2022

City Council 1st Reading: February 24, 2022

City Council 2nd Reading: March 10, 2022

Applicant

Owner: Collective Owners of properties within Airmen's Landing Subdivision

Agent: Jacob & Martin LLC

Request

Rezone from Planned Development District 160 (PDD-160) District to Medium-Density (MD) District.

Location

18.2 acres out of Samuel Ricker Survey 45 in the City of Abilene, Taylor County, Texas, and including but not limited to all of the subdivision formally known as Airmen's Landing.

Background

In 1986, the subject property was annexed into Abilene City Limits and the property was placed within an Agricultural Open (AO) zoning district. In 1992 the subject property and surrounding properties were rezoned to a mixture of zoning classifications. During this time, the subject property was embraced within a Multi-Family Residential (MF) zoning district (ordinance 35-1992). In 2018, the subject property was rezoned to a Planned Development District (PDD-160) (ordinance 56-2018). This Planned Development was created to promote the construction of townhomes with as few as two attached dwellings; with each dwelling located on separate lots.

In 2018, a preliminary plat, and the draft final plat for the subject property were reviewed by the City of Abilene's Development Review Committee (DRC). Each of these initial plats illustrated 60 townhome lots approximately 40-50 feet wide. In November of 2018, a preliminary plat was approved by the City of Abilene's Planning & Zoning Commission. This plat authorized the creation of 60 townhome lots as initially reviewed by the DRC. In October of 2019, approximately one year later; the final plat was approved by the Planning & Zoning Commission. This final plat substantially deviated from the original final plat reviewed by the City of Abilene's Development Review Committee. This plat effectively combined the previously authorized 60 townhome lots into 30 lots measuring approximately 85 to 95 feet wide.

Procedurally with all plats, two mylars are delivered to the Taylor County Clerk's Office. One plat is to remain at the Clerk's Office, the second is to be returned to the Planning Office for City records. The City copy is archived in the Planning Department's digital records for staff reference. The Planning Departments' copy of the plat that was recorded for this property was not placed in the digital records for staff reference until June of 2020; six months after being recorded. Between March 20 and May 12, 2020, the City of Abilene's planning staff was teleworking due to Covid-19. During this time, staff began receiving permits for the construction of residences within the Airmen's landing subdivision. At the time, staff had access to digital records that illustrated the "final plat" of Airmen's landing being comprised of 60 townhome lots. Subsequently, staff was under the impression that the

proposed residences were effectively being divided by lot boundaries and thereby creating true townhomes. It would later come to light that the lots were larger than what was illustrated on the “final plat” found in the Cities digital records at the time. Because of this, each of these residential buildings was built on individual lots; effectively creating duplexes as opposed to townhomes. Previous Planning Department administration believed that it would be too challenging to require the developers to re-plat these large lots in such a manner that would divide the existing residences in half. The greatest concern at the time was the potential for error or discrepancies in property ownership and potential partial ownership of portions of neighboring residences. At this time a total of 27 residential building permits have been issued for the construction of what amount to duplexes within the subdivision of Airmen’s Landing.

The owners of these properties would now like to rezone to Medium Density (MD) zoning to allow the construction of a triplex within the boundaries of this subdivision.

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 identifies this area as low-density residential. However, since 1992 the area has been zoned for a mixture of commercial activity as well as multi-family development. In 2001 the property immediately west of the subject property was developed into what are now the Quail Hollow apartments. It is the opinion of the staff that the proposed zoning map amendment will serve to implement the goals, objectives, and policies of the Comprehensive Plan by promoting a mixture of housing types within a neighborhood; providing opportunities for a wide variety of people, in various stages of life. According to the Comprehensive Plan, the stability of a neighborhood is enhanced when a single area can meet the needs of diverse and changing households – rather than households moving to find different housing types.

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

It is the opinion of the staff that the uses permitted by the proposed zone change are consistent with the surrounding properties in the immediate vicinity. The character of development permitted by Medium Density Residential (MD) zoning will serve as an effective transitional land use between the commercially zoned properties fronting Rebecca Lane/Dub Wright Boulevard, the existing multi-family apartment development, and the existing single-family homes immediately north of the subject property within the Butterfield Meadows Subdivision.

(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 adjoins Kala Drive, a collector street that is fully improved with a 40-foot-wide pavement as well as curb-and-gutter. Streets such as this are designed to accommodate the volume of traffic that one may expect from the development of medium-density housing.

Furthermore, suitable water and sewer mains exist in the adjoining rights-of-way for Kala Drive, directly accessible to each of the lots within this subdivision.

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

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

Staff Recommendation

City staff recommends approval of the request. The rezoning request was reviewed pursuant to Section 1.4.1.4 (Criteria for Approval) of the Land Development Code.

Planning and Zoning Commission Action

At the February 1, 2022 meeting, the Planning and Zoning Commission voted 4-0 to recommend approval to City Council.

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on January 20 of 2022, 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	Property ID	Situs	Response
BINNS MATTHEW	1058405	5709 FOXFIRE DR	
BRESSLER ASHLEY	1058409	5718 FOXFIRE DR	
BROWN DARREN RAY & SHELLY ELAINE	1058406	5701 FOXFIRE DR	
BUTTERFIELD MEADOWS LLC	55498		
CECILIO ROBERTO & FELICITY CORONADO	1058403	5725 FOXFIRE DR	
CITY OF ABILENE	103413	5802 KALA DR	
CITY OF ABILENE	23691		
CURNETT RODNEY L & SHANIA MARIAH	1058402	5733 FOXFIRE DR	
ELLIOTT JAYTON	1058407	5702 FOXFIRE DR	
ELM ACRES VENTURE LP	113671		
ELM ACRES VENTURE LP	117370		
HALEY BETTY	1063478	3807 KALA DR	
KKID LLC	1060653	3815 KALA DR	
KKID LLC	1060654	3823 KALA DR	
KKID LLC	1060655	3831 KALA DR	
KKID LLC	1060656	3839 KALA DR	
KKID LLC	1060645	3749 KALA DR	
KKID LLC	1060646	3741 KALA DR	
KKID LLC	1060657	3847 KALA DR	
KKID LLC	1060658	3855 KALA DR	
KLUBER KURT	1058408	5710 FOXFIRE DR	
KYLE PAUL CONSTRUCTION LLC	1060641	3726 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060640	3734 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060642	3718 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060643	3710 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060651	3701 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060647	3733 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060648	3725 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060649	3719 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060650	3709 KALA DR	
KYLE PAUL CONSTRUCTION LLC	1060659	3903 KALA DR	
LEAL GUILLERMO NARCISO JR	1060639	3742 KALA DR	
MELTON ABIGAIL	1058404	5717 FOXFIRE DR	
PADILLA CHRISTOFER P & EMIELYN ABIAN	1058401	5741 FOXFIRE DR	
R&C NOBLES PROPERTIES LLC	25099		
R&C NOBLES PROPERTIES LLC	1060644	3702 KALA DR	
R&C NOBLES PROPERTIES LLC	1060630	3906 KALA DR	
R&C NOBLES PROPERTIES LLC	1060631	3850 KALA DR	
R&C NOBLES PROPERTIES LLC	1060632	3842 KALA DR	
R&C NOBLES PROPERTIES LLC	1060633	3834 KALA DR	
R&C NOBLES PROPERTIES LLC	1060634	3826 KALA DR	
R&C NOBLES PROPERTIES LLC	1060635	3818 KALA DR	
R&C NOBLES PROPERTIES LLC	1060636	3810 KALA DR	
REYNOLDS PORSHIA BIANCA	1060638	3750 KALA DR	
TMNM LLC	1060637	3802 KALA DR	
VAZQUEZORDUNA JOSE LUIS & FELIZ MARGARITA	1058410	5728 FOXFIRE DR	
WESTERN AH 406 LTD	103409	5757 CATALINA DR	
WESTERN AH 406 LTD	103412	5857 KALA DR	

Attachments

Application

PowerPoint Presentation

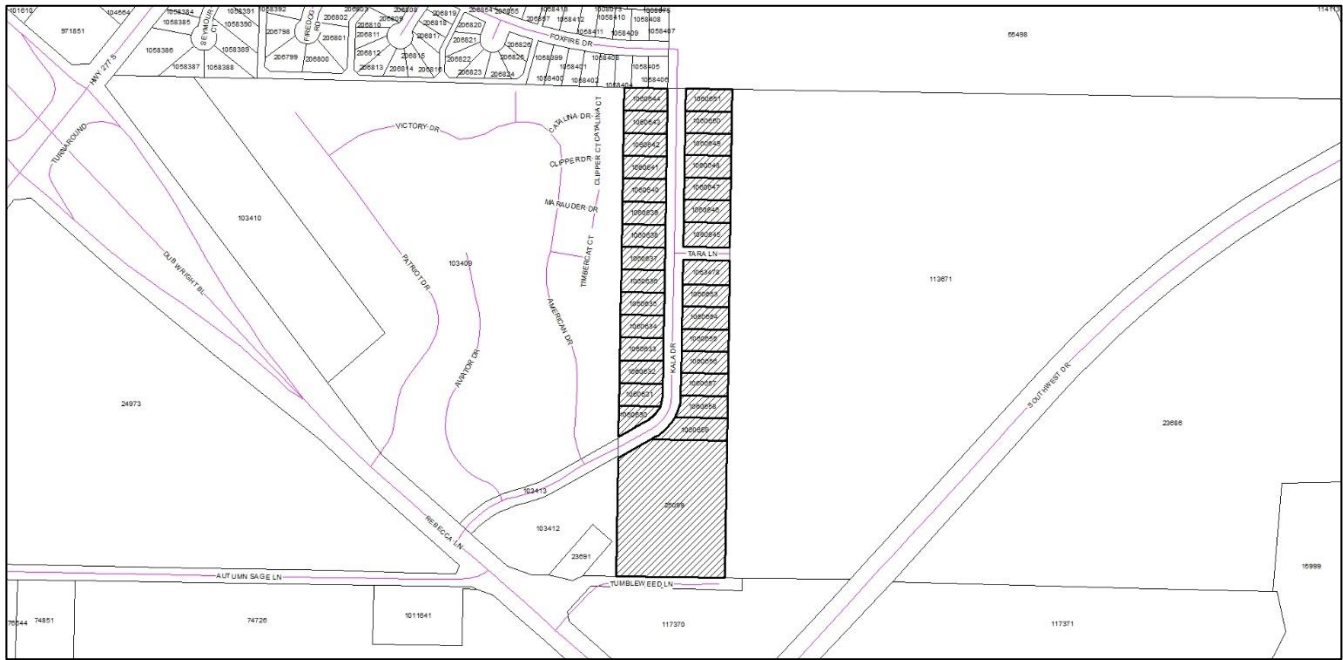
Ordinance NO. 35-1992

Ordinance NO. 56-2018

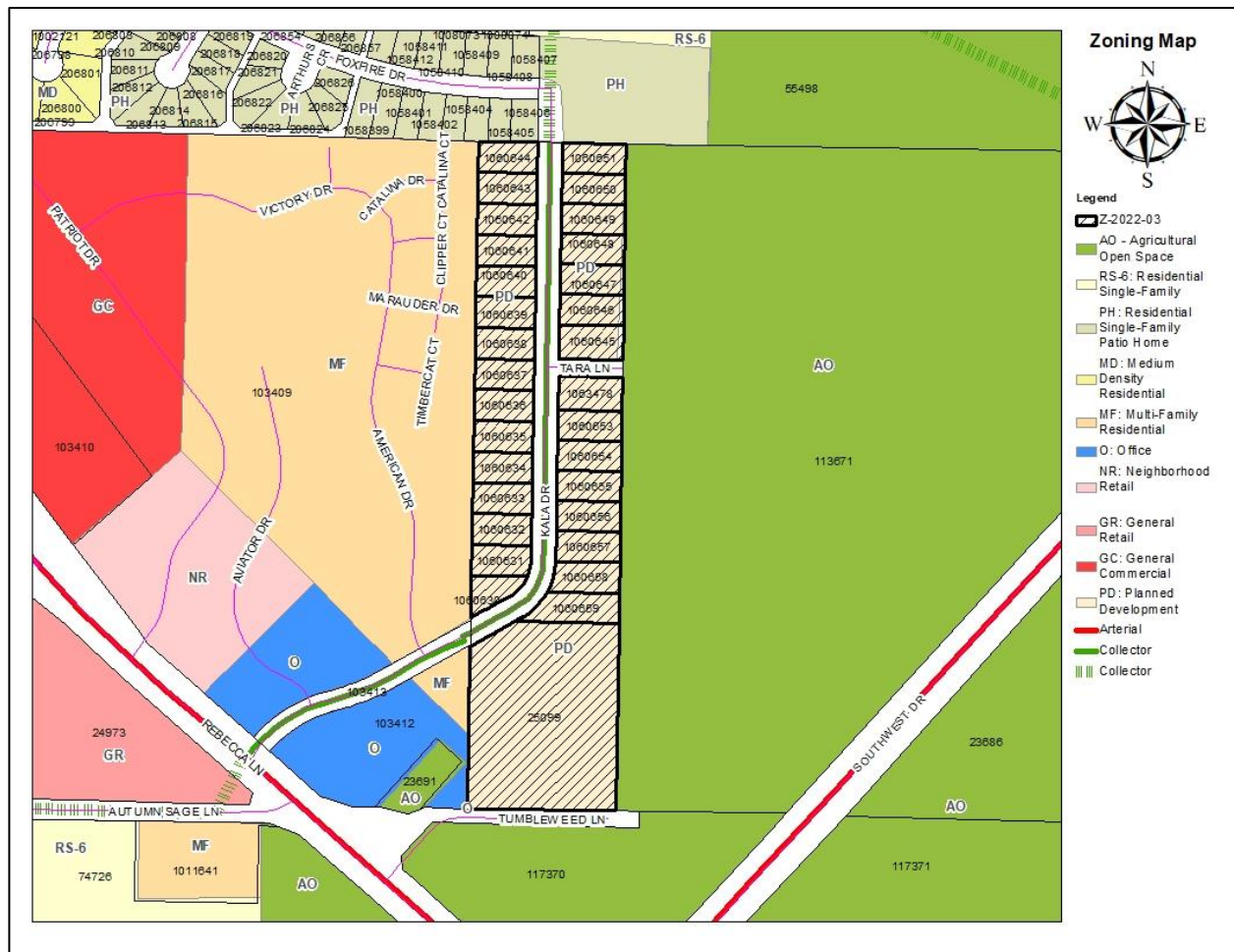
Draft Final Plat FP-6618 (Airmen's Landing)

Recorded Final Plat FP-6618 (Airmen's Landing)

LOCATION MAP



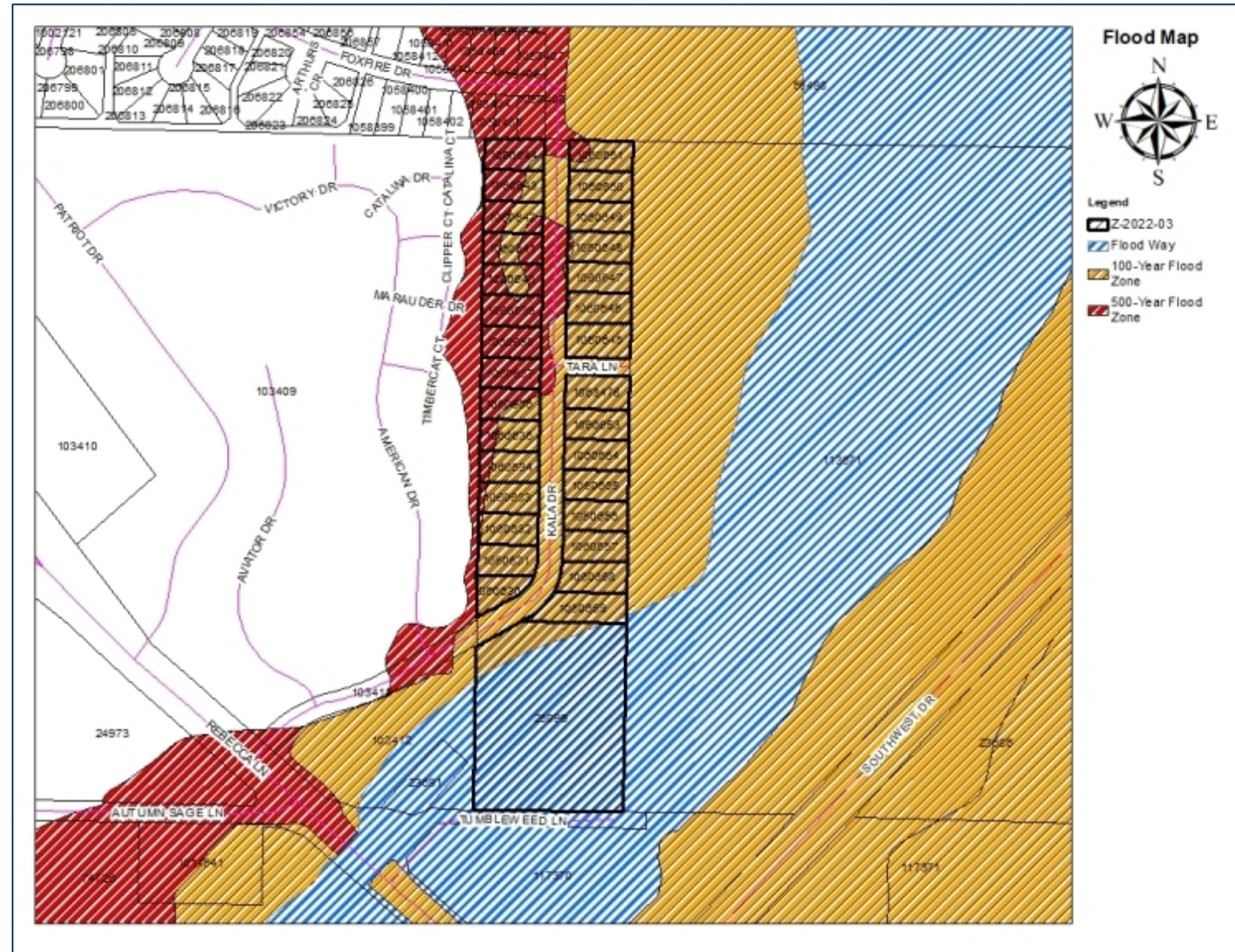
ZONING MAP



Case:	Z-2022-03
Owner:	Collective Owners of property in Airmen's Landing subdivision
Agent:	Jacob & Martin
Request:	Rezone from Planned Development (PD) District to Residential Medium Density (MD) zoning.
Location:	18.2 acres out of Samuel Ricker Survey 45, to include all of the subdivision known as Airmen's Landing.
Notification:	1 in Favor, 0 Opposed
Planning & Zoning:	Approval, February 1, 2022

Z-2022-03 LOCATION MAP





Permitted Uses in MD Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- C Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single-Family Detached
- C Group Home

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
- C Mobile Home (temporary security residence)
- 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 Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Homeless/Emergency Shelter
- C Rehabilitation Facility
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- C Day-Care Operation - Center-Based
- 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

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

Subject Property (South view of Kala Dr.)



Subject Property (North view of Kala Dr.)



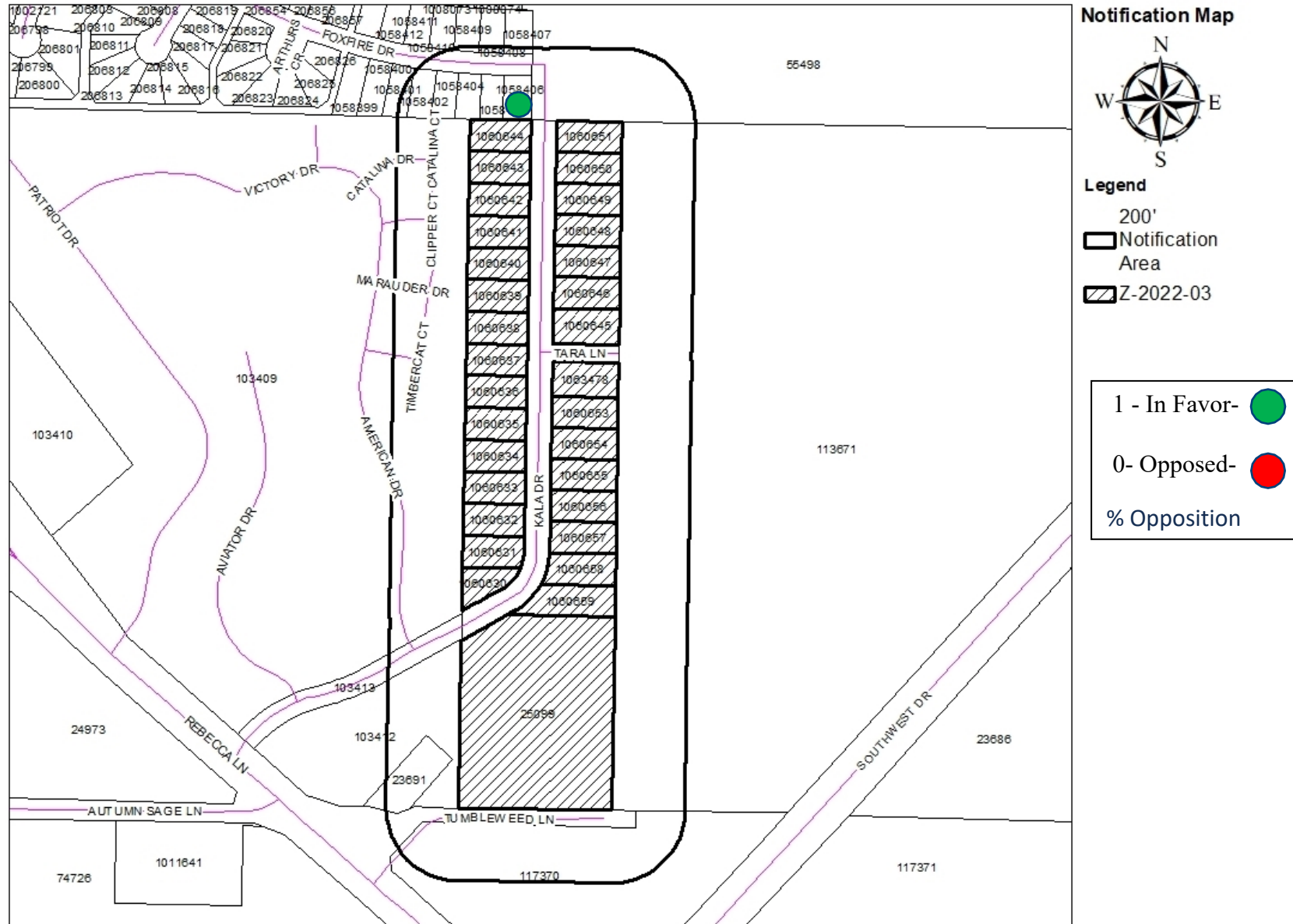
Neighboring Property (West)



Neighboring Property (North)



Z-2022-03 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: 2/24/2022

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 10. Discussion: Receive a Report, Hold a Discussion and Public Hearing on Funding for a Train Sculpture in the Front of City Hall *(Robert Hanna)*

GENERAL INFORMATION

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 2/24/2022

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 11. 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



City Council Agenda Memo

City Council Meeting Date: 2/24/2022

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: **12. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving Participation in the Attorney General's Endo & Teva Opioid Settlements (*Stanley Smith*)

GENERAL INFORMATION

Texas, along with a broad coalition of states and subdivisions, has reached final agreements with six companies to resolve legal claims for their role in the opioid crisis. Three agreements are with opioid manufacturers Johnson & Johnson, Endo, and Teva. The other agreement is with three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson. Abilene has already agreed to participate in the settlements with J&J, AmerisourceBergen, Cardinal Health, and McKesson. This agenda item is to agree to participate in the settlement agreements with Endo and Teva.

Nationally, the J&J and Distributor agreements provide for \$26 billion in payments over 18 years, with \$23.9 billion available for opioid abatement and significant amounts front loaded. Funding will be distributed to states according to the allocation agreement reached among the Attorneys General. Subdivisions can only participate in the agreement if their state participates. The recent settlements with Endo and Teva brings Texas' combined share to over \$1.6 billion: \$1.17 billion from the distributors, \$268 million from J&J, \$56 million from Endo, and \$131.5 from Teva. Teva will also be contributing \$75 million in Narcan to Texas. Distribution within Texas is governed by the Texas Term Sheet, an intrastate agreement between the state and litigating subdivisions, and administered by the Opioid Council. The funding must be used to support any of a wide variety of strategies to fight the opioid crisis. Separate provisions exist to compensate attorneys who

have pursued opioid litigation on behalf of states and local governments. The more subdivisions that join, the more money everyone in Texas will receive. Future opioid litigation by non-participating entities may result in suspension and reduction of future payments. Even without full resolution of claims, states and subdivisions can still receive substantial payments by resolving a significant portion of current and future claims.

The four agreements contain industry-changing injunctive terms. The distributors will be subject to more oversight and accountability, including an independent monitor, to prevent deliveries of opioids to pharmacies where diversion and misuse occur. They will be required to establish and fund an independent clearinghouse to track opioid distribution nationwide and flag suspicious orders. J&J, Endo, and Teva will be prohibited from selling or promoting opioids.

SPECIAL CONSIDERATIONS

The City of Abilene must approve the settlements with Endo and Teva by March 10, 2022.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends that the City Council approve the settlement agreements with Endo and Teva, and authorize the City Manager to execute all documents necessary to participate in the opioid settlements with Endo and Teva.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2022 Resolution AG Teva & Endo Opioid Settlement
2. Endo
3. TEVA TX Subdivision Release Form
4. Approve Teva Endo Opioid Settlement Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO ENTER INTO THE TEVA AND ENDO
OPIOID SUBDIVISION SETTLEMENTS ON BEHALF OF THE CITY OF ABILENE**

WHEREAS, the State of Texas, along with many other states and subdivisions, has reached a final agreement with two additional companies to resolve legal claims against them for their role in the opioid crisis; and

WHEREAS, one agreement is with Teva Pharmaceutical Industries Ltd., et al. and the other agreement is with Endo Pharmaceuticals Inc., et al.; and

WHEREAS, the Teva agreement provides for \$131.5 million in payments statewide, and the Endo agreement provides for \$56 million in payments statewide; and

WHEREAS, subdivisions, including the City of Abilene, can only participate in the agreements if their state participates, and the State of Texas has already agreed to participate; and

WHEREAS, in addition, both Teva and Endo will be prohibited from selling or promoting opioids; and

WHEREAS, to adopt and participate in the settlements, the City of Abilene must sign the Settlement Subdivision Release forms by March 10, 2022.

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

Part 1: That the City Council hereby approves entering into the settlement agreements with Teva and Endo as set forth in Exhibit A and Exhibit B hereto.

Part 2: That the City Council authorizes the City Manager to execute any and all documents necessary to participate in the Texas Attorney General's Settlement Agreements with Teva and Endo.

Part 3: That the City Council authorizes the City Manager to use the funds paid to the City of Abilene pursuant to the settlement agreement for any purposes consistent with the requirements of the settlement agreement.

Part 4: That this Resolution becomes effective immediately upon adoption.

ADOPTED this 24th day of February, 2022.

ATTEST:

Shawna Atkinson
City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

Exhibit A

TEXAS SUBDIVISION AND SPECIAL DISTRICT ELECTION AND RELEASE FORM

This Election and Release Form for Texas Participating Subdivisions¹ resolves opioid-related Claims against Endo/Par under the terms and conditions set forth in the Endo/Par Texas State-Wide Opioid Settlement Agreement between Endo/Par, the State of Texas, and the Counties of Dallas, Bexar, Harris and Tarrant (the “Agreement”), the provisions of which are here incorporated by reference in their entirety. Upon executing this Election and Release Form, a Participating Subdivision agrees that, in exchange for the consideration described in the Agreement, the Participating Subdivision is bound by all the terms and conditions of the Agreement, including but not limited to the Release found in Section VII of the Agreement and the provisions concerning participation by Subdivisions or Special Districts in Section VIII, and the Participating Subdivision and its signatories expressly represent and warrant on behalf of themselves that they have, or will have obtained on or before the Effective Date or on or before the execution of this Election and Release Form if executed after the Effective Date, the authority to settle and release, to the maximum extent of the Subdivision’s and Special District’s power, all Released Claims related to Covered Conduct. If this Election and Release Form is executed on or before the Initial Participation Date, the Participating Subdivision shall dismiss Endo/Par and all other Released Entities with prejudice from all pending cases in which the Participating Subdivision has asserted Covered Claims against Endo/Par or a Released Entity no later than the Initial Participation Date. If this Election and Release Form is executed after the Initial Participation Date, the Participating Subdivision shall dismiss Endo/Par and all other Released

¹ The Agreement defines a “Participating Subdivision” as a Subdivision or Special District that signs this Election and Release Form and meets the requirements for becoming a Participating Subdivision under subsection VIII.A. of the Agreement.

Entities with prejudice from all pending cases in which the Participating Subdivision has asserted Covered Claims against Endo/Par or a Released Entity concurrently with the execution of this form. By executing this Election and Release Form, the Participating Subdivision submits to the jurisdiction of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas.

Dated: _____

Texas Subdivision Name: _____

By: _____

[NAME]

[TITLE]

[ADDRESS]

[TELEPHONE]

[EMAIL ADDRESS]

Exhibit B

TEXAS SUBDIVISION AND SPECIAL DISTRICT ELECTION AND RELEASE FORM

This Election and Release Form for Texas Participating Subdivisions¹ resolves opioid-related Claims against Teva under the terms and conditions set forth in the Teva Texas State-Wide Opioid Settlement Agreement between Teva, the State of Texas, and the Counties of Dallas, Bexar, Harris and Tarrant (the “Agreement”), the provisions of which are here incorporated by reference in their entirety. Upon executing this Election and Release Form, a Participating Subdivision agrees that, in exchange for the consideration described in the Agreement, the Participating Subdivision is bound by all the terms and conditions of the Agreement, including but not limited to the Release found in Section VII of the Agreement and the provisions concerning participation by Subdivisions or Special Districts in Section VIII, and the Participating Subdivision and its signatories expressly represent and warrant on behalf of themselves that they have, or will have obtained on or before the Effective Date or on or before the execution of this Election and Release Form if executed after the Effective Date, the authority to settle and release, to the maximum extent of the Subdivision’s and Special District’s power, all Released Claims related to Covered Conduct. If this Election and Release Form is executed on or before the Initial Participation Date, the Participating Subdivision shall dismiss the Released Claims with prejudice and sever Teva and all other Released Entities from all pending cases in which the Participating Subdivision has asserted Covered Claims against Teva or a Released Entity no later than the Initial Participation Date. If this Election and Release Form is executed after the Initial Participation Date, the Participating Subdivision shall dismiss the

¹ The Agreement defines a “Participating Subdivision” as a Subdivision or Special District that signs this Election and Release Form and meets the requirements for becoming a Participating Subdivision under subsection VIII.A. of the Agreement.

Released Claims with prejudice and sever Teva and all other Released Entities from all pending cases in which the Participating Subdivision has asserted Covered Claims against Teva or a Released Entity concurrently with the execution of this form. By executing this Election and Release Form, the Participating Subdivision submits to the jurisdiction of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas.

Dated: _____

Texas Subdivision Name: _____

By: _____

[NAME]

[TITLE]

[ADDRESS]

[TELEPHONE]

[EMAIL ADDRESS]

Approval of Teva and Endo Opioid Settlement Agreements

