



City of Abilene City Council Agenda

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

Anthony Williams, Mayor

Donna Albus, Council Member
Shane Price, Council Member
Travis Craver, Council Member
Stanley Smith, City Attorney
Shawna Atkinson, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on May 12, 2022, at 8:30 a.m., at the Abilene Public Library, South Branch, Mall of Abilene, 4310 Buffalo Gap Road, Abilene, Texas, or 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. Deputy Mayor Pro-tem Travis Craver

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. **Proclamations:**

- Bicycle Safety Week & Ride of Silence
- Public Works Week

CONSENT AGENDA AND PUBLIC COMMENTS

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

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

listed on the Council agenda.

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

3. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 28, 2022 **(Shawna Atkinson)**
4. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Agreement to Close Victoria Street Railroad Crossing Upon TXDOT's Completion of Improvements at Sayles BLVD Railroad Crossing **(Max Johnson)**
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Funds for Railroad Improvement on EN 10th Street **(Max Johnson)**
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Adopting a Resolution Amending Resolution 05-2021 by Adopting Article VII - Utility Policies **(Robert Hanna)**
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on awarding the bid for the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline - Phase I **(Rodney Taylor)**
8. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Approve Library Materials Purchases from Midwest Tape for Hoopla **(Julee Hatton)**
9. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Approve Library Materials Purchases from Baker & Taylor **(Julee Hatton)**
10. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Continue the Agreement with OverDrive **(Julee Hatton)**
11. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Continue the Agreement with the Abilene Library Consortium **(Julee Hatton)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

12. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Modifying and Extending the Declaration of Local Disaster (COVID-19) **(Robert Hanna)**
13. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the Issuance of City of Abilene, Texas Combination Tax and Limited Surplus Revenue Certificates of Obligation, Series 2022; Authorizing the Sale and Delivery of the Certificates; Providing an Effective Date; and Enacting other Provisions Relating to the Subject **(Mike Rains)**
14. **Ordinance (Final Reading) Z-2022-07:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Collective Owner of Properties Within the Subdivision Known as Windmill Acres (Represented By Jacob & Martin LLC) to Amend the Zoning from Planned Development District (PDD 156) to Add Self-Storage as a Permitted Use in Windmill Acres in the City of Abilene, Taylor County, Texas. **(Tim Littlejohn)**
15. **Ordinance (Final Reading) Z-2022-08:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Collective Owner of Property Within the Subdivision Known as Mill Ridge Estates to Change the Zoning of 27.859 Acres from Residential Single-Family District-6 (RS-6) to Residential Single-Family Patio Home District (PH) at the 200 Block of Hardison Lane, Abilene, Taylor County, Texas. **(Tim Littlejohn)**

16. **Ordinance (Final Reading) CUP-2022-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from the collective owner of property within the subdivision known as Original Town of Abilene to allow the use of a tattoo parlor within the Central Business (CB) district, 536 Hickory Street, Abilene, Taylor County, Texas. **(Tim Littlejohn)**
17. **Discussion:** Receive a Report and Hold a Discussion on the 2021 International Building Code **(Van Watson)**

EXECUTIVE SESSION

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

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
4. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
6. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
7. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
8. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
9. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
10. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
11. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No. P827783CV, in the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020
12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
13. James Easley v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed September 22, 2021
14. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021
15. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021
16. Allstate Fire and Casualty Insurance Company as Subrogee of Del Davis v. City of Abilene; Case No. SC22-11166J11, In the Justice Court, Precinct 1, Place 1, Taylor County, Texas, filed March 30, 2022
17. Governor's Executive Orders - COVID-19

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

RECONVENE

ADJOURNMENT

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

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 6th day of May, 2022, at 3:10 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 28, 2022
(*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on April 28, 2022

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 04-28-2022 Minutes - Regular - Morning

CITY COUNCIL MEETING
April 28, 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 April 28, 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.

Councilmember Shane Price delivered the invocation and Councilmember Hurt led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 2-14. No items were pulled for individual consideration.

PUBLIC COMMENTS

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

- David Swart – spoke about his concerns on not being able to pull and speak on consent items. Mr. Swart also stated concerns he had about the radio systems in the new fire apparatus.
- Beverly Paxton – spoke about needing better communication and transparency with the city council and residents. Ms. Paxton also expressed concerns about the new bitcoin facility.
- Marshall Morris – spoke on behalf of the Chamber of Commerce. Mr. Morris stated that next week is small business week and the theme this year is Building a Better America through Entrepreneurship. Mr. Morris has invited everyone to the luncheon next week and the ribbon cutting on Monday.
- Colby Marcy – spoke in support of item number 14.
- Bailey Hide – spoke in support of item number 14.
- Dorothy Clay – spoke in support for the sanctuary city for the unborn.
- Tim Smith – spoke in support of item number 14.
- Susie Tucker – spoke about Brazil and freedoms she has found in America.
- Megan Russe – spoke in support for the sanctuary city for the unborn.
- Jason DeLong – spoke in support for the sanctuary city for the unborn.
- Courtney Shore – spoke in support of item number 14.
- Heather Hidewargo – spoke in support of item number 14.
- Zack Darr – spoke in support for the sanctuary city for the unborn.
- Isaac Castro – spoke in support for the sanctuary city for the unborn.
- Ashley Lenertz – spoke in support for the sanctuary city for the unborn.
- Rita Obrient – spoke in support for the sanctuary city for the unborn.
- Ruth York – spoke in support for the sanctuary city for the unborn.
- Kimberly Bealy – spoke in support for the sanctuary city for the unborn.
- Carla Qually – spoke in support for the sanctuary city for the unborn.

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

Cande Flores, Fire Chief, addressed Mr. Swart's concerns on the new fire apparatus – the radio system is coming from the current vehicles, and the weather station is being provided by the vendor and included in the price.

CONSENT AGENDA

Councilmember Hurt moved to approve the consent agenda, consisting of items 2-14. Mayor Pro-tem McAlister 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

2. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 14, 2022
3. Resolution: Receive a Report, Hold a Discussion and Take Action on the purchase of One 2021 Komatsu Wheel Loader for Water Distribution
[ASSIGNED RESOLUTION NO. 65-2022]
4. Resolution: Receive a Report, Hold a Discussion and Take Action on authorizing a contract with Parkson Corporation for the purchase and installation of a replacement Drum Screen Unit for the Hamby Water Reclamation Facility
[ASSIGNED RESOLUTION NO. 66-2022]
5. Resolution: Receive a Report, Hold a Discussion and Take Action on authorizing change orders with Aclara Technologies, LLC and Pedal Valves, Inc. for the close out of the project for the acquisition and installation of Advanced Metering Infrastructure and Smart Water Meters
[ASSIGNED RESOLUTION NO. 67-2022]
6. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing a Contract Renewal for the City's Three-year Environmental Systems Research Institute, Inc. ("ESRI") Geographical Information System (GIS) and Mapping Software
[ASSIGNED RESOLUTION NO. 68-2022]
7. Resolution: Receive a Report, Hold a Discussion and Take Action to Authorize the City Manager to Execute a Contract with Texas Fire Apparatus, LLC for the Purchase of One (1) Custom Built HazMat/Communication Apparatus with Updated Pricing and Specifications
[ASSIGNED RESOLUTION NO. 69-2022]
8. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding Bid No. 2231 to Bo Simons Inc., for CR 311 Rehabilitation Project
[ASSIGNED RESOLUTION NO. 70-2022]
9. Resolution: Receive a Report, Hold a Discussion and Take Action on Finding that AEP Texas Inc.'s Application to Amend Its Distribution Cost Recovery Factors to Increase Distribution Rates Within the City Should be Denied; Authorizing Participation with the Cities Served By AEP Texas; Authorizing Hiring of Legal Counsel; Finding that the City's Reasonable Rate Case Expenses Shall Be Reimbursed by the Company; Finding that the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of this Resolution to the Company and Legal Counsel
[ASSIGNED RESOLUTION NO. 71-2022]

10. Oral Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Updates to the City Council Rules of Procedure
[ORAL RESOLUTION]
11. Resolution: Receive a report, Hold a discussion and Take Action on Approving the Issuance of Multifamily Housing Revenue Bonds (Villages at Westlake Apartments) series 2022, to be Issued in One or More Series of Tax Exempt Bonds in an Aggregate Principal Amount not to Exceed \$18,000,000.00
[ASSIGNED RESOLUTION NO. 72-2022]
12. Ordinance (First Reading) Z-2022-07: Receive A Report, Hold A Discussion And Take Action on a Request from the Collective Owner of Properties Within the Subdivision Known as Windmill Acres (Represented By Jacob & Martin LLC) to Amend the Zoning from Planned Development District (PDD 156) to Add Self-Storage as a Permitted Use in Windmill Acres in the City of Abilene, Taylor County, Texas
13. Ordinance (First Reading) Z-2022-08: Receive A Report, Hold A Discussion and Take Action on a Request from the Collective Owner of Property Within the Subdivision Known as Mill Ridge Estates to Change the Zoning of 27.859 Acres from Residential Single-Family District-6 (RS-6) to Residential Single-Family Patio Home District (PH) at the 200 Block of Hardison Lane, Abilene, Taylor County, Texas
14. Ordinance (First Reading) CUP-2022-01: Receive a Report, Hold a Discussion and Take Action on a request from the collective owner of property within the subdivision known as Original Town of Abilene to allow the use of a tattoo studio within the Central Business (CB) district, 536 Hickory Street, Abilene, Taylor County, Texas

REGULAR AGENDA

Mayor Williams moved item 17 to the beginning of the Regular Agenda.

17. Initiative Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Initiative Ordinance Outlawing Abortion, Declaring Abilene a Sanctuary City for the Unborn, Making Various Provisions and Findings, Providing for Severability, and Establishing an Effective Date
[FAILED]

Robert Hanna, City Manager, presented the item. Adoption of the item would make Abilene a Sanctuary City for the Unborn. The ordinance was officially read in its entirety via a pre-recorded audio file.

Mayor Williams recessed into a short break at 10:00 a.m. and reconvened at 10:08 a.m.

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

- Senator Charles Perry – spoke in support of the item.
- Karson Rigsby – spoke in support of the item.
- Ryan Goodwin – spoke in support of the item.
- Theresa Jarocki – spoke in support of the item.
- Virginia Smith – spoke in support of the item.
- Jose Reyes – spoke in support of the item.
- Scott Beard – spoke in support of the item.
- Charles Byrn – spoke in support of the item.
- James Sargent – spoke in support of the item.
- Vernetta Howell – spoke in support of the item.

- Hershel Redding – did not speak, but was in support of the item.
- Patsy Smith – did not speak, but was in support of the item..
- Kimberly Beard – did not speak, but was in support of the item.
- Julio Santana – did not speak, but was in support of the item.
- Linda Buckman – did not speak, but was in support of the item being placed on the ballot for citizen vote.
- Lisa VanCleave – did not speak, but was in support of the item.
- Nancy Hulit – did not speak, but was in support of the item.
- Bethany Gilliam – did not speak, but was in support of the item being placed on the ballot for citizen vote.
- Jason Delong – did not speak, but was in support of the item
- Peggy Santana – did not speak, but was in support of the item
- Nathan VanEchaute – did not speak, but was in support of the item
- Elizabeth Redding – did not speak, but was in support of the item
- Ann Sasse – did not speak, but was in support of the item
- Rick Bennett – did not speak, but was in support of the item
- Denise Alkire – did not speak, but was in support of the item
- Anadelia Landin – did not speak, but was in support of the item
- Mary Starks – did not speak, but was in support of the item
- Bruce Tentzer – did not speak, but was in support of the item.
- Linda Casady – spoke in support of the item.
- Carla Qually – spoke in support of the item.
- Mark Lee Dixon – spoke in support of the item.
- John Sheppard – spoke in support of the item.
- Drothy Clay – spoke in support of the item.
- Lance Thomas – spoke in support of the item.
- Reba O’Bryant – spoke in support of the item.
- Jimmie Wait – did not speak, but was in support of the item
- Vanna Hinson – did not speak, but was in support of the item
- James Henson – did not speak, but was in support of the item
- Cara (last name unknown) – did not speak, but was in support of the item
- Angela Vann – did not speak, but was in support of the item
- Caroline Walden – did not speak, but was in support of the item
- Jeremy Curries – spoke in support of the item.
- Grace Jones – spoke in support of the item.
- Isaac Castro – spoke in support of the item.
- Samuel Garcia – did not speak, but was in support of the item
- Amanda Estevez – spoke in support of the item.
- Cathy Tinzler – spoke in support of the item.
- Zach Darr – did not speak, but was in support of the item
- Ashley lenertz – did not speak, but was in support of the item
- Lesli Bowen – spoke in support of the item.
- Ruth York – did not speak, but was in support of the item
- Susie Tucker – did not speak, but was in support of the item
- Tianne McClindan – spoke in support of the item.
- David Swart – expressed that he was neither for nor against this item, but worries about the cost it would incur the city tax payers if litigation occurs. He thinks that money could be better spent elsewhere like fixing potholes.

- Rodney Casey – did not speak, but was in support of the item
- Katherine White – did not speak, but was in support of the item
- Olga Chavonne – did not speak, but was in support of the item
- Angela Moore – spoke in support of the item.
- Elvira Oliver – spoke in support of the item.
- Angel Poorman – spoke in support of the item.
- Dianne Bennett – spoke in support of the item.
- David Black – spoke in support of the item.
- Katherine White – spoke in support of the item.
- Jerry Peters – spoke in support of the item.
- Jerry Massen – spoke in support of the item.
- Michelle Taliaferro – spoke in support of the item.

With no other speakers coming forward, the public hearing was closed. Council discussed their concerns and view on this item.

Mayor Pro-tem McAlister moved to send the ordinance to a citizen vote at the next General Election in November. Deputy Mayor Pro-tem Craver seconded the motion; motion carried.

AYES (4): Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver and Councilmembers Beard and Albus
NAYS (3): Mayor Williams, Councilmembers Price and Hurt.

15. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance of the City of Abilene, Texas, and Providing for the Extension of the Boundary Limits of the City of Abilene, Texas, and for the Annexation of Certain Territory - 71.88 acres - Lying Adjacent and Contiguous to the Present Boundary Limits of the City of Abilene, and Granting to All the Inhabitants of the Territory, all the Rights and Privileges of Other Citizens and Binding the Inhabitants by All of the Acts, Ordinances, Resolutions, and Regulations of the City of Abilene; and Adopting a Service Plan Agreement
[ASSIGNED ORDINANCE NO. 14-2022]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would annex 71.88 acres of South ½ Section 77, Block 14, T& P RR Co Surveys, and Jones County into the City limits of Abilene.

Mayor Williams opened the public hearing. With no 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 (7): Mayor Williams, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver and Councilmembers Price, Beard, Albus and Hurt
NAYS (0): None

Mayor Williams left the meeting after this item and Mayor Pro-tem McAlister presided over the remainder of the meeting.

16. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance of the City of Abilene, Texas, and Providing for the Extension of the Boundary Limits of the City of Abilene, Texas, and for the Annexation of Certain Territory - 821.22 acres - Lying Adjacent and Contiguous to the Present Boundary Limits of the City of Abilene, and Granting to All the Inhabitants of the Territory, all the Rights and Privileges of Other Citizens and Binding the Inhabitants by All of the Acts, Ordinances, Resolutions, and Regulations of the City of Abilene; and Adopting a Service Plan Agreement
[ASSIGNED ORDINANCE NO. 15-2022]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would annex 285.90 acres out of Sections 53 & 54, Block 16, T&P RR Co Surveys, Taylor County; 191.18 acres out of Section 55, Block 16, T&P RR Co Surveys, Taylor County; 305.95 acres out of Section 24, WW SILLS Survey, Taylor County; 3.59 acres of land out of and a part of Section 53, T&P RR Co Block 16, Taylor County; 3.91 acres of land out of Section 53, T&P RR Co, Block 16, Taylor County; 18.33 acres of land out of Subdivision 5, AF McDonald Subdivision of the WW Sills Surveys 23 & 24, Taylor County; 2.07 acres of land out of Survey 54, Block 16, T&P RR Co Survey, Taylor County; 4.25 acres of land of which 0.31 acres are out of Thompson Survey No. 20 and 3.94 acres are out of Survey No. 54. Block 16, T&P RR Co., Taylor County; 6.04 acres of land out of Section 23, Block 16, T&P RR Co Survey, Taylor County, into the City limits of Abilene.

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

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

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

NAYS (0): None

ABSENT (1): Mayor Williams

An audience member called Point of Order at this point. A second audience member got up and expressed her concern that the vote for Item 17 was an illegitimate action and needed to be re-voted on in her opinion.

Stanley Smith, City Attorney, stated that there was no agenda item to discuss and he would not give legal advice. No items were reopened and the matter was dropped.

EXECUTIVE SESSION

Mayor Pro-tem McAlister recessed into Executive Session at 11:58 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:

- 18. A. 551.071 (Consultation with Attorney)
 - 1. Sanctuary City for the Unborn (Agenda Item 17)
- 18. D. 551.074 (Personnel Matters)
 - 1. City Manager
- 18. F. 551.087 (Business Prospects & Economic Development)
 - 1. Chapter 380 Agreement with Dyess AFB

The Executive Session ended at 12:10 p.m. and reconvened to Open Session. Mayor Pro-tem McAlister reported no votes or action were taken in Executive Session.

REGULAR AGENDA

19. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving a Chapter 380 Agreement with Dyess Air Force Base, United States Airforce regarding flight line gates project
[ASSIGNED RESOLUTION NO. 73-2022]

Robert Hanna, City Manager, presented the item. Adoption of the item would approve a Chapter 380 Agreement with Dyess Air Force Base, United States Air Force regarding flight line gates project.

Mayor Pro-tem McAlister opened the public hearing. The following addressed the city council:

- David Swart – stated he did not understand the overview of the project and wanted to know why we were purchasing a gate for the DOD.

Robert Hanna, City Manager addressed Mr. Swart's concern and stated that state funds for this purpose would be used for this purchase, not city tax dollars.

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

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

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

NAYS (0): None

ABSENT (1): Mayor Williams

ADJOURNMENT

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

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Max Johnson, Assistant Director of Public Works

SUBJECT: 4. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Agreement to Close Victoria Street Railroad Crossing Upon TXDOT's Completion of Improvements at Sayles BLVD Railroad Crossing (Max Johnson)

GENERAL INFORMATION

TxDOT requires resolution for City Council approval to close and discontinue use of Victoria Street railroad crossing upon completion of updates and improvements of Sayles Blvd railroad crossing, Abilene, Texas.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

TxDOT requires City Council resolution in order to request funding for railroad crossing project.

STAFF RECOMMENDATION

Staff has reviewed this resolution and recommends that the City Council authorize the Mayor to execute attached resolution as written.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2022 Resolution Agreement to Close Victoria Railroad Crossing
2. Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AGREEING TO CLOSE THE RAILROAD CROSSING AT VICTORIA STREET UPON
THE COMPLETION OF THE TEXAS DEPARTMENT OF TRANSPORTATION'S
IMPROVEMENTS TO THE RAILROAD CROSSING AT SAYLES BLVD.**

WHEREAS, Union Pacific Railroad Company, the Texas Department of Transportation, and the City of Abilene, Texas have joined together to improve and reconstruct numerous railroad crossings between South 1st Street and North 1st Street in Abilene, Texas, as well as eliminate redundant and unnecessary street/railroad crossings in the same corridor; and

WHEREAS, the City Council met in regular session on May 12, 2022 and there discussed and approved an agreement with Texas Department of Transportation to close the railroad crossing at Victoria Street between North 1st and South 1st Streets in the city limits of Abilene, Texas, upon the completion of designed improvements to the railroad crossing between South 1st Street and North 1st Street at Sayles Blvd in Abilene, Texas; and

WHEREAS, in order to request funding for the railroad crossing project, including the construction of the improvements at the railroad crossing at Sayles Blvd., the Texas Department of Transportation requires a resolution of the City Council that it agrees to close Victoria Street at the railroad crossing between South 1st Street and North 1st Street.

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

Part 1: That the City of Abilene agrees to permanently close the portion of Victoria Street at the railroad crossing between South 1st Street and North 1st Street to vehicular traffic and vacate, at the time of or shortly following TXDOT's completion of railroad crossing improvements at the Sayles Blvd. crossing between South 1st Street and North 1st Street in Abilene, Texas. Closure shall be accomplished by future action by the City Council to close the street as contemplated herein. At such time of closing of the portion of Victoria Street, the City of Abilene agrees to place the appropriate barricades or end-treatment on both of the roadway approaches at the Victoria Street crossing at a distance of about 100 feet from the Main Track.

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

ADOPTED this 12th day of May, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

Agenda Item: CLOSURE OF VICTORIA STREET RAILROAD CROSSING AT SAYLES BOULEVARD

Resolution: Approval To Close Victoria Street
Railroad Crossing At Sayles Boulevard
(Johnson)



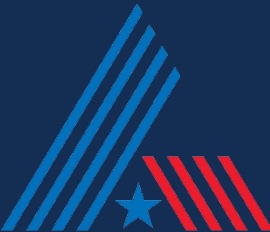
Location Map

ArcGIS Web Map



5/5/2022, 3:44:00 PM

0 0.01 0.03 0.06 mi
0 0.03 0.05 0.1 km
1:2,257
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri, ArcGIS Web AppBuilder
City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA



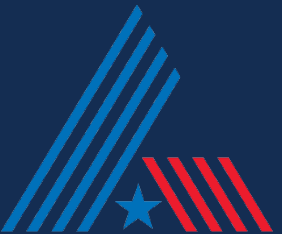
Agenda Item:

Closure of Victoria Street RR Crossing At Sayles Boulevard

- Union Pacific RR Company, Texas Department of Transportation, and the City of Abilene, Texas have joined together to improve and reconstruct numerous railroad crossings between South 1st Street and North 1st Street in Abilene, Texas.
- In an effort to eliminate redundant and unnecessary street/railroad crossings in the same corridor it is recommended that the railroad crossing at Victoria Street between South 1st and North 1st Streets at the Sayles Blvd crossing, upon the completion of designed improvements be closed to vehicular traffic.
- Staff recommends approval of the Resolution.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

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 Approving Funds for Railroad Improvement on EN 10th Street (*Max Johnson*)

GENERAL INFORMATION

The City of Abilene is currently working on a design for improvements to N 10th St. This railroad crossing is within the limits of these improvements and will be addressed along with the road project. The City of Abilene does not have the authority to work on the railroad lines easement which runs across N 10th St.

The City contacted the Owner of the railroad and discussed improvements to their rail lines at N 10th St. The railroad Owner, Southern Switching, has provided a quote for railroad crossing improvements that upgrade the existing asphalt crossing to a concrete crossing. The quoted price for the concrete crossing is \$77,353.69. Staff believes the proposed improvements to the railroad crossing are reasonable and necessary, and that donation of the funds to the railroad Owner to make the improvements serves a public purpose.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Funding for this project is available within the 2020 Bond Fund. Bond counsel has confirmed that use of the 2020 Bond fund is allowed because the roadway is a public roadway.

STAFF RECOMMENDATION

Staff recommends approval of donation of the funds to the railroad Owner, Southern Switching, for the public purpose of improvements to the crossing on N 10th Street.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. N 10th RR crossing resolution
2. ssc n 10th st xing upgrade quote 040522 (1)
3. N 10th RR crossing ppt

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE DONATION OF FUNDS FOR RAILROAD CROSSING IMPROVEMENTS
ON NORTH 10TH STREET IN ABILENE, TEXAS**

WHEREAS, the City of Abilene is currently working on a design for improvements to North 10th St. The crossing west of Almond St is within the limits of these improvements and will be addressed along with the road project.; and,

WHEREAS, the City of Abilene does not have the authority to make improvements to the railroad crossing as it is controlled by the railroad Owner, South Switching Company; and

WHEREAS, the City of Abilene has contacted Southern Switching Company and requested improvements to the railroad crossing, and Southern Switching Company has agreed to make the requested improvements to improve driving conditions over the crossing; and

WHEREAS, the City of Abilene has determined improvements to the railroad crossing at North 10th Street are in the public's best interest to address the inadequate driving conditions for vehicular traffic; and

WHEREAS, the City of Abilene received a quote from Southern Switching Company for the railroad crossing improvements in the amount of \$77,353.69; and

WHEREAS, the improvements to the railroad crossing will be made to City standards.

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

PART 1: That the City Council approves the donation of \$77,353.69 to Southern Switching Company for railroad improvements on North 10th Street at Almond St.

PART 2: The City Council finds that the donation of the funds to Southern Switching Company will serve a legitimate public purpose, and the City will ensure that that the public purpose will be carried out.

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

ADOPTED this 12th day of May, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

HAFCO Services Inc.

QUOTE

11411 Bristle Oak Trail
Austin, TX 78750

(512) 925-1193

QUOTE TO:

SOUTHERN SWITCHING CO
C/O DAL

N 10TH ST CROSSING UPGRADE

QUOTE NUMBER	22-0405-1
DATE	April 5, 2022
OUR ORDER NO.	
YOUR ORDER NO.	
TERMS	NET 30
SALES REP	AL

Sales Tax Rate:

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
	HAFCO SERVICES WILL REMOVE THE EXISTING 72' ASPHALT CROSSING ON N 10TH ST. THE ROAD CROSSING WILL BE UPGRADED TO 115# RAIL WITH CONCRETE PANELS PRICE INCLUDES ALL LABOR, EQUIPMENT AND MATERIAL. APPROACHES AND TRAFFIC CONTROL WILL BE THE RESPONSIBILITY OF OTHERS.		
1	LABOR	\$23,003.00	23,003.00
1	EQUIPMENT	\$9,545.00	9,545.00
1	MATERIAL	\$43,928.00	43,928.00
1	COST OF SIGNAL WORK REQUIRED WITH CROSSING UPGRADE	\$877.69	877.69
QUOTE VALID FOR 15 DAYS		SUBTOTAL	77,353.69
LEAD TIME ON CONCRETE PANELS 12 WEEKS		TAX	0.00
		FREIGHT	
			\$77,353.69
			PAY THIS AMOUNT

DIRECT ALL INQUIRIES TO:

Humberto "Al" Friede
(512) 925-1193
email: humberto.friede@hafcoservices.com

THANK YOU FOR THE OPPORTUNITY TO QUOTE!

Agenda Item: N 10th St Railroad Crossing Improvements



N 10th St Railroad Crossing Improvements

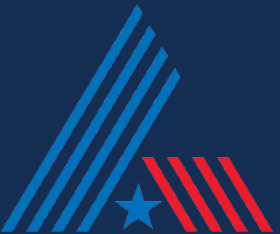
- The City of Abilene is currently working on a design for improvements to N 10th St. This crossing is within the limits of these improvements and will be addressed along with the road project.
- The City of Abilene has contacted Southern Switching Company and requested improvements of the railroad crossing on N 10th St.
- The City of Abilene has determined an upgraded railroad crossing at N 10th St is in the Public's best interest to address inadequate driving conditions for vehicular traffic.



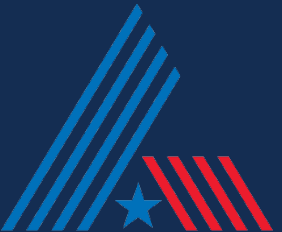
Agenda Item:

N 10th St Railroad Crossing Improvements

- The City of Abilene received a quote from Southern Switching Company for railroad improvements on North 10th St in the amount of \$77,353.69.
- The proposed railroad improvements will upgrade the existing asphalt crossing to a concrete crossing.
- Staff recommends approval of funds for the railroad crossing improvements in the amount of \$77,353.69.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on Adopting a Resolution Amending Resolution 05-2021 by Adopting Article VII - Utility Policies (*Robert Hanna*)

GENERAL INFORMATION

In 2021, Council adopted Resolution 05-2021 that set forth a variety of administrative matters and organized the Council Policies used by City administration to guide management of the City. In recent months, frequent discussion has taken place at the staff level regarding the provision of utility services to those who live outside the city limits of Abilene. The City Manager is recommending that the City Council adopt a Council Policy that guides staff decision making in regards to the provision of utility services outside the city limits. In addition, a current resolution adopted in 1982 speaks to these issues, and this policy would confirm that it is still the Council's intent to follow the directions outlined in Resolution 72-1982.

SPECIAL CONSIDERATIONS

Nothing in this policy would interfere with or supersede the City's wholesale water contracts or other contractual water service obligations.

FUNDING/FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of the resolution as submitted.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Utility Policies Adopting Resolution
2. Resolution 72-1982 Annexation
3. Utility Policies

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING RESOLUTION NO. 05-2021, AND CREATING AN ARTICLE VII – UTILITY POLICIES FOR THE GOVERNING PRINCIPLES, RULES OF PROCEDURE AND COUNCIL POLICIES OF THE CITY OF ABILENE.

WHEREAS, the City Council adopted Resolution No. 05-2021 setting forth among other things, Council Policies to guide City Administration in the management of the City; and

WHEREAS, the City Council desires to provide further guidance to City Administration; and

WHEREAS, the Governing Policies, Rules of Procedure and Council Policies document is divided articles for ease of reference and administration; and

WHEREAS, the City Council desires to create a new Article VII – Utility Policies as part of the City’s Governing Principles, Rules of Procedure and Council Policies; and,

WHEREAS, the City Council further desires to confirm and express their intention for City Administration to follow Resolution No. 72-1982; and,

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

- PART 1:** That the City Council amends the Governing Principles, Rules of Procedure and Council Policies document by adding an Article VII – Utility Policies as written in “Exhibit A” attached hereto and incorporated herein.
- PART 2:** The City Council, reaffirms their desire for City Administration to follow the guidance adopted by Resolution No. 72-1982.
- PART 3:** That this Resolution takes effect immediately upon its adoption.

ADOPTED this 12th day of May, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

EXHIBIT A

Article VII – Utility Policies

7.1 The City Manager is hereby directed to create a Utility Services Administration and Procedures Manual for the City and to see that it is properly administered.

7.2 Annexation Required for Requests for Service in Unincorporated Areas.

7.2.1 Purpose

The purpose of this policy is to promote and encourage the expansion of the City's water, wastewater, and solid waste utility systems in conjunction with the city's corporate limits to the greatest extent possible. Furthermore, the purpose of this policy to reaffirm Resolution 72-1982 wherein the extension of utilities to areas outside the corporate boundaries of the City of Abilene is limited to the greatest extent allowed by law.

7.2.2 Policy and Procedure

- (a) It is the policy of the City of Abilene to extend or provide water, wastewater, or solid waste utility services to unincorporated areas of the City's extraterritorial jurisdiction only after the service area is fully annexed into the city limits of the City of Abilene through voluntary or involuntary annexation.
- (b) It is the express intent of the City Council that the term, "service area" used above means the entirety of the tract and adjoining tracts under ownership by the requestor.
- (c) In the event the service area is not contiguous or adjacent to the city limits, and cannot be made so, the City Manager may negotiate alternative contractual arrangements to provide utilities to the service area, and recommend any such negotiated contractual arrangement to the City Council for consideration of approval.
- (d) Except as may otherwise be required by law, the City of Abilene is under no obligation to provide public utility services to an area outside of the City's current Certificate of Convenience and Necessity (CCN).

RESOLUTION NO. 72-1982

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, ADOPTING POLICIES FOR DECISIONS ON GROWTH, ANNEXATION AND THE EXTENSION OF MUNICIPAL SERVICES PURSUANT TO THE CITY OF ABILENE'S STRATEGIES FOR RESPONSIBLE GROWTH PROGRAM.

WHEREAS, the City Council has been developing strategies for responsible growth and policies for implementing those strategies, and

WHEREAS, the City Council did, on September 25, 1980 and May 28, 1981 adopt growth related policies recommended by the Strategies for Responsible Growth Technical Review Committee and the Planning and Zoning Commission, and

WHEREAS, the City Council desires to reaffirm these policies with revisions as pertain to utility extension policies, NOW THEREFORE:

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

PART I: That it is in the City's best interest to encourage development in areas adjacent to compatible development already receiving City services where those services have excess capacity.

PART II: That it is in the City's best interest to discourage development in remote areas as well as those areas that exhibit environmental hazards.

PART III: That it is in the City's best interest fiscally, socially and environmentally to annex areas:

- (a) that need to be protected in order to prevent or reduce flood damage in existing urban areas;
- (b) that possess unique physical characteristics;
- (c) that have requested City services;
- (d) that minimize fiscal liability;
- (e) that are currently urbanizing or exhibit potential for urbanization.

PART IV: That it is in the City's best interest to withhold all water and sewer extensions outside City limits except in instances where the extension will serve a large volume user who has agreed to annexation at a predetermined date; and, who has demonstrated that a significant community benefit will accrue to the City if it provides such service outside City limits; and where no significant fiscal liabilities will be incurred by the City of Abilene.

PART V: That it is in the City's best interest fiscally, socially and environmentally to provide services, other than water and sewer, to individual users beyond City limits:

- (a) upon request and under contracts or cost-sharing arrangements that minimize future fiscal liability;
- (b) upon request and under contracts or cost-sharing arrangements that encourage compact development;
- (c) upon request and under contract or cost-sharing arrangements that ensure compliance with City subdivision, building, electrical, plumbing and fire codes;
- (d) when it is not in the City's best interest to annex the areas to be served.

PART VI: That it is in the City's best interest fiscally, socially, and environmentally to provide services through water supply corporations, county or other similar organization in the extraterritory:

- (a) under contracts that minimize future fiscal liability;
- (b) under contracts that encourage compact development;
- (c) under contracts that ensure compliance with City subdivision, building, electrical, plumbing and fire codes;
- (d) when it is not in the City's best interest to annex the areas to be served.

PART VII: That this resolution shall take effect immediately from and after its adoption.

PASSED ON FIRST AND FINAL READING this 8 day of July, 1982

ATTEST:

Ruth H. Hogen
CITY SECRETARY

Julian
MAYOR

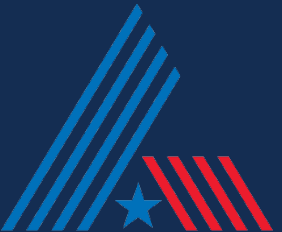
APPROVED:

Ronald E. Clark
CITY ATTORNEY

Resolution: Amending Resolution 05-2021 by Adopting Article VIII – Utility Policies



QUESTIONS?





City Council Agenda Memo

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action on awarding the bid for the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline - Phase I (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council award the bid to Western Municipal Construction of Texas, LLC (Western Municipal) of Justin Texas in the amount of \$3,094,624.00 for CB-2233 Possum Kingdom Drought Response Improvements RO Concentrate Pipeline - Phase I project (Project). Bids were advertised in the Abilene Reporter News on April 3rd and 10th, 2022. Bids were opened on Tuesday April 26th, 2022. A total of 2 bids were received. The Project Engineer has evaluated the bids using the best value criteria and does recommend awarding the bid to Western Municipal in the amount of \$3,094,624.00.

The Base Bid includes a line item for "Owner's Allowance" as provided for in Administrative Directive No. AD-025. The value of the owners allowance item is \$100,000.00. The allowance bid item is for work not required within the Plans and Specifications and may be used in the event additional (or less) work from that shown on the Plans and Specifications is required.

SPECIAL CONSIDERATIONS

This Phase I project is for the installation of approximately 15,000 linear feet of 12inch diameter pipeline beginning with the installation of a submerged discharge line into Possum Kingdom Lake, and continuing north and then west, generally paralleling FM 1148. Phase I is the installation of pipe purchased during construction of the Possum Kingdom Raw Water Roughing Facility (PKRWRF), but placed in inventory until final pipeline routing and design was completed. The Phase I and pending Phase II projects will complete the pipeline for the discharge of Reverse Osmosis concentrate produced by the PKRWRF back into Possum Kingdom Lake. The original construction of the PKRWRF included the installation of a section of the RO concentrate pipeline beginning at the PKRWRF, extending east and then northeast along State Highway 67 to the intersection with FM 1148. Pipeline construction was halted at that time as the City negotiated with regulatory agencies on an alternate discharge point into Possum Kingdom Lake. The City currently holds a

TPDES permit to discharge RO concentrate into Possum Kingdom Lake.

FUNDING/FISCAL IMPACT

Funding for the project will come from the proceeds of the 2019 Certificates of Obligations and from Fund 575 designated for Water Utilities Capital Improvement Projects.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council award the bid to Western Municipal Construction of Texas, LLC for the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline - Phase I project in the amount of \$3,094,624.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Award Bid-Western Municipal of Texas-PK DR Improvements RO Concentrate Pipeline-P1-5-12-2022
2. Contract-PK DR Improvements RO Concentrate Pipeline P1-5-12-2022
3. Letter of Recommendation-Bid Tab-PK RO Concentrate Pipeline P1-5-12-2022
4. Presentation-Resolution Award Bid-Western Municipal Construction of Texas-PK DR Improvements RO Concentrate Pipeline-P1-5-12-2022

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AWARDING THE BID TO WESTERN MUNICIPAL CONSTRUCTION OF TEXAS, LLC
FOR THE POSSUM KINGDOM DROUGHT RESPONSE IMPROVEMENTS RO
CONCENTRATE PIPELINE – PHASE I PROJECT.**

WHEREAS, the City of Abilene (City) owns and operates a Public Water System that provides drinking water for the City and the region; and

WHEREAS, during extreme and extended drought conditions the City secured additional raw water supplies from the Brazos River Authority Possum Kingdom Lake; and

WHEREAS, the City constructed the Possum Kingdom Raw Water Roughing Facility (PKRWRF) to treat the raw water for the reduction of Total Dissolved Solids, and also partnered with the West Central Texas Municipal Water District (District) for the purchase and upgrades to existing pumping and pipeline facilities, and the construction of new facilities to provide for Possum Kingdom water to be pumping directly into the District's existing pipeline facilities located adjacent to the Hubbard Creek Lake; and

WHEREAS, the PKRWRF project included the construction of a segment of RO Concentrate pipeline from the PKRWRF to the intersection of State Highway 67 and FM 1148, where construction was halted until the City could acquire the appropriate TPDES permit; and

WHEREAS, the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline – Phase I is the installation of approximately 15,000 feet of pre-purchased 12inch diameter water pipeline and a submerged discharge outlet into the lake; and

WHEREAS, Western Municipal Construction of Texas, LLC (Western Municipal) submitted the lowest qualifying bid in the amount of \$3,094,624.00 for the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline – Phase I project, and the design engineer Enprotec/Hibbs & Todd, Inc. has evaluated the bids for best value criteria and for conformity with the advertisement for bids and does recommend awarding the bid to Western Municipal in the amount of \$3,094,624.00; and

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

That the City Manager is authorized to execute a construction contract with Western Municipal Construction of Texas, LLC for the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline – Phase I project in the amount of \$3,094,624.00.

ADOPTED this 12th day of May, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made May 12, 2022, is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), Western Municipal Construction of Texas, LLC of the City of Justin, 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.

The Contractor hereby agrees to commence and complete the construction of Work described as

POSSUM KINGDOM DROUGHT RESPONSE IMPROVEMENTS RO CONCENTRATE PIPELINE PHASE I

The Contractor must provide all Work required in the Contract Documents -- incorporated herein by reference -- labeled:

POSSUM KINGDOM DROUGHT RESPONSE IMPROVEMENTS RO CONCENTRATE PIPELINE PHASE I

All work to be performed will be completed in conformance with (1) Part I 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 \$3,094,624.00.

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) attorney's fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

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

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

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

B. Indemnity

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

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

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

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

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

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE

THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

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

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

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

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

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

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

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

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 WHERE OF, the parties hereto have executed this contract:

CONTRACTOR

Name of Contractor:

Western Municipal Construction of Texas, LLC

Business Address:

402 Gulf Avenue

Justin, TX 76247

J. L. Clause
Signature

Jock Clause
Name - Typed or Printed

Managing Member
Title - Typed or Printed

(940) 648-0020
Business Phone No.

83-3755149
Federal Tax I.D.#

Witness
ATTEST: (If Corporation)
Corinna Seeman
Corporate Secretary's Signature witness

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

CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal:

April 26, 2022

City of Abilene
209 East Highway 80
Abilene, TX 79601
Attn: Mr. Rodney Taylor, Water Utilities Director

**Re: Recommendation of Award
Possum Kingdom Drought Response Improvements RO Concentrate Pipeline – Phase I**

Dear Mr. Taylor:

Bids for the referenced project were opened on Tuesday April 26, 2022. Two (2) bids were received. The apparent low bidder is Western Municipal Construction of Texas, LLC., out of Justin, Texas. See attached Bid Tabulation.

The responsiveness and responsibility of the bidder has been evaluated for conformity with all material conditions of the Advertisement to Bid and the Information for Bidders. Additionally, the contractor's ability to perform the project successfully and the qualifications submitted by the bidder have been evaluated in accordance with the Contract Documents.

Based on the criteria set forth in the City of Abilene's Invitation for Bids, eHT believes Western Municipal Construction of Texas, LLC., out of Justin, Texas, represents the Best Value for the proposed Possum Kingdom Drought Response Improvements RO Concentrate Pipeline – Phase I. Western Municipal Construction of Texas, LLC's base bid that was read aloud at the Bid Opening was \$3,094,624.00. eHT recommends the project be awarded to Western Municipal Construction of Texas for \$3,094,624.00.

We look forward to working with the City of Abilene as this project moves into the construction phase.

Sincerely,

Enprotec / Hibbs & Todd, Inc.



Colden S. Rich, P.E.
Associate Vice President

CSR/jd

Attachment: Bid Tabulation

c: Project File: 6103

P:\Projects\Abilene, City of\6103 PK Drought Response Improvements\2019 RO Concentrate Line to PK14. Bidding Phase\Bidder Evaluation\Recommendation of Award.docx

Enprotec / Hibbs & Todd, Inc., 402 Cedar Street, Abilene, Texas 79601

TABULATION OF BIDS FOR: Possum Kingdom Drought Response Improvements RO Concentrate Pipeline Phase I, City of Abilene, Texas

BIDS RECEIVED: 4/26/2022

PE Firm Registration No. 1151

BASE BID				Western Municipal Construction of Texas		MH Civil Constructors	
Item No.	Quantity	Unit	Item	Unit Cost	Amount	Unit Cost	Amount
1	1	LS	Mobilization, bonds & insurance	\$ 145,000.00	\$ 145,000.00	\$ 124,594.00	\$ 124,594.00
2	1	LS	Traffic Control and Implementation	\$ 20,000.00	\$ 20,000.00	\$ 30,000.00	\$ 30,000.00
3	14,826	LF	Trench Excavation and Safety Plan	\$ 1.00	\$ 14,826.00	\$ 11.00	\$ 163,086.00
4	1	LS	Stormwater Pollution Prevention Plan	\$ 100,000.00	\$ 100,000.00	\$ 14,000.00	\$ 14,000.00
5	14,826	LF	Install 12" SCF-21 PV Pipe furnished by Owner	\$ 70.00	\$ 1,037,820.00	\$ 17.00	\$ 252,042.00
6	14,826	LF	Transportation of Owner supplied pipe to Construction Site	\$ 4.00	\$ 59,304.00	\$ 5.00	\$ 74,130.00
7	439	LF	12" DIPS DR-11 HDPE Pipe via slick bore	\$ 1,000.00	\$ 439,000.00	\$ 450.00	\$ 197,550.00
8	60	LF	18" encased bore for 12" Pipe, steel encasement, casing spacers	\$ 1,200.00	\$ 72,000.00	\$ 750.00	\$ 45,000.00
9	665	LF	12" DR11 DIPS HDPE water line along lake bottom w/anchor weight	\$ 800.00	\$ 532,000.00	\$ 1,800.00	\$ 1,197,000.00
10	14,826	LF	Class I or II granular bedding material	\$ 4.00	\$ 59,304.00	\$ 18.00	\$ 266,868.00
11	4	EA	12 Gate Valves with Valve Box and Fittings	\$ 7,500.00	\$ 30,000.00	\$ 13,000.00	\$ 52,000.00
12	25	LF	Gravel Pavement Replacement	\$ 85.00	\$ 2,125.00	\$ 130.00	\$ 3,250.00
13	2,965	LF	Asphalt Pavement Replacement	\$ 125.00	\$ 370,625.00	\$ 120.00	\$ 355,800.00
14	5	EA	2" Combination Vacuum Assembly	\$ 7,000.00	\$ 35,000.00	\$ 30,000.00	\$ 150,000.00
15	1	LS	Multiport Diffuser	\$ 30,000.00	\$ 30,000.00	\$ 83,000.00	\$ 83,000.00
16	2	EA	Concrete Slope Anchors	\$ 9,000.00	\$ 18,000.00	\$ 8,500.00	\$ 17,000.00
17	52	LF	Elastomeric Insulation Sheet with S.S. clamps	\$ 185.00	\$ 9,620.00	\$ 340.00	\$ 17,680.00
18	1	EA	12" Force Balanced Flex Tend Coupling/Adapter	\$ 20,000.00	\$ 20,000.00	\$ 32,000.00	\$ 32,000.00
19	1	LS	Allowance City project related issues	\$ 100,000.00	\$ 100,000.00	\$ 100,000.00	\$ 100,000.00
TOTAL BASE BID PRICE (Items 1 thru 19)					\$ 3,094,624.00		\$ 3,175,000.00

I, COLDEN S. RICH, P.E., #110231, DO HEREBY CERTIFY THAT THE ABOVE REFERENCED BIDS WERE RECEIVED, IN ACCORDANCE WITH THE ADVERTISED PROCEDURES, OPENED, AND READ ALOUD. THE BID TABULATION HEREIN IS A TRUE AND ACCURATE REPRESENTATION OF THE BIDS READ ALOUD.


COLDEN S. RICH, P.E., #110231

4/26/22



Award the Bid to Western Municipal Construction of Texas,
LLC for the Possum Kingdom Drought Response Improvements
RO Concentrate Pipeline – Phase I Project



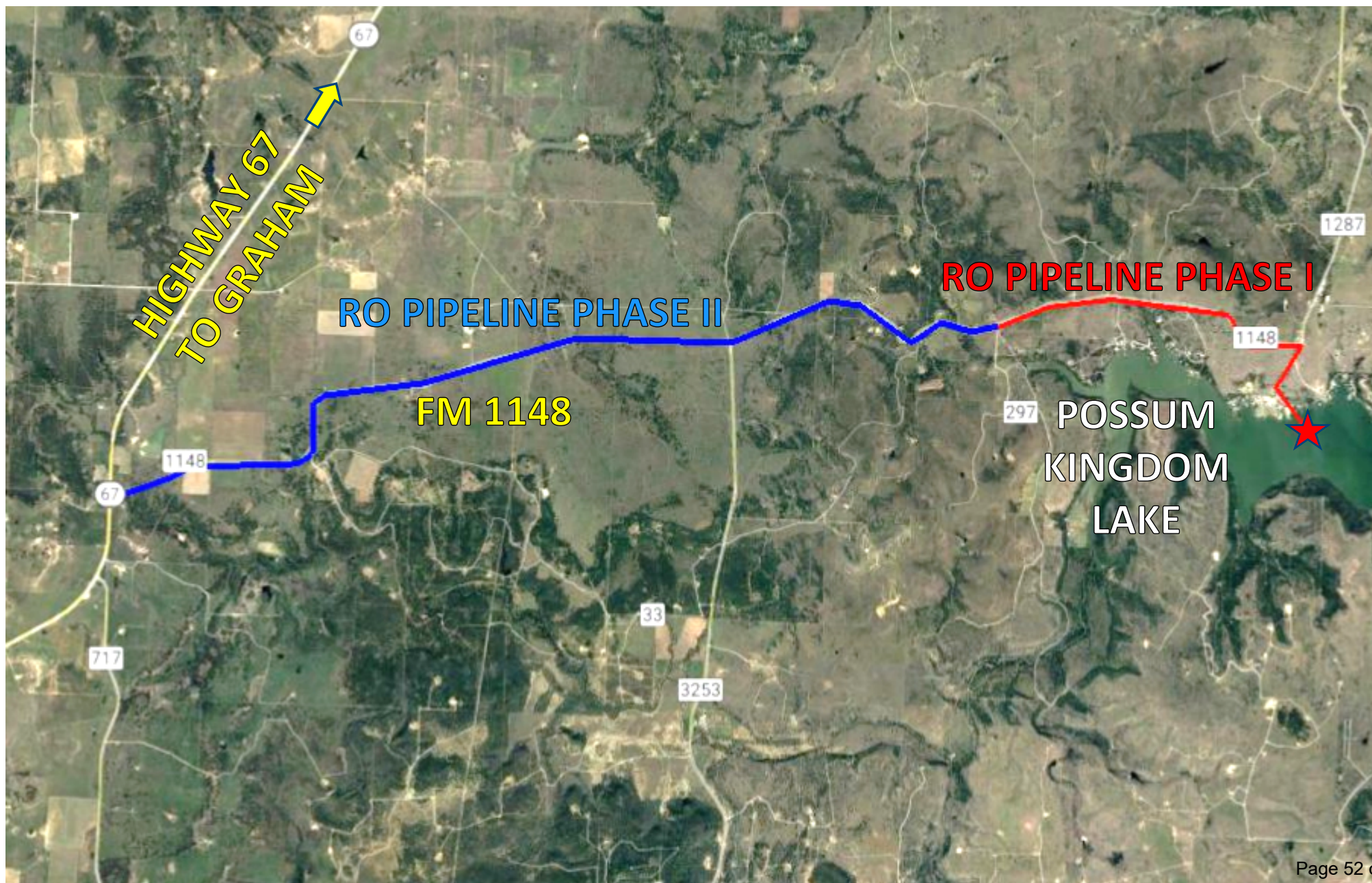
- Award the bid to Western Municipal Construction of Texas, LLC for the Possum Kingdom Drought Response Improvements RO Concentrate Pipeline – Phase I Project.
- Bid Award value of \$3,094,624.00.
- The Base Bid includes a line item for "Owner's Allowance" as provided for in Administrative Directive No. AD-025. The value of the owners allowance item is \$100,000.00. The allowance bid item is for work not required within the Plans and Specifications and may be used in the event additional (or less) work from that shown on the Plans and Specifications is required.



- The project includes the installation of approximately 15,000 feet of pre-purchased 12 inch diameter pipeline beginning at the lake and continuing north and then west paralleling FM 1148.
- The contract will also provide for the installation of submerged piping and a discharge manifold into Possum Kingdom Lake.
- The City holds a TPDES permit with the TCEQ authorizing the discharge of Reverse Osmosis (RO) Concentrate produced by the Possum Kingdom Raw Water Roughing Facility (PKRWRF) back into Possum Kingdom Lake.
- RO Concentrate Pipeline Phase I and pending Phase II will complete the offsite construction related to the PKRWRF project.



RO CONCENTRATE PIPELINE PHASE I & II ROUTE AND DISCHARGE POINT



Award the Bid to Western Municipal Construction of Texas,
LLC for the Possum Kingdom Drought Response
Improvements RO Concentrate Pipeline – Phase I Project

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Julee Hatton, Library Director

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Approve Library Materials Purchases from Midwest Tape for Hoopla (*Julee Hatton*)

GENERAL INFORMATION

This is an annual approval authorizing the City Manager to continue to approve Library purchases from Midwest Tape for Hoopla.

Midwest Tape's digital product, Hoopla, provides library patrons with on-demand access to eBooks and eAudio content. The materials available through Hoopla are very popular and usage has risen steadily.

There is no signed agreement with Hoopla. The service is done on a Purchase Order basis with funds on deposit and the City may withdraw or change its service thresholds at any time.

Midwest Tape is on the State of Texas Centralized Master Bidders List/Historically Underutilized Business (CMBL/HUB) vendor list.

FY21 Hoopla Statistics: 46,954 total checkouts by Abilene Public Library patrons

SPECIAL CONSIDERATIONS

Competitive bidding is not required for the purchase of books, papers, and other materials for a public library if those books, papers, and materials are available only from the persons holding exclusive distribution rights to the materials. Additionally, competitive bidding requirements do not apply to the purchase of rare books, papers, and other rare library materials for a public library.

For those materials that are not exclusive, the library follows the State of Texas CO-OP program

as outlined by the State Comptroller of Public Accounts. Using the CO-OP meets our competitive bidding requirements according to the Texas Comptroller of Public Accounts. The City of Abilene is a participant in the CO-OP program and utilizes vendors that are listed in the CMBL/HUB vendor list. The book jobbers the Abilene Public Library uses that are members of this program are: Baker & Taylor, Ingram Library Services, Brodart, Midwest Tape (including Hoopla) and ProQuest LLC.

FUNDING/FISCAL IMPACT

The total purchases from Midwest Tape for Hoopla for FY22 is expected to be \$150,000. This falls within the FY22 Council approved budget for all forms of library materials, which is \$535,000.

STAFF RECOMMENDATION

Staff recommends that City Council authorize the City Manager to continue library materials purchases from Midwest Tape (Hoopla).

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Midwest Tape Hoopla May 22
2. Council Presentation Midwest Tape for Hoopla May 22

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO CONTINUE THE PURCHASE OF LIBRARY MATERIALS FROM MIDWEST TAPE FOR HOOPLA THROUGH THE CITY'S PARTICIPATION IN THE STATE CO-OP PROGRAM CMBL/HUB FOR LIBRARY MATERIALS.

WHEREAS, The City of Abilene is a participant in the State of Texas CO-OP program as outlined by the State Comptroller of Public Accounts; and

WHEREAS, Midwest Tape is on the State of Texas Centralized Master Bidders List/Historically Underutilized Business (CMBL/HUB) vendor list; and

WHEREAS, The Abilene Public Library purchases many formats of materials including print, movies, music on DVD, Blu-ray, CD and digital downloadable eBooks, and audiobooks; and

WHEREAS, The State of Texas CO-OP meets our competitive bidding requirements according to the Texas Comptroller of Public Accounts; and

WHEREAS, The Abilene Public Library budgets for all forms of materials approved by City Council each year.

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

Part 1: The City Manager is hereby authorized to continue the agreement for library materials from Midwest Tape for Hoopla.

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

ADOPTED this 12th day of May 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

Resolution: Abilene Public Library Purchases from Midwest Tape (Hoopla)



General Information:

- Midwest Tape holds exclusive distribution rights for books, papers and related materials, including rare materials.
- Midwest Tape is on the State of Texas Centralized Master Bidders List/Historically Underutilized Business (CMBL/HUB) vendor list
- Midwest Tape's digital product, Hoopla, provides library patrons with access to eBooks and eAudio content.
- FY21 Hoopla Statistics
 - 46,954 total checkouts by Abilene Public Library patrons

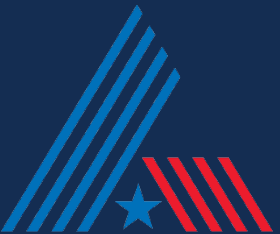


2022 Fiscal Impact:

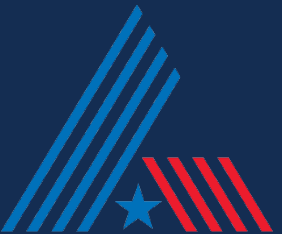
- Expected materials purchases from Midwest Tape \$150,000
(\$120,000 for Hoopla)
- FY22 approved budget for all forms of materials \$535,000

Staff Recommendation:

- Staff recommends that City Council authorize the City Manager to continue library materials purchases from Midwest Tape (Hoopla).



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Julee Hatton, Library Director

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Approve Library Materials Purchases from Baker & Taylor (*Julee Hatton*)

GENERAL INFORMATION

This is an annual approval authorizing the City Manager to continue to approve library materials purchases from Baker & Taylor. Baker & Taylor is on the State of Texas Centralized Master Bidders List/Historically Underutilized Business (CMBL/HUB) vendor list.

Baker & Taylor provides extensive one-stop shopping for all formats of library materials, including print, movies, music, Blu-ray, CD, eBooks, and eAudio content. Baker & Taylor has been the primary library materials vendor for many years for the Abilene Public Library (APL). Baker & Taylor holds exclusive distribution rights for books, papers and related materials, including rare materials. Baker & Taylor is a vendor member of the State CO-OP program, and can be used for non-exclusive library materials purchases.

SPECIAL CONSIDERATIONS

Competitive bidding is not required for the purchase of books, papers, and other materials for a public library if those books, papers, and materials are available only from the persons holding exclusive distribution rights to the materials. Additionally, competitive bidding requirements do not apply to the purchase of rare books, papers, and other rare library materials for a public library.

For those materials that are not exclusive, the library follows the State of Texas CO-OP program as outlined by the State Comptroller of Public Accounts. Using the CO-OP meets our

competitive bidding requirements according to the Texas Comptroller of Public Accounts. The City of Abilene is a participant in the CO-OP program and utilizes vendors that are listed in the CMBL/HUB vendor list. The book jobbers the Abilene Public Library uses that are members of this program are: Baker & Taylor, Ingram Library Services, Brodart, Midwest Tape (including Hoopla) and ProQuest LLC.

FUNDING/FISCAL IMPACT

The total purchases from Baker & Taylor for FY22 is expected to be \$150,000. This falls within the FY22 Council approved budget for all forms of library materials, which is \$535,000.

STAFF RECOMMENDATION

Staff recommends that City Council authorize the City Manager to continue library materials purchases from Baker & Taylor.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Baker & Taylor May 22
2. Council Presentation Baker & Taylor May 22

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO CONTINUE THE PURCHASE OF LIBRARY MATERIALS FROM BAKER & TAYLOR THROUGH THE CITY'S PARTICIPATION IN THE STATE CO-OP PROGRAM CMBL/HUB FOR LIBRARY MATERIALS.

WHEREAS, The City of Abilene is a participate in the State of Texas CO-OP program as outlined by the State Comptroller of Public Accounts; and

WHEREAS, Baker & Taylor is on the State of Texas Centralized Master Bidders List/Historically Underutilized Business (CMBL/HUB) vendor list; and

WHEREAS, The Abilene Public Library purchases many formats of materials including print, movies, music on DVD, Blu-ray, CD and digital downloadable eBooks, and audiobooks; and

WHEREAS, The State of Texas Comptroller of Public Accounts CO-OP meets our competitive bidding requirements; and

WHEREAS, The Abilene Public Library budgets for all forms of materials approved by City Council each year.

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

Part 1: The City Manager is hereby authorized to continue the purchases of library materials from Baker & Taylor.

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

ADOPTED this 12th day of May 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

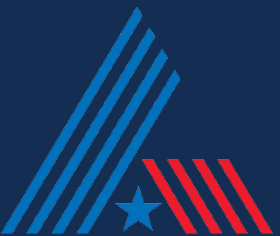
Stanley Smith, City Attorney

Resolution: Abilene Public Library Purchases from Baker & Taylor



General Information:

- Baker & Taylor provides extensive one stop shopping for all formats of media, including print, movies, music, Blu-ray, CD and digital eBooks and eAudio content.
- Baker & Taylor has been the primary library materials vendor for many years for the Abilene Public Library (APL).
- Baker & Taylor holds exclusive distribution rights for books, papers and related materials, including rare materials.
- Baker & Taylor is a vendor member of the State CO-OP program, and can be used for non-exclusive library materials purchases.

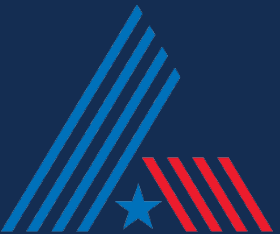


FY2022 Fiscal Impact:

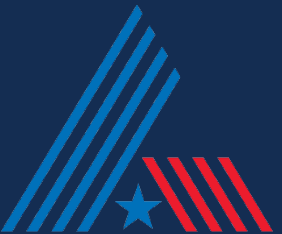
- FY22 expected materials purchases from Baker & Taylor \$150,000
- FY22 approved budget for all forms of library materials \$535,000

Staff Recommendation:

- Staff recommends that City Council authorize the City Manager to continue library materials purchases from Baker & Taylor.



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Julee Hatton, Library Director

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Continue the Agreement with OverDrive (*Julee Hatton*)

GENERAL INFORMATION

This is an annual approval authorizing the City Manager to continue the agreement with OverDrive for library materials.

OverDrive is a service for libraries that allows patrons access to digital content, such as eBooks and audiobooks. OverDrive is sole source, meeting our competitive bidding requirements. The Abilene Public Library (APL) OverDrive current collection size is 26,122 items.

FY21 OverDrive Statistics: 198,276 total checkouts by Abilene Public Library patrons

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The total purchases from OverDrive for FY22 is expected to be \$60,000. This falls within the FY22 Council approved budget for all forms of library materials, which is \$535,000.

STAFF RECOMMENDATION

Staff recommends that City Council authorize the City Manager to continue library materials

purchases from OverDrive.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Overdrive May 22
2. Council Presentation Overdrive May 22

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO CONTINUE THE AGREEMENT BETWEEN THE
ABILENE PUBLIC LIBRARY AND OVERDRIVE.**

WHEREAS, The City of Abilene entered into an agreement with OverDrive on October 24, 2006; and

WHEREAS, The Abilene Public Library purchases many formats of materials including print, movies, music on DVD, Blu-ray, CD and digital downloadable eBooks, and audiobooks; and

WHEREAS, OverDrive is sole source thereby meeting our competitive bidding requirements; and

WHEREAS, The Abilene Public Library budgets for all forms of materials approved by City Council each year.

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

Part 1: The City Manager is hereby authorized to continue the agreement for library materials from OverDrive.

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

ADOPTED this 12th day of May 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor
APPROVED:

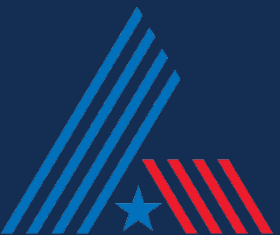
Stanley Smith, City Attorney

Resolution: Agreement Between Abilene Public Library and OverDrive



General Information:

- OverDrive is a service for libraries that allows patrons access to digital content, such as eBooks and audiobooks.
- OverDrive is sole source, meeting our competitive bidding requirements
- The Abilene Public Library (APL) OverDrive current collection size is 26,122 items.
- FY21 OverDrive Statistics
 - 198,276 total checkouts by APL patrons

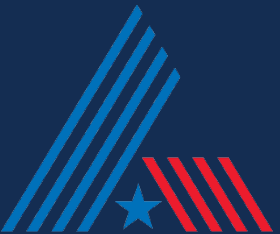


FY22 Fiscal Impact:

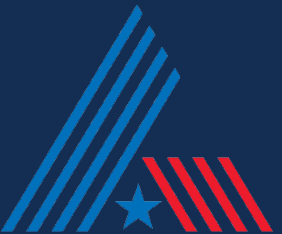
- FY22 expected materials purchases from OverDrive \$60,000
- FY22 approved budget for all forms of materials \$535,000

Staff Recommendation:

- Staff recommends that City Council authorize the City Manager to continue library materials purchases from OverDrive.



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Julee Hatton, Library Director

SUBJECT: 11. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Continue the Agreement with the Abilene Library Consortium (*Julee Hatton*)

GENERAL INFORMATION

This is an annual approval of the agreement between the City and the Abilene Library Consortium (ALC).

The City of Abilene has contracted with Abilene Library Consortium (ALC) for automated library services since 1999. The term of agreement is automatic annual renewal.

ALC provides management of the shared electronic catalog system for members. In addition, ALC Membership allows reciprocal borrowing between member libraries, which is a great benefit for all library patrons. ALC also provides a courier service for delivery of materials between ALC member libraries. ALC members include the City of Abilene, Abilene Christian University, Hardin-Simmons University, McMurry University, Howard Payne University, and Dyess AFB Library.

The Deputy City Manager is a member of the ALC Board and the Director of Library Services is a member of the ALC Administrative Council.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The FY22 Abilene Library Consortium membership for the City of Abilene is \$91,503.

Membership cost is based on service population and services provided. This amount was approved by City Council in the FY22 budget.

STAFF RECOMMENDATION

Staff recommends renewal of the agreement with the ALC.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution ALC May 22
2. Council Presentation Abilene Library Consortium May 2022

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CONTINUATION OF THE AGREEMENT WITH THE ABILENE
LIBRARY CONSORTIUM.**

WHEREAS, On March 1, 1999 the City of Abilene contracted with the Abilene Library Consortium for automated library services; and

WHEREAS, This agreement automatically renews from year to year; and

WHEREAS, Cost of membership in the Abilene Library Consortium is based on service population and any additional services that a member engages; and

WHEREAS, The Abilene Library Consortium membership amount for fiscal year 2021-2022 is \$91,503; and

WHEREAS, The Abilene Public Library will be requesting a similar amount for the 2022-2023 fiscal year through the normal budget process.

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

Part 1: The City Manager is hereby authorized to continue the agreement with the Abilene Library Consortium.

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

ADOPTED this 12th day of May 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

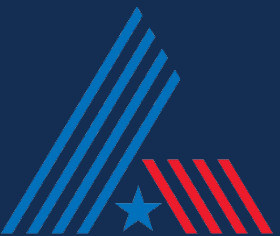
Stanley Smith, City Attorney

Resolution: Agreement Between City of Abilene and Abilene Library Consortium



General Information:

- 1999 – City of Abilene contracted with Abilene Library Consortium (ALC) for automated library services. The term of agreement is automatic annual renewal.
- ALC provides management of the shared electronic catalog system for members. ALC also provides courier service for delivery of materials between ALC member libraries.
- ALC members include the City of Abilene, Abilene Christian University, Hardin-Simmons University, McMurry University and Howard Payne University.
- The Deputy City Manager is a member of the ALC Board and Director of Library Services is a member of the ALC Administrative Council.

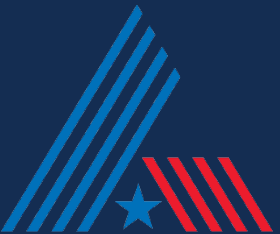


FY22 Fiscal Impact:

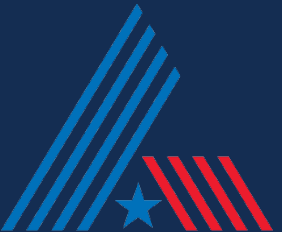
- FY22 Abilene Library Consortium membership \$91,503
- Membership cost is based on service population and services provided. The FY22 membership amount was approved by City Council in the FY22 budget.

Staff Recommendation:

- Staff recommends renewal of the agreement with the ALC.



QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

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

FROM: **Robert Hanna, City Manager**

SUBJECT: **12. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Modifying and Extending the Declaration of Local Disaster (COVID-19) (*Robert Hanna*)**

GENERAL INFORMATION

On April 14, 2022, the City Council adopted a Further Modification and Extension of Declaration of Local Disaster due to the COVID-19 pandemic. That extension lasts through May 12, 2022.

On July 29, 2021, the Governor of the State of Texas issued his Executive Order GA-38, relating to the continuing response to the COVID-19 disaster.

On August 25, 2021, the Governor of the State of Texas issued his Executive Order GA-39, relating to vaccine mandates.

On April 22, 2022, the Governor of the State of Texas extended the State of Disaster for all counties in Texas due to the continuing COVID-19 pandemic.

SPECIAL CONSIDERATIONS

The Governor's Executive Orders GA-38 and GA-39 supersede any conflicting order issued by local officials in response to the COVID-19 disaster.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 30th Resolution Extending Declaration of Local Disaster COVID-19 redline draft
2. ALTERNATE 30th Resolution Extending Declaration of Local Disaster COVID-19 clean draft
3. EO-GA-38-continued-response-to-the-COVID-19-disaster-IMAGE-07-29-2021 (1)
4. GA-39
5. proc04222022_COVID
6. Disaster Declaration PPT

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL, CITY OF ABILENE, TEXAS, FURTHER MODIFYING ITS EXTENSION OF DECLARATION OF DISASTER (COVID-19)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, on May 13, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Order GA-34, and which was effective until June 10, 2021; and

WHEREAS, on June 10, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions

issued in the Governor's Executive Orders GA-34 and GA-36, and which was effective until July 8, 2021; and

WHEREAS, on July 8, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Orders GA-34 and GA-36, and which was effective until August 12, 2021; and

WHEREAS, on August 12, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Order GA-38, and which was effective until September 9, 2021; and

WHEREAS, on September 9, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Order GA-38, and which was effective until October 14, 2021; and

WHEREAS, on October 14, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Order GA-38, and which was effective until November 4, 2021; and

WHEREAS, on November 4, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Order GA-38 and GA-39, and which was effective until December 2, 2021; and

WHEREAS, on December 2, 2021, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Orders GA-38 and GA-39, and which was effective until January 13, 2022; and

WHEREAS, on January 13, 2022, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Orders GA-38 and GA-39, and which was effective until February 10, 2022; and

WHEREAS, on February 10, 2022, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Orders GA-38 and GA-39, and which was effective until March 10, 2022; and

WHEREAS, on March 10, 2022, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions

issued in the Governor's Executive Orders GA-38 and GA-39, and which was effective until April 14, 2022; and

WHEREAS, on April 12 2022, the City Council issued its Resolution Further Modifying its Extension of Declaration of Disaster (COVID-19), which adopted the regulations and restrictions issued in the Governor's Executive Orders GA-38 and GA-39, and which was effective until April 14, 2022; and

WHEREAS, on July 29, 2021, the Governor of the State of Texas issued his Executive Order GA-38, effective until it is modified, amended, rescinded, or superseded by the Governor, and which related to the continue response to the COVID-19 disaster; and

WHEREAS, on August 25, 2021, the Governor of the State of Texas issued his Executive Order GA-39, effective until it is modified, amended, rescinded, or superseded by the Governor, which related to vaccine mandates; and

WHEREAS, on ~~April 22~~~~March 23~~, 2022, the Governor of the State of Texas renewed his disaster proclamation for all counties in Texas due to COVID-19 continuing a state of disaster; and

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

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

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

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

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

1. The foregoing recitals as incorporated herein and made findings of fact.

2. That the City Council, effective immediately, hereby renews and continues the local state of disaster for the City of Abilene, Texas, pursuant to Section 418.108(b) of the Texas Government Code.
3. Pursuant to Section 418.108(c) of the Government Code, this renewal and continuation of the declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. Pursuant to Section 418.108(d) of the Government Code, this renewal and continuation of the declaration of a local state of disaster continues activation of the emergency management plan for the City of Abilene. The furnishing of aid and assistance under the declaration is hereby authorized. The appropriate preparedness and response aspects of the plan are continued.
5. The use of all available resources of the City of Abilene that are reasonably necessary to cope with this disaster are hereby authorized.
6. To the extent permitted by law, any local ordinance or administrative rule prescribing the procedures for conduct of City business or any local ordinance or administrative rule that would in any way prevent, hinder, or delay necessary action in coping with this disaster, including any local ordinance or administrative rule regarding contracting or procurement with would impede the City's emergency response necessary to cope with this declared disaster, are hereby suspended, but only for the duration of this declared local disaster and only for that limited purpose.
7. Pursuant to Section 418.108(g) of the Government Code, the City of Abilene may control ingress to and egress from a disaster area within the incorporated limits of the City of Abilene and control the movement of persons and the occupancy of premises in that area.
8. Pursuant to Section 122.006 of the Texas Health and Safety Code, the City of Abilene may adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease.
9. The intent of this Order is to protect the physical health and well-being of City of Abilene residents, to protect the financial health and well-being of City of Abilene residents and businesses, and to slow the spread of COVID-19 to the maximum extent possible while safeguarding the Constitutional liberties of City of Abilene residents by utilizing the least restrictive means possible and encouraging the highest level of personal responsibility.

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

10. The City of Abilene hereby adopts and incorporates herein Governor Greg Abbott's Executive Orders GA-38 and GA-39, the same as if they were copied and set-forth at length herein. The City of Abilene will follow and enforce the conditions and restrictions as set forth in GA-38 and GA-39, and adopts and incorporates any further Proclamations modifying, amending or superseding GA-38 or GA-39 during the term of Abilene's declaration of local disaster.

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

11. In the event the Governor of the State of Texas amends or modifies his Executive Order GA-38 or GA-39, this Declaration and Order is automatically amended or modified without further Council action to reflect said amendments or modifications to the Governor's Executive Orders. It being the express intent of the City Council and this Declaration and Order to follow the Governor's Executive Orders.
12. All public, private and commercial laboratories operating within the City of Abilene and performing COVID-19 testing shall report by 5:00 p.m. each day, Monday through Friday, but excluding holidays, for the period since the last report, to the Abilene-Taylor County Public Health District the following information:

- (a) The number of COVID-19 tests performed;
- (b) The number of positive COVID-19 tests; and
- (c) The patient names and demographic information of positive COVID-19 tests.

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

13. That any City ordinance or regulation imposing a time requirement for payment, filing or appealing a decision, may be extended by the Mayor without further confirmation by the City Council.
14. That the Mayor may suspend or modify any other ordinance or regulation of the City of Abilene for a period of not more than seven days from the date of this resolution unless continued or renewed by the City Council.
15. That the City Manager or designee of the City Manager is authorized, without further approval of the City Council, to:

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

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

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

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

17. That any ordinances, rules, or regulations of the City of Abilene, Texas, that conflict with this Resolution are hereby suspended, such suspension to remain in effect until the state of disaster is terminated or until there is a subsequent Resolution of this Council, whichever occurs first.

18. That pursuant to Section 418.020(d) of the Texas Government Code, the City of Abilene is authorized to:

- (a) Temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims; and
- (b) Enter into arrangements necessary to prepare or equip the site to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

19. That failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.

20. Pursuant to Section 418.173, Government Code, failure to comply with this Order is an offense punishable by a fine not to exceed \$1,000, except as otherwise provided in the Governor's Executive Orders GA-38 or GA-39.
21. That any violation of this Resolution, Declaration and Order can be enjoined by the City of Abilene by a suit filed in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Resolution, Declaration and Order or in the Code of Ordinances, City of Abilene, Texas.
22. That nothing in this Resolution, Declaration and Order shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this Resolution.
23. All provisions of this Resolution, Declaration and Order should be interpreted to effectuate its intent.
24. That this Declaration and Order is effective immediately and continues until 11:59 p.m. ~~June~~May ~~9~~12, 2022 unless otherwise modified, terminated or extended.
25. That the terms and provisions of this Resolution, Declaration and Order shall be deemed to be severable and that if any section, subsection, sentence, clause, phrase or word herein shall be declared to be invalid or unconstitutional, the same shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word herein, and the remainder of this Resolution, Declaration and Order shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

ADOPTED this ~~12~~14th day of ~~May~~April, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL, CITY OF ABILENE, TEXAS, FURTHER MODIFYING ITS EXTENSION OF DECLARATION OF DISASTER (COVID-19)

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

WHEREAS, on March 23, 2020, the City Council issued its Resolution Renewing and Continuing the Mayor's Declaration of Disaster Issued on March 16, 2020; and

WHEREAS, since March 23, 2020, the City Council has extended its local disaster declaration on a monthly basis; and

WHEREAS, it is the intent of the City Council to continue to extend its local disaster declaration for so long as the Governor of the State of Texas renews his disaster proclamation for all counties in Texas due to COVID-19 continuing a state of disaster; and

WHEREAS, it is the intent of the City Council to continue to adopt the executive orders issued by the Governor of the State of Texas which are made in response to the continuing response to the COVID-19 statewide disaster; and

WHEREAS, on July 29, 2021, the Governor of the State of Texas issued his Executive Order GA-38, effective until it is modified, amended, rescinded, or superseded by the Governor, and which related to the continue response to the COVID-19 disaster; and

WHEREAS, on August 25, 2021, the Governor of the State of Texas issued his Executive Order GA-39, effective until it is modified, amended, rescinded, or superseded by the Governor, which related to vaccine mandates; and

WHEREAS, on April 22, 2022, the Governor of the State of Texas renewed his disaster proclamation for all counties in Texas due to COVID-19 continuing a state of disaster; and

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

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

1. The foregoing recitals as incorporated herein and made findings of fact.
2. That the City Council, effective immediately, hereby renews and continues the local state of disaster for the City of Abilene, Texas, pursuant to Section 418.108(b) of the Texas Government Code.

3. Pursuant to Section 418.108(c) of the Government Code, this renewal and continuation of the declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. Pursuant to Section 418.108(d) of the Government Code, this renewal and continuation of the declaration of a local state of disaster continues activation of the emergency management plan for the City of Abilene. The furnishing of aid and assistance under the declaration is hereby authorized. The appropriate preparedness and response aspects of the plan are continued.
5. Pursuant to Section 418.108(g) of the Government Code, the City of Abilene may control ingress to and egress from a disaster area within the incorporated limits of the City of Abilene and control the movement of persons and the occupancy of premises in that area.
6. Pursuant to Section 122.006 of the Texas Health and Safety Code, the City of Abilene may adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease.
7. The City of Abilene hereby adopts and incorporates herein the Governor of the State of Texas' Executive Orders and Proclamations regarding COVID-19. In the event the Governor of the State of Texas amends or modifies his Executive Orders or Proclamations regarding COVID-19, this Declaration and Order is automatically amended or modified without further Council action to reflect said amendments or modifications to the Governor's Executive Orders or Proclamations. It being the express intent of the City Council and this Declaration and Order to follow the Governor's Executive Orders and Proclamations.
8. All public, private and commercial laboratories operating within the City of Abilene and performing COVID-19 testing shall report by 5:00 p.m. each day, Monday through Friday, but excluding holidays, for the period since the last report, to the Abilene-Taylor County Public Health District the following information:
 - (a) The number of COVID-19 tests performed;
 - (b) The number of positive COVID-19 tests; and
 - (c) The patient names and demographic information of positive COVID-19 tests.
9. That pursuant to Section 418.020(d) of the Texas Government Code, the City of Abilene is authorized to:
 - (a) Temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims; and

- (b) Enter into arrangements necessary to prepare or equip the site to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

10. Pursuant to Section 418.173, Government Code, failure to comply with this Order is an offense punishable by a fine not to exceed \$1,000, except as otherwise provided in the Governor's Executive Orders.
11. All provisions of this Resolution, Declaration and Order should be interpreted to effectuate its intent.
12. That this Declaration and Order is effective immediately and continues until such time that the Governor of the State of Texas fails to renew his monthly disaster proclamation for all counties in Texas due to COVID-19 continuing a state of disaster, unless otherwise modified, terminated or extended by the City Council.
13. That the terms and provisions of this Resolution, Declaration and Order shall be deemed to be severable and that if any section, subsection, sentence, clause, phrase or word herein shall be declared to be invalid or unconstitutional, the same shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word herein, and the remainder of this Resolution, Declaration and Order shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

ADOPTED this 12th day of May, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



GOVERNOR GREG ABBOTT

July 29, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Deputy Secretary Esparza:

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

Executive Order No. GA-38 relating to the continued response to the COVID-19 disaster.

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "G. Davidson", written over the typed name.

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
July 29, 2021

EXECUTIVE ORDER GA 38

Relating to the continued response to the COVID-19 disaster.

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

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, from March 2020 through May 2021, I issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health by adjusting social-distancing and other mitigation strategies; and

WHEREAS, combining into one executive order the requirements of several existing COVID-19 executive orders will further promote statewide uniformity and certainty; and

WHEREAS, as the COVID-19 pandemic continues, Texans are strongly encouraged as a matter of personal responsibility to consistently follow good hygiene, social-distancing, and other mitigation practices; and

WHEREAS, receiving a COVID-19 vaccine under an emergency use authorization is always voluntary in Texas and will never be mandated by the government, but it is strongly encouraged for those eligible to receive one; and

WHEREAS, state and local officials should continue to use every reasonable means to make the COVID-19 vaccine available for any eligible person who chooses to receive one; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility “for meeting ... the dangers to the state and people presented by disasters” under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

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

WHEREAS, under Section 418.016(a), the “governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;” and

WHEREAS, under Section 418.018(c), the “governor may control ingress and egress to

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and from a disaster area and the movement of persons and the occupancy of premises in the area;” and

WHEREAS, under Section 418.173, the legislature authorized as “an offense,” punishable by a fine up to \$1,000, any “failure to comply with the [state emergency management plan] or with a rule, order, or ordinance adopted under the plan;”

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. To ensure the continued availability of timely information about COVID-19 testing and hospital bed capacity that is crucial to efforts to cope with the COVID-19 disaster, the following requirements apply:
 - a. All hospitals licensed under Chapter 241 of the Texas Health and Safety Code, and all Texas state-run hospitals, except for psychiatric hospitals, shall submit to the Texas Department of State Health Services (DSHS) daily reports of hospital bed capacity, in the manner prescribed by DSHS. DSHS shall promptly share this information with the Centers for Disease Control and Prevention (CDC).
 - b. Every public or private entity that is utilizing an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of COVID-19, shall submit to DSHS, as well as to the local health department, daily reports of all test results, both positive and negative. DSHS shall promptly share this information with the CDC.
2. To ensure that vaccines continue to be voluntary for all Texans and that Texans’ private COVID-19-related health information continues to enjoy protection against compelled disclosure, in addition to new laws enacted by the legislature against so-called “vaccine passports,” the following requirements apply:
 - a. No governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization.
 - b. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual’s vaccination status for any COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
 - c. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer’s vaccination status for any COVID-19 vaccine administered under an emergency use authorization. No consumer may be denied entry to a facility financed

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- in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization.
- d. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
 - e. This paragraph number 2 shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.
3. To ensure the ability of Texans to preserve livelihoods while protecting lives, the following requirements apply:
- a. There are no COVID-19-related operating limits for any business or other establishment.
 - b. In areas where the COVID-19 transmission rate is high, individuals are encouraged to follow the safe practices they have already mastered, such as wearing face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household, but no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering.
 - c. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) is strongly encouraged to use good-faith efforts and available resources to follow the Texas Department of State Health Services (DSHS) health recommendations, found at www.dshs.texas.gov/coronavirus.
 - d. Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow guidance from the Texas Health and Human Services Commission (HHSC) regarding visitations, and should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible.
 - e. Public schools may operate as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency. Private schools and institutions of higher education are encouraged to establish similar standards.
 - f. County and municipal jails should follow guidance from the Texas Commission on Jail Standards regarding visitations.
 - g. As stated above, business activities and legal proceedings are free to proceed without COVID-19-related limitations imposed by local governmental entities or officials. This paragraph number 3 supersedes any conflicting local order in response to the COVID-19 disaster, and all relevant laws are suspended to the extent necessary to preclude any such inconsistent local orders. Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any conflicting or inconsistent limitation by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

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4. To further ensure that no governmental entity can mandate masks, the following requirements shall continue to apply:
- a. No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering; provided, however, that:
 - i. state supported living centers, government-owned hospitals, and government-operated hospitals may continue to use appropriate policies regarding the wearing of face coverings; and
 - ii. the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and any county and municipal jails acting consistent with guidance by the Texas Commission on Jail Standards may continue to use appropriate policies regarding the wearing of face coverings.
 - b. This paragraph number 4 shall supersede any face-covering requirement imposed by any local governmental entity or official, except as explicitly provided in subparagraph number 4.a. To the extent necessary to ensure that local governmental entities or officials do not impose any such face-covering requirements, I hereby suspend the following:
 - i. Sections 418.1015(b) and 418.108 of the Texas Government Code;
 - ii. Chapter 81, Subchapter E of the Texas Health and Safety Code;
 - iii. Chapters 121, 122, and 341 of the Texas Health and Safety Code;
 - iv. Chapter 54 of the Texas Local Government Code; and
 - v. Any other statute invoked by any local governmental entity or official in support of a face-covering requirement.

Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any such face-covering requirement by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

- c. Even though face coverings cannot be mandated by any governmental entity, that does not prevent individuals from wearing one if they choose.
5. To further ensure uniformity statewide:
- a. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order or allows gatherings restricted by this executive order. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the

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JUL 29 2021

- COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.
- b. Confinement in jail is not an available penalty for violating this executive order. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes all pre-existing COVID-19-related executive orders and rescinds them in their entirety, except that it does not supersede or rescind Executive Orders GA-13 or GA-37. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 29th
day of July, 2021.

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

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink that reads "Joe A. Esparza".

JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15pm O'CLOCK

JUL 29 2021



GOVERNOR GREG ABBOTT

August 25, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

AUG 25 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Deputy Secretary Esparza:

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

Executive Order No. GA-39 relating to prohibiting vaccine mandates and vaccine passports subject to legislative action.

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

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
August 25, 2021

EXECUTIVE ORDER GA 39

*Relating to prohibiting vaccine mandates and vaccine passports
subject to legislative action.*

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

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, I have issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health; and

WHEREAS, COVID-19 vaccines are strongly encouraged for those eligible to receive one, but have always been voluntary for Texans; and

WHEREAS, I issued Executive Orders GA-35 and GA-38, addressing COVID-19 vaccines administered under an “emergency use authorization” by prohibiting vaccine mandates from governmental entities and by prohibiting “vaccine passports” from governmental entities and certain others; and

WHEREAS, subsequently, on August 23, 2021, while the legislature was already convened in a special session, the U.S. Food and Drug Administration (FDA) approved one of the COVID-19 vaccines for certain age groups, such that this vaccine is no longer administered under an emergency use authorization for those age groups; and

WHEREAS, while this COVID-19 vaccine is now FDA-approved for certain age groups, others are not yet approved and still are administered under an emergency use authorization; and

WHEREAS, through Chapter 161 of the Texas Health and Safety Code, as well as other laws including Chapters 38 and 51 of the Texas Education Code, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Texas stem from the laws established by the legislature; and

WHEREAS, in other contexts where the legislature has imposed immunization requirements, it has also taken care to provide exemptions that allow people to opt out of being forced to take a vaccine; and

WHEREAS, given the legislature’s primacy and the need to avoid a patchwork of regulations with respect to vaccinations, it is appropriate to maintain the status quo of

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2pm O'CLOCK

AUG 25 2021

prohibiting vaccine mandates through executive order while allowing the legislature to consider this issue while in session; and

WHEREAS, in this instance, given the legislature's prior actions, maintaining the status quo of prohibiting vaccine mandates and ensuring uniformity pending the legislature's consideration means extending the voluntariness of COVID-19 vaccinations to all COVID-19 vaccinations, regardless of regulatory status; and

WHEREAS, I am also adding this issue to the agenda for the Second Called Session of the legislature that is currently convened so that the legislature has the opportunity to consider this issue through legislation; and

WHEREAS, I will rescind this executive order upon the effective date of such legislation;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No governmental entity can compel any individual to receive a COVID-19 vaccine. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine.
2. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
3. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine. No consumer may be denied entry to a facility financed in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine.
4. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
5. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2PM O'CLOCK

AUG 25 2021

other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

This executive order supersedes only paragraph No. 2 of Executive Order GA-38, and does not supersede or otherwise affect the remaining paragraphs of Executive Order GA-38. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 25th
day of August, 2021.

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

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink that reads "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2PM O'CLOCK

AUG 25 2021



GOVERNOR GREG ABBOTT

April 22, 2022

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

5pm O'CLOCK

APR 22 2022

Secretary of State

The Honorable John B. Scott
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

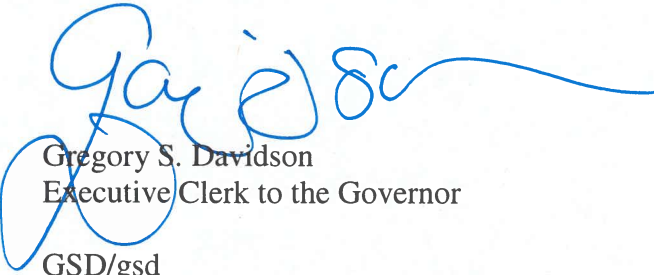
Dear Mr. Secretary:

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

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

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

PROCLAMATION

BY THE

Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

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

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

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

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

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

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

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

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



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 22nd day of April, 2022.

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

GREG ABBOTT
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5:14 PM O'CLOCK

APR 22 2022

Governor Greg Abbott
April 22, 2022

Proclamation
Page 2

ATTESTED BY:



JOHN B. SCOTT
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5pm O'CLOCK

APR 22 2022

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



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Mike Rains, Finance Director

SUBJECT: 13. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the Issuance of City of Abilene, Texas Combination Tax and Limited Surplus Revenue Certificates of Obligation, Series 2022; Authorizing the Sale and Delivery of the Certificates; Providing an Effective Date; and Enacting other Provisions Relating to the Subject (Mike Rains)

GENERAL INFORMATION

This ordinance authorizes the issuance of Certificates of Obligation, Series 2022 for the following Water Utility projects:

Phase II Waterline - 2nd Pressure Plane Phase 2 - \$10 million
Northwest Pump Station - 2nd Pressure Plane Phase 3 - \$10 million
Possum Kingdom Phase II - RO Concentrate Pipeline - \$3.7 million
Other water utility improvements - \$300k

The bonds will be priced on May 11th and will be presented for approval at this meeting.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The bonds will provide \$24,000,000 for water utility projects. Repayment of the bonds will come from revenues of the Water Utilities Fund.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Ordinance - 2022 Abilene COs - 5.12.22 AGENDA PACKETS
2. Powerpoint - Ordinance Approving Issuance of 2022 Series Certificates of Obligation

THE STATE OF TEXAS §
COUNTIES OF TAYLOR AND JONES §
CITY OF ABILENE §

Page 113 of 233

(b) The certificates of the City of Abilene, Texas (the “Issuer”) are hereby authorized to be issued and delivered, in the aggregate principal amount set forth below for paying all or a portion of the Issuer’s contractual obligations incurred in connection with (i) constructing, acquiring, installing and equipping additions, extensions and improvements to the City’s waterworks and sewer system, including water treatment improvements, distribution lines, lift and pump stations, water resources and storage facilities, and acquisition of easements and equipment for water treatment improvements and pipelines (ii) legal, fiscal and engineering fees in connection with such projects (collectively, the “Project”).

(c) Each certificate issued pursuant to this Ordinance shall be designated: “CITY OF ABILENE, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2022,” and initially there shall be issued, sold, and delivered hereunder one fully registered certificate, without interest coupons, with certificates issued in replacement thereof being in the denominations and principal amounts hereinafter stated and numbered consecutively from R-1 upward, payable to the respective Registered Owners thereof (with the initial certificate being made payable to the initial purchaser and dated as described in Section 10 hereof), or to the registered assignee or assignees of said certificates or any portion or portions thereof (in each case, the “Registered Owner”). The Certificates shall payable serially in each of the years and in the principal amounts, respectively, set forth below and shall bear interest from the dates set forth in the FORM OF CERTIFICATE set forth in Section 4 of this Ordinance to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the following schedule:

Years (2/15)	Principal Amounts (\$)	Interest Rates (%)
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		

Section 2. RESERVED.

Section 3. CHARACTERISTICS OF THE CERTIFICATES.

(a) Appointment of Paying Agent/Registrar. The selection and appointment of U.S. Bank Trust Company, National Association as the paying agent/registrar for the Certificates (the “Paying Agent/Registrar”) is hereby approved. The Mayor or City Manager is authorized and directed to execute

and deliver in the name and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar in substantially the form presented at this meeting.

(b) Registration, Transfer, Conversion and Exchange. The Issuer shall keep or cause to be kept at the corporate trust office of the Paying Agent/Registrar books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three (3) days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

(c) Authentication. Except as provided in subsection (j) of this section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Certificates in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(d) Payment of Principal and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered

owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(e) Payment to Registered Owner. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal and interest with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a certificate evidencing the obligation of the Issuer to make payments of principal and interest pursuant to this Ordinance.

(f) Paying Agent/Registrar. The Issuer covenants with the registered owners of the Certificates that at all times while the Certificates are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(g) Substitute Paying Agent/Registrar. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than one hundred-twenty (120) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar.

(h) Book-Entry Only System. The Certificates issued in exchange for the Certificates initially issued to the purchaser or purchasers specified herein shall be initially issued in the form of a separate single fully registered Certificate for each of the maturities thereof and the ownership of each such Certificate shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), and except as provided in subsections (j) and (k) of this Section, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

(i) Blanket Letter of Representations. The previous execution and delivery of the Blanket Letter of Representations with respect to obligations of the Issuer is hereby ratified and confirmed; and the provisions thereof shall be fully applicable to the Certificates. Notwithstanding anything to the contrary contained herein, while the Certificates are subject to DTC's Book-Entry Only System and to the extent permitted by law, the Letter of Representations is hereby incorporated herein and its provisions shall prevail over any other provisions of this Ordinance in the event of conflict.

(j) Certificates Registered in the Name of Cede & Co. With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created (“DTC Participant”) to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Certificates, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Certificates, as shown in the Registration Books of any amount with respect to principal of or interest on the Certificates. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record date, the words “Cede & Co.” in this Ordinance shall refer to such new nominee of DTC.

(k) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Issuer to DTC or that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

(l) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the representation letter of the Issuer to DTC.

(m) General Characteristics of the Certificates. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the Registered Owners thereof, (ii) may and shall be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Certificates, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificates initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/Registrar’s Authentication Certificate, in the FORM OF CERTIFICATE set forth in this Ordinance.

(n) Cancellation of Initial Certificate. On the closing date, one initial Certificate representing the entire principal amount of the Certificates, payable in stated amounts to the order of the initial purchaser of the Certificates or its designee, executed by manual or facsimile signature of the Mayor and City Secretary of the Issuer, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such purchaser or its designee. Upon payment for such initial Certificate, the Paying Agent/Registrar shall cancel such initial Certificate and deliver to the DTC on behalf of such purchaser one registered definitive Certificate for each year of maturity of such Certificates, in the aggregate principal amount of all of the Certificates for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Certificates in safekeeping for DTC.

Section 4. FORM OF CERTIFICATES. The form of the Certificates, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

(a) Form of Certificate.

NO. R-

UNITED STATES OF AMERICA
STATE OF TEXAS

PRINCIPAL
AMOUNT
\$ _____

CITY OF ABILENE, TEXAS

COMBINATION TAX AND LIMITED SURPLUS REVENUE CERTIFICATES OF OBLIGATION
SERIES 2022

INTEREST RATE	DELIVERY DATE	MATURITY DATE	CUSIP NO.
_____	_____	_____	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

ON THE MATURITY DATE specified above, the City of Abilene, in Taylor and Jones Counties, Texas, (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date set forth above at the Interest Rate per annum specified above. Interest is payable on February 15, 2023 and semiannually on each August 15 and February 15 thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear

interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the registered owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of U.S. Bank Trust Company, National Association, which is the "Paying Agent/Registrar" for this Certificate. The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Certificate (the "Certificate Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the last business day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for payment or redemption at the principal corporate trust office of the Paying Agent/Registrar. The Issuer covenants with the registered owner of this Certificate that on or before each principal payment date and interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Certificate Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for any payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a series of Certificates dated June 1, 2022, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____ for the public purposes of constructing, acquiring, installing and equipping additions, extensions and improvements to the City's waterworks and sewer system, including water treatment improvements, distribution lines, lift and pump stations, water resources and storage facilities, and acquisition of easements and equipment for water treatment improvements and pipelines and to pay the costs incurred in connection with the issuance of the Certificates.

ON FEBRUARY 15, 20____, or on any date thereafter, the Certificates of this series may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Certificates, or portions thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

THE CERTIFICATES scheduled to mature on February 15 in the years ____ and ____ (the "Term Certificates") are subject to scheduled mandatory redemption by the Paying Agent/Registrar by lot, or by any other customary method that results in a random selection, at a price equal to the principal amount thereof, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund for the Certificates, on the dates and in the respective principal amounts, set forth in the following schedule:

Term Certificate	
Maturity: February 15, 20____	
YEAR	PRINCIPAL AMOUNT(\$)
20____	
20____(stated maturity)	

The principal amount of Term Certificates of a stated maturity required to be redeemed on any mandatory redemption date pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the Issuer, by the principal amount of any Term Certificates of the same maturity which, at least 50 days prior to a mandatory redemption date (1) shall have been acquired by the Issuer at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Issuer at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory redemption requirement.

IF AT THE TIME OF MAILING of notice of optional redemption there shall not have either been deposited with the Paying Agent/Registrar or legally authorized escrow agent immediately available funds sufficient to redeem all the Certificates called for redemption, such notice may state that it is conditional, and is subject to the deposit of the redemption moneys with the Paying Agent/Registrar or legally authorized escrow agent at or prior to the redemption date. If such redemption is not effectuated, the Paying Agent/Registrar shall, within five days thereafter, give notice in the manner in which the notice of redemption was given that such moneys were not so received and shall rescind the redemption.

AT LEAST THIRTY (30) DAYS prior to the date fixed for any redemption of Certificates or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least thirty (30) days prior to the date fixed for any such redemption, to the registered owner of each Certificate to be redeemed at its address as it appeared on the business day prior to the mailing of such redemption notice; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificate. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof that are to be so

redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Certificates or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificate shall be redeemed, a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Certificate Ordinance.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE CERTIFICATES, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the Issuer, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a notice of conditional redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Issuer shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Certificate Ordinance, this Certificate may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Certificates, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Certificate Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within forty-five (45) days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Certificates.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that this Certificate is a general obligation of said Issuer, issued on the full faith and credit thereof; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate is additionally secured by and payable from a limited pledge of the Surplus Revenues of the Issuer's waterworks and sewer system remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) that are payable from all or part of said revenues, all as provided in the Certificate Ordinance.

THE ISSUER HAS RESERVED THE RIGHT to amend the Certificate Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Certificates.

BY BECOMING the registered owner of this Certificate, the registered owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each registered owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the Issuer (or in his absence, the Mayor Pro Tem) and countersigned with the manual or facsimile signature of the City Secretary of said Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Certificate.

(signature)
City Secretary

(signature)
Mayor

(SEAL)

(b) Form of Paying Agent/Registrar's Authentication Certificate.

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Certificate is not accompanied by an executed Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Certificate Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

U.S. Bank Trust Company, National Association
Paying Agent/Registrar

By: _____
Authorized Representative

(c) Form of Assignment.

ASSIGNMENT

(Please print or type clearly)

For value received, the undersigned hereby sells, assigns and transfers unto: _____

Transferee's Social Security or Taxpayer Identification Number: _____

Transferee's name and address, including zip code: _____

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

_____, attorney, to register the transfer of
the within Certificate on the books kept for registration thereof, with full power of substitution in the
premises.

Dated: _____ .

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an
eligible guarantor institution participating in a
securities transfer association recognized signature
guarantee program.

NOTICE: The signature above must correspond
with the name of the registered owner as it appears
upon the front of this Certificate in every particular,
without alteration or enlargement or any change
whatsoever.

(d) Form of Registration Certificate of the Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion
of the Attorney General of the State of Texas approving this Certificate and that this Certificate has been
registered this day by me.

Witness my signature and seal this _____ .

Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(e) Initial Certificate Insertions.

(i) The initial Certificate shall be in the form set forth in paragraph (a) of this Section, except that:

A. immediately under the name of the Certificate, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. _____" shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF ABILENE, TEXAS, in Taylor and Jones Counties, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on February 15 in each of the years, in the principal amount and bearing interest at the per annum rates set forth in the following schedule:

<u>Years(2/15)</u>	<u>Principal Amounts(\$)</u>	<u>Interest Rates(\$)</u>
--------------------	------------------------------	---------------------------

(Information from Section 2 to be inserted)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date set forth above at the respective Interest Rate per annum specified above. Interest is payable on February 15, 2023 and semiannually on each August 15 and February 15 thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The Initial Certificate shall be numbered "T-1."

Section 5. INTEREST AND SINKING FUND; SURPLUS REVENUES.

(a) A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the Issuer as a separate fund or account and the funds therein shall be deposited into and held in an account at an official depository bank of said Issuer. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said Issuer, and shall be used only for paying the interest on and principal of said Certificates. All amounts received from the sale of the Certificates as accrued interest shall be deposited upon receipt to the Interest and Sinking Fund, and all ad valorem taxes levied and collected for and on account of said Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Certificates are outstanding and unpaid, the governing body of said Issuer shall compute and ascertain a rate and amount of ad valorem tax that will be

sufficient to raise and produce the money required to pay the interest on said Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Certificates as such principal matures (but never less than 2% of the original amount of said Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said Issuer, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said Issuer, for each year while any of said Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) The Certificates are additionally secured by a limited pledge, not to exceed \$1,000 of revenues of the Issuer's waterworks and sewer system that remain after the payment of all maintenance and operation expenses thereof, and all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) that are secured by a lien on all or any part of the net revenues of the Issuer's waterworks and sewer system, constituting "Surplus Revenues." The Issuer shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to this section, to the extent necessary to pay the principal of and interest on the Certificates. Notwithstanding the requirements of this section, if Surplus Revenues or other lawfully available moneys of the Issuer are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to this Section may be reduced to the extent and by the amount of the Surplus Revenues or other lawfully available funds then on deposit in the Interest and Sinking Fund.

(c) Chapter 1208, Texas Government Code, applies to the issuance of the Certificates of Obligation and the pledge of the taxes and Surplus Revenues granted by the Issuer under this Section, and is therefore valid, effective, and perfected. Should Texas law be amended at any time while the Certificates of Obligation are outstanding and unpaid, the result of such amendment being that the pledge of the taxes and Surplus Revenues granted by the Issuer under this Section is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, in order to preserve to the registered owners of the Certificates of Obligation a security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing of a security interest in said pledge to occur.

Section 6. DEFEASANCE OF CERTIFICATES.

(a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest

thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged or the limited pledge of Surplus Revenues as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities, and thereafter the Issuer will have no further responsibility with respect to amounts available to such paying agent (or other financial institution permitted by applicable law) for the payment of such Defeased Certificates, including any insufficiency therein caused by the failure of such paying agent (or other financial institution permitted by applicable law) to receive payment when due on the Defeasance Securities.. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements specified in subsection subsections (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsections (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term “Defeasance Securities” means any securities and obligations now or hereafter authorized by State law that are eligible to refund, retire or otherwise discharge obligations such as the Certificates.

(d) Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) In the event that the Issuer elects to defease less than all of the principal amount of Certificates of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Certificates by such random method as it deems fair and appropriate.

Section 7. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES.

(a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the registered owner applying

for a replacement certificate shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificate shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificate, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the registered owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Section 1206.022, Texas Government Code, this Section 7 of this Ordinance shall constitute authority for the issuance of any such replacement certificate without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates in the form and manner and with the effect, as provided in Section 3(a) of this Ordinance for Certificates issued in conversion and exchange for other Certificates.

Section 8. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The Mayor of the Issuer is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificates said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall sign manually, by facsimile, electronically or otherwise the Comptroller's Registration Certificate attached to such Certificates, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Certificates. In addition, if bond insurance is obtained, the Certificates may bear an appropriate legend as provided by the insurer.

(b) The obligation of the initial purchaser to accept delivery of the Certificates is subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Issuer, which opinion shall be dated as of and delivered on the date of initial delivery

of the Certificates to the initial purchaser. The engagement of such firm as bond counsel to the Issuer in connection with issuance, sale and delivery of the Certificates is hereby approved and confirmed.

Section 9. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES.

(a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Code, the interest on which is not includable in the “gross income” of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates (less amounts deposited to a reserve fund, if any) are used for any “private business use,” as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the “private business use” described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a “private business use” that is “related” and not “disproportionate,” within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount that is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action that would otherwise result in the Certificates being treated as “private activity bonds” within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Certificates being “federally guaranteed” within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Certificates, other than investment property acquired with –

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the Certificates are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(7) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using proceeds of the Certificates or the proceeds of any prior bonds to pay debt services on another issue more than ninety (90) days after the issuance of the Certificates in contravention of section 149(d) of the Code (relating to advance refundings);

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the “Excess Earnings,” within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(10) use the proceeds of the Certificates solely for new money purposes.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (a)(8), a “Rebate Fund” is hereby established by the Issuer for the sole benefit of the United States of America, and such Fund shall not be subject to the claim of any other person, including without limitation the certificateholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Use of Proceeds. For purposes of the foregoing covenants (a)(1) and (a)(2), the Issuer understands that the term “proceeds” includes “disposition proceeds” as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Certificates, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Certificates, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor, City Manager, Finance Director, or any one of them, to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, that may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

(d) Allocation of, and Limitation on, Expenditures for the Project. The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the construction and acquisition of the Project on its books and records by allocating proceeds to expenditures within eighteen (18) months of the later of the date that (1) the expenditure is made, or (2) the Project is completed. The foregoing notwithstanding, the Issuer shall not expend proceeds of the sale of the Certificates or investment earnings thereon more than sixty (60) days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired, unless the Issuer obtains an opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the status, for federal income tax purposes, of the Certificates or the interest thereon. For purposes hereof, the Issuer shall not be obligated

to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The Issuer covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Certificates. For purpose of the foregoing, the Issuer may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 10. SALE OF CERTIFICATES AND APPROVAL OF OFFICIAL STATEMENT; FURTHER PROCEDURES.

(a) The Certificates are hereby sold and shall be delivered to Frost Bank as representative of the underwriters set forth in the purchase agreement (the "Underwriter"), for the purchase price of \$____ (representing the par amount of the Certificates of \$____, plus aggregate original issue premium of \$____ (premium to be applied as set forth in Section 16) and less an underwriting discount of \$____). It is hereby officially found, determined, and declared that the Certificates have been sold pursuant to the terms and provisions of a purchase agreement in substantially the form presented at this meeting, which the Mayor of the Issuer (or in the Mayor's absence, by the Mayor Pro Tem) is hereby authorized and directed to execute. It is hereby officially found, determined, and declared that the terms of this sale are the most advantageous reasonably obtainable. The Official Statement, and any addenda, supplement, or amendment thereto have been and are hereby approved by the governing body of the Issuer, and their use in the offer and sale of the Certificates is hereby approved. The initial Certificate shall be registered in the name of the Underwriter or its designee.

(b) The Issuer hereby approves the form and content of the Official Statement relating to the Certificates and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the Underwriter in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement in connection with the Certificates, prior to the date hereof is hereby ratified and confirmed.

(c) The Mayor, City Manager, City Secretary and Finance Director, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name of the Issuer all other such documents, certificates and instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the sale of the Certificates and the Official Statement. In case any officer whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 11. INTEREST EARNINGS ON CERTIFICATE PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with other certificate proceeds for the Project; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on certificate proceeds that are required to be rebated to the

United States of America pursuant to Section 9 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 12. CONSTRUCTION FUND.

(a) The Issuer hereby creates and establishes and shall maintain on the books of the Issuer a separate fund to be entitled the "Series 2022 Combination Tax and Limited Surplus Revenue Certificate of Obligation Construction Fund" for use by the Issuer for payment of all lawful costs associated with the acquisition and construction of the Project as hereinbefore provided. Upon payment of all such costs, any moneys remaining on deposit in said fund shall be transferred to the Interest and Sinking Fund. Amounts so deposited to the Interest and Sinking Fund shall be used in the manner described in Section 5 of this Ordinance.

(b) The Issuer may invest proceeds of the Certificates (including investment earnings thereon) and amounts deposited into the Interest and Sinking Fund in investments authorized by the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended; provided, however, that the Issuer hereby covenants that the proceeds of the sale of the Certificates will be used as soon as practicable for the purposes for which the Certificates are issued.

(c) All deposits authorized or required by this Ordinance shall be secured to the fullest extent required by law for the security of public funds.

Section 13. COMPLIANCE WITH RULE 15c2-12.

(a) Definitions. That as used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports.

(i) The Issuer shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six (6) months after the end of each fiscal year ending in or after 2022, financial information and operating data with respect to the Issuer of the general type included in the final Official Statement authorized by Section 10 of this Ordinance, being the information described in Exhibit A hereto. The Issuer will additionally provide audited financial statements when and if available, and in any event, within twelve (12) months after the end of each fiscal year ending in or after 2021. If the audit of such financial statements is not complete within twelve (12) months after any such fiscal year end, then the Issuer will file unaudited financial statements within such twelve (12) month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in the appropriate appendix to the Official Statement, or such other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation.

(ii) If the Issuer changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in

one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

(c) Event Notices.

(i) The Issuer shall notify the MSRB in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten (10) business days after the occurrence of the event) of any of the following events with respect to the Certificates:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
7. Modifications to rights of holders of the Certificates, if material;
8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Issuer;
13. The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor trustee or change in the name of the trustee, if material;
15. Incurrence of a financial obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of any such financial obligation of the Issuer, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any such financial obligation of the Issuer, any of which reflect financial difficulties.

As used in clause 12 above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of the Issuer, or if jurisdiction has been assumed by leaving the existing City Council and officials or officers of the Issuer in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer. For the purposes of the above describe event notices 15 and 16, the term “financial obligation” means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii); provided however, that a “financial

obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

(ii) The Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection.

(c) Limitations, Disclaimers, and Amendments.

(i) The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the Issuer in any event will give the notice required by Subsection (b) hereof of any Certificate calls and defeasance that cause the Issuer to no longer be such an “obligated person”.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Issuer does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under the Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) Should the Rule be amended to obligate the Issuer to make filings with or provide notices to entities other than the MSRB, the Issuer hereby agrees to undertake such obligation with respect to the Certificates in accordance with the Rule as amended. The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision

of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (b) a qualified person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Certificates. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

Section 14. METHOD OF AMENDMENT. The Issuer hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Issuer may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the Issuer's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Certificates aggregating in principal amount 51% of the aggregate principal amount of then outstanding Certificates that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Issuer; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Certificates, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Certificates so as to:

- (1) Make any change in the maturity of any of the outstanding Certificates;
- (2) Reduce the rate of interest borne by any of the outstanding Certificates;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Certificates;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Certificates or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of the Certificates necessary for consent to such amendment.

(c) If at any time the Issuer shall desire to amend this Ordinance under this Section, the Issuer shall send by U.S. mail to each registered owner of the affected Certificates a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Issuer shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Certificates then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Issuer may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Issuer and all holders of such affected Certificates shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Certificate pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of such consent, and shall be conclusive and binding upon all future holders of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of such consent by the holder who gave such consent, or by a successor in title, by filing notice with the Issuer, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Certificates then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

For the purposes of establishing ownership of the Certificates, the Issuer shall rely solely upon the registration of the ownership of such Certificates on the registration books kept by the Paying Agent/Registrar.

Section 15. DEFAULT AND REMEDIES

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer, the failure to perform which materially, adversely affects the rights of the registered owners of the Certificates, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Registered Owner to the Issuer.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Issuer for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Issuer or the City Council.

Section 16. PREMIUM. The Certificates are being sold at an aggregate premium equal to \$_____. With respect to such premium attributable to the Certificates, \$_____ shall be used to pay costs of issuance, \$_____ shall be used to pay underwriting discount and \$_____ shall be deposited into the Construction Fund.

Section 17. APPROPRIATION. To pay the debt service coming due on the Certificates, if any, prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 18. NO PERSONAL LIABILITY. No recourse shall be had for payment of the principal of or interest on any Certificates or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Certificate.

Section 19. EFFECTIVE DATE. In accordance with the provisions of V.T.C.A., Government Code, Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the City Council.

Section 20. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

[Execution Page Follows]

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ABILENE,
TEXAS, this 12th day of May, 2022.

ATTEST:

Mayor, City of Abilene, Texas

City Secretary, City of Abilene, Texas

[CITY SEAL]

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

ANNUAL FINANCIAL STATEMENTS AND OPERATING DATA

The following information is referred to in Section 13(b) of this Ordinance:

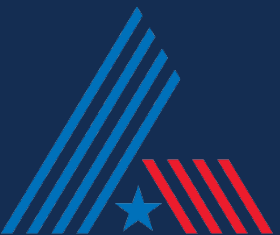
The financial information and operating data with respect to the Issuer to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

-- Tables 1 - 6 and 8 – 23

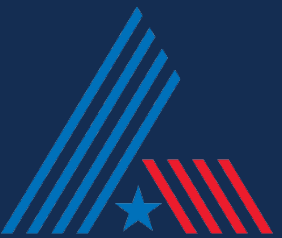
Ordinance & Public Hearing – Authorizing the Issuance and Sale of City of Abilene, Texas, Combination Tax and Limited Surplus Revenue Certificates of Obligation Bonds, Series 2022 for Water Utilities Projects



- The ordinance will authorize issuance of certificates of obligation bonds which will provide \$24,000,000 of proceeds for Water Utility projects including the following:
 - Phase II Waterline - \$10 million – 2nd Pressure Plane Water Line Phase 2
 - Northwest Pump Station - \$10 million – 2nd Pressure Plane Water Pumping Station Phase 3
 - Possum Kingdom Phase II - \$3.7 million RO Concentrate Pipeline Phase 2
 - Other improvements - \$300k
- Repayment will be from Water Utility revenues.
- Pricing for the bonds will take place on May 11th and will be presented for approval by Hilltop Securities.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **14. Ordinance (Final Reading) Z-2022-07:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Collective Owner of Properties Within the Subdivision Known as Windmill Acres (Represented By Jacob & Martin LLC) to Amend the Zoning from Planned Development District (PDD 156) to Add Self-Storage as a Permitted Use in Windmill Acres in the City of Abilene, Taylor County, Texas. **(Tim Littlejohn)**

GENERAL INFORMATION

The applicant is requesting to amend the PD language that affects both lots 111 and 112 of Windmill Acres. The applicant is requesting an additional use be added to the PD as follows:

- 1) PERMITTED USES:
 - a. Residential uses shall not be permitted within the PD district.
 - b. Storage self-service units.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request.

ATTACHMENTS:

1. Amended PD 156
2. Z-2022-07 staff report
3. 24127.17 Windmill Circle
4. Original PD 156
5. Z-2022-07 Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, CONCERNING PD-156 A PLANNED DEVELOPMENT DISTRICT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 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 28th day of April, 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 24th day of April, 2022, the same being more than fifteen (15) days prior to a public hearing held at the Abilene Public Library's South Branch in the Mall of Abilene at 4310 Buffalo Gap Road in Abilene, Texas, at 8:30 a.m. on the 12th day of May, 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 12th day of May, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Amending PD-156

Legal description being Lot 111 & 112 of Block A within Windmill Acres



PART 3: Building Specifications. All structures in the herein said Planned Development shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Abilene Municipal Code, part be known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries, as hereinafter set forth: From LI (Light Industrial) to PD (Planned Development) zoning.

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PART 5: Legal Description. The legal description of this PD is as follows:

WINDMILL ACRES, BLOCK A, LOT 111 REP

WINDMILL ACRES, BLOCK A, LOT 112 REP



PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for uses permitted within MU (Medical Use) zoning but eliminating all residential uses.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the MU (Medical Use) zoning district except as modified below:

1) PERMITTED USES:

- Residential uses shall not be permitted within the PD district.
- Self Storage self-service units.

-END-

ZONING CASE Z-2022-07

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: April 5, 2022

City Council 1st Reading: April 28, 2022

City Council 2nd Reading: May 12, 2022

Applicant

Owner: Floyd Kaerwer

Agent: Jacob and Martin

Request

Amendment to the Terms and Conditions of Planned Development District 156

Location

Lots 111 and 112 of Block A within Windmill Acres, Abilene, Texas.

Background

Planned Development (PD) District 156 was created in 2016 (35-2016). This PD encompasses lots 111 and 112 of Windmill Acres. This PD has a base zoning of Medical Use (MU) with a stipulation that no residential uses shall be allowed.

The applicant is requesting to amend the PD language that affects both lots 111 and 112 of Windmill Acres. The applicant is requesting an additional use be added to the PD as follows:

1) PERMITTED USES:

- a. Residential uses shall not be permitted within the PD district.
- b. **Storage self-service units.**

According to information provided within the application, the area has developed, more commercial uses have emerged within this area with Spare feet self-storage being more successful, Spare Feet self-service storage facility just across the street. Spare Feet is under contract to expand their facility and would like to utilize this property for additional self-storage facilities.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.

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

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

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

- (3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

The subject properties currently have access to existing utilities and public amenities, which are adequate for servicing the development. The request presents no apparent conflict with existing or proposed plans for community facilities and related infrastructure.

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

It is the opinion of City staff that the proposed amendment would not affect the general welfare of the surrounding neighbors.

Staff Recommendation

Staff recommends approval.

P&Z also recommends approval

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on November 26 of 2021, to the applicant and to other owners of property within a 200-foot radius of this subject property. These property owners and associated parcel identification numbers are identified in Table 1.

TABLE 1

Owner	Property		Response
	ID	Situs	
KAERWER FLOYD	24644	11 WINDMILL CR	O
SWEET COMMERCIAL PROP LLC	24639	33 WINDMILL CR	
J & K ALEXANDER PROPERTIES LLC	23734		
PICKENS REX F	24508	31 WINDMILL CR	
RANDELL DAVID J	24640	35 WINDMILL CR	
WINDMILL CIRCLE PARTNERS LP	23876	37 WINDMILL CR	
ADAMS LYNN	24127	17 WINDMILL CR	
M2B ABILENE LLC	24890	18 WINDMILL CR	
PRICE DALE K & JANICE W	25782	2 WINDMILL CR	
SAMS REAL ESTATE BUSINESS TR	986125	5610 S CLACK ST	
SAMS REAL ESTATE BUSINESS TR	986125	A B S CLACK ST	
SAMS REAL ESTATE BUSINESS TR	986125	5550 S CLACK ST	
KAERWER FLOYD	24642	15 WINDMILL CR	
HASTEN FAMILY INVESTMENTS LTD	24380	27 WINDMILL CR	
J & K ALEXANDER PROPERTIES LLC	1079087	5 WINDMILL CR	

Attachments

Application
PowerPoint Presentation
Ordinance 02-2008



Development Application

Planning

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

Project Name: Windmill Acres
 Address: 11 & 15 Windmill Circle, Abilene, TX 79606 No. of lots: _____ Acreage: _____
 Legal Description: _____
 Subdivision Name: Windmill Acres Block: A Lot: 111 & 112
 Current Zoning: PD-156 Proposed Zoning (if applicable): PD-156

OWNER AND AUTHORIZATION

Owner Name: Floyd Kaerwer
 Address: 233 War Paint Road
 City, State, Zip: Abilene, TX 79601 Fax: _____
 Phone: _____ Email: _____

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

Agent Name: Jacob & Martin
 Address: 3465 Curry Lane
 City, State, Zip: Abilene, TX 79606 Fax: _____
 Phone: 325-695-1070 Email: tal@jacobmartin.com

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner: _____

Floyd Kaerwer

dotloop verified
02/23/22 3:50 PM CST
TQJZ-IEVF-FMBS-NEUJ

Date: _____

FOR OFFICE USE ONLY



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

As this area has developed, more commercial uses have emerged in this area, with Spare Feet Self Storage being a highly successful

self-storage facility just across the street. Spare Feet is under contract to expand their facility and would like to utilize this property for

additional self-storage facilities. The request to amend the PD is solely to add self-storage as a permitted use in this PD.

LOCATION MAP





ADAMS LYNN
PO BOX 7667
ABILENE, TX 79608-7667

NOTICE OF PUBLIC HEARING

RE: Zone Change Application Number Z-2022-07

03/25/2022

The Planning and Zoning Commission will hold a public hearing on **April 5, 2022 at 1:30 PM**, in an auditorium at the South Branch of the Abilene Public Library located in Suite 1246 at the Mall of Abilene, 4310 Buffalo Gap Road in Abilene, Texas, to recommend approval or denial to City Council on a request the collective owner of properties within the subdivision known as Windmill Acres (Represented by Jacob & Martin LLC) to amend the zoning from Planned Development District (PDD 156) to add self-storage as a permitted use on Lots 111 & 112 Block A of Windmill Acres in the City of Abilene, Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as indicated below. All written responses must be signed.

The attached map shows the area of this request. Only the area highlighted by striped lines shown on that map is being considered for a change of zoning. The solid boundary line surrounding this subject area is only a notification area. If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **May 12, 2022 at 8:30 AM** in an auditorium at the South Branch of the Abilene Public Library located in Suite 1246 at the Mall of Abilene, 4310 Buffalo Gap Road in Abilene, Texas.

If you have any questions, please contact Adam Holland at telephone 325-676-6230 or by email address planning@abilenetx.gov

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

CASE #: Z-2022-07

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ADAMS LYNN
Parcel I.D.: 24127
Address: 17 WINDMILL CR

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

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____

APR 1 AM 10:12

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-156 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 23, part known as the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 28th day of July A.D. 2016.

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 17th day of June, 2016, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 p.m., on the 11th day of August, 2016, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 11th day of August, A.D. 2016.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

ORDINANCE NO. 35-2016

Exhibit "A"

PART 1: Land Title. Title to land not dedicated to public use and services or for utility purposes and not otherwise designated for development purposes shall remain in possession of the owner thereof, his heirs, assigns, lessees and successors in interest and shall not be the responsibility of the City of Abilene for any purpose.

PART 2: Development Specifications. All development in the Planned Development shall be in accordance with any maps, topographical and drainage plans, utility plans, architectural drawings, site plan, plat, and any other required plans filed in connection with this requested Planned Development, which are hereby incorporated by reference and included as part of this ordinance. All use and development within the Planned Development must be in compliance with the general Comprehensive Zoning Ordinance of the City of Abilene except as otherwise specifically provided herein.

PART 3: Building Specifications. All structures in the herein said Planned Development shall be constructed in accordance with all pertinent building and construction codes of the City of Abilene.

PART 4: Zoning. That Chapter 23, Abilene Municipal Code, part known as the Land Development Code of the City of Abilene, is hereby further amended by changing the zoning district boundaries, as hereinafter set forth: From LI (Light Industrial) to PD (Planned Development) zoning.

That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PART 5: Legal Description. The legal description of this PD is as follows:

WINDMILL ACRES, BLOCK A, LOT 111 REP

WINDMILL ACRES, BLOCK A, LOT 112 REP



Location:

11 & 15 Windmill Cir

ORDINANCE NO. 35-3016

EXHIBIT "A"

PAGE 3

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for used permitted within the MU (Medical Use) zoning but eliminating all residential uses.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the MU (Medical Use) zoning district, except as modified below:

1) PERMITTED USES:

- a. Residential uses shall not be permitted within the PD district.

-END-

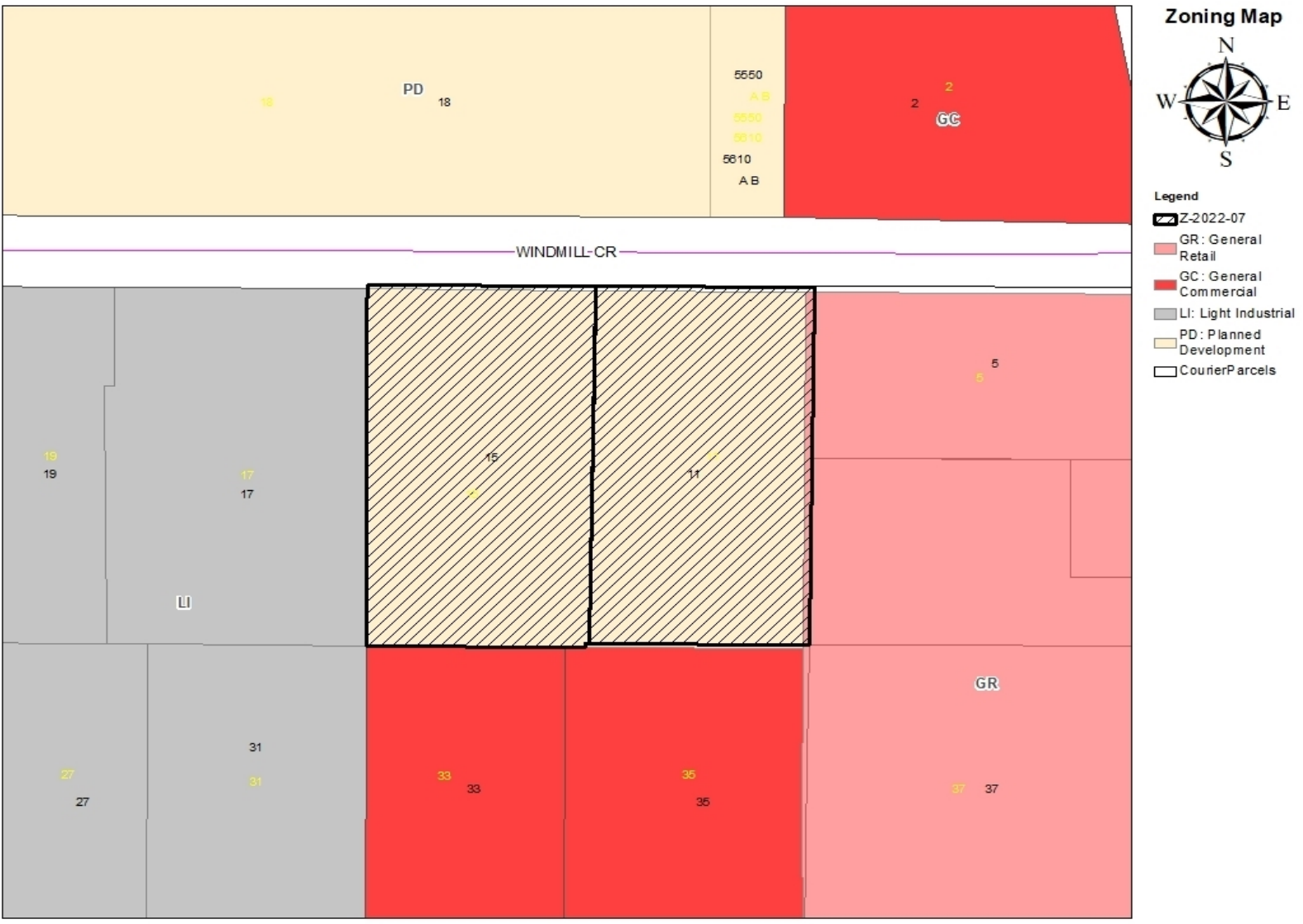
Case:	Z-2022-07
Owner:	Floyd Kaerwer
Agent:	Jacob Martin
Request:	Amendment to the Terms and Conditions of Planned Development 156
Location:	#11 & #15 Windmill Circle
Notification:	0 in Favor, 1 Opposed
Planning & Zoning:	April 05, 2022
City Council Hearings:	1 st April 28, 2022 2 nd : May 12, 2022



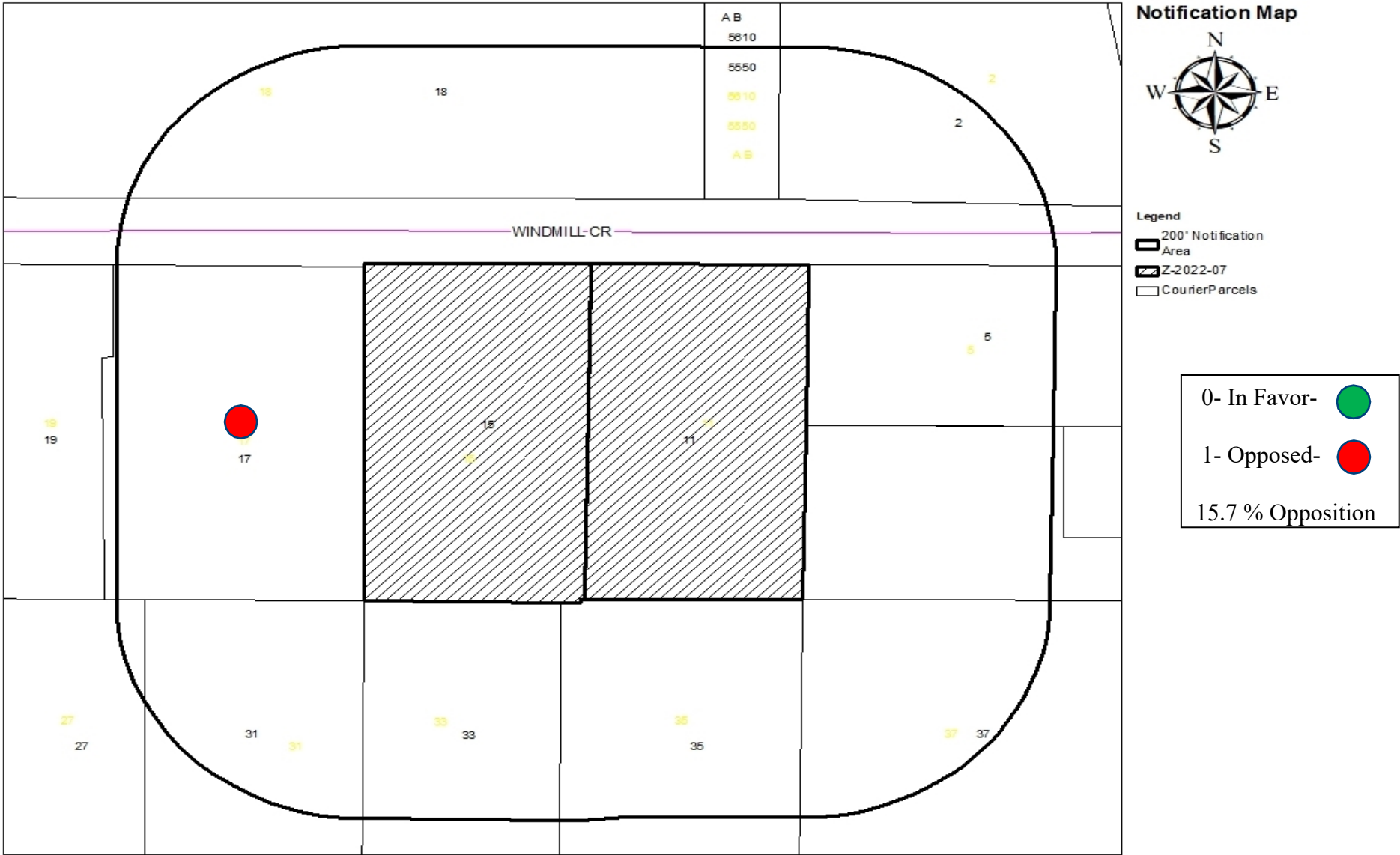
**Location Map
(Aerial)**

Legend

- Z-2022-07
- CourierParcels







- 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)
- P&Z Recommends: Approval
- Staff Recommendation: Approval
 - Alter the permitted use language to include “Storage Self-service units.”

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **15. Ordinance (Final Reading) Z-2022-08:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Collective Owner of Property Within the Subdivision Known as Mill Ridge Estates to Change the Zoning of 27.859 Acres from Residential Single-Family District-6 (RS-6) to Residential Single-Family Patio Home District (PH) at the 200 Block of Hardison Lane, Abilene, Taylor County, Texas. *(Tim Littlejohn)*

GENERAL INFORMATION

The request is to rezone approximately 27.85 acres of Single-Family Residential (RS-6) zoning to Patio Home (PH) zoning. The intention, according to a draft subdivision plat received by staff, is to create eighty-four (84) single-family home sites.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request.

ATTACHMENTS:

1. Z-2022-08 Council Ordinance
2. Z-2022-08 Staff Report
3. Application
4. Plat copy
5. Z-2022-08 PZC presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, LAND DEVELOPMENT CODE OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be and is hereby authorized and directed to change the official Zoning Map of the City of Abilene, to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 28th day of April, 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 March, 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 12th day of May, 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 12th day of May, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land, from an Residential Single Family 6 (RS 6) to a Patio Home (PH) District:

BEING 27.86 acres out of section 8, Lunatic Asylum Lands Survey, Taylor County, Texas, and being the same tract conveyed to M.L. Hughes and Carol Hughes, recorded in volume 2851, Page 225, Official Public Records, Taylor County, Texas, said 27.86 Acre tract being more particularly described as follows;

BEGINNING at a found ½ inch iron rod with plastic ring marked “Needham” on the South right of way at the Northern most Northeast corner of the tract, where the Northwest corner of said Section 8 is calculated to bear 920.7' N 89°25'51” W;

THENCE South 00 degrees 27minutes 16 seconds West for a distance of 308.56 feet to a found ½ inch iron rod with plastic ring marked “Needham” at a corner of this tract;

THENCE South 89 degrees 27 minutes 16 seconds West for a distance of 308.56 feet to a found ½ inch iron rod with plastic ring marked “Needham” at the Eastern Northeast corner of this tract;

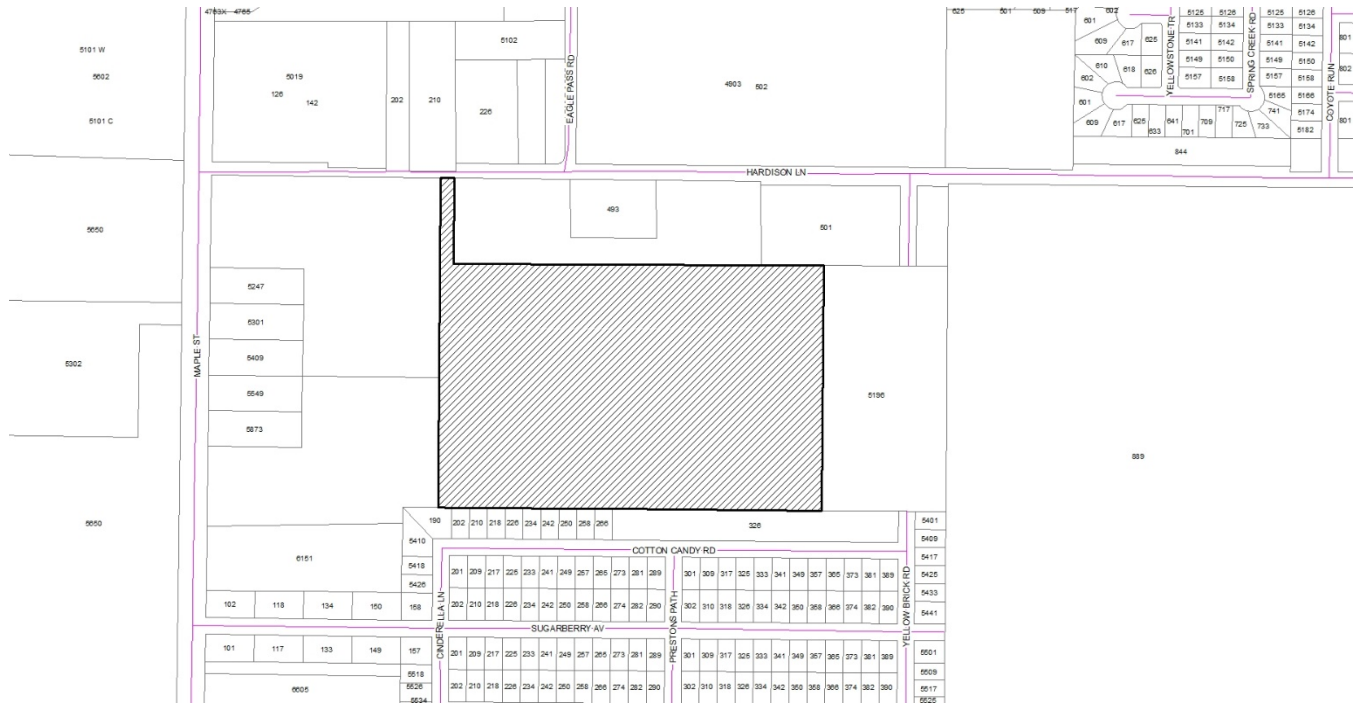
THENCE South 00 degrees 38 minutes 47 seconds East for a distance of 1324.70 feet to a found ½ inch iron rod with plastic ring marked “Needham” at the Southeast corner of this tract;

THENCE North 89 degrees 32minutes 33 seconds West for a distance of 1371.63 feet to a found ½ inch iron rod with plastic ring marked “Needham” at the Southwest corner of this tract;

THENCE North 00degrees 26 minutes 14 seconds East for a distance of 1181.17 feet to a found ½ inch iron rod with plastic ring marked “Needham” on the South right of way od Hardison Road at the Northwest corner of this tract;

THENCE South 89 degrees 25 minutes 51 seconds East for a distance of 50.02 feet to the Point of Beginning containing 27.86 acres. Surveyed on August 23, 2017.

Location: 200 block of Hardison Lane. Legal description being the Northwest quarter of Lunatic Asylum Lands Section 8, Abilene, Taylor County, Texas.



-END-

ZONING CASE Z-2022-08

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: April 5, 2022

City Council 1st Reading: April 28, 2022

City Council 2nd Reading: May 12, 2022

Applicant

Owner: Griffith Lake Estates, LLC

Agent: BJ Prichard/eHT

Request

Rezone approximately 27.85 acres of Single-Family Residential (RS-6) zoning to Patio Home (PH) zoning. The intention, according to a draft subdivision plat received by staff is to create eighty-four (84) single-family home sites.

Location

The subject property is approximately 27.85 acres of vacant land along the 200 block of Hardison Lane. Legal description being the Northwest quarter of Lunatic Asylum Lands Section 8, Abilene, Taylor County, Texas.

Background

The subject property was annexed around 2018-2019 according to Taylor County Tax Assessor and Single-family Residential (RS-6) zoning was applied to the property. The applicant would now like to zone this property to PH (Patio Home) in order to maximize the buildable area of the current lot sizes.

Zoning and Existing Land Use

Current zoning and existing land use of properties adjacent to and in the immediate area of the subject property are illustrated on the map included in this report. As indicated on the map, adjacent zoning consists of RS-6, AO, and a PD district with a base zoning of NR allowing for self-service storage units. Directly North and on the Southeast side of the property are unannexed properties. Currently single-family residences are to the south of the subject property, and vacant land is to the East and West. To the North and Southeast are single-family homes.

Criteria Assessment

Section 1.4.1.4 of the Land Development Code states that in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land use and Development Plan Map, as amended;**

It is the opinion of the staff that the proposed zoning map amendment will serve to implement the goals, objectives, and policies of the Comprehensive Plan and Future Land Use and

Development Plan Map. The Future Land Use and Development Plan Map does not identify this property within the boundaries of the City. The proposed zone change is consistent with single-family residential land use located nearby on the future land use map. Additionally, the comprehensive plan details the need to close gaps or enclaves within the current city limits.

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

It is the opinion of the staff, that the uses permitted by the proposed zone change are consistent with the surrounding properties in the immediate vicinity. The surrounding properties are residential with a PD district with a base zoning of NR on the West side of this property.

(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 future development of the subject property will necessitate the extension of water and sewer utilities to service the future subdivision. Additionally, the future development of the northernmost point of the subject property will require dedication of right-of-way.

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

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

Staff Recommendation

Staff recommends approval.

P&Z also recommends approval

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, staff mailed personal notices on October 22, 2021, via certified mail to the applicant and other property owners within a 200-foot radius of the subject property. These property owners and associated addresses are identified in Table 1.

TABLE 1

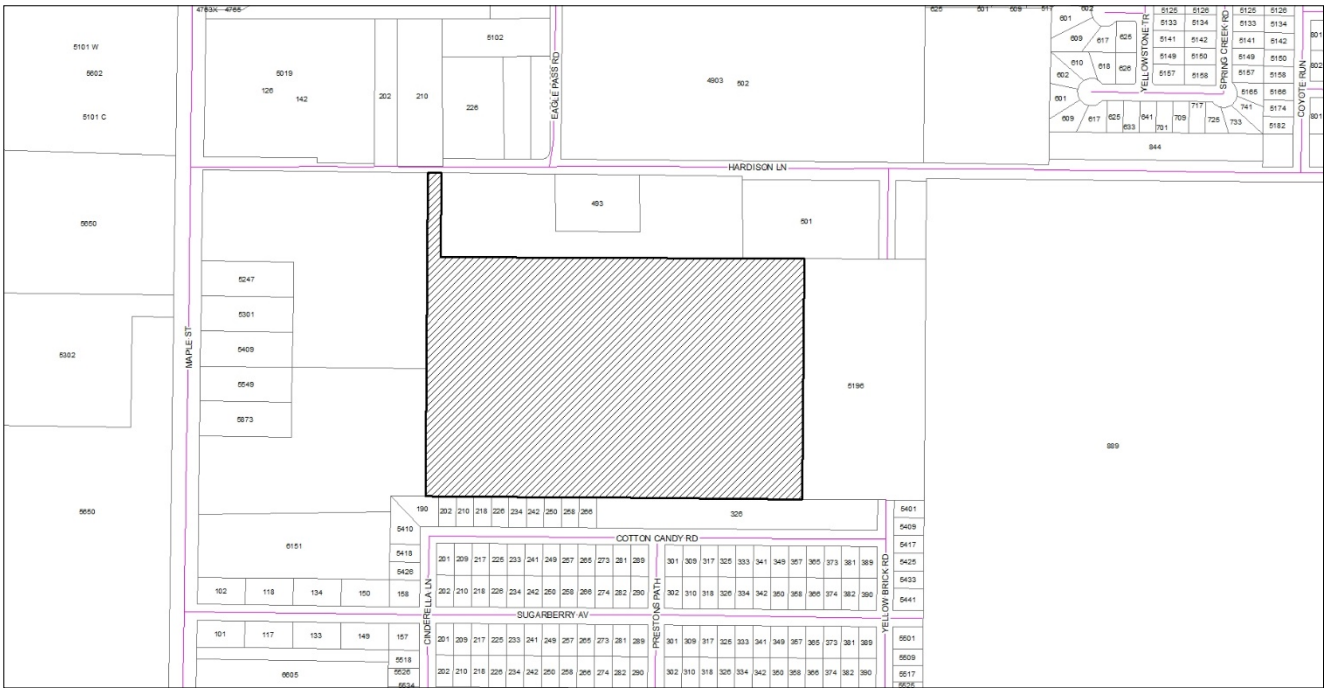
Owner	Property ID	Situs	Response
WITHERSPOON ROBERT A & ELAINE	106316	373 COTTON CANDY RD	
BARIELLE EMILY C	106287	233 COTTON CANDY RD	
HUTCHINS MICHAEL C	106314	357 COTTON CANDY RD	
DANTZLER STEVEN & SARAH	106286	225 COTTON CANDY RD	
BARAJAS CRESCENCIO & SUSANA	106310	325 COTTON CANDY RD	
BELONEY LANCE C JR	106285	217 COTTON CANDY RD	
GLIDDEN JAMES D	106294	289 COTTON CANDY RD	
GLOVER JORDAN &	106289	249 COTTON CANDY RD	
BATES RYAN & SIDNEY	106308	309 COTTON CANDY RD	
CLEVELAND CURTIS L	106291	265 COTTON CANDY RD	
MORRIS CHRISTOPHER W &	106288	241 COTTON CANDY RD	
DE PAUW DARBY	106311	333 COTTON CANDY RD	
GANTAR CARLIE J	106284	209 COTTON CANDY RD	
LEWIS KIRK & JILL	106313	349 COTTON CANDY RD	
VARNER VICKIE	106309	317 COTTON CANDY RD	
BANKS AARON & MCKENZIE	106290	257 COTTON CANDY RD	
AIKEN MICHAEL B & LESA	106293	281 COTTON CANDY RD	
GARCIA ADRIAN F	106283	201 COTTON CANDY RD	
CONLEY STEVEN W	106312	341 COTTON CANDY RD	
CLEARVIEW FAMILY LTD PTR	106264	5418 CINDERELLA LN	
KING MARY C	14554	6151 MAPLE ST	
NDOU PROPERTIES LLC	969205		
HARLESS TIMOTHY & MOLLY	14890		
HUDSPETH ANDREW T	106270	226 COTTON CANDY RD	
ZEIMET MICHAEL ANTHONY & VIOLETTE ASHLEY	106266	190 COTTON CANDY RD	
ESCANUELAS GABRIEL R	106274	258 COTTON CANDY RD	
ROUSH VYANNE J	106292	273 COTTON CANDY RD	
YOE BILLY L & MARIA VICTORIA	969203		
BENTON LEWIS III	106267	202 COTTON CANDY RD	
WHEATON ASHLEE M	106275	266 COTTON CANDY RD	
Confidential Owner	106269	218 COTTON CANDY RD	
P N C DEVELOPMENT CORP	106276	326 COTTON CANDY RD	
TAYLOR ELECTRIC COOP INC	205762	501 HARDISON LN	
TAYLOR ELECTRIC COOP INC	971635	5196 YELLOW BRICK RD	
SWARTZENTRUBER DELBERT &	106268	210 COTTON CANDY RD	
SMITH JESSE J	106272	242 COTTON CANDY RD	
HOOPER GARETH & AMANDA	106265	5410 CINDERELLA LN	
NICHOLAS GREGORY & PAIGE	106315	365 COTTON CANDY RD	
RICH TIM	106307	301 COTTON CANDY RD	
NDAYISHIMIYE YVETTE	1005492	250 COTTON CANDY RD	
JOHNSON FRED & CATHY	106271	234 COTTON CANDY RD	
HSH VENTURES LLC SERIES F	968739		
HARLESS TIMOTHY & MOLLY	14336	493 HARDISON LN	
NORDQUEST KEITH	73988	226 HARDISON LN	
INGRAM CONCRETE LLC	66884	142 HARDISON LN	
INGRAM CONCRETE LLC	66884	126 HARDISON LN	
INGRAM CONCRETE LLC	66884	5019 MAPLE ST	
CURTIS WAYNE G & NORMA C	72515	202 HARDISON LN	
BUSK KRISTOFFER JON & ELEANOR JOY	72514	210 HARDISON LN	

Attachments

Application

PowerPoint Presentation

LOCATION MAP



ZONING AND EXISTING LAND USE MAP





Development Application

Planning

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

Project Name: **Mill Ridge Estates**
Address: **Hardison Lane** No. of lots: **84** Acreage: **27.859**
Legal Description: **See attached field notes**
Subdivision Name: **Mill Ridge Estates** Block: **A-D** Lot: **1 - 84**
Current Zoning: **Single Family Residential / RS-6** Proposed Zoning (if applicable): **Single Family Residential/ Patio Home**

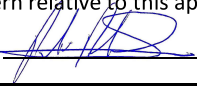
OWNER AND AUTHORIZATION

Owner Name: **Griffith Lake Estates, LLC**
Address: **2117 Canyon Rock Court**
City, State, Zip: **Abilene Texas 79606** Fax: **N/A**
Phone: **325-660-8051** Email: **N/A**

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

Agent Name: **BJ Prichard / eHT**
Address: **402 Cedar Street**
City, State, Zip: **Abilene, Texas 79601** Fax: **N/A**
Phone: **325-725-1369** Email: **bj.prichard@e-ht.com**

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner:  Date: **3/8/2022**

FOR OFFICE USE ONLY

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



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

Applicant wishes to modify the zoning for Mill Ridge Estates from its current zoning classification of RS-6 to Patio Home. Applicant has no plans to reduce the size of the lots depicted on the final submitted for on March 7, 2022; however, they are wanting to take advantage of smaller minimum side backs in order to maximize the buildable space on each lot. Additional exhibits are attached for City review/use.



Development Application

RECOMMENDATIONS

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you (FAX or E-mail) of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

PUBLIC NOTIFICATION

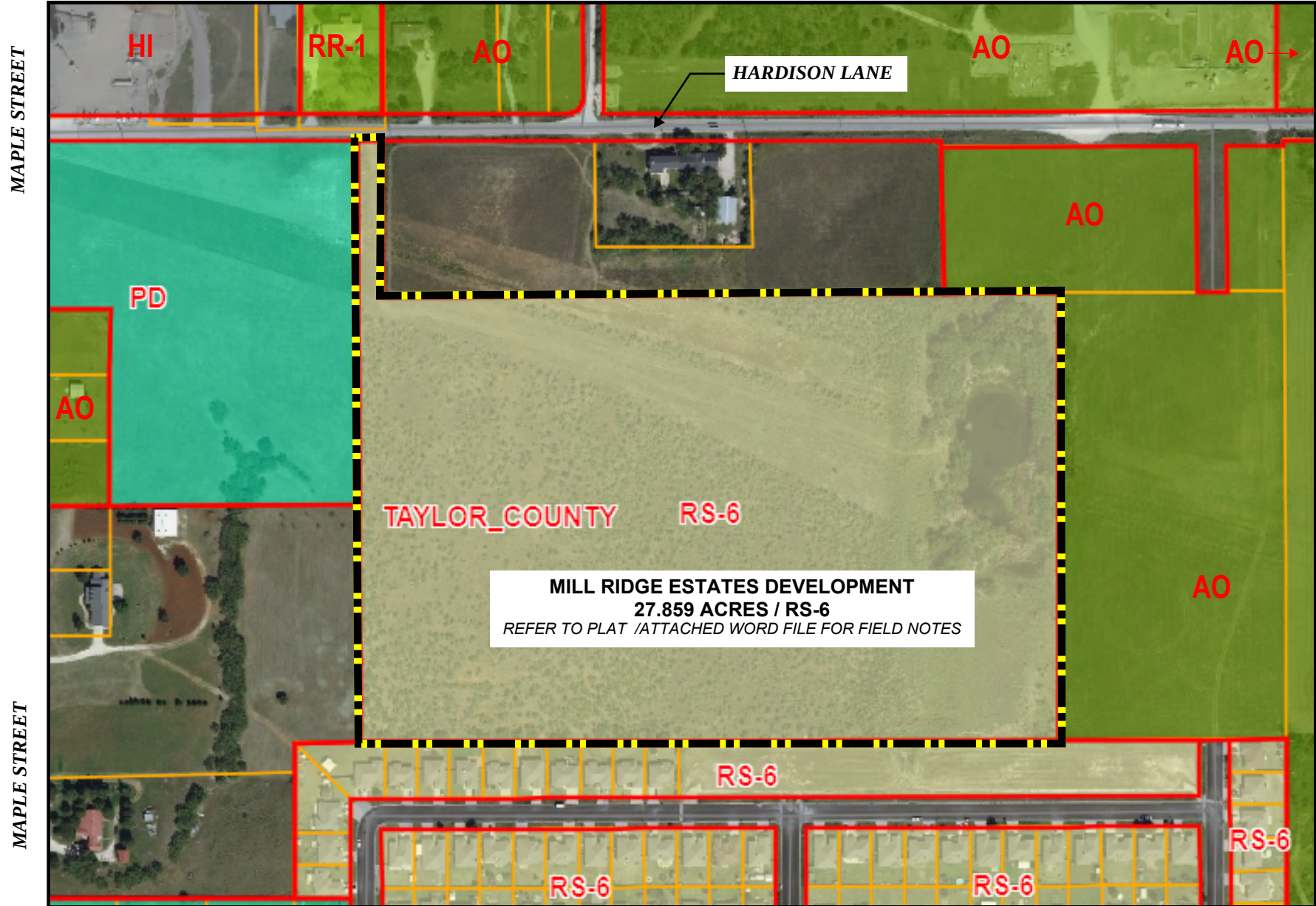
The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

SIGNED:  DATE: 3/8/22



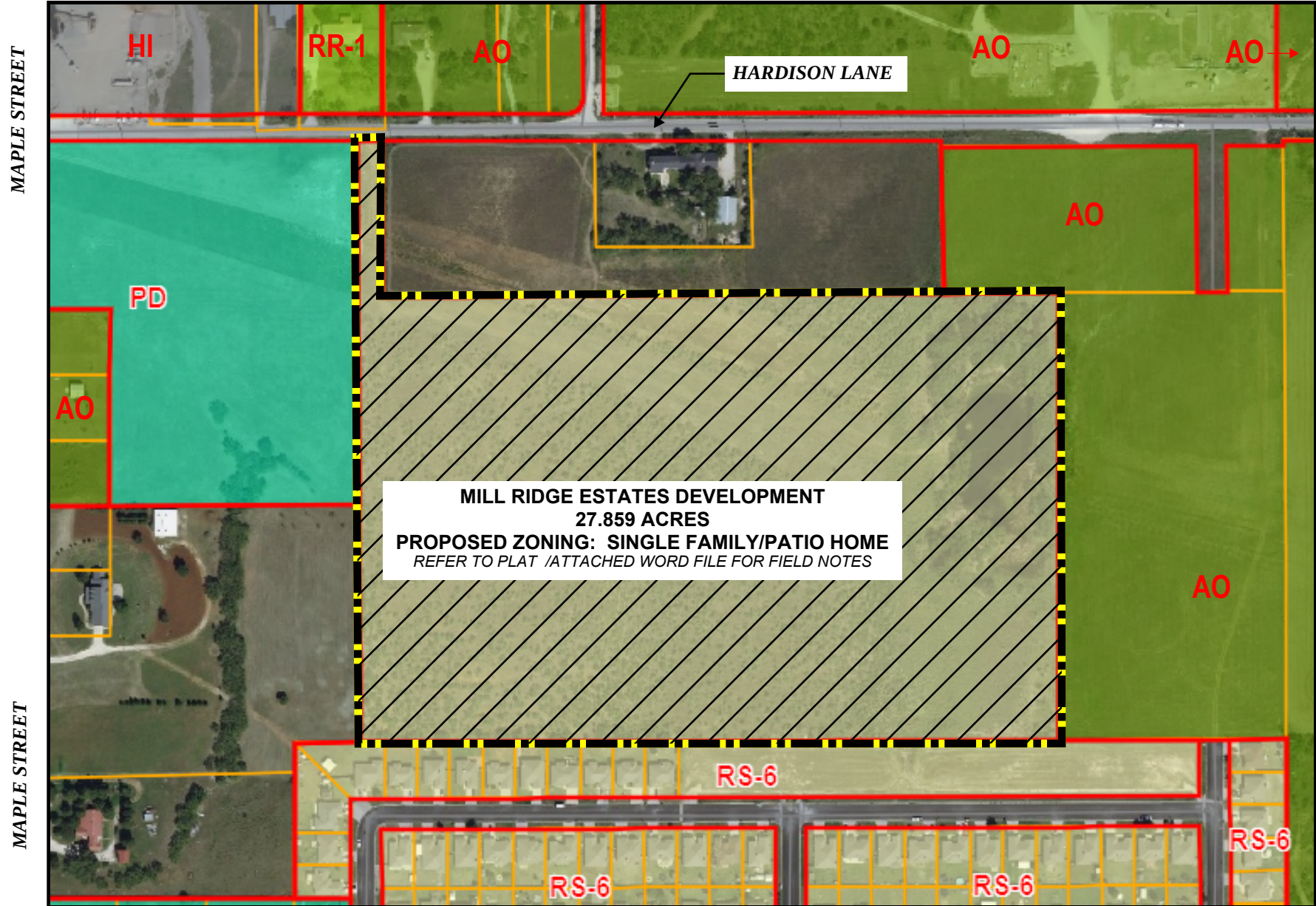
EXISTING ZONING MAP



ENPROTEC/HIBBS & TODD, INC.

ENVIRONMENTAL AND CIVIL ENGINEERING
402 Cedar Street
325-698-5560

Abilene, Texas 79601
PE Firm Registration No. 1151
PG Firm Registration No. 50103
RPS 170 of 233



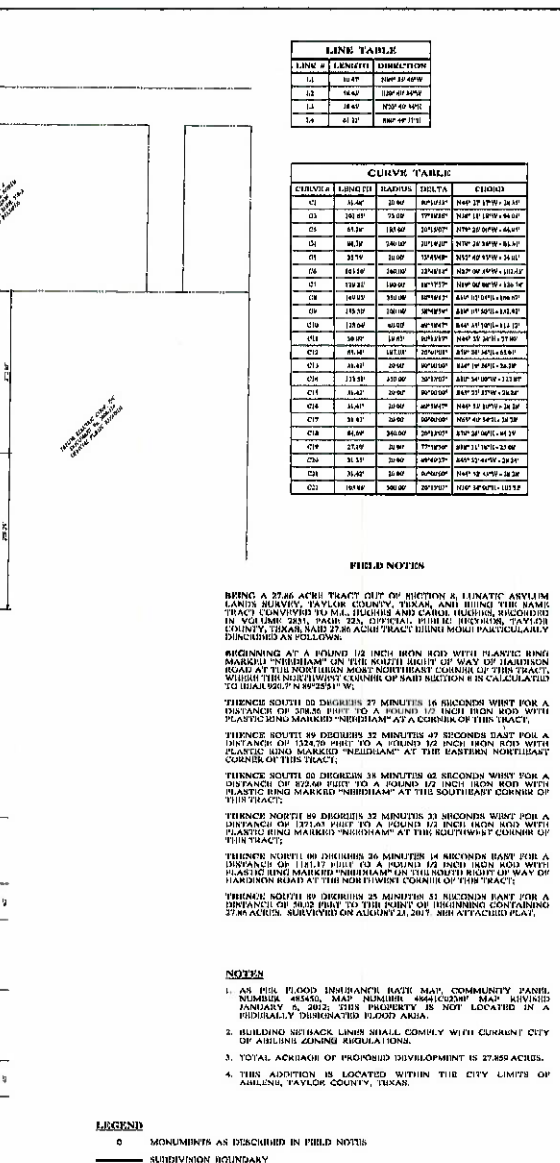
PROPOSED ZONING MAP



ENPROTEC/HIBBS & TODD, INC.

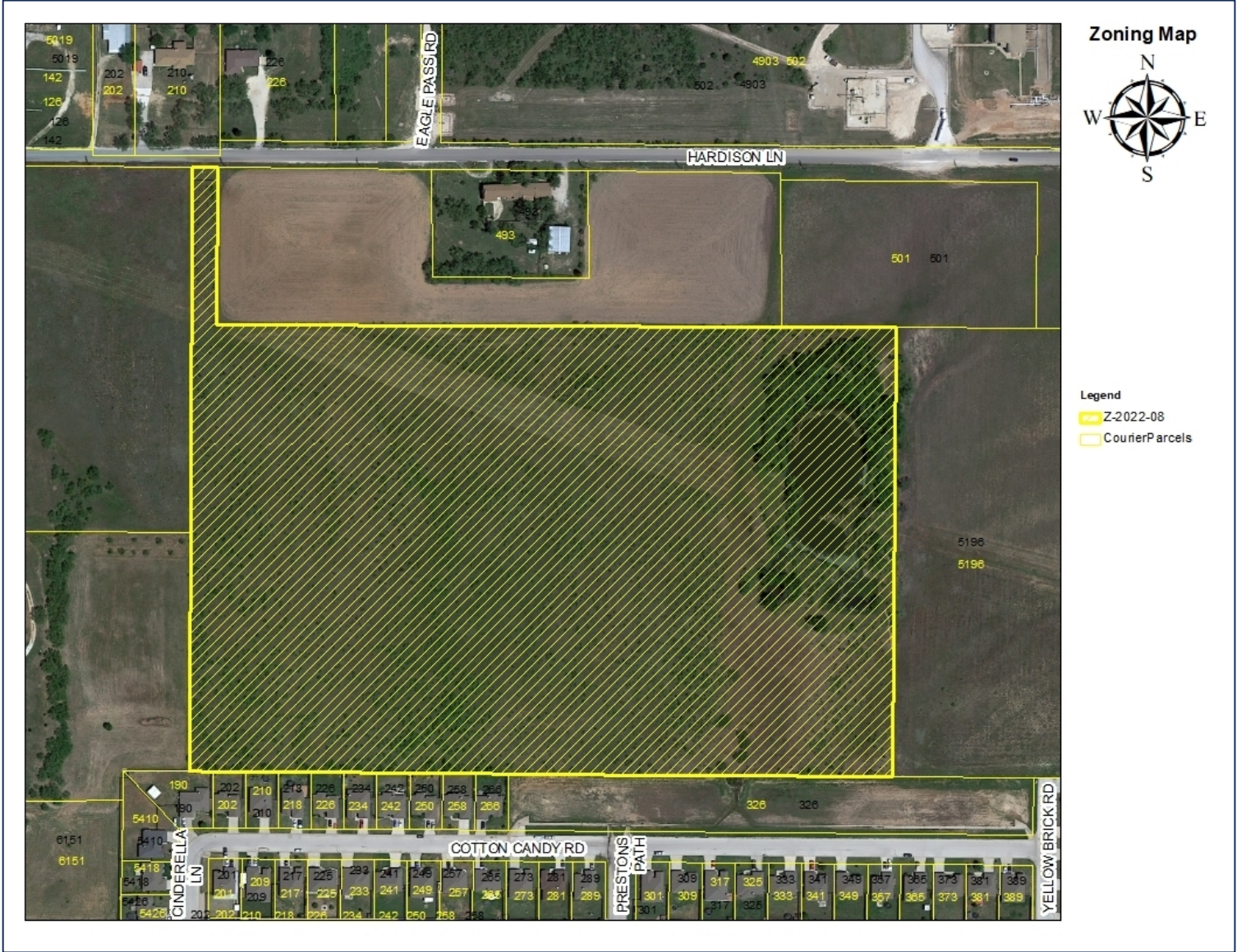
ENVIRONMENTAL AND CIVIL ENGINEERING
 402 Cedar Street
 325-698-5560

Abilene, Texas 79601
 PE Firm Registration No. 1151
 PG Firm Registration No. 50103
 RPL No. 1000000000



Page 16 of 23

Case:	Z-2022-08
Owner:	Griffith Lake Estates, LLC
Agent:	BJ Prichard/eHT
Request:	Rezone from Residential Single-family (RS-6) to Patio Home (PH)
Location:	27.85 Acres of vacant land along the 200 block of Hardison Lane
Notification:	0 in Favor, 0 Opposed
Planning & Zoning:	April 5, 2022
City Council Hearings:	1 st : April 28, 2022 2 nd : May 12, 2022





Permitted Uses in RS Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- C Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- 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
- P Dwelling – Accessory
- 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 Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

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

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

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

Permitted Uses in PH Zoning

RESIDENTIAL USES:

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

ACCESSORY AND INCIDENTAL USES:

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

CULTURAL AND RECREATIONAL USES:

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

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station

EDUCATIONAL AND RELIGIOUS USES:

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

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

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



Neighboring Property (Northeast)



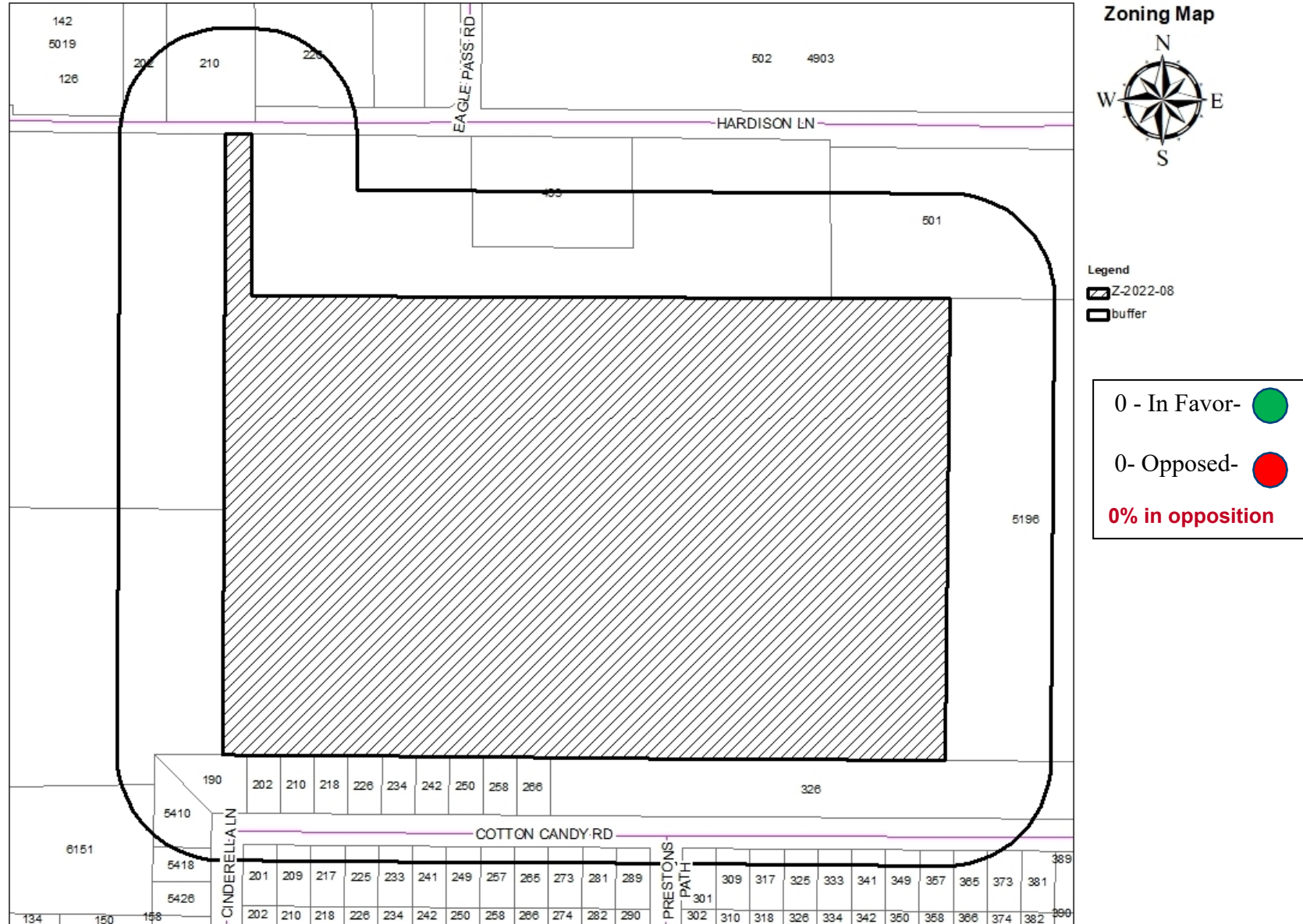
Neighboring Property (North)



Neighboring Property (West)



Z-2022-08 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)
- P&Z Recommends: Approval
- Staff Recommendation: Approval.

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **16. Ordinance (Final Reading) CUP-2022-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from the collective owner of property within the subdivision known as Original Town of Abilene to allow the use of a tattoo parlor within the Central Business (CB) district, 536 Hickory Street, Abilene, Taylor County, Texas. *(Tim Littlejohn)*

GENERAL INFORMATION

The request is to add a Conditional Use Permit (CUP) to approximately .964 acres of property zoned Central Business (CB).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request.

ATTACHMENTS:

1. CUP-2022-01 Council Ordinance
2. CUP-2022-01 Staff Report
3. Site plan waiver CUP2022-01
4. Ordinance 22-2019
5. Application CUP-2022-01
6. CUP-2022-01 Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING CERTAIN PROPERTY; 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 approving a Conditional Use Permit (CUP) 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 28th day of April, 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 March, 2022, the same being more than fifteen (15) days prior to a public hearing held at the Abilene Public Library's South Branch in the Mall of Abilene at 4310 Buffalo Gap Road in Abilene, Texas, at 8:30 a.m. on the 12th day of May, 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 12th day of May, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Conditional Use Permit (CUP) to allow a Tattoo Parlor on the following described property in a Central Business (CB) zoning district:

Lots 1-6 of block 74 within the Original Town of Abilene subdivision.



-END-

ZONING CASE CUP-2022-01

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: April 5, 2022

City Council 1st Reading: April 28, 2022

City Council 2nd Reading: May 12, 2022

Applicant

Owner: Marble Orchard Properties, LLC

Request

Add a Conditional Use Permit (CUP) to approximately .964 acres of property zoned Central Business (CB).

Location

542 Hickory St. (Lots 1-6, Block 74, O T Abilene Subdivision)

Background

This zone change request incorporates lots one (1) through six (6) in block seventy-four (74) of the Original Town Abilene Subdivision. These subject properties have been zoned Central Business (CB) since at least 1974, when the City of Abilene adopted zoning.

According to information provided within the application, the owner intends to establish a tattoo parlor within the subject properties. Prior to 2019, tattoo parlors were not a permitted use in Central Business districts. In 2019, the Land Development Code (LDC) was altered to permit tattoo parlors in CB districts with the approval of a Conditional Use Permit (CUP) (Ordinance No. 22-2019).

Zoning and Existing Land Use

Current zoning and existing land use of properties adjacent to and in the subject property's immediate area are illustrated on the map included in this report. As indicated on the map, adjacent zoning consists of Central Business Districts to the North, South, East, and West. The existing land uses for neighboring properties are an office to the North, vacant land and retail sales to the East, office uses to the South, and a parking lot to the West of the subject property.

Criteria Assessment

Staff has reviewed the request based upon the factors established in Section 1.4.3.5, Criteria for Approval, of the Land Development Code. These factors are identified and addressed below:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.

The Future Land Use and Development Plan Map identifies this area as Commercial use. Our Comprehensive Plan encourages reuse of existing development within the interior regions of the city.

It is the opinion of the staff that the proposed Conditional Use Permit will serve to implement the goals, objectives, and policies of the Comprehensive Plan as well as the Future Land Use and Development Plan.

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations

The Central Business District is intended to provide a wide range of retail goods and consumer services to residents of the metropolitan area and trade area. The CB district is also intended to promote multiple types of development, resulting in a central area of Abilene that will attract a variety and diversity of people.

It is the opinion of staff that the inclusion of purpose and intent of the applicable zoning district regulations to permit a Tattoo Parlor within a CB district with the approval of a conditional use permit accomplishes this criterion for approval.

3. The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.

It is the opinion of the staff that the proposed use is compatible with surrounding uses and is expected to have an intensity no greater than the dental offices to the North.

It is the opinion of staff that the proposed use of this site will not create adverse impacts regarding traffic, noise or odors.

4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

The proposed use will not generate pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic. Hickory Street, North 6th Street, and North 5th Street are collector roads that are designed to carry moderate traffic. Traffic impacts will be mitigated as the infrastructure is already in place.

5. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

Currently, no roadway adjustments, traffic control devices or mechanisms are required. The subject properties currently have access to existing utilities and public amenities adequate for the proposed uses. This request presents no apparent conflicts with existing or proposed plans for community facilities and related infrastructure.

6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.

Previously this property was used as a funeral home. The use of this facility as a “Tattoo Parlor” would create a similar if not less intensive use. This being said, it should not pose any adverse effects or visual impacts in comparison to what previously existed.

7. The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

It is staff's opinion that the proposed use meets the standards and intent for the zoning district.

Staff Recommendation

Staff recommends approval

P&Z also recommends approval

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, staff mailed personal notices on March 25, 2022 (via certified mail) to the applicant and other property owners within a 200-foot radius of the subject property. These property owners and associated parcel identification numbers are identified in Table 1.

Attachments:

Application

Ordinance 22-2019

Owner	Property ID	Situs	Response
ABILENE BEEHIVE INC	27271	1229 N 5TH ST	
BARNARD JIM WALTER	54802	501 HICKORY ST	O
BARNARD JIM WALTER	54935	517 HICKORY ST	O
BARNARD JIM WALTER	55055	535 HICKORY ST	O
BARNARD JIM WALTER	54802	1234 N 5TH ST	
CARTER VICKI LEA	27685	618 HICKORY ST	
ENPROTEC/HIBBS & TODD INC	983218		
J HAGIN LLC	26601	613 HICKORY ST	O
JAR LAND & INVESTMENTS LLC	28131	1346 N 6TH ST	
JOHNSON DENTAL GROUP PLLC	27811		
MARBLE ORCHARD PROPERTIES LLC	983281	1333 N 6TH ST	
MARBLE ORCHARD PROPERTIES LLC	55443	542 Y HICKORY ST	
MARBLE ORCHARD PROPERTIES LLC	55443	532 HICKORY ST	
MARBLE ORCHARD PROPERTIES LLC	55443	542 HICKORY ST	
MARBLE ORCHARD PROPERTIES LLC	55443	536 HICKORY ST	
MC CLURE FRANCES INC	26464	1246 1/2 N 6TH ST	O
MC CLURE FRANCES INC	26464	1246 N 6TH ST	
PETRE JACKSON LIVING TR	55187	1245 N 6TH ST	
PETRE JACKSON LIVING TR	55308	1235 N 6TH ST	
PRESTON EZZELL &	28485	441 ORANGE ST	
PRESTON EZZELL &	28249	425 ORANGE ST	
PRESTON EZZELL &	28371	435 ORANGE ST	
PRESTON EZZELL &	27538	440 HICKORY ST	
REINMUND REAL ESTATE LLC	100565		
REINMUND REAL ESTATE LLC	113843	602 HICKORY ST	
VALDEZ JUAN & ROSA ADRIANA	28268	609 ORANGE ST	

PROPERTY ID ORDER			
Owner	Property ID	Situs	Response
MC CLURE FRANCES INC	26464	1246 1/2 N 6TH ST	O
MC CLURE FRANCES INC	26464	1246 N 6TH ST	
J HAGIN LLC	26601	613 HICKORY ST	O
ABILENE BEEHIVE INC	27271	1229 N 5TH ST	
PRESTON EZZELL &	27538	440 HICKORY ST	
CARTER VICKI LEA	27685	618 HICKORY ST	
JOHNSON DENTAL GROUP PLLC	27811		
JAR LAND & INVESTMENTS LLC	28131	1346 N 6TH ST	
PRESTON EZZELL &	28249	425 ORANGE ST	
VALDEZ JUAN & ROSA ADRIANA	28268	609 ORANGE ST	
PRESTON EZZELL &	28371	435 ORANGE ST	
PRESTON EZZELL &	28485	441 ORANGE ST	
BARNARD JIM WALTER	54802	1234 N 5TH ST	
BARNARD JIM WALTER	54802	501 HICKORY ST	O
BARNARD JIM WALTER	54935	517 HICKORY ST	O
BARNARD JIM WALTER	55055	535 HICKORY ST	O
PETRE JACKSON LIVING TR	55187	1245 N 6TH ST	
PETRE JACKSON LIVING TR	55308	1235 N 6TH ST	
MARBLE ORCHARD PROPERTIES LLC	55443	532 HICKORY ST	
MARBLE ORCHARD PROPERTIES LLC	55443	536 HICKORY ST	
MARBLE ORCHARD PROPERTIES LLC	55443	542 HICKORY ST	
MARBLE ORCHARD PROPERTIES LLC	55443	542 Y HICKORY ST	
REINMUND REAL ESTATE LLC	100565		
REINMUND REAL ESTATE LLC	113843	602 HICKORY ST	
ENPROTEC/HIBBS & TODD INC	983218		
MARBLE ORCHARD PROPERTIES LLC	983281	1333 N 6TH ST	

ZONING MAP



LOCATION MAP



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

CASE #: CUP-2022-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: MC CLURE FRANCES INC
Parcel I.D.: 26464
Address: 1246 1/2 N 6TH ST

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

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:

Frances McClure
President FMI

MAR 31 AM 11:22

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

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

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

CASE #: CUP-2022-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

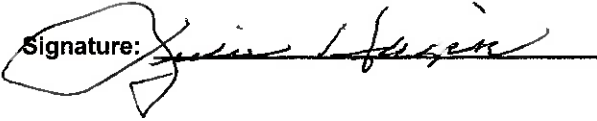
Name: J HAGIN LLC
Parcel I.D.: 26601
Address: 613 HICKORY ST

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

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: 

MAR 31 AM 11:22

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

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

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

CASE #: CUP-2022-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BARNARD JIM WALTER
Parcel I.D.: 54802
Address: 501 HICKORY ST

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

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____

Jim Barnard

APR 6 PM 5:09

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

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

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

CASE #: CUP-2022-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BARNARD JIM WALTER

Parcel I.D.: 54935

Address: 517 HICKORY ST

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

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____

Jim Barnard

APR 6 PM 5:09

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

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

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

CASE #: CUP-2022-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BARNARD JIM WALTER
Parcel I.D.: 55055
Address: 535 HICKORY ST

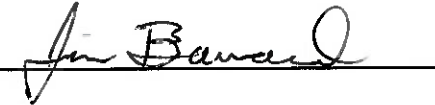
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____



APR 6 PM 5:10

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

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



To: Marble Orchard Properties LLC

04/06/2022

Re: Site Plan Waiver

The site plan requirement for CUP 2022-01 has been waived. Since this is a lease space in a multi-tenant building, the site plan would be irrelevant in the decision making process for the Planning and Zoning Commission and or the City Council.

Thank you,

Timothy A Littlejohn

Director of Planning

and Development Services

City of Abilene, Tx

ORDINANCE NO. 22-2019

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY ALLOWING A USE IDENTIFIED AS A "TATTO PARLOR" TO BE A CONDITIONAL USE IN CENTRAL BUSINESS (CB) ZONING DISTRICTS; 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 Section 2.4.2.1 (a) (The Land Use Matrix) of the City of Abilene's Land Development Code is hereby amended by adding a Conditional Use for the term "Tattoo Parlor" in Central Business (CB) Zoning Districts.

PASSED ON FIRST READING the 28th day of March, 2019.

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 March, 2019, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 11th day of April, 2019 to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 11th day of April, 2019.

ATTEST:

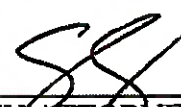


CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY

Exhibit A

Division 2 - Land Use Matrix

Section 2.4.2.1 The Land Use Matrix

(a) The Land Use Matrix begins on the following page.

LEGEND: P - Permitted, Blank - Not Permitted, C - Conditional Use Permit, TP - Requires a Temporary Permit, * - Conditions Apply See [Ch. 2 Art. 5 Div. 3](#)

PERMITTED USES Residential Uses	AO	RR	RS	PH	TH	MD	MF	MH	CU	NO	O	NR	GR	MU	CB	NX	GC	HC	LI	HI	PARKING REQUIREMENT (also refer to Chapter 4, article 2, Division 1)
Tattoo Parlor*												C	C		C		P	P	P		1/500 SF

(Ord. No. 8-2010, pt. 1 (Exh. A), 4-22-10; Ord. No. 12-2010, pt. A (Exh. A), 6-10-10; Ord. No. 24-2010, pt. 1 (Exh. A), 9-9-10; Ord. No. 33-2010, pt. 1 (Exh. A), 11-4-10; Ord. No. 29-2011, pt. 1 (Exh. A), 8-25-11; Ord. No. 8-2012, pt. 1 (Exh. A), 1-12-12; Ord. No. 49-2012, pt. 1 (Exh. A), 10-11-12; Ord. No. 55-2012, pt. 1 (Exh. A), 11-1-12; Ord. No. 02-2013, pt. 1 (Exh. A), 1-10-13; Ord. No. 03-2013, pt. 1 (Exh. A), 1-10-13; Ord. No. 23-2013, pt. 1 (Ex. A), 6-13-13; Ord. No. 25-2014, pt. 1 (Exh. A), 3-27-14; Ord. No. 62-2018, pt. 3, 10-9-18)



Development Application

Planning

☒ Conditional Use

☐ Easement Release

☐ Rezoning

☐ Other

☐ PDD

☐ Street Name Change

☐ Thoroughfare Abandonment

☐ PDD Amendment

Other _____

Project Name 542 Hickory

Address 542 Hickory St. Abilene TX 79601 No. of lots 1 Acreage 0.96

Legal Description OT Abilene

Subdivision Name N/A Block 74 Lot 1-6

Current Zoning CB Proposed Zoning (if applicable) Conditional Use Permit

OWNER AND AUTHORIZATION

Owner Name Marble Orchard Properties, LLC

Address 873 Amoxillo Street

City, State, Zip Abilene TX 79602 Fax _____

Phone (325) 669-8963 Email mitch@barnettandhill.com

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

Agent Name N/A

Address _____

City, State, Zip _____ Fax _____

Phone _____ Email _____

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature Owner Mitch Barnett Date 2/24/22

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____

Receipt No.: _____

Case No.: CP-2022-01

Reviewed By: _____



Development Application

Please answer the following question in order to assist Staff with the processing of your Zoning request.

1. Please (if necessary) provide background information for the zoning request and explain why you feel it is appropriate.

It is our hope to open a luxury tattoo studio at the 542 Hickory location. It is my understanding that in April of 2019, Tattoo Services were approved for Central Business areas, with the approval of a Conditional Use Permit. It is also my understanding that a tattoo studio was approved for a downtown location shortly thereafter. We believe our request is appropriate based off of this previous approval, and hope to use this as precedence for our proposal.

We would like to provide the Abilene area with a safe, comfortable, and welcoming environment to express themselves through tattoos. Building off of the deep sense of artistic vision and community that downtown Abilene fosters, we believe this location would be the perfect home for our vision.

REZONE

Case:	CUP-2022-01
Owner:	Marble Orchard Properties, LLC
Request:	Add Conditional Use Permit to Central Business District (CB)
Location:	542 Hickory Street
Notification:	0 in Favor, 5 Opposed
Planning & Zoning:	April 5, 2022
City Council Hearing:	April 25, 2022 May 12 ,2022



CUP-2022-01 LOCATION MAP



CUP-2022-01 ZONING MAP



CUP-2022-01 NEZ Map



Location Map
(Aerial)



Legend

- CUP-2022-01
- Neighborhood Empowerment Zone
- Historic Overlay

CUP-2022-01 PHOTOS

West view of Subject Properties



Western Neighboring property



North neighboring property



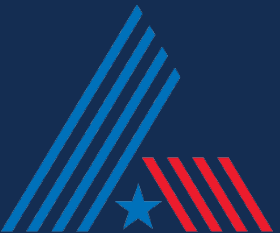
Southern Property view



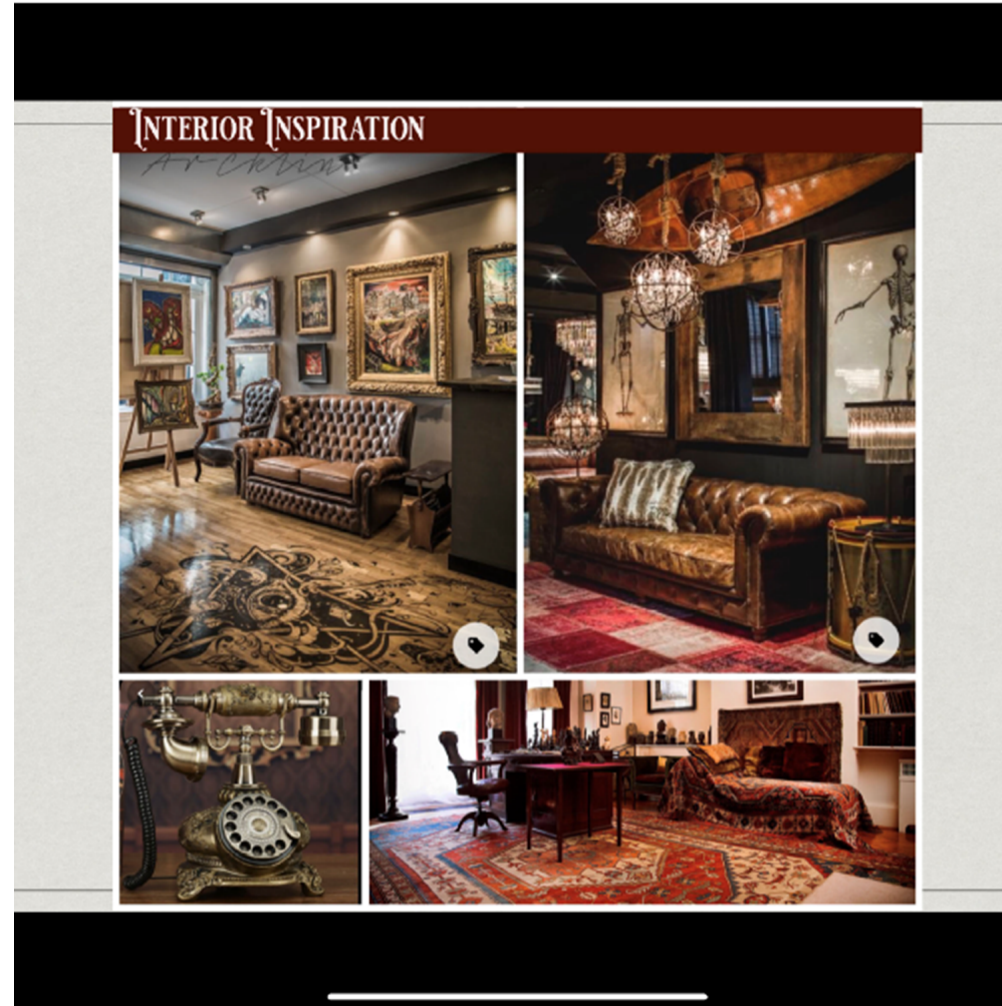
East neighboring property



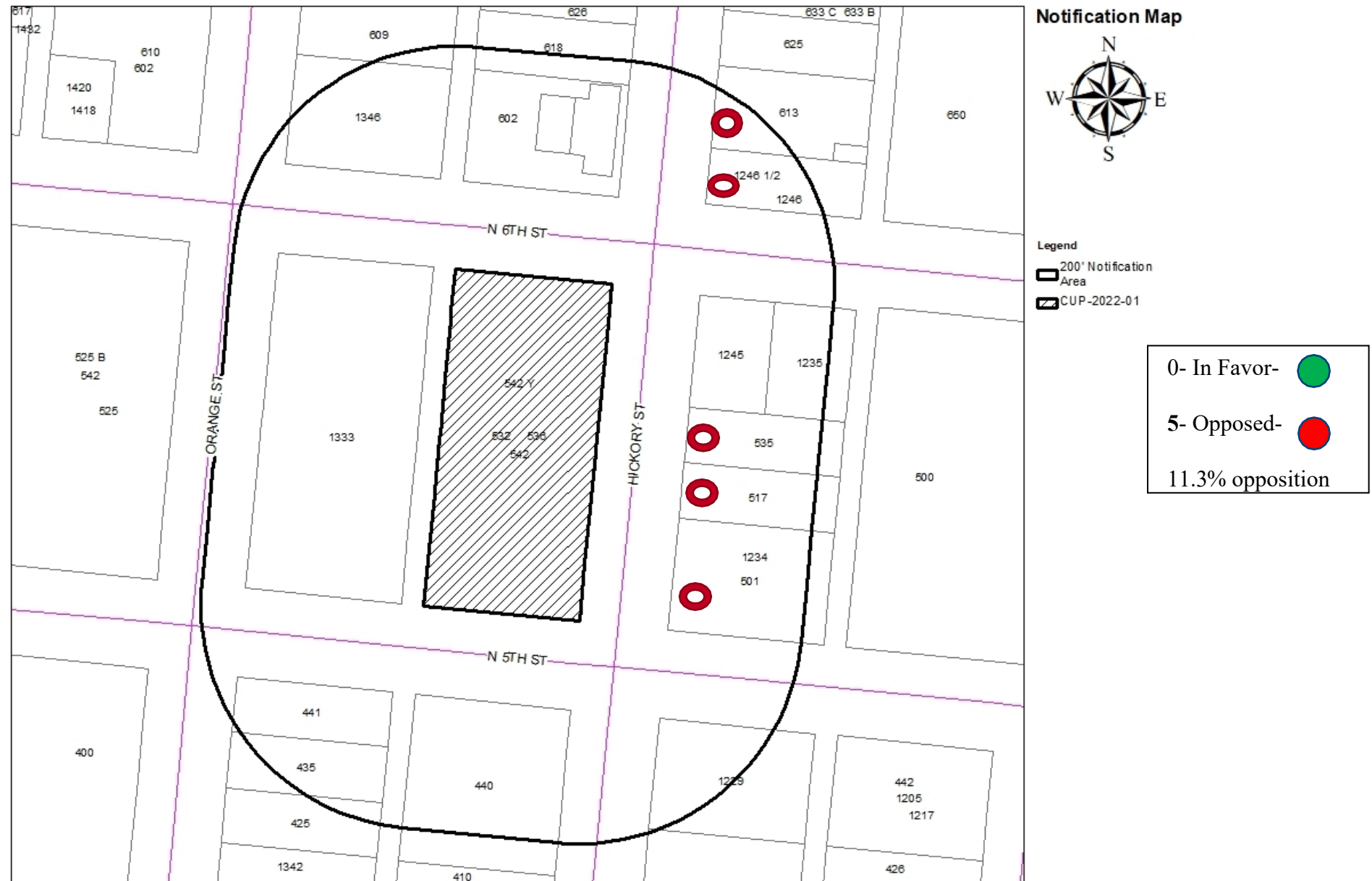
Northern property view



CUP-2022-01 Conceptual Photos



CUP-2022-01 NOTIFICATION MAP

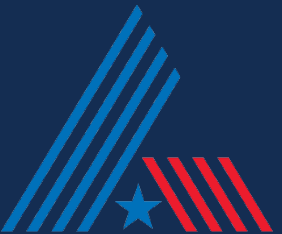


FINDINGS AND RECOMMENDATIONS

- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.3.5 of Land Development Code (Criteria for Approval)
- P&Z Recommends: Approval
- Staff Recommendation: Approval



Questions





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 17. Discussion: Receive a Report and Hold a Discussion on the 2021 International Building Code (Van Watson)

GENERAL INFORMATION

Discuss the 2021 International Building Code and amendments for future adoption

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2021 IBC Amendments
2. IBC Discussion presentation



Amendments to the 2021 International Building Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Building Code are hereby amended as follows:

{Amend to read as follows,}

101.1 Title. These regulations shall be known as the Building code of the City of Abilene, Texas, hereinafter referred to as “this code”.

{Amend to read as follows,}

101.4 Referenced codes. The other codes specified in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code, when specifically adopted, shall be considered to be part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered part of the requirements of this code.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{Amend section heading as follow,}

Section 103 – Department of the Building Inspections Division.

(Reason: To clarify the division responsible for enforcement.)

{Amend to read as follows,}

103.1 Creation of enforcement Division. The Building Inspections Division is hereby created and the Official in charge thereof shall be known as the Building Official.

{Delete reference to IPMC and insert the following,}

103.3 Deputies. Chapter 8, Article VI, Division 6 of the City of Abilene Code of Ordinance

{Amend #1 and add item #14,}

105.2 Work exempt from permits.

1. Edit last sentence to - 200 square feet.
14. When repairing or replacing roofing 5 squares or less.

(Reason: To match the regulations stated in the International Residential Code.)

{Addition of 1a} remainder of section unchanged.

105.3 Application for permit.

1(a). Application will describe that the handicap parking spaces, striping, and signage shall conform with the current regulations of local, TAS, ADA, and Federal regulations.

(Reason: To ensure regulations for handicap signage and parking are brought up to the most current regulations.)

{Addition of sections 105.8, 105.9, and 105.10}

105.8 Trash and debris containment. It is the responsibility of each permit holder to make provisions for the containment of building materials, construction debris, and all other trash and debris generated within the property boundaries. Blowing trash, paper, building materials packaging, and other construction site related debris allowed to collect or accumulate outside the property boundaries shall constitute a violation of this section of the code. Such violations shall be subject to enforcement provisions as provided in the code up to and including a stop work order, revocation of permit, and a fine. The particular chosen method, which may include, but not limited to, refuse container, roll offs, and fenced areas or other types of containment shall be provided and maintained by the permit holder.

105.9 Bonds. Any person desiring to engage in the business of general contractor, roofing contractor, or engage in the business of altering, repairing, constructing, demolishing, or moving houses or buildings, or any construction work generally followed by building contractors within the City of Abilene, shall first file with the building inspections division, a surety bond in the penal sum of \$25,000, payable to the City of Abilene and conditioned on a faithful performance of all of the provisions and regulations of the building code, this chapter, and all other ordinances of the city. The surety of such bond shall be a company authorized to transact business in the State of Texas. In the event the City has filed on the contractors bond within the past 3 years, the bond shall increase to the penal sum of \$75,000.

105.10 Contractors registration required. All contractors shall first file with the building inspections division of the City of Abilene as a registered contractor, as per section 8-161 of the Municipal Code, Article IV, License and Registrations.

{Delete 2nd sentence and insert the following,}

107.1 General. The construction documents shall be prepared by a registered design professional in accordance with the State of Texas Board of Architectural Examiners, Title 6, Subtitle B, chapter 1051, Texas Statute Occupational Code, and the Texas Engineering Practice Act, Title 6, Subtitle A, Chapter 1001, Texas Statute, Occupational Code. In addition, buildings with a clear span exceeding 24' shall have the foundation and structural members designed by a professional engineer.

{Add following at the end of paragraph,}

109.2 Schedule of permit fees. Permit fees are set by Abilene City Council resolutions. Appendix A references approved fees at the time of adoption of this code. Fees published are subject to change at any time by Council action to resolution.

{Add following at end of paragraph,}

109.4 Work commencing before permit issuance. The investigation fee for work done without a permit shall be equal to the amount of the permit fee required by this code in addition to the approved permit fee; However subsequent work commenced without obtaining a permit within 12 months of the previous violation shall be assessed a ten times fee for re-roofing, plumbing, mechanical, electrical, and irrigation.

{Delete paragraph and insert the following,}

109.6 Refunds. The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{Addition of section,}

109.7 Re-inspection Fee. A fee as established by city council resolution may be charged when:

1. The inspection called for is not ready when the inspector arrives;

2. No building address or permit card is clearly posted;
3. The building is locked or work otherwise not available for inspection when called;
4. The job site is red-tagged twice for the same item;
5. The original red tag has been removed from the job site.
6. Failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

(Reason: This fee is not a fine or penalty but is designed to compensate for time and trips when inspections are called for when not ready.)

{Section 202; amend definition of Ambulatory Care Facility as follows:}

AMBULATORY CARE FACILITY. Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less than 24-hour basis to individuals who are rendered incapable of self-preservation by the services provided ~~or staff has accepted responsibility for care recipients already incapable.~~ This group may include but not be limited to the following:

- Dialysis centers
- Sedation dentistry
- Surgery centers
- Colonic centers
- Psychiatric centers

(Reason: To clarify the range of uses included in the definition. [Explanatory note related to **Ambulatory Care Facilities**: This group of uses includes medical or dental offices where persons are put under for dental surgery or other services. Section 903.2.2 will now require such uses to be sprinklered if on other than the floor of exit discharge or if four or more persons are put under on the level of exit discharge. Recommend (1.) jurisdictions document any pre-existing non-conforming conditions prior to issuing a new C of O for a change of tenant and, (2.) On any medical or dental office specify on C of O the maximum number of persons permitted to be put under general anesthesia. It is recommended that before a Certificate of Occupancy is issued, a letter of intended use from the business owner shall be included and a C of O documenting the maximum number of care recipients incapable of self- preservation allowed.)

{Amend last sentence to read as follows:}

603.1.3 Electrical. shall be permitted when installed in accordance with the limitations of the Electrical Code as adopted by the City of Abilene.

{Add following sentence to end of paragraph.}

1010.2.4 Locks and latches.

4. The provision is not applicable when 3.2 of this section is applied, provided the manually operated flush bolts are openable or released without the use of a key or tool. A sign as stated in 3.2 shall be placed on both active and inactive doors.

{Add exception 6.}

1020.2 Construction.

Exceptions: 4. In group B Office building, corridor walls and ceilings need not be of fire resistance construction within office spaces of a single tenant when the space is equipped with an approved automatic smoke detection system within the corridor. The actuation of any detector shall activate alarms audible in all areas of the served corridor. The smoke detection system shall be connected to the building fire alarm system where such is provided.

{Delete chapter sections in its entirety and add the following.}

Chapter 11 Accessibility

1101.1 Scope. Accessibility shall be in accordance with the Texas Accessibility Standards.

(Reason: To guide customers to the proper regulatory authority and standards.)

{1404.3.1 add following after exceptions.}

1404.3.1 Class I and II vapor retarders. In all framed walls, floors, and roof/ceilings compromising elements of the building thermal envelope, a vapor retarder, when installed, shall be installed in a manner so as to not trap moisture.

(Reason: To clarify the importance of proper drainage of condensate etc.)

{Insert the following sub-section}

1801.2 Minimum footing and foundation design. Footings and foundations shall be built in accordance with "Figure 18-1.E" for structures not required to be designed by a professional engineer and not exceeding 2 stories in height.

(Reason: To provide a minimum design standard for smaller structures such as accessory buildings etc. that is best suited for the soils located within the boundaries of the City of Abilene.)

{Delete section and add to read as follows,}

2701.1 Scope. This chapter governs the electrical components, equipment and systems used in buildings and structure covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the Electrical Code as adopted by the City of Abilene.

2902.1.1 Fixture Calculation. Delete exception #2

2902.2 Separate Facilities. Delete exception #6

2902.4.1 Directional signage. Delete this section

(Reason: Not common practice for the Big Country)

{Delete this section and add the following,}

3103.1 General. Reference section 108 of this code.

END

City Council Meeting

2021 International Building Code Discussion



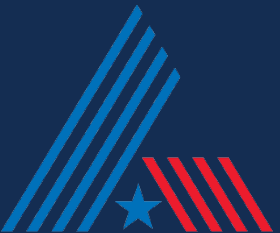
2021 IBC Review Committee

- Bill Newman BMC
- Scot Colley RHS
- Jonathan Schmutz Cadco
- Kevin Phillips Harris Acous.
- Terry Williams Hendricks
- Perry Haynes PH Eng.



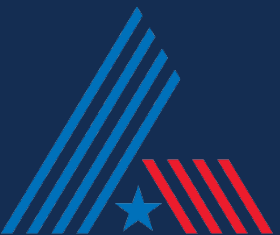
Code Adoption

- **Modern, regularly updated building codes and a strong system of code enforcement ensure that individuals and communities are safe in the buildings where they live, work and play — codes build confidence. As we face disasters on an unprecedented scale — from hurricanes and tornados to wildfires and earthquakes — building codes become increasingly important to the safety, health and wellbeing of our families and communities.**
- **“Building safety is about preparing for the future. The Code Council, in partnership with our members and stakeholders, develops model codes that integrate new technologies and the latest advancements in building science.”**
- **The codes before you today are minimum standards, Staff has made some minor adjustments in order to follow standard practices for Abilene, but please be reminded that these are minimal construction standards and requirements. Staff would like to ensure our citizens that any structure built within the corporate city limits of Abilene are built to these standards in order to protect the health and life safety of our community.**

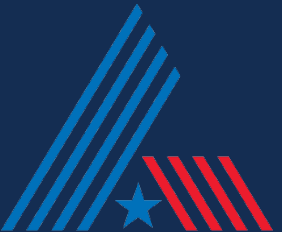


2021 IBC Amendment Comparison

- 2012 International Building Code previously had 55 amendments
- 2021 International Building Code currently has 27 amendments
- As the codes progress through the cycles, committees are formed in order to write standards that are applicable to new products, processes and procedures that have been proven through appropriate testing and experience.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/12/2022

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 18. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

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

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
4. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
6. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
7. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
8. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
9. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
10. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
11. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No.

P827783CV, in the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020

12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021

13. James Easley v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed September 22, 2021

14. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

15. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

16. Allstate Fire and Casualty Insurance Company as Subrogee of Del Davis v. City of Abilene; Case No. SC22-11166J11, In the Justice Court, Precinct 1, Place 1, Taylor County, Texas, filed March 30, 2022

17. 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