



City of Abilene City Council Agenda

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

Anthony Williams, Mayor

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

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on 9th day of January, 2020, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

1. Mayor Anthony Williams

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. **Employee Service Awards:**

- Mike Baird - 25 Years - Police Department
- Stan Standridge - 25 Years - Police Department

CONSENT AGENDA

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

3. **Minutes:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Minutes from the Regular Meeting Held on December 19, 2019 **(Shawna Atkinson)**

4. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Contract to Frontier Waterproofing, Inc. for Waterproofing & Restoration Work - Main Library **(Michael Rice)**
5. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Contract for the emergency repair to/replacement of a gas line at the Abilene Zoo in an amount to exceed \$50,000 **(Lesli Andrews)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

6. **Presentation:** Receive a Report, and Hold a Discussion and Public Hearing on Abilene Convention Center North Plaza Proposed Design **(Molly Moser)**
7. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Professional Services Contract Awarded to Enprotec/Hibbs & Todd for Engineering Design of Pavement Roadway & Drainage Improvements for Sayles Boulevard **(Greg McCaffery)**.
8. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing and Take Action on Awarding of Bid No. CB#-2018 to Raydon, Inc. for Street Resurfacing Project of Work Zones N10 & N3 **(Greg McCaffery)**
9. **Ordinance (Final Reading) CUP-2019-11:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from JR Team Holdings LLC, agent Jody Team, for Conditional Use Permit allowing an active outdoor recreation facility (a community swimming pool) in a Rural Residential (RR-1) zoning district and located specifically at 1722 Aces Trail **(Mike Warrix)**
10. **Ordinance (Final Reading) Z-2019-30:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from NuHome Construction of Abilene LLC, agent Barry Fletcher, to rezone property located at the corner of Corsicana Avenue and Sagehen Ridge Drive from Agricultural Open Space (AO) to Residential Single-Family (RS-6) District **(Mike Warrix)**

PUBLIC COMMENTS

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

EXECUTIVE SESSION

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

A. 551.071 (Consultation with Attorney)

1. City of Abilene, Texas v. Aurora Bumgarner; 104th Judicial District Court, Taylor County, Texas; filed November 17, 2011
2. Chad Carter v. City of Abilene, Texas; Cause No. 10138-D, In the 350th Judicial District Court, Taylor County, Texas, filed June 17, 2014
3. Susan Lewis King & Austin King MD vs Ken Paxton, Attorney General of Texas and the City of Abilene, Cause No. D-1-GN-16-001160, filed March 16, 2016
4. Ruby Flores and Cory Almanza v. Jesus Verastegui, Alfredo Verastegui, Rosalva Verastegui, and City of Abilene, Cause No. 49368-A, 42nd District Court, Abilene, Taylor County, Texas, filed April 13, 2016
5. 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
6. Officer Patrick Sumrall and City of Abilene, Case No. 01-18-000-8653; Appeal of Indefinite Suspension to Arbitration, filed February 6, 2018
7. Tracy Kennedy and Richard Kennedy v. Katie Snell, Richard Perez, Thomas Bryant, John Doe 1, and John Doe 2; Case No. 1:18-cv-162, In the United States District Court, Northern District of Texas, Abilene Division, filed October 16, 2018
8. Alfredo Valencia v. Corey Davis and City of Abilene; Case No. 1:19-cv-00017-C; In the United States District Court, Northern District of Texas, Abilene Division, filed February 4, 2019.
9. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
10. Ovation Services, LLC v. Blanca Cortez, et al.; Case No. 11875-D; In the 350th Judicial District Court, Taylor County, Texas; filed July 15, 2019
11. 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
12. Maria Ramirez v. The City of Abilene; Cause No. 27880-B, In the 104th Judicial District Court, Taylor County, Texas; filed October 22, 2019
13. The State of Texas v. The Unknown Heirs of B.E. Caffey, Senior, et al., Cause No. 6939, Condemnation Proceeding filed in the County Court at Law No. 2, Taylor County, Texas, filed August 20, 2019

B. 551.072 (Deliberations about Real Property)

1. Clyde Water

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. Abilene Convention Center Hotel Project

RECONVENE

REGULAR AGENDA

12. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approval of Deed Donating 3.59 Acres of Land to Taylor County, Texas for Expansion of Taylor County Detention Center **(Robert Hanna)**
13. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on supporting a Housing Tax Credit Application for Tuscan Court Villas and Commitment of Development Incentives **(Mike Warrix)**
14. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on supporting a Housing Tax Credit Application for Elm Creek Cottages and Commitment of Development Incentives **(Mike Warrix)**
15. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
 - Board of Adjustments
 - Child Advocacy Center Board
 - Frontier Texas! Board of Directors
 - Landmarks Commission
16. **Oral Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on the Evaluation of the Municipal Court Judge

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 3rd day of January, 2019, at 2:30 p.m.

Shawna Atkinson, City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 3. Minutes: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Minutes from the Regular Meeting Held on December 19, 2019 (*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the December 19, 2019 City Council Meeting

SPECIAL CONSIDERATIONS

None

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 12-19-2019 Minutes - Regular - Evening



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Michael Rice, Assistant City Manager

SUBJECT: 4. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Contract to Frontier Waterproofing, Inc. for Waterproofing & Restoration Work - Main Library (Michael Rice)

GENERAL INFORMATION

Proposals were received on November 6, 2019, for the Waterproofing & Restoration Work for the Main Central Library. Two proposals were received and evaluated by Crenshaw Consulting Group LLC. Crenshaw Consulting Group LLC recommends award to Frontier Waterproofing, Inc. in the amount of \$185,973.00.

SPECIAL CONSIDERATIONS

This contract requires substantial completion within 60 calendar days of the commencement of the work.

FUNDING/FISCAL IMPACT

Funding for this project is available in the Minor Improvement Fund.

STAFF RECOMMENDATION

Staff recommends award to Frontier Waterproofing, Inc. in the amount of \$185,973.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2020 Resolution Frontier Waterproofing, Inc. main library
2. Award Recommendation Letter - Library
3. Frontier Waterproofing council contract
4. Waterproof Main Library

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION
CONTRACT WITH FRONTIER WATERPROOFING, INC. FOR MAIN CENTRAL
LIBRARY WATERPROOFING & RESTORATION WORK**

WHEREAS, the Main Central Library is in need of maintenance and repairs due to water infiltration into the building; and

WHEREAS, the City is working with Crenshaw Consulting Group, LLC to provide design services to address the Main Central Library maintenance and repairs; and

WHEREAS, two proposals were received on November 6, 2019 and were evaluated; and

WHEREAS, the best final proposal was received from Frontier Waterproofing, Inc. in the amount of \$185,973.00.

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

Part 1: The City Council authorizes the City Manager to execute an Agreement with Frontier Waterproofing, Inc. in the amount of \$185,973.00.

Part 2. That this Resolution takes effect immediately upon its adoption.

ADOPTED this 9th day of January, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

616 S. Coppel Rd.
Coppell, TX 75019



Phone (214) 758-0785
Fax (214) 792-9548

November 7, 2019

Mr. Michael Rice
Assistant City Manager
City of Abilene
Abilene, TX 79604

Tel: 325.676.6386
EM: michael.rice@abilenetx.gov

RE: Award Recommendation
City of Abilene
Waterproofing & Restoration Work – Main Library (TML 037)
CCG 1-131-9

Dear Mr. Rice:

Proposals were received for the referenced project on November 6, 2019. Two (2) contractors submitted qualifications and cost proposals. Crenshaw Consulting Group, LLC (CCG) evaluated the responsiveness of each proposal based on the evaluation criteria listed in the Request for Proposals. The Evaluation Committee assigned each proposer a score based on qualifications and cost.

CONTRACTOR	QUALIFICATIONS SCORE	PROPOSAL AMOUNT	COST PROPOSAL SCORE	TOTAL SCORE
Frontier Waterproofing, Inc.	7.0	\$185,973.00	3.0	10.0
Mobile Enterprises, Inc.	5.0	\$187,478.00	2.7	7.7

The above tables summarizes the results of the proposal evaluation. Exhibit No. 1 includes the completed Proposal Evaluation and Proposal Tabulation.

CCG recommends award to Frontier Waterproofing, Inc., in the amount of \$185,973.00. Upon approval, CCG will prepare contracts between the City of Abilene and Frontier Waterproofing, Inc.

If you have any questions, please call. Thank you.

Respectfully,



Vickie Crenshaw, P.E., RRC, RRO
President

VAC/ds

Enclosure

cc: Melissa Denson, City of Abilene, Melissa.Denson@abilenetx.gov

EXHIBIT 1



City of Abilene
Main Library (TML 037)
11/6/2019
CCG 1-131-9

PROPOSAL EVALUATION
CB-2004

	PRICE		FIRM EXPERIENCE		PERSONNEL EXPERIENCE		PROJECT APPROACH		PAST EXPERIENCE WITH PROJECTS OF SIMILAR SIZE & COMPLEXITY WITH CITIES/MUNICIPALITIES		TOTAL SCORE
	30% of Score		20% of Score		20% of Score		20% of Score		10% of Score		
CONTRACTOR	Eval Ranking	30%	Eval Ranking	20%	Eval Ranking	20%	Eval Ranking	20%	Eval Ranking	10%	
Frontier Waterproofing, Inc.	10	3.0	10	2.00	10	2.00	10	2.00	10	1.00	10.0
Mobile Enterprises, Inc.	9	2.7	10	2.00	10	2.00	0	0.00	10	1.00	7.7

CITY OF ABILENE
WATERPROOFING AND RESTORATION WORK AT THE MAIN LIBRARY

	CONTRACTOR NAME: <i>Mobile Enterprises, Inc.</i>		CONTRACTOR NAME: <i>Frontier Waterproofing, Inc.</i>	
ITEM	COST PROPOSAL		COST PROPOSAL	
* General Conditions, Bonds, Insurance	\$	79,948.00	\$	51,348.00
Joint Sealing	\$	36,135.00		
Ceramic Tile Replacement	\$	21,000.00	\$	12,252.00
Substrate Repair	\$	21,000.00	\$	13,286.00
Expansion Joint	\$	9,965.00	\$	14,467.00
Re-glaze Windows	\$	2,580.00	\$	34,367.00
Roofing	\$	1,750.00	\$	21,000.00
Stone Sill Flashing	\$	3,100.00	\$	25,612.00
Stone to Stone Tuckpointing (200 LF)	\$	2,000.00	\$	3,641.00
SUBTOTAL	\$	177,478.00	\$	175,973.00
Power Line Allowance	\$	10,000.00	\$	10,000.00
TOTAL	\$	187,478.00	\$	185,973.00

* Bid Form Modified by Bidder

UNIT PRICES

Tile Replacement (above 10,000 tiles specified in base bid)
Tile Substrate Repair (above 140 SF specified in base bid)
Stone to Stone Repointing (above 200 LF)

\$300.00 (Units of 144 Tiles)
\$150.00 Sq. Ft.
\$10.00 Lin. Ft.

\$85.08 (Units of 144 Tiles)
\$94.90 Sq. Ft.
\$18.21 Lin. Ft.

CONSTRUCTION DURATION

Acknowledgement - 60 days

YES

YES

ADDENDUM ACKNOWLEDGEMENT

Addendum #1
Addendum #2
Addendum #3
Addendum #4

YES
YES
YES
YES

YES
YES
YES
YES

NUMBER OF COPIES TO BE SUBMITTED

One (1) Original Hard Copy
One (1) Duplicate Hard Copy
One (1) Digital Copy

YES
YES
YES

YES
YES
YES

REQUIRED DOCUMENTS INCLUDED

AIA A305 - Qualification Statement
Contractor's Qualification Affidavit
Resumes of Key Personnel
Project Management Plan
Project Experience & References
Subcontractor Listing
Anti-Trust Form
Proposal / Bid Bond
Completed W-9 Form
Sample Certificate of Insurance

YES
YES
YES
NO
YES
YES
YES
YES
YES
YES
YES

YES
YES
YES
YES
YES
YES
YES
YES
YES
YES
YES

AIA® Document A104™ – 2017

Standard Abbreviated Form of Agreement Between Owner and Contractor

AGREEMENT made as of the Ninth day of January in the year 2020
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Abilene
555 Walnut Street, Suite 203
Abilene, TX 79601
Telephone Number: 325.676.6206
Fax Number: 325.676.6229

and the Contractor:
(Name, legal status, address and other information)

Frontier Waterproofing, Inc.
332 East Oak Street
Denton, TX 76201
Telephone Number: 940.566.4856
Fax Number: 940.387.7165

for the following Project:
(Name, location and detailed description)

Waterproofing and Restoration Work
City of Abilene Main Library
202 Cedar Street
Abilene, TX

The Architect:
(Name, legal status, address and other information)

Crenshaw Consulting Group, LLC
616 S. Coppel Rd.
Coppell, TX 75019
Telephone Number: 214.758.0785
Fax Number: 214.792.9548

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

- 1 THE WORK OF THIS CONTRACT
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 3 CONTRACT SUM
- 4 PAYMENT
- 5 DISPUTE RESOLUTION
- 6 ENUMERATION OF CONTRACT DOCUMENTS
- 7 GENERAL PROVISIONS
- 8 OWNER
- 9 CONTRACTOR
- 10 ARCHITECT
- 11 SUBCONTRACTORS
- 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 13 CHANGES IN THE WORK
- 14 TIME
- 15 PAYMENTS AND COMPLETION
- 16 PROTECTION OF PERSONS AND PROPERTY
- 17 INSURANCE AND BONDS
- 18 CORRECTION OF WORK
- 19 MISCELLANEOUS PROVISIONS
- 20 TERMINATION OF THE CONTRACT
- 21 CLAIMS AND DISPUTES

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

☐ The date of this Agreement.

Init.

☒ A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 2.2 The Contract Time shall be measured from the date of commencement.

§ 2.3 Substantial Completion

§ 2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check the appropriate box and complete the necessary information.)

☒ Not later than sixty (60) calendar days from the date of commencement of the Work.

☐ By the following date:

§ 2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

N/A

§ 2.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 2.3, liquidated damages, if any, shall be assessed as set forth in Section 3.5.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

☒ Stipulated Sum, in accordance with Section 3.2 below

☐ Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below

☐ Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be One Hundred Eight-Five Thousand Nine Hundred Seventy-Three Dollars (\$ 185,973.00), subject to additions and deductions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

N/A

Init.

§ 3.2.2 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
Tile Replacement (above 10,000 tiles specified in base bid)	Units of 144 Tiles	\$85.08
Tile Substrate Repair (above 140 SF specified in base bid)	Sq. Ft.	\$94.90
Stone to Stone Repointing (above 200 LF)	Lin. Ft.	\$18.21

§ 3.2.3 Allowances, if any, included in the stipulated sum:

(Identify each allowance.)

Item	Price
Power Line Allowance	\$10,000.00

(Paragraph Deleted)

§ 3.5 Liquidated damages, if any:

(Paragraph Deleted)

(Insert terms and conditions for liquidated damages, if any.)

Per Section 00 73 00, Paragraph 1.14, Liquidated Damages:

(Paragraphs Deleted)

A. The Work's beginning and completion dates are essential conditions of the Contract Documents. The Work must begin as stated in the Notice to Proceed.

(Paragraphs Deleted)

B. The Contractor must proceed with the Work at a rate of progress to ensure full completion within the Contract Time. The Contractor and Owner expressly agree that the Contract Time for completing the Work is a reasonable time, considering the average climatic conditions and other factors prevailing in the locale.

(Paragraphs Deleted)

C. Because time is of the essence, liquidated damages apply to its performance. For each working day that any Work remains uncompleted after the final completion time as stated in the Contract and Notice to Proceed, the Owner will deduct the following amounts from money due or to be due to the Contractor.

(Paragraphs Deleted)

1. \$500 per day

(Paragraphs Deleted)

D. The sums of money deducted for failure to complete any portions of the Work on time are not a penalty, but are reasonable liquidated damages, per working day, for defaulting on the contracted final completion time. The Owner and Contractor agree to fixed amounts because it is impracticable and extremely difficult to ascertain actual

Init.

damages the Owner would sustain. The Contractor or Contractor's Surety must promptly pay any additional damages the Owner would sustain. The Contractor or Contractor's Surety must promptly pay any additional amounts if the amount the Owner can withhold from money due the Contractor does not cover the amount of liquidated damages.

(Table Deleted)

(Paragraph Deleted)

E. The Owner will not charge the Contractor with liquidated damages or any excess cost when the Contractor has given prompt written notice to the Owner and Design Professional, and the Owner confirms, that the delay in completion of the Work is due to:

(Paragraph Deleted)

(Table Deleted)

(Paragraph Deleted)

1. To any preference, priority, or allocation order issued by the Owner;

(Paragraph Deleted)

2. To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including acts of God, of the public enemy, of the Owner, of another Contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; or

(Paragraphs Deleted)

3. To any delays of subcontractors caused by the same occurrences listed above.

ARTICLE 4 PAYMENT

§ 4.1 Progress Payments

§ 4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the Tenth day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the Tenth day of the following month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than Forty-Five (45) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

Init.

§ 4.1.4 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold retainage from the payment otherwise due as follows:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment and any terms for reduction of retainage during the course of the Work. The amount of retainage may be limited by governing law.)

5% of Completed Work and 5% of Stored Material

§ 4.1.5 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

1.1 % per annum

§ 4.2 Final Payment

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a Guaranteed Maximum Price; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 15.7.1.

§ 4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Final payment issued upon completion of final inspection, completion of all punch list items, acceptance of Work by Owner and Design Professional, and following receipt of all close-out documents as outlined in Section 01 77 00, Close-Out Procedures.

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 Binding Dispute Resolution

For any claim subject to, but not resolved by, mediation pursuant to Section 21.5, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 21.6 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS

§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 6.1.1 The Agreement is this executed AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

Init.

§ 6.1.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203–2013 incorporated into this Agreement.)

N/A

§ 6.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Section 00 73 00	Supplementary Conditions	10/01/2019	1/11

§ 6.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
Section 00 00 01	Request for Proposals	10/01/2019	1/14
Section 00 00 02	Instructions to Offerors	10/01/2019	1/13
Section 00 10 00	List of Drawings	10/01/2019	1/1
Section 00 31 00	Project Information	10/01/2019	1/3
Section 00 42 00	Proposal Form	10/01/2019	1/3
Section 00 45 13	Prequalification	10/01/2019	1/2
Section 00 46 00	Supplemental Information	10/01/2019	1/1
Section 00 51 00	Notice of Award	10/01/2019	1/1
Section 00 52 00	Agreement Forms	10/01/2019	1/1
Section 00 55 00	Notice to Proceed	10/01/2019	1/1
Section 00 61 00	Bond Forms	10/01/2019	1/1
Section 00 62 00	Certificates and Other Forms	10/01/2019	1/6
Section 00 64 00	Prevailing Wage Rates	10/01/2019	1/1
Section 00 73 00	Supplementary Conditions	10/01/2019	1/11
Section 01 10 01	Hierarchy of Information	10/01/2019	1/1
Section 01 11 00	Summary of Work	10/01/2019	1/1
Section 01 20 00	Warranty Period	10/01/2019	1/1
Section 01 23 00	Alternates	10/01/2019	1/1
Section 01 26 00	Contract Modification Procedures	10/01/2019	1/1
Section 01 29 00	Payment Procedures	10/01/2019	1/1
Section 01 30 00	Administrative Provisions	10/01/2019	1/3
Section 01 31 00	Project Management and Coordination	10/01/2019	1/2
Section 01 31 01	Job Site Administration	10/01/2019	1/1
Section 01 33 00	Submittal Procedures	10/01/2019	1/1
Section 01 33 01	Shop Drawings, Product Data, and Samples	10/01/2019	1/4
Section 01 35 00	Special Procedures	10/01/2019	1/2
Section 01 45 00	Quality Control	10/01/2019	1/3
Section 01 47 00	Project Meetings	10/01/2019	1/2

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Section 01 48 00	Construction Progress Schedules / Schedule of Values	10/01/2019	1/2
Section 01 50 00	Temporary Facilities and Control	10/01/2019	1/2
Section 01 60 00	Product Requirements	10/01/2019	1/4
Section 01 74 00	Cleaning	10/01/2019	1/2
Section 01 77 00	Closeout Procedures	10/01/2019	1/2
Section 03 01 30.71	Mortar Repair	10/01/2019	1/6
Section 07 92 00	Joint Sealants	10/01/2019	1/4
Section 09 30 23	Glass Mosaic Tile	10/01/2019	1/5

§ 6.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
Sheet G-001	Cover Sheet, Location Map, Sheet Index	10/01/2019
AS-100	Aerial Site Plan	10/01/2019
A-200	Elevations	10/01/2019
A-201	Elevations	10/01/2019
A-501	Section and Details	10/01/2019

§ 6.1.6 The Addenda, if any:

Number	Date	Pages
1	10/25/2019	1/2
2	10/28/2019	1/1
3	10/30/2019	1/1
4	11/04/2019	1/2

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are enumerated in this Article 6.

(Paragraphs Deleted)

(Table Deleted)

(Paragraph Deleted)

(Table Deleted)

(Paragraphs Deleted)

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 The Contract Documents

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and

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completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 7.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor.

§ 7.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 7.4 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 7.5 Ownership and use of Drawings, Specifications and Other Instruments of Service

§ 7.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 7.5.2 The Contractor, Subcontractors, Sub-subcontractors and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 7.6 and 7.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 7.6 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 7.7 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 7.8 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and

enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 7.9 Notice

§ 7.9.1 Except as otherwise provided in Section 7.9.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic
(Paragraph Deleted)

transmission.

§ 7.9.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 7.10 Relationship of the Parties

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 8 OWNER

§ 8.1 Information and Services Required of the Owner

§ 8.1.1 Prior to commencement of the Work, at the written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 8.1.1, the Contract Time shall be extended appropriately.

§ 8.1.2 The Owner shall furnish all necessary surveys and a legal description of the site.

§ 8.1.3 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 8.1.4 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 9.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

§ 8.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

§ 8.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both

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subject to prior approval of the Architect and the Architect may, pursuant to Section 15.4.3, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including the Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 21.

ARTICLE 9 CONTRACTOR

§ 9.1 Review of Contract Documents and Field Conditions by Contractor

§ 9.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 9.1.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 8.1.2, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

§ 9.1.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 9.2 Supervision and Construction Procedures

§ 9.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 9.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

§ 9.3 Labor and Materials

§ 9.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 9.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 9.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

§ 9.4 Warranty

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or

equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. All other warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 15.6.3.

§ 9.5 Taxes

The Contractor shall pay sales, consumer, use, and other similar taxes that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 9.6 Permits, Fees, Notices, and Compliance with Laws

§ 9.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 9.6.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 9.7 Allowances

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Contractor's costs for unloading and handling at the site, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance.

§ 9.8 Contractor's Construction Schedules

§ 9.8.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 9.8.2 The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

§ 9.9 Submittals

§ 9.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements, and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals.

§ 9.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 9.9.3 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents or unless the Contractor needs to provide such services in order to carry out the Contractor's own responsibilities. If professional design services or certifications by a design professional are specifically required, the Owner and the Architect will specify the performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional. If no criteria are specified, the

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design shall comply with applicable codes and ordinances. Each Party shall be entitled to rely upon the information provided by the other Party. The Architect will review and approve or take other appropriate action on submittals for the limited purpose of checking for conformance with information provided and the design concept expressed in the Contract Documents. The Architect's review of Shop Drawings, Product Data, Samples, and similar submittals shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. In performing such review, the Architect will approve, or take other appropriate action upon, the Contractor's Shop Drawings, Product Data, Samples, and similar submittals.

§ 9.10 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 9.11 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 9.12 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus material from and about the Project.

§ 9.13 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 9.14 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 9.15 Indemnification

§ 9.15.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.15.1.

§ 9.15.2 In claims against any person or entity indemnified under this Section 9.15 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until the date the Architect issues the final Certificate for Payment.

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The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 10.3 The Architect will visit the site at intervals appropriate to the stage of the construction to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.4 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 10.5 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 10.6 The Architect has authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 10.7 The Architect will review and approve or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 10.8 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect will make initial decisions on all claims, disputes, and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

§ 10.9 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

ARTICLE 11 SUBCONTRACTORS

§ 11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

§ 11.2 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the Subcontractors or suppliers proposed for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 12.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 12.2 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a Separate Contractor because of delays, improperly timed activities, or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work, or defective construction of a Separate Contractor.

ARTICLE 13 CHANGES IN THE WORK

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor, and Architect, or by written Construction Change Directive signed by the Owner and Architect. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

§ 13.3 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work.

§ 13.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Architect promptly and before conditions are disturbed.

ARTICLE 14 TIME

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

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§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.6.3.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor’s control; or (3) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 21.

ARTICLE 15 PAYMENTS AND COMPLETION

§ 15.1 Schedule of Values

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price pursuant to Section 3.2 or 3.4, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Stipulated Sum or Guaranteed Maximum Price to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy required by the Architect. This schedule of values shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 15.1.2 The allocation of the Stipulated Sum or Guaranteed Maximum Price under this Section 15.1 shall not constitute a separate stipulated sum or guaranteed maximum price for each individual line item in the schedule of values.

§ 15.2 Control Estimate

§ 15.2.1 Where the Contract Sum is the Cost of the Work, plus the Contractor’s Fee without a Guaranteed Maximum Price pursuant to Section 3.3, the Contractor shall prepare and submit to the Owner a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the estimated Cost of the Work plus the Contractor’s Fee.

§ 15.2.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 6, including all Modifications thereto;
- .2 a list of the assumptions made by the Contractor in the preparation of the Control Estimate to supplement the information provided by the Owner and contained in the Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor’s Fee;
- .4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment the Owner’s occupancy requirements, and the date of Substantial Completion; and
- .5 a list of any contingency amounts included in the Control Estimate for further development of design and construction.

§ 15.2.3 When the Control Estimate is acceptable to the Owner and Architect, the Owner shall acknowledge it in writing. The Owner’s acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ 15.2.4 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor’s first Application for Payment and shall be revised and submitted with each Application for Payment.

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§ 15.2.5 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Contract Documents.

§ 15.3 Applications for Payment

§ 15.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 15.1, for completed portions of the Work. The application shall be notarized, if required; be supported by all data substantiating the Contractor's right to payment that the Owner or Architect require; shall reflect retainage if provided for in the Contract Documents; and include any revised cost control information required by Section 15.2.4. Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 15.3.2 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 15.3.3 Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 15.3.4 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 15.4 Certificates for Payment

§ 15.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner of the Architect's reasons for withholding certification in whole or in part as provided in Section 15.4.3.

§ 15.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 15.4.3 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 15.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 15.4.1. If the Contractor and the Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is

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able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 9.2.2, because of

- .1 defective Work not remedied;
- .2 third-party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 15.4.4 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 15.4.3, in whole or in part, that party may submit a Claim in accordance with Article 21.

§ 15.5 Progress Payments

§ 15.5.1 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in a similar manner.

§ 15.5.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor or supplier except as may otherwise be required by law.

§ 15.5.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 15.5.4 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 15.6 Substantial Completion

§ 15.6.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 15.6.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 15.6.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

Init.

§ 15.6.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 15.7 Final Completion and Final Payment

§ 15.7.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions stated in Section 15.7.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 15.7.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

§ 15.7.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 15.7.4 Acceptance of final payment by the Contractor, a Subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of the final Application for Payment.

ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

§ 16.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 16.1.2 and 16.1.3. The Contractor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 9.15.

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§ 16.2 Hazardous Materials and Substances

§ 16.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 16.2.2 To the fullest extent permitted by law, the Owner shall hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 16.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

(Paragraph Deleted)

ARTICLE 17 INSURANCE AND BONDS

§ 17.1 Contractor's Insurance

§ 17.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 17.1 or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 18.4, unless a different duration is stated below:

Coverage shall be maintained for the duration of the contract and the warranty period.

§ 17.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00) each occurrence, Two Million Dollars and Zero Cents (\$ 2000000.00) general aggregate, and One Million Dollars and Zero Cents (\$ 1000000.00) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 9.15.

§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 17.1.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 17.1.2 and 17.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

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§ 17.1.5 Workers' Compensation at statutory limits.

§ 17.1.6 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$ 1000000.00) each accident, One Million Dollars and Zero Cents (\$ 1000000.00) each employee, and One Million Dollars and Zero Cents (\$ 1000000.00) policy limit.

§ 17.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Zero Dollars and Zero Cents (\$ 0.00) per claim and Zero Dollars and Zero Cents (\$ 0.00) in the aggregate.

§ 17.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Zero Dollars and Zero Cents (\$ 0.00) per claim and Zero Dollars and Zero Cents (\$ 0.00) in the aggregate.

§ 17.1.9 Coverage under Sections 17.1.7 and 17.1.8 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than Zero Dollars and Zero Cents (\$ 0.00) per claim and Zero Dollars and Zero Cents (\$ 0.00) in the aggregate.

§ 17.1.10 The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 17.1 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 17.1.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy.

§ 17.1.11 The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ 17.1.12 To the fullest extent permitted by law, the Contractor shall cause the commercial liability coverage required by this Section 17.1 to include (1) the Owner, the Architect, and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 17.1.13 Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.1, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 17.1.14 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Workers' Compensation Coverage
Builder's Risk Insurance
Contractor and Subcontractor insurance
shall comply with the insurance
requirements outlined in
Section 00 62 00.

Limits

Per Statutory Limits
100% of Contract Amount

(Paragraphs Deleted)

Contractor and subcontractors must indemnify, hold harmless, and defend the
(Paragraph Deleted)

Owner from and against liability for any claims arising out of Contractor and subcontractors' work and activities conducted in connection with this Agreement. The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the Owner. Contractor and subcontractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's and subcontractor's employees while in the vicinity where work is being done. The Owner is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or its subcontractors, nor Contractor's or subcontractor's employees. The Owner 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 and its subcontractors. The
(Paragraph Deleted)

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

BOTH THE OWNER AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE OWNER'S OWN NEGLIGENCE WHILE THE OWNER 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 OWNER.

§ 17.2 Owner's Insurance

§ 17.2.1 Owner's Liability Insurance

The Owner is self-insured as authorized under Texas statute.

(Table Deleted)

§ 17.3 Performance Bond and Payment Bond

§ 17.3.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents on the date of execution of the Contract.

§ 17.3.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

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ARTICLE 18 CORRECTION OF WORK

§ 18.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense, unless compensable under Section A.1.7.3 in Exhibit A, Determination of the Cost of the Work.

§ 18.2 In addition to the Contractor's obligations under Section 9.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 15.6.3, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

§ 18.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

§ 18.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 18.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

ARTICLE 19 MISCELLANEOUS PROVISIONS

§ 19.1 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 19.2 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 21.6.

§ 19.3 Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 19.4 The Owner's representative:

(Name, address, email address and other information)

Robert Hanna
City of Abilene
555 Walnut Street, Suite 203

Init.

Abilene, TX 79601
Telephone Number: 325.676.6206
Email Address: Robert.Hanna@abilenetx.gov

§ 19.5 The Contractor's representative:
(Name, address, email address and other information)

Mike Crider, President
Frontier Waterproofing, Inc.
332 East Oak Street
Denton, TX 76201
Telephone Number: 940.566.4856
Fax Number: 940.387.7165
Email Address: mike@frontierwaterproofing.com

§ 19.6 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 20 TERMINATION OF THE CONTRACT

§ 20.1 Termination by the Contractor

If the Architect fails to certify payment as provided in Section 15.4.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 20.2 Termination by the Owner for Cause

§ 20.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 20.2.2 When any of the reasons described in Section 20.2.1 exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 20.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 20.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

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§ 20.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Owner shall pay the Contractor for Work executed; and costs incurred by reason of such termination, including costs attributable to termination of Subcontracts; and a termination fee, if any, as follows:

(Insert the amount of or method for determining the fee payable to the Contractor by the Owner following a termination for the Owner's convenience, if any.)

N/A

(Paragraphs Deleted)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Robert Hanna, City Manager

(Printed name and title)

CONTRACTOR (Signature)

Mike Crider, President

(Printed name and title)



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Additions and Deletions Report for AIA® Document A104™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 08:58:27 ET on 12/17/2019.

PAGE 1

AGREEMENT made as of the Ninth day of January in the year 2020

...

City of Abilene
555 Walnut Street, Suite 203
Abilene, TX 79601
Telephone Number: 325.676.6206
Fax Number: 325.676.6229

...

Frontier Waterproofing, Inc.
332 East Oak Street
Denton, TX 76201
Telephone Number: 940.566.4856
Fax Number: 940.387.7165

...

Waterproofing and Restoration Work
City of Abilene Main Library
202 Cedar Street
Abilene, TX

...

Crenshaw Consulting Group, LLC
616 S. Coppel Rd.
Coppell, TX 75019
Telephone Number: 214.758.0785
Fax Number: 214.792.9548

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[X] A date set forth in a notice to proceed issued by the Owner.

...

[X] Not later than sixty (60) calendar days from the date of commencement of the Work.

...

N/A

...

[X] Stipulated Sum, in accordance with Section 3.2 below

...

§ 3.2 The Stipulated Sum shall be One Hundred Eight-Five Thousand Nine Hundred Seventy-Three Dollars (\$185,973.00), subject to additions and deductions as provided in the Contract Documents.

...

N/A

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<u>Item</u>	<u>Units and Limitations</u>	<u>Price per Unit (\$0.00)</u>
<u>Tile Replacement (above 10,000 tiles specified in base bid)</u>	<u>Units of 144 Tiles</u>	<u>\$85.08</u>
<u>Tile Substrate Repair (above 140 SF specified in base bid)</u>	<u>Sq. Ft.</u>	<u>\$94.90</u>
<u>Stone to Stone Repointing (above 200 LF)</u>	<u>Lin. Ft.</u>	<u>\$18.21</u>

<u>Item</u>	<u>Units and Limitations</u>	<u>Price per Unit (\$0.00)</u>
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...

Power Line Allowance \$10,000.00

...

§ 3.3 Cost of the Work Plus Contractor's Fee

...

§ 3.3.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work. 3.5 Liquidated damages, if any:

...

§ 3.3.2 The Contractor's Fee:

...

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.) (Insert terms and conditions for liquidated damages, if any.)

...

Per Section 00 73 00, Paragraph 1.14, Liquidated Damages:

...

§ 3.4 Cost of the Work Plus Contractor's Fee With a Guaranteed Maximum Price

...

§ 3.4.1 ~~The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.~~

...

§ 3.4.2 ~~The Contractor's Fee:~~

...

A. The Work's beginning and completion dates are essential conditions of the Contract Documents. The Work must begin as stated in the Notice to Proceed.

...

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

...

§ 3.4.3 Guaranteed Maximum Price

...

B. The Contractor must proceed with the Work at a rate of progress to ensure full completion within the Contract Time. The Contractor and Owner expressly agree that the Contract Time for completing the Work is a reasonable time, considering the average climatic conditions and other factors prevailing in the locale.

...

§ 3.4.3.1 ~~The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$—), subject to additions and deductions by changes in the Work as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

...

(Insert specific provisions if the Contractor is to participate in any savings.)

...

C. Because time is of the essence, liquidated damages apply to its performance. For each working day that any Work remains uncompleted after the final completion time as stated in the Contract and Notice to Proceed, the Owner will deduct the following amounts from money due or to be due to the Contractor.

...

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

...

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

...

1. \$500 per day

...

§ 3.4.3.3 Unit Prices, if any:

...

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

PAGE 5

D. The sums of money deducted for failure to complete any portions of the Work on time are not a penalty, but are reasonable liquidated damages, per working day, for defaulting on the contracted final completion time. The Owner and Contractor agree to fixed amounts because it is impracticable and extremely difficult to ascertain actual damages the Owner would sustain. The Contractor or Contractor's Surety must promptly pay any additional damages the Owner would sustain. The Contractor or Contractor's Surety must promptly pay any additional amounts if the amount the Owner can withhold from money due the Contractor does not cover the amount of liquidated damages.

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

...

§ 3.4.3.4 Allowances, if any, included in the Guaranteed Maximum Price:

...

E. The Owner will not charge the Contractor with liquidated damages or any excess cost when the Contractor has given prompt written notice to the Owner and Design Professional, and the Owner confirms, that the delay in completion of the Work is due to:

...

(Identify each allowance.)

...

Item	Price
------	-------

...

~~§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:~~

...

1. To any preference, priority, or allocation order issued by the Owner;

...

~~§ 3.4.3.6 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.~~

...

2. To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including acts of God, of the public enemy, of the Owner, of another Contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; or

...

~~§ 3.4.3.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 3.4.3.5. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 3.4.3.5 and the revised Contract Documents.~~

...

~~§ 3.5 Liquidated damages, if any:~~

...

(Insert terms and conditions for liquidated damages, if any.)

...

3. To any delays of subcontractors caused by the same occurrences listed above.

...

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the Tenth day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the Tenth day of the following month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than Forty-Five (45) days after the Architect receives the Application for Payment.

PAGE 6

5% of Completed Work and 5% of Stored Material

...

1.1 % per annum

...

Final payment issued upon completion of final inspection, completion of all punch list items, acceptance of Work by Owner and Design Professional, and following receipt of all close-out documents as outlined in Section 01 77 00, Close-Out Procedures.

...

[☒] Litigation in a court of competent jurisdiction

PAGE 7

N/A

...

<u>Section 00 73 00</u>	<u>Supplementary Conditions</u>	<u>10/01/2019</u>	<u>1/11</u>
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<u>Section</u>	<u>Title</u>	<u>Date</u>	<u>Pages</u>
<u>Section 00 00 01</u>	<u>Request for Proposals</u>	<u>10/01/2019</u>	<u>1/14</u>
<u>Section 00 00 02</u>	<u>Instructions to Offerors</u>	<u>10/01/2019</u>	<u>1/13</u>
<u>Section 00 10 00</u>	<u>List of Drawings</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 31 00</u>	<u>Project Information</u>	<u>10/01/2019</u>	<u>1/3</u>
<u>Section 00 42 00</u>	<u>Proposal Form</u>	<u>10/01/2019</u>	<u>1/3</u>
<u>Section 00 45 13</u>	<u>Prequalification</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 00 46 00</u>	<u>Supplemental Information</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 51 00</u>	<u>Notice of Award</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 52 00</u>	<u>Agreement Forms</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 55 00</u>	<u>Notice to Proceed</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 61 00</u>	<u>Bond Forms</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 62 00</u>	<u>Certificates and Other Forms</u>	<u>10/01/2019</u>	<u>1/6</u>
<u>Section 00 64 00</u>	<u>Prevailing Wage Rates</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 00 73 00</u>	<u>Supplementary Conditions</u>	<u>10/01/2019</u>	<u>1/11</u>
<u>Section 01 10 01</u>	<u>Hierarchy of Information</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 11 00</u>	<u>Summary of Work</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 20 00</u>	<u>Warranty Period</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 23 00</u>	<u>Alternates</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 26 00</u>	<u>Contract Modification Procedures</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 29 00</u>	<u>Payment Procedures</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 30 00</u>	<u>Administrative Provisions</u>	<u>10/01/2019</u>	<u>1/3</u>
<u>Section 01 31 00</u>	<u>Project Management and Coordination</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 01 31 01</u>	<u>Job Site Administration</u>	<u>10/01/2019</u>	<u>1/1</u>
<u>Section 01 33 00</u>	<u>Submittal Procedures</u>	<u>10/01/2019</u>	<u>1/1</u>

<u>Section 01 33 01</u>	<u>Shop Drawings, Product Data, and Samples</u>	<u>10/01/2019</u>	<u>1/4</u>
<u>Section 01 35 00</u>	<u>Special Procedures</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 01 45 00</u>	<u>Quality Control</u>	<u>10/01/2019</u>	<u>1/3</u>
<u>Section 01 47 00</u>	<u>Project Meetings</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 01 48 00</u>	<u>Construction Progress Schedules / Schedule of Values</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 01 50 00</u>	<u>Temporary Facilities and Control</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 01 60 00</u>	<u>Product Requirements</u>	<u>10/01/2019</u>	<u>1/4</u>
<u>Section 01 74 00</u>	<u>Cleaning</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 01 77 00</u>	<u>Closeout Procedures</u>	<u>10/01/2019</u>	<u>1/2</u>
<u>Section 03 01 30.71</u>	<u>Mortar Repair</u>	<u>10/01/2019</u>	<u>1/6</u>
<u>Section 07 92 00</u>	<u>Joint Sealants</u>	<u>10/01/2019</u>	<u>1/4</u>
<u>Section 09 30 23</u>	<u>Glass Mosaic Tile</u>	<u>10/01/2019</u>	<u>1/5</u>

Section	Title	Date	Pages
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...

<u>Number</u>	<u>Title</u>	<u>Date</u>
<u>Sheet G-001</u>	<u>Cover Sheet, Location Map, Sheet Index</u>	<u>10/01/2019</u>
<u>AS-100</u>	<u>Aerial Site Plan</u>	<u>10/01/2019</u>
<u>A-200</u>	<u>Elevations</u>	<u>10/01/2019</u>
<u>A-201</u>	<u>Elevations</u>	<u>10/01/2019</u>
<u>A-501</u>	<u>Section and Details</u>	<u>10/01/2019</u>

Number	Title	Date
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...

<u>Number</u>	<u>Date</u>	<u>Pages</u>
<u>1</u>	<u>10/25/2019</u>	<u>1/2</u>
<u>2</u>	<u>10/28/2019</u>	<u>1/1</u>
<u>3</u>	<u>10/30/2019</u>	<u>1/1</u>
<u>4</u>	<u>11/04/2019</u>	<u>1/2</u>

Number	Date	Pages
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...

~~§ 6.1.7 Additional documents, if any, forming part of the Contract Documents:~~

...

~~.1 Other Exhibits:~~

...

(Check all boxes that apply.)

...

☐ ~~Exhibit A, Determination of the Cost of the Work.~~

...

☐ ~~AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

~~(Insert the date of the E204 2017 incorporated into this Agreement.)~~

...

☐ ~~The Sustainability Plan:~~

...

Title	Date	Pages
-------	------	-------

...

☐ ~~Supplementary and other Conditions of the Contract:~~

...

Document	Title	Date	Pages
----------	-------	------	-------

...

~~2. Other documents, if any, listed below:~~

...

(List here any additional documents that are intended to form part of the Contract Documents.)

PAGE 10

§ 7.9.1 Except as otherwise provided in Section 7.9.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission in accordance with AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

...

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering Notice in electronic format such as name, title and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

...

transmission.

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§ 16.2.2 To the fullest extent permitted by law, the Owner shall ~~indemnify and~~ hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 16.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

...

§ 16.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

...

Coverage shall be maintained for the duration of the contract and the warranty period.

...

§ 17.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00) each occurrence, Two Million Dollars and Zero Cents (\$ 2000000.00) general aggregate, and One Million Dollars and Zero Cents (\$ 1000000.00) aggregate for products-completed operations hazard, providing coverage for claims including

...

§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

PAGE 21

§ 17.1.6 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$ 1000000.00) each accident, One Million Dollars and Zero Cents (\$ 1000000.00) each employee, and One Million Dollars and Zero Cents (\$ 1000000.00) policy limit.

...

§ 17.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Zero Dollars and Zero Cents (\$ 0.00) per claim and Zero Dollars and Zero Cents (\$ 0.00) in the aggregate.

...

§ 17.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Zero Dollars and Zero Cents (\$ 0.00) per claim and Zero Dollars and Zero Cents (\$ 0.00) in the aggregate.

...

§ 17.1.9 Coverage under Sections 17.1.7 and 17.1.8 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than Zero Dollars and Zero Cents (\$ 0.00) per claim and Zero Dollars and Zero Cents (\$ 0.00) in the aggregate.

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<u>Workers' Compensation Coverage</u>	<u>Per Statutory Limits</u>
<u>Builder's Risk Insurance</u>	<u>100% of Contract Amount</u>
<u>Contractor and Subcontractor insurance</u>	
<u>shall comply with the insurance</u>	
<u>requirements outlined in</u>	
<u>Section 00 62 00.</u>	

...

§ 17.2 Owner's Insurance

...

§ 17.2.1 Owner's Liability Insurance

...

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Contractor and subcontractors must indemnify, hold harmless, and defend the

...

§ 17.2.2 Property Insurance

...

~~§ 17.2.2.1 The Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed or materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section 17.2.2.2, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees. Owner from and against liability for any claims arising out of Contractor and~~

subcontractors' work and activities conducted in connection with this Agreement. The Contractor is an independent contractor and

...

§ 17.2.2.2 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section 17.2.2.1 or, if necessary, replace the insurance policy required under Section 17.2.2.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 18.4. is not, with

...

§ 17.2.2.3 If the insurance required by this Section 17.2.2 is subject to deductibles or self insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions. respect to its acts or

...

§ 17.2.2.4 If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 18.4, "all risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage, notwithstanding the undertaking of the Work. The Owner shall be responsible for all insurance penalties, omissions, an agent or employee of the Owner. Contractor and subcontractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's and subcontractor's employees while in the vicinity where work is being done. The Owner is not liable or responsible for

...

§ 17.2.2.5 Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Section 17.2.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by this Section 17.2.2. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements. the negligence or intentional acts or

...

§ 17.2.2.6 Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.2.2, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance, omissions of the Contractor or its subcontractors, nor Contractor's or subcontractor's employees. The Owner 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 and its subcontractors. The

...

§ 17.2.2.7 Waiver of Subrogation

...

§ 17.2.2.7.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by this Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 17.2.2.7 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property. Owner and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor, its subcontractors, or

...

§ 17.2.2.7.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 17.2.2.7.1 for damages caused by fire or other causes of loss covered by this separate property insurance. the Owner. The Owner has the right to compromise and defend the same to the extent of its own interests.

...

§ 17.2.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner. BOTH THE OWNER AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE OWNER'S OWN NEGLIGENCE WHILE THE OWNER 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 OWNER.

...

§ 17.2.3 Other 17.2 Owner's Insurance

...

Insurance Provided by the Owner § 17.2.1 Owner's Liability Insurance

...

(List below any other insurance coverage to be provided by the Owner and any applicable limits.) The Owner is self-insured as authorized under Texas statute.

...

Coverage

Limits

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Robert Hanna
City of Abilene
555 Walnut Street, Suite 203
Abilene, TX 79601
Telephone Number: 325.676.6206
Email Address: Robert.Hanna@abilenetx.gov

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Mike Crider, President
Frontier Waterproofing, Inc.
332 East Oak Street
Denton, TX 76201
Telephone Number: 940.566.4856
Fax Number: 940.387.7165
Email Address: mike@frontierwaterproofing.com

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N/A

...

ARTICLE 21 CLAIMS AND DISPUTES

...

§ 21.1 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 21.11 and Sections 15.7.3 and 15.7.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

...

§ 21.2 Notice of Claims

...

§ 21.2.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the Architect within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

...

§ 21.2.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the other party.

...

§ 21.3 Time Limits on Claims

...

The Owner and Contractor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement whether in contract, tort, breach of warranty, or otherwise, within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 21.3.

...

§ 21.4 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

...

§ 21.5 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

...

§ 21.6 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association, in accordance with the Construction Industry Arbitration Rules in effect on the date of this Agreement. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

...

§ 21.7 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

...

~~§ 21.8~~ Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described in the written Consent.

...

~~§ 21.9~~ The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

...

~~§ 21.10 Continuing Contract Performance~~

...

~~Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.~~

...

~~§ 21.11 Waiver of Claims for Consequential Damages~~

...

~~The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

...

- ~~.1—~~ damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

...

- ~~.2—~~ damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

...

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 20. Nothing contained in this Section 21.11 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Melissa Long, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:22:56 ET on 12/09/2019 under Order No. 0614367891 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A104™ - 2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

Melissa Long
(Signed)

Contract Admin.
(Title)

12/9/19
(Dated)

Award Contract to Frontier Waterproofing, Inc. – Waterproof and Restoration of Main Central Library





**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: **5. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Awarding a Contract for the emergency repair to/replacement of a gas line at the Abilene Zoo in an amount to exceed \$50,000 *(Lesli Andrews)*

GENERAL INFORMATION

The gas service for the rhino, lion, giraffe and bird holding areas have been interrupted due to a leak in the existing line. Primary cause of leak is due to age of the associated infrastructure for this area. This portion of the service line is part of the original infrastructure which was installed between 1964 - 1966. The failure of the gas line occurred about 3 weeks ago.

The areas impacted by this service disruption are holding areas for animals that are cold sensitive and require heat during the colder parts of the year. Due to the sensitive nature of these animals and the upcoming cold weather months this repair is considered immediately necessary for the health and well being of these animals.

SPECIAL CONSIDERATIONS

The damage to the gas line was unforeseen. Competitive bidding is not required for this repair pursuant to Local Government Code Section 252.022(a)(3), procurement necessary because of unforeseen damage to public property.

FUNDING/FISCAL IMPACT

Cost will be over \$50,000.

STAFF RECOMMENDATION

Staff recommends giving approval to make the emergency repair/replace to the gas line at the Abilene Zoo.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. Gas Line at Zoo

Resolution:

Approval of Contract to Repair or Replace Gas Line at Abilene Zoo





**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Molly Moser, Manager

SUBJECT: 6. Presentation: Receive a Report, and Hold a Discussion and Public Hearing on Abilene Convention Center North Plaza Proposed Design (Molly Moser)

GENERAL INFORMATION

The north plaza of the Abilene Convention Center is the first impression many visitors have of our City. Currently, the plaza has several concrete and accessibility repairs that need to be addressed.

The proposed design will address the needed repairs and will be an aesthetically pleasing entrance to the Convention Center.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The estimated construction cost is \$1,300,000. Funding Source - Convention Center Capital Projects Fund.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Abilene Convention Center - North Plaza Proposed Design

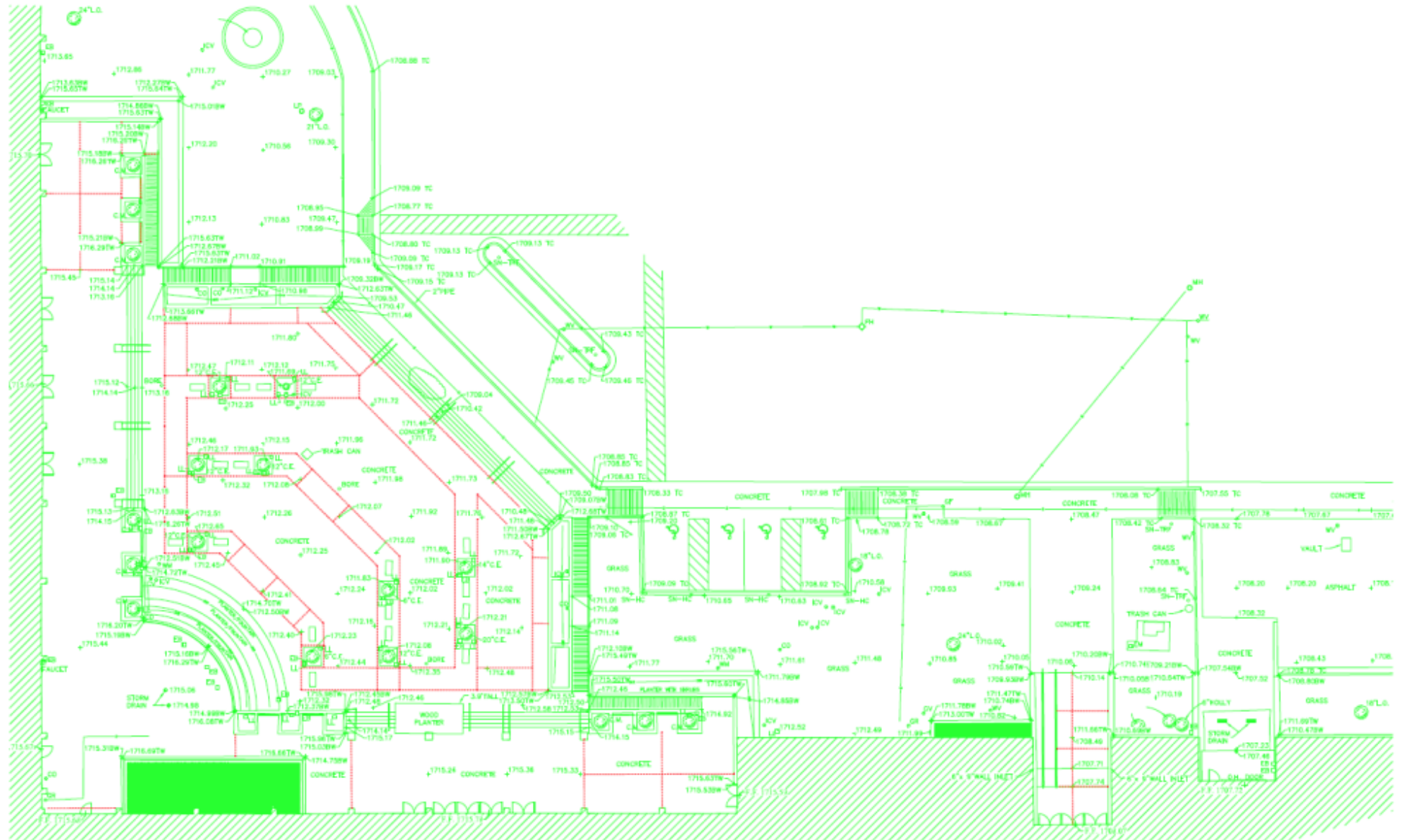
Abilene Convention Center North Plaza Proposed Design



History

- Conference Center Expansion and North Plaza - Completed 1990
- Repairs to concrete and accessibility are needed
- Section of Steps Demolition – July 2019
- Master Plan – September 2019





PARTIAL SITE PLAN

Expansion Joints Improvements Needed



Expansion Joints Improvements Needed



North Plaza Deteriorating Steps



Accessibility Improvements Needed



Accessibility Improvements Needed



Accessibility Improvements Needed



Concrete Shifting Improvements Needed

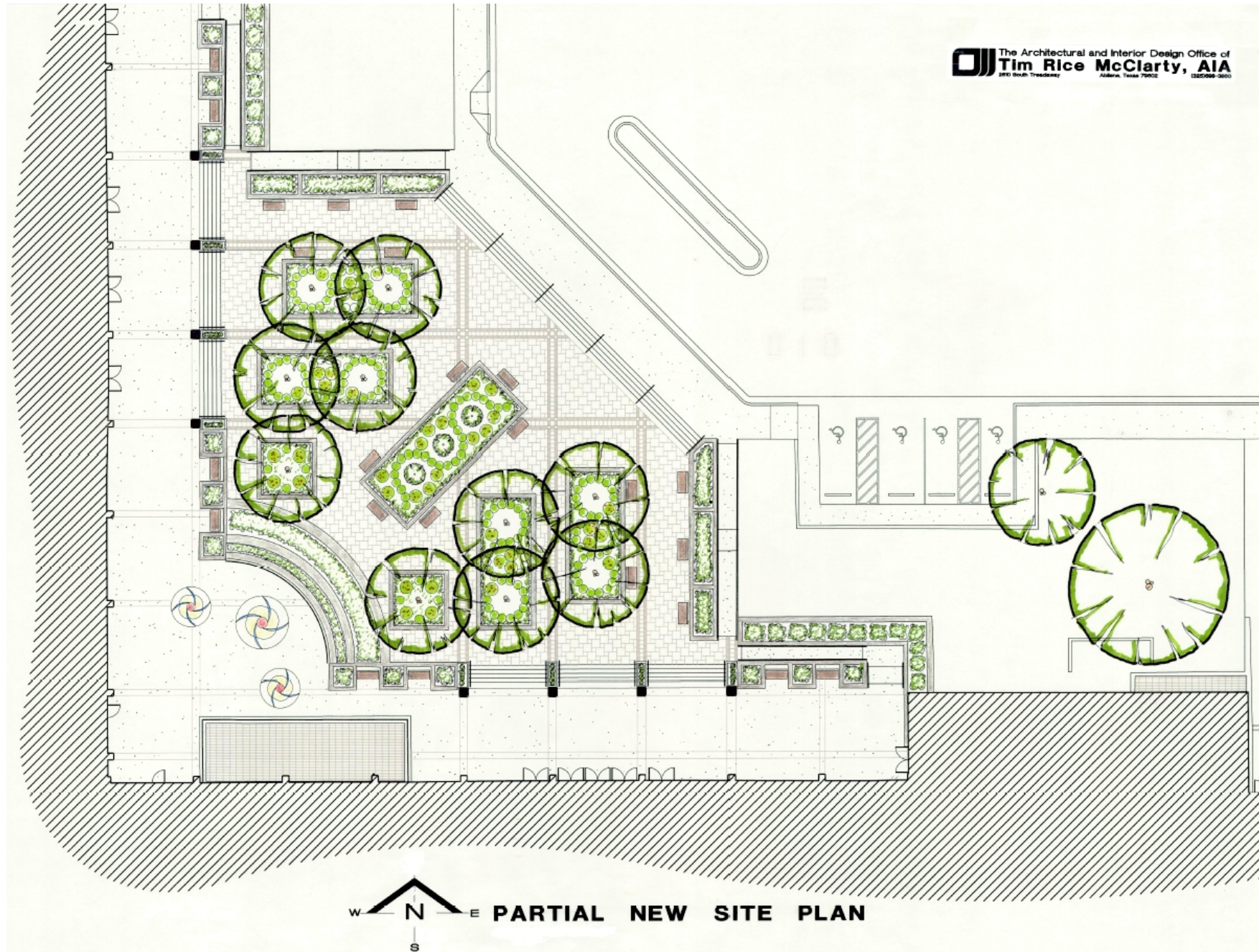


Additional Concerns



Section of Steps Demolition





W N E PARTIAL NEW SITE PLAN
S



Projected Cost

- Estimated Cost - \$1,300,000
- Funding Source – Capital Projects Fund



Questions





**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Professional Services Contract Awarded to Enprotec/Hibbs & Todd for Engineering Design of Pavement Roadway & Drainage Improvements for Sayles Boulevard (*Greg McCaffery*).

GENERAL INFORMATION

The City Council at their meeting of November 7, 2019 approved the use of surplus funds from the 2015 Street Bond Proceeds towards the design and construction of Sayles Boulevard from South Danville Drive to Buffalo Gap Road to be constructed in 2020.

The City of Abilene requested and received a proposal on December 11, 2019 from Enprotec/Hibbs & Todd for the design of the resurfacing and major repairs of Sayles Boulevard.

SPECIAL CONSIDERATIONS

Enprotec/Hibbs & Todd has the qualifications, staffing capabilities, and similar project experience for this street design. Therefore, they are being recommended by staff to perform the engineering design for this project.

FUNDING/FISCAL IMPACT

The total amount for this Professional Services Contract for Engineering Services is in the amount of \$250,000.00. Funding for this contract will come from the 2015 Street Bond

Proceeds.

STAFF RECOMMENDATION

Staff recommends City Council approve a resolution authorizing the City Manager to execute an agreement with Enprotec/Hibbs & Todd in the amount of \$250,000.00 for the Engineering Services for the design of Salyes Boulevard from Danville Drive to Buffalo Gap Road.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. Resolution_Hibbs_Todd_Design_Contract
2. Signed Prof Serv EHT Contract - Sayles Blvd
3. PowerPoint_Salyes_Blvd_Improvements.2020.01.09

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH ENPROTEC/
HIBBS & TODD.**

WHEREAS, The City of Abilene desires to resurface and complete major base repairs to Sayles Boulevard from South Danville Drive to Buffalo Gap Road; and,

WHEREAS, The City of Abilene has selected Enprotec/ Hibbs & Todd for the design and plan preparation for said project; and,

WHEREAS, The City Council authorizes the City Manager to execute an agreement with Enprotec/ Hibbs & Todd in the amount of \$250,000.00 for the engineering of the resurfacing and major base repairs of Sayles Boulevard from Danville Drive to Buffalo Gap Road.

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

- PART 1: The City Council authorizes the City Manager to execute an agreement with Enprotec/ Hibbs & Todd.
- PART 2: That the design agreement is in the amount of \$250,000.00 for the design of Sayles Boulevard from South Danville Drive to Buffalo Gap Road.
- PART 3: That this resolution will take effect immediately from and after passage.

ADOPTED this 9th day of January, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT

Engineers & Architects

This contract, dated the 9th day of January, 2020, is between the City of Abilene, a home rule municipal corporation of the State of Texas ("City"), and Enprotec/Hibbs & Todd, a corporation organized under the laws of the State of Texas ("Consultant").

The City is engaged in the reconstruction of Sayles Blvd and desires to engage the services of Consultant, as an independent contractor and not as an employee, to assist in the project and to render his or her or its services on the terms and conditions provided in this Contract.

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

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

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

I. TERMS

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

II. FEE

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

III. FACILITIES

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

IV. ASSIGNMENT

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

V. STATUS OF CONSULTANT

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

VI. AMENDMENT OR MODIFICATION

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

VII. OWNERSHIP OF DOCUMENTS AND MATERIALS

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

VIII. NONDISCLOSURE

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

IX. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

B. Indemnity

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

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

Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Consultant’s employees while in the vicinity where the work is

being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Consultant or Consultant's employees.

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

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

X. INSURANCE

A. GENERAL REQUIREMENTS

The Consultant agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Consultant is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Consultant fails to timely comply with the insurance requirements.

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

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

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

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

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (B) remodeling, extending, repairing, or demolishing a structure; or

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

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured with respect to operations for which this agreement is made.
2. Provide for 30 days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

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

	<u>Type</u>	<u>Amount</u>
X 1.	Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
X 2.	Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
X 3.	Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
X 4.	Professional Liability	\$500,000 combined single limit (per occurrence)
___ 5.	See Addendum for Special Coverages and/or revisions	

___6. No Insurance Required

XI. VENUE, CHOICE OF LAW AND INTERPRETATION

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

XII. TERMINATION

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

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

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

XIII. PROJECT REPRESENTATION

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

XIV. NOTICE

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

City – ATTN:

Greg McCaffery, P.E., CFM
Director of Public Works, City of Abilene
P.O. Box 60, Abilene, TX 79604

Consultant – ATTN:

Sage Diller, P.E.
Enprotec/Hibbs & Todd, Inc
402 Cedar St, Abilene, TX 79601

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

XVI. NO INDEBTEDNESS

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

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

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

XVII. EQUAL EMPLOYMENT OPPORTUNITY

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

XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XIX. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas

Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XX. SALES TAX

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

XXI. LEGAL CONSTRUCTION

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

XXII. BOYCOTT OF ISRAEL

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

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

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

XXIII. SECTIONS AND OTHER HEADINGS

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

XIV. COUNTERPARTS

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

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

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

CITY OF ABILENE

By: _____

Name: Robert Hanna

Title: City Manager

ATTEST:

City Secretary

APPROVED:

By: _____
City Attorney

CONSULTANT

By:  _____

Name: David Todd, P.E.

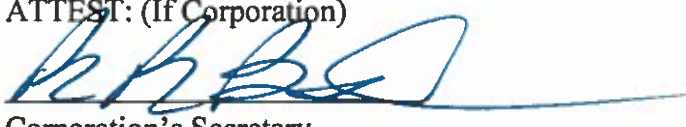
Title: Executive Vice President

Address: 402 Cedar St
Abilene, TX 79601

Phone Number: (325) 698-5560

Federal Tax ID#: 75-2258512

ATTEST: (If Corporation)


Corporation's Secretary

Corporate Seal (if available)

ATTACHMENT A

Scope of Services

SAYLES BOULEVARD PAVEMENT REHABILITATION (BUFFALO GAP ROAD TO SOUTH DANVILLE DRIVE)

Consultant shall provide Basic and Additional Services as set forth below to assist City of Abilene (City) with the following:

The City proposes to rehabilitate the pavement along Sayles Boulevard from Buffalo Gap Road to South Danville Drive. The improvements shall include removal of existing pavement and base material and replacement with new materials meeting City specifications and design standards. A concrete intersection will be designed for the intersection of South 27th. City directed signalization improvements will be incorporated along with pavement striping and sidewalks.

Consultant shall develop plans, specifications and bidding documents associated with the Project as outlined below:

I. Basic Services – Preliminary Design Phase

1. Review project parameters with the City and inspect existing pavement condition for rehabilitation evaluation.
2. Advise City if additional reports, data, information, or services of the types not contained in this Agreement are necessary and assist City in obtaining such reports, data, information, or services.
3. Furnish preliminary design drawings for the proposed rehabilitation project and review them with the City.
4. Based on the information contained in the Preliminary Design Phase drawings, submit an Opinion of Probable Construction Cost (OPCC) for construction of the proposed pavement rehabilitation project.

II. Basic Services – Final Design Phase

After acceptance by City of the Preliminary Design Phase documents and OPCC as determined in the Preliminary Design Phase, but subject to any City-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, Consultant shall:

1. On the basis of the above acceptance, direction and authorization, prepare final Drawings and Technical Specifications indicating the scope, extent, and character of the work to be performed and furnished by Contractor. Specifications will be

prepared in general conformance with the 16-division format of the Construction Specifications Institute.

2. Advise City of any adjustments to the OPCC and any adjustments to Total Project Costs known to Consultant.

3. Furnish the Design Phase documents to and review them with City. Make any final modifications or changes as requested by the City.

4. Submit 4 final copies of the Design Phase Documents and an OPCC to City.

Consultant's Services under the Final Design Phase will be considered complete on the date when the final copies of the Design Phase Documents required above have been delivered.

III. Basic Services - Bidding Phase

A. After acceptance by City of the final Design Phase Documents and the most recent OPCC as determined in the Final Design Phase, Consultant shall:

1. Assist City in advertising and obtaining bids for the Work and, if applicable, attend a pre-Bid conference.

2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.

3. Consult with City as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.

4. Attend the Bid opening and assist City in evaluating Bids or proposals.

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

IV. Basic Services - Construction Phase

A. The City will provide general administration and inspection of the construction contract. Consultant shall provide support when requested by the City.

B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the Construction Agreement for either Project or any part thereof and will terminate upon written recommendation by Consultant for final payment to Contractor.

C. *Limitation of Responsibilities.* Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. Consultant shall

not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

V. Additional Services

A. The following Additional Services are authorized as a part of the Project:

1. Topographic Field Surveying necessary to identify existing utilities, easement boundaries, manhole invert elevations and other elements related to project design.
2. Construction Materials Testing (CMT) requested by City to confirm conformance of materials installed on the project.

VI. Additional Services Requiring City's Authorization in Advance

- A. If authorized in writing by City, Consultant shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by City.
1. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Consultant or its design requirements including, but not limited to, changes in size, complexity, City's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond Consultant's control.
 2. Furnishing services of Consultant's Consultants for other than Basic and Additional Services identified above.
 3. Services attributable to multiple prime construction contracts, in excess of the one (1) contemplated under this Agreement.
 4. Services during out-of-town travel required of Consultant other than for visits to the Site or City's office, or the Texas Department of Transportation.
 5. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value Consulting, and constructability review requested by City; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
 6. Assistance in connections with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
 7. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.

8. Preparing to serve or serving as a Consultant or witness for City in any litigation, arbitration or other dispute resolution process related to the Project.

9. Providing services of a Resident Project Representative during construction.

10. Other services performed or furnished by Consultant not otherwise provided for in this Agreement.

ATTACHMENT B
PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION SELECTED

OPTION 1 Click or tap here to enter text.

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

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

OPTION 2 X

Payment will be made on a Lump Sum Basis of \$235,000 and a Time and Materials Basis of \$15,000 for a Total Contract Amount of \$250,000 payable as outlined below:

Basic Engineering Services (Lump Sum):

Preliminary Design Phase	\$ 65,000
Final Design Phase	\$120,000
Bidding Phase	\$ 5,000
Construction Phase	\$ 5,000
Post Construction Phase	\$ 5,000

Additional Services (Lump Sum)

Surveying	\$ 35,000
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Additional Services (Time & Materials)

Construction Materials	\$ 15,000
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No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

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

OPTION 3 Click or tap here to enter text.

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

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

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

ATTACHMENT C

OWNERSHIP OF DOCUMENTS AND MATERIALS

Parties to initial option chosen

(Option 1) X

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

(Option 2) Click or tap here to enter text.

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

ATTACHMENT D

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT E
NOTICE TO PROCEED

TO: ENPROTEC/HIBBS & TODD, INC
402 CEDAR ST
ABILENE, TX 79601

Project Description: Reconstruction of Sayles Blvd

You are to begin work on this project on or before _____, and to complete the work within _____ consecutive working days for Base Bid and _____ consecutive working days for Add Alternate.

You must complete all work on or before _____, 20____.

You must return a signed copy of this Notice to Proceed to the City.

THE CITY OF ABILENE, TEXAS

BY: _____
(Signature)

Printed Name

Title: _____

Date: _____

Contractor acknowledges
receiving the Notice to Proceed.

BY: _____
(Signature)

Title: _____

Federal Tax ID #: _____

ATTACHMENT F
CHANGE IN SCOPE OF SERVICES

Click or tap here to enter text.

Resolution for the Approval of a Professional Services Contract for Sayles Boulevard - Design and Construction

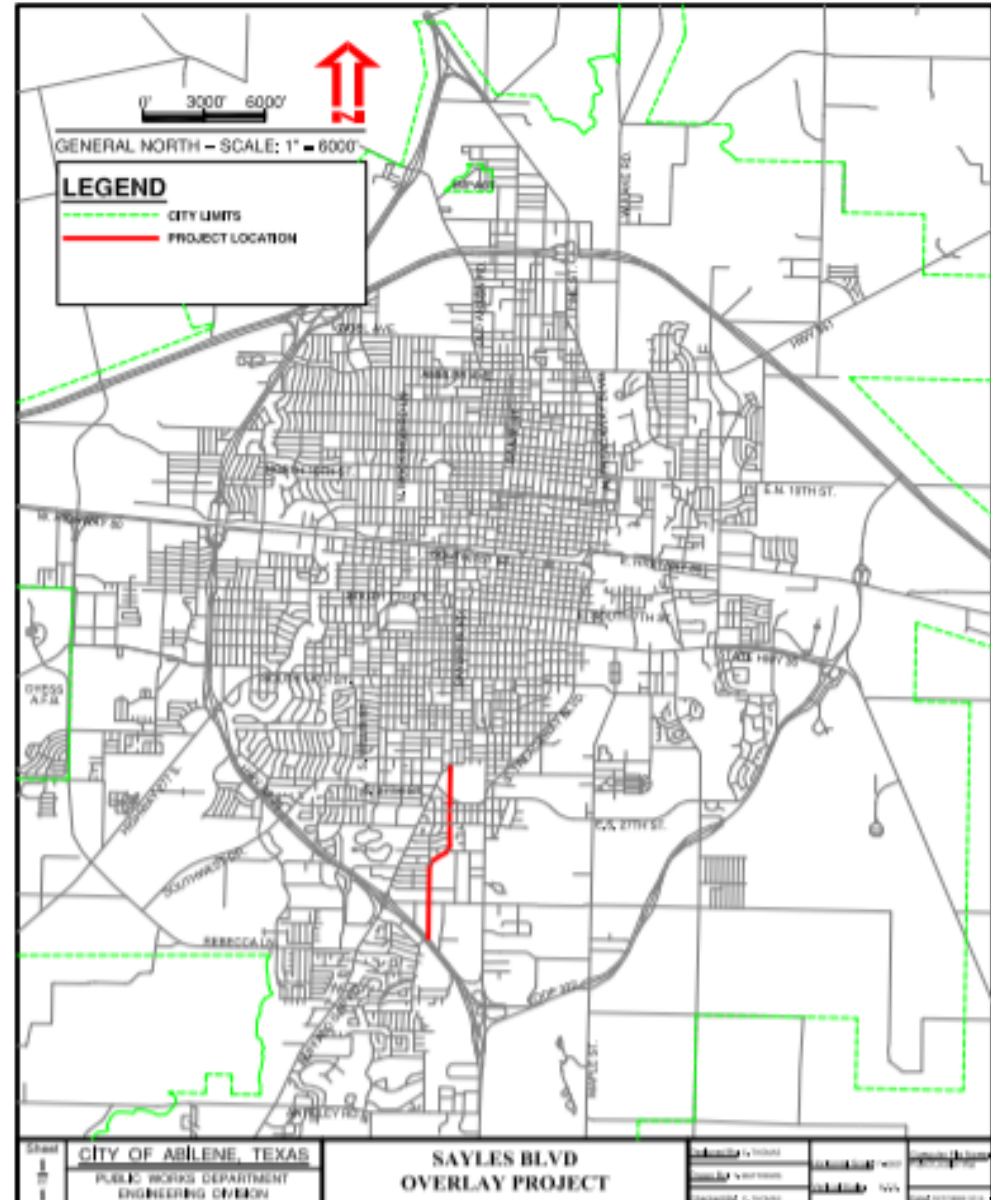
(G. McCaffery)

Sayles Boulevard Project South Danville Drive to Buffalo Gap Road

- **Asphalt Overlay, Major & Minor Base Repairs, and Concrete Intersection Improvements**
- **Surveying, Materials Testing and Design of Sayles Boulevard**
- **Preliminary Opinion of Construction Costs \$3,250,000**
- **Construction to Begin June 1, and Completed by October 1, 2020**
- **Staff Recommends Execution of a Professional Services Design Agreement with Enprotec/ Hibbs & Todd in the Amount of \$250,000.00.**

Sayles Boulevard Project Location

South Danville Drive
to
Buffalo Gap Road



Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Greg McCaffery

SUBJECT: **8. Resolution:** Receive a Report, Hold a Discussion and Public Hearing and Take Action on Awarding of Bid No. CB#-2018 to Raydon, Inc. for Street Resurfacing Project of Work Zones N10 & N3 (*Greg McCaffery*)

GENERAL INFORMATION

This Project was advertised as a Public Notice on December 01, 2019 and on December 08, 2019 with a bid opening dated December 17, 2019. This contract involves the resurfacing of several streets located in street maintenance work zones N10 & N3.

SPECIAL CONSIDERATIONS

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

The local preference does not apply because the contract amount is more than \$100,000.00.

FUNDING/FISCAL IMPACT

Funding for this project is allocated through funds from the Street Maintenance Fund.

STAFF RECOMMENDATION

Staff recommends bid award to Raydon., Inc., Breckenridge, Texas in the amount of \$1,681,441.59.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. REV1_Resolution_REV_N10 & N3 Proj
2. CB2018 BID TABSHEET
3. Raydon - N10 & N3 council contract
4. Project Location
5. PowerPoint_N10 N13 Resurfacing Project

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AWARDING
BID TO RAYDON, INC. OF BRECKENRIDGE, TEXAS**

WHEREAS, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the resurfacing of various streets within street maintenance zones N10 and N3.; and

WHEREAS, the project involves the resurfacing of various streets within street maintenance zones N10 and N3: and

WHEREAS, the following bids were received and opened on the December 17, 2019:

Raydon, Inc., Breckenridge, TX	\$1,681,441.59
Bontke Brothers Construction Co., Inc., Abilene, Texas	\$1,696,707.85
Contract Paving, Co, Inc., Tye, TX	\$1,784,864.80
Nobles Road Construction, Inc., Abilene, TX	\$1,884,946.45
Fuquay, Inc., New Braunfels, TX	\$1,922,224.92
J.H. Strain & Sons, Inc., Tye, TX	\$2,688,820.00

WHEREAS, Raydon, Inc., Breckenridge, Texas submitted the low bid in the amount of \$1,681,441.59 with the bid meeting specifications. Staff recommends awarding the bid to the low bidder, Raydon, Inc., Breckenridge, Texas.

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

PART 1: That the City Council approves this bid in the amount of \$1,681,441.59.

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

ADOPTED this 9th day of January, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

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

PAGE
1 OF 1

DEPARTMENT: PW
BID NO.: CB-2018
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: DECEMBER 17, 2019

RAYDON, INC
BRECKENRIDGE, TX

BONTKE BROTHERS
CONSTRUCTION
ABILENE, TX

CONTRACT PAVING, CO
TYE, TX

NOBLES ROAD
CONSTRUCTION, INC
ABILENE, TX

FUQUAY, INC
NEW BRAUNFELS, TX

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

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
	STREET RESURFACING PROJECT ON WORK ZONES N10 AND N3				1,681,441.59		1,696,707.85		1,784,864.80		1,884,946.45		1,922,224.92		2,688,820.00
BASE BID					1,681,441.59		1,696,707.85		1,784,864.80		1,884,946.45		1,922,224.92		2,688,820.00
DISCOUNT															
TOTAL BID					1,681,441.59		1,696,707.85		1,784,864.80		1,884,946.45		1,922,224.92		2,688,820.00

*NOTES: INDICATES RECOMMENDED AWARD

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made January 9, 2020, is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Raydon, Inc. of the City of Breckenridge, 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 **STREET RESURFACING PROJECT ON WORK ZONES N10 AND N3**

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

STREET RESURFACING PROJECT ON WORK ZONES N10 AND N3

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

In consideration of this Work, the City will pay the Contractor the sum of **\$1,681,441.59 (One million six hundred eighty-one thousand four hundred forty-one dollars and fifty-nine cents.)**

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

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

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

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

6. **Indemnity.**

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

B. Indemnity

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTRACTOR

Name of Contractor:

Raydon, Inc

Business Address:

PO Box 671, Breckenridge, TX 76424

300 FM 3099, Breckenridge, TX 76424 (Physical)

Signature

Seth Shortes

Name - Typed or Printed

Vice President

Title - Typed or Printed

254-559-5012

Business Phone No.

75-2235384

Federal Tax I.D.#

ATTEST: (If Corporation)

Corporate Secretary's Signature

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

CITY OF ABILENE

Authorized Signature

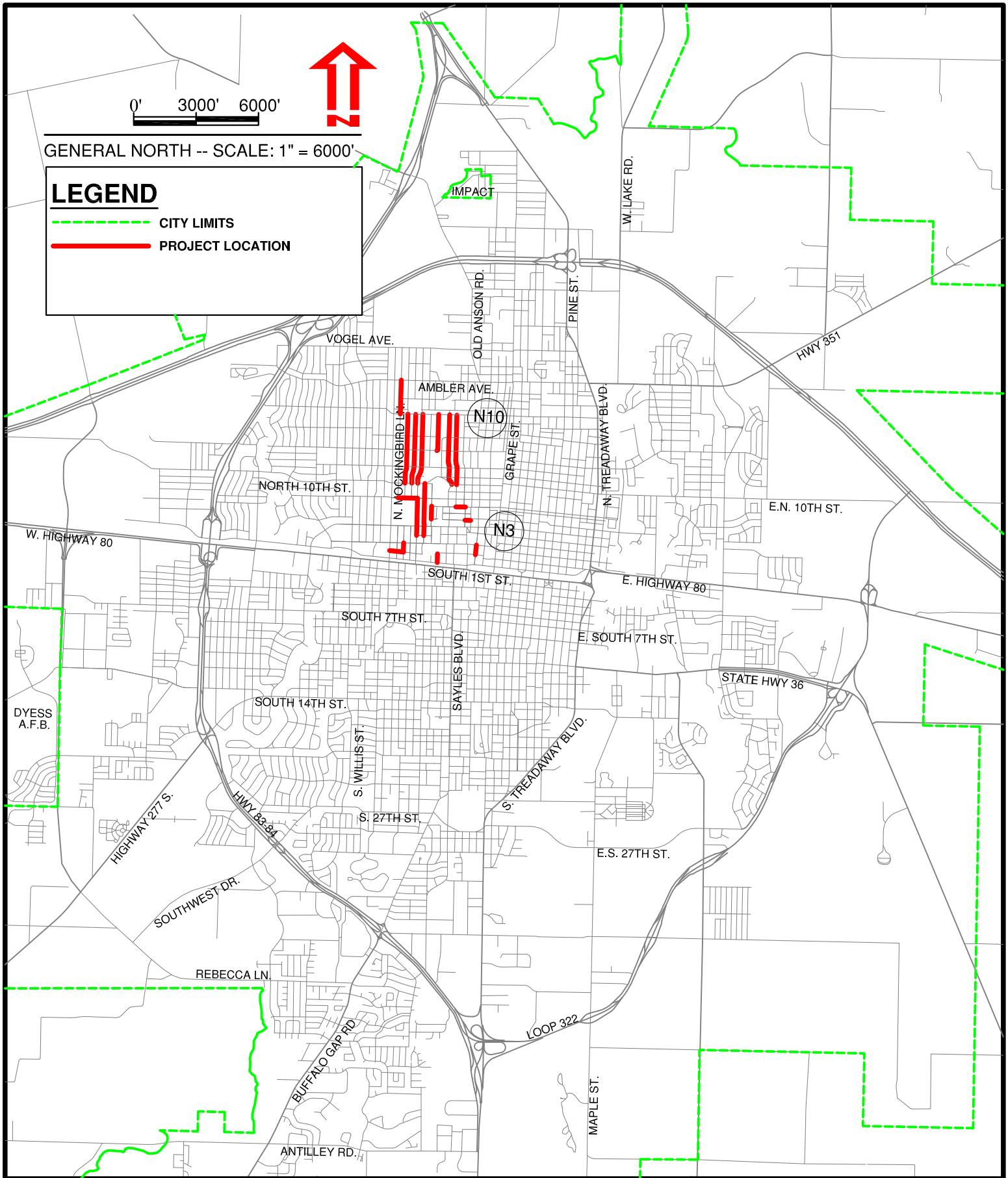
APPROVED:

City Attorney

ATTEST:

City Secretary

Seal: |

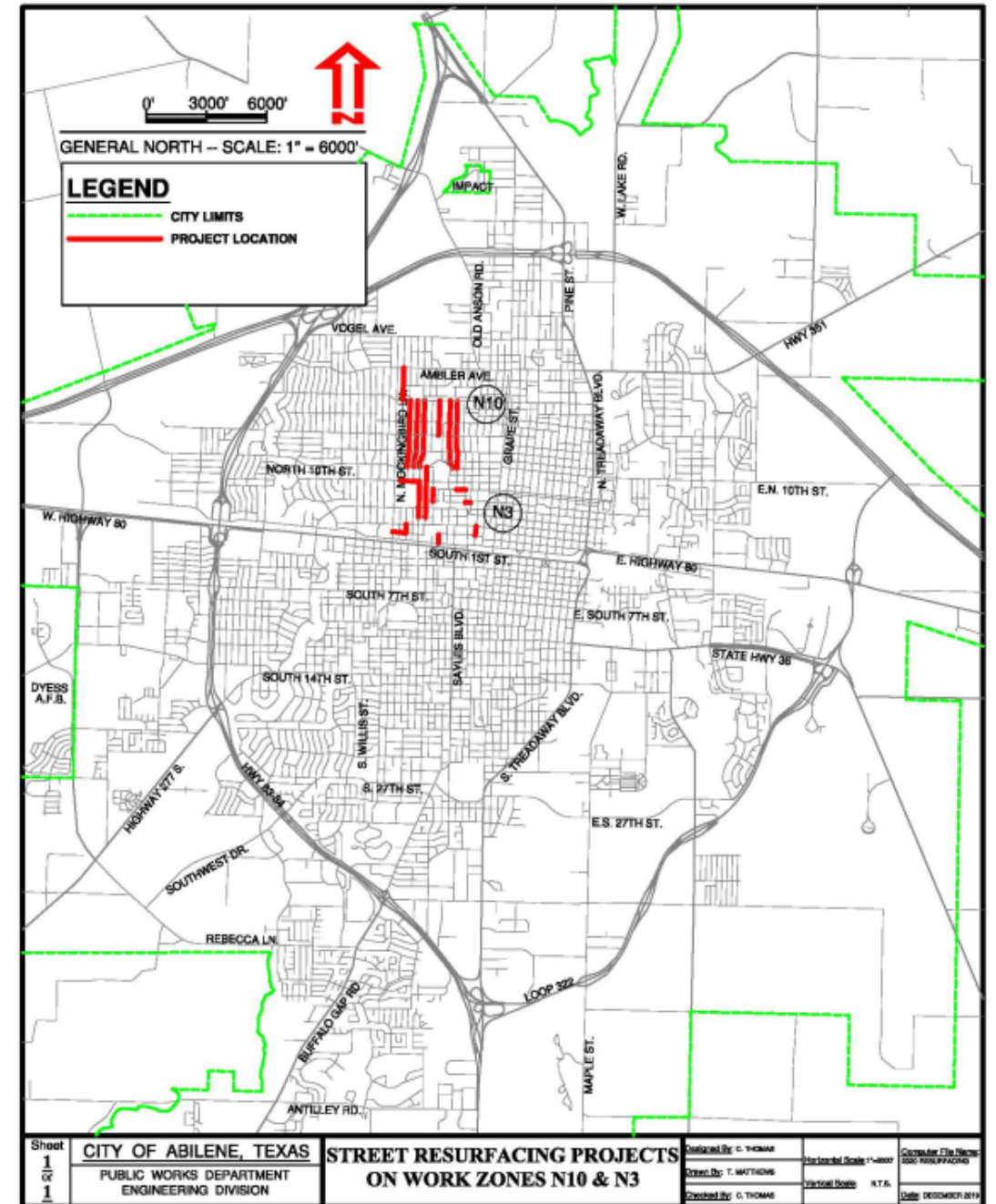


Sheet 1 of 1	CITY OF ABILENE, TEXAS PUBLIC WORKS DEPARTMENT ENGINEERING DIVISION	STREET RESURFACING PROJECTS ON WORK ZONES N10 & N3	Designed By: C. THOMAS Drawn By: T. MATTHEWS Checked By: C. THOMAS	Horizontal Scale: 1"=6000' Vertical Scale: N.T.S.	Computer File Name: 2020 RESURFACING Date: DECEMBER 2019
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Agenda Item: Street Resurfacing Project on Work Zones N10 & N3

Resolution: Bid Award **#CB-2018** Street Resurfacing Project on
Work Zones N10 & N3
(McCaffery)

Project Location Map



Agenda Item:

Street Resurfacing Project on Work Zones N10 & N3

- Construction Contract the resurfacing of various streets within street maintenance work zones N10 and N3.
- Project Advertised December 1st 2019 & December 8th 2019, Bids Opened December 17th 2019.
- Six bids were received.
- Staff recommends award of contract to Raydon, Inc. in the amount of \$1,681,441.59.

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: 9. Ordinance (Final Reading) CUP-2019-11: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from JR Team Holdings LLC, agent Jody Team, for Conditional Use Permit allowing an active outdoor recreation facility (a community swimming pool) in a Rural Residential (RR-1) zoning district and located specifically at 1722 Aces Trail (Mike Warrix)

GENERAL INFORMATION

The applicant is requesting a Conditional Use Permit to allow an active outdoor recreation facility, specifically limited to only allow a community swimming pool.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of five (5) to zero (0).

The motion to approve prevailed by the following vote:

AYES: Smith, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. CUP-2019-11 Ordinance cover
2. CUP-2019-11 Council Ord Exhibit
3. CUP-2019-11 staff report
4. CUP-2019-11 PZ Presentation

ORDINANCE NO. _____

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 19th day of December A.D. 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 16th day of November, 2019, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 9th day of January, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 9th day of January, A.D. 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Conditional Use Permit (CUP) to allow an “active outdoor recreation” facility as defined within the Land Development Code, specifically limited to only allow a community swimming pool.

Legal description: Lot 8 in Block A of Lake Rock Trails at Team Ranch Addition in Abilene, Taylor County, Texas



Location: 1722 Aces Trail

-END-

ZONING CASE CUP-2019-11

STAFF REPORT



REQUEST: Conditional Use Permit

APPLICANT:

Owner: J.R. Team Holdings, LLC

Agent: Jody Team

HEARING DATES:

P & Z Commission: December 3, 2019

City Council 1st Reading: December 19, 2019

City Council 2nd Reading: January 9, 2020

LOCATION:

1722 Aces Trail

Legal description: Lot 8 in Block A of Lake Rock Trails at Team Ranch Addition

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting a Conditional Use Permit to allow an “active outdoor recreation” facility as defined within the Land Development Code, specifically limited to only allow a community swimming pool.

BACKGROUND:

In 1983, the subject property was annexed into the City of Abilene at which time the base zoning of Agriculture Open (AO) was applied to the subject property. In January of 2018, City Council approved an ordinance which rezoned the property to Rural Residential (RR-1). In March of 2019, the land was formally subdivided into thirteen single family home sites. In June of 2019, two building permits were issued to begin construction of the initial homes in this community. Since this time, construction of one of these homes has been completed and received a certificate of occupancy in October 2019.

ANALYSIS:

Criteria Analysis:

Staff has reviewed the request based upon the factors established for such review in Section 1.4.3.1, Criteria for Approval, of the Land Development Ordinance. 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.*

Yes, the proposed use will promote the Comprehensive Plan’s objective of allowing a mixture of land uses integrated within residential districts which will shorten automobile trips and promote pedestrian and bicycle accessibility. Additionally, it will achieve the Comprehensive Plan’s goal for neighborhoods by allowing access to public amenities which benefit surrounding residents.

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

Yes, Rural Residential districts are intended to encourage a suitable environment for family life while permitting certain facilities (such as a community pool) to be located in residential neighborhoods.

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.*

Yes, the proposed use will be compatible with and preserve the character and integrity of adjacent developments and neighborhood.

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.*

Yes, the proposed use will not generate pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic, however it should be noted that a minimum paved parking condition will be required with the development of this community pool to provide onsite parking.

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.*

Yes, as a condition for approval restrictions shall be implemented to limit access to only residents in the subdivision. This should eliminate development-generated traffic on Aces trail.

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

The use of this property as a community pool should not pose any adverse effects or visual impacts. However, it should be noted that conditions should be implemented to limit hours of operation.

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.*

Yes, the proposed use meets the standards for the zoning district.

Comprehensive Planning Analysis

The subject property is located within Rural Residential (RR-1) zoning classification. According to the Land Development Code (Section 2.3.2.1), this zoning is designed to protect the residential character of the area by excluding most commercial and other incompatible activities, while encouraging a suitable environment for family life by permitting certain appropriate facilities (such as a community pool) to be located in residential

neighborhoods. This lot is located within a residential area and the proposed use will be an intensity which should not pose any adverse effects or visual impacts that will negatively affect the neighboring residences. Furthermore, the proposed use will accomplish the Comprehensive Plan's goal for neighborhoods by allowing access to public amenities which benefit surrounding residences.

Location	Zoning	Existing Land Use
North	N/A	Lake Fort Phantom Hill
East	RR-1	Vacant Residential Lot
South	RR-1	Vacant Residential Lot
West	N/A	Lake Fort Phantom Hill

Existing Land Use

STAFF RECOMMENDATION:

Staff recommends approval, subject to the following conditions:

CONDITIONS FOR APPROVAL:

1. "Outdoor Recreation (active)" shall be limited to strictly community pool use.
2. Community swimming pool use is restricted to residents or guests of residents within the subdivision.
3. Subscriptions or memberships for use of the community swimming pool by individuals who are not residents of the subdivision shall be prohibited.
4. Community swimming pool hours of operation shall adhere to Neighborhood Office (NO) zoning standards, those being 6:00 AM – 11:00 PM.
5. Paved onsite parking must be provided on the subject property at the time of development.
6. Development of community swimming pool is required to undergo Site Plan Review by the Development Review Committee.

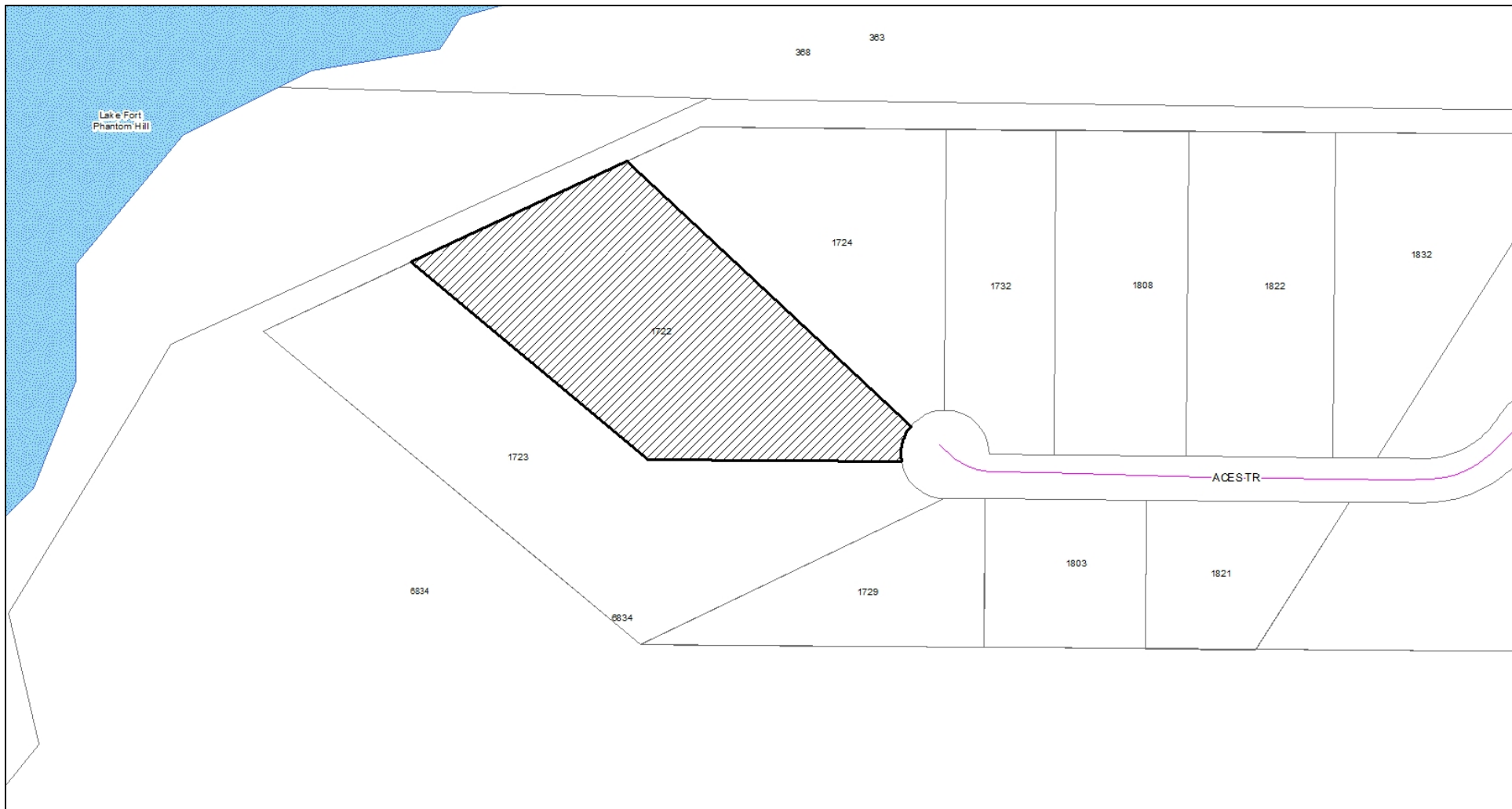
PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval by a vote five to zero on December 3, 2019.

NOTIFICATION:

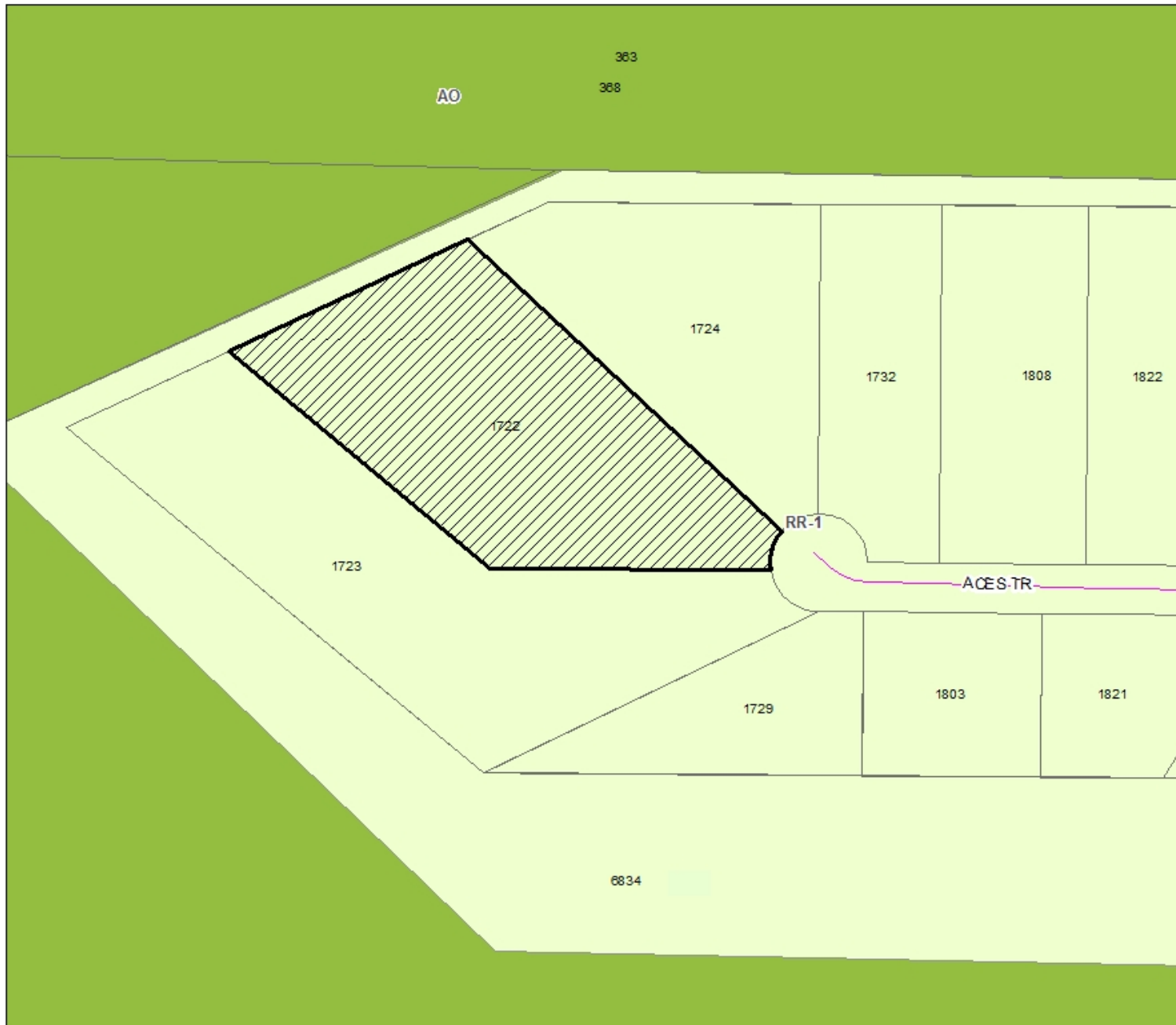
The Planning Services Division sent public notices, with a certificate of mailing, to the applicant and to owners of property within a 200-foot radius of the subject property.

Owner	Situs	Response
ADKINS HAB	1803 ACES TR	
CITY OF ABILENE	368 SEMINOLE RD	
CITY OF ABILENE	363 SEMINOLE RD	
J.R. TEAM HOLDINGS LLC	1723 ACES TR	
J.R. TEAM HOLDINGS LLC	1722 ACES TR	
J.R. TEAM HOLDINGS LLC	1724 ACES TR	
J.R. TEAM HOLDINGS LLC	1732 ACES TR	
J.R. TEAM HOLDINGS LLC	1808 ACES TR	
KOPAS CORY	1729 ACES TR	
RUSSEL ALLEN	6834 E LAKE RD	

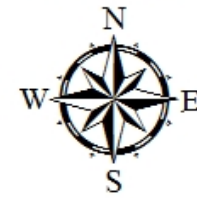


Case: CUP-2019-11
Applicant: J.R. Team Holdings, LLC
Agent: Jody Team
Request: Conditional Use Permit to allow a community pool. (Active outdoor recreation facility)
Location: 1722 Aces Trail
Notification: 0 in Favor, 0 Opposed
Planning & Zoning Recommendation: Approval





Zoning Map



Legend

-  CUP-2019-11
- AO -
-  Agricultural Open Space
-  RR-1: Rural Residential





Permitted Uses in RR-1 Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- 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 Animal Lot
- P 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
- 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
- P Recreation – Outdoors (passive)
- C Recreation – Outdoors (active)**

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** Urban Garden

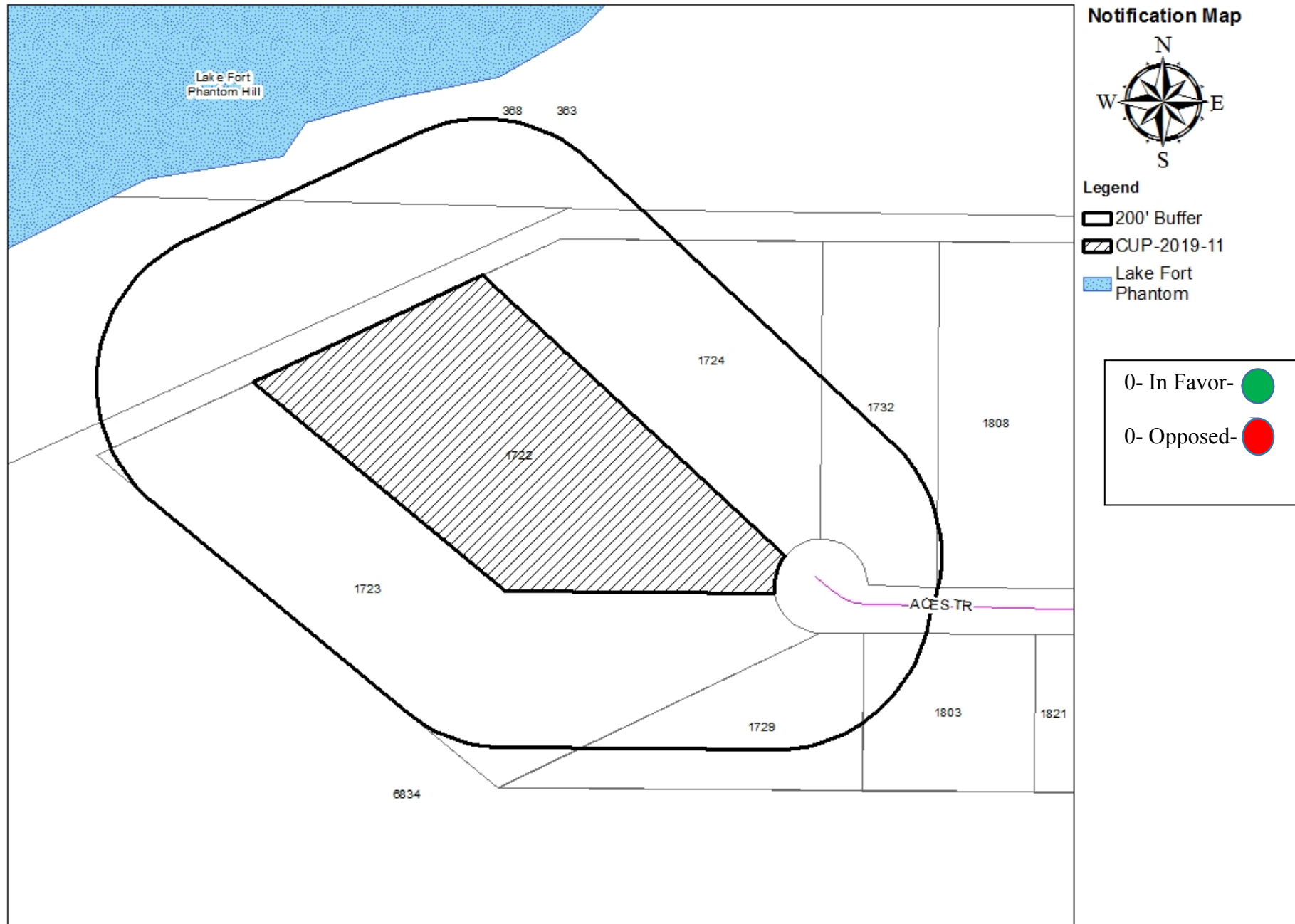
LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Section 2.4.3 of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





CUP-2019-11 NOTIFICATION AREA MAP



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.2.1)
- Reviewed Pursuant to Section 1.4.3.1 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: 10. Ordinance (Final Reading) Z-2019-30: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from NuHome Construction of Abilene LLC, agent Barry Fletcher, to rezone property located at the corner of Corsicana Avenue and Sagehen Ridge Drive from Agricultural Open Space (AO) to Residential Single-Family (RS-6) District *(Mike Warrix)*

GENERAL INFORMATION

The applicant is requesting to rezone vacant property from Agricultural Open Space (AO) to Residential Single Family (RS-6).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of five (5) to zero (0).

The motion to approve prevailed by the following vote:

AYES: Smith, Bixby, Rosenbaum, Noonan, Famble

NAYS: None

ATTACHMENTS:

1. Z-2019-30 Ordinance_cover
2. Z-2019-30Council Ord Exhibit
3. Z-2019-30 Council Staff Report
4. Z-2019-30 Council 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 19th day of December, 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 16th day of November, 2019, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 9th day of January, 2020, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 9th day of January, 2020.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

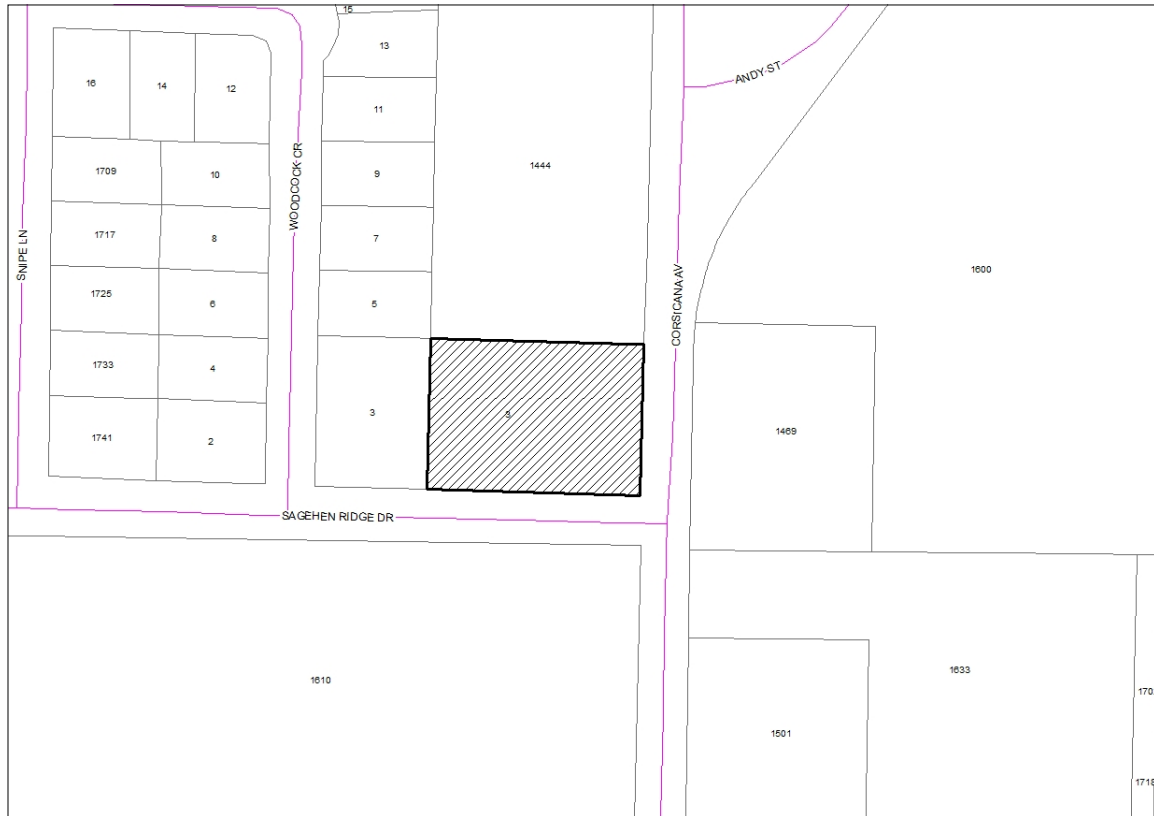
ORDINANCE NO. _____

EXHIBIT A

Rezone vacant property from Agricultural Open Space (AO) to Residential Single Family (RS-6).

Legal description (s):

East 202 feet of Lot 40 in Block G of Quail Park Addition, Section 4.



Location: 0.65 acre at North West corner of Corsicana Ave and Sagehen Ridge Drive. An address will be assigned to this parcel upon replat.

-END-

ZONING CASE Z-2019-30

STAFF REPORT



REQUEST: Rezoning

APPLICANT:

Owner: NuHome Constructors of Abilene, LLC.

Agent: Barry Fletcher

HEARING DATES:

P & Z Commission: December 3, 2019

City Council 1st Reading: December 19, 2019

City Council 2nd Reading: January 9, 2020

LOCATION:

- 0.65 acre at North West corner of Corsicana Ave and Sagehen Ridge Drive. An address will be assigned to this parcel upon replat.

Legal description:

- East 202 feet of Lot 40 in Block G of Quail Park Addition, Section 4.

PROPOSAL AND REQUESTED ACTION:

The applicant is requesting to rezone vacant property from Agricultural Open Space (AO) to Residential Single Family (RS-6).

APPLICATION REVIEW:

According to Section 1.4.1.4 (Criteria for Approval) in the City of Abilene Land Development Code, the Planning & Zoning Commission and City Council may consider the following factors in making a determination regarding requested zoning changes:

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

The Future Land Use and Development Plan Map of the Comprehensive Plan designates this general area for single family use. The Residential Single-Family (RS-6) District-6 is intended to permit the residential development of detached single-family dwelling units, permitted accessory structures, and appropriate desirable open space on lots of not less than 6,000 square feet in area. This proposed zone change promotes the Comprehensive Plan's goal of protecting the residential character of the included areas by excluding most commercial and other incompatible activities as appropriate while encouraging a suitable environment for family life.

- (2) Whether the proposed zoning amendment will be appropriate in the immediate area of the subject property.**

Currently the property is zoned AO and is undeveloped. Agricultural Open Space zoning is considered a 'holding' zone until the land is ready to be developed. Adjacent properties to the West have been developed with single-family RS-6 homes. The proposed change of zoning to RS-6 would allow for single-family houses to be built in the next section of the Quail Park subdivision which is primarily RS-6. The zone change to RS-6 would be appropriate in the immediate area.

	Zoning	Existing Land Use
North	AO	vacant land
South	AO	Clack Middle School
East	AO	single family residence
West	RS-6	single family under construction

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

The subject property has access to an existing water mains and sewer mains. Therefore water and sewer capacity should not be a limiting factor to the development of these properties.

STAFF COMMENTS:

According to the Future Land Use and Development Plan Map of the Comprehensive Plan, this location is designated to provide an option for more dense single-family lots than the other single-family zoning districts in order to serve a range of individual requirements represented by the citizenry of Abilene.

STAFF RECOMMENDATION:

Staff recommends approval of the request. The rezoning request complies with Section 1.4.1.4 (Criteria for Approval). It is consistent with the General Land Use and zoning character of the immediate area (Section 2.3.2.5 Residential Single-Family), and with the Comprehensive Plan and Future Land Use and Development Plan Maps.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning & Zoning Commission recommended approval by a vote of five to zero on December 3, 2019.

NOTIFICATION:

The Planning Services Division sent, with certificate of mailing, public notices to the applicant and to all owners of property within a 200-foot radius of the subject property.

Owner	Situs	Response
ABILENE BAPTIST ASSOC	3 WOODCOCK CR	In Favor
ABILENE BAPTIST ASSOC	3 WOODCOCK CR	
ABILENE IND SCHOOL DIST	1610 CORSICANA AV	
ABILENE INDEPENDENT	1501 CORSICANA AV	
ADAMS AUSTIN GARRETT	7 WOODCOCK CR	
ANDERSON CLAYTON D	5 WOODCOCK CR	
BARNETT WILL J	1469 CORSICANA AV	
BUMGUARDNER CLINT TR FOR	1444 CORSICANA AV	
CALLAHAN ROBERT L JR	8 WOODCOCK CR	
COURVILLE VICKIE J	2 WOODCOCK CR	
FEASTER BILL B & JERI	4 WOODCOCK CR	
LONE STAR GAS CO	1633 CORSICANA AV	
MC ELYEA PEARLINE ET AL	10 WOODCOCK CR	
NEATHERLIN MATTHEW T	9 WOODCOCK CR	
OBERSCHLAKE JEFF SIMON	11 WOODCOCK CR	
OLVERA RAMIRO REYES JR	6 WOODCOCK CR	
ST JOHNS EPISCOPAL SCHL	1600 SHERMAN DR	

ATTACHMENTS:

- Application
- Site Plan Exhibit
- PowerPoint





Development Application

Planning

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

Project Name: 3 Woodcock Cr
 Address: 3 Woodcock Cr No. of lots: 1 Acreage: .6485
 Legal Description: QUAIL PARK SECTION 4, BLOCK G, LOT 40
 Subdivision Name: QUAIL PARK Block: 6 Lot: 40
 Current Zoning: A0 Proposed Zoning (if applicable): RS-6

OWNER AND AUTHORIZATION

Owner Name: NU HOME CONSTRUCTORS OF ABILENE, LLC
 Address: 3449 S. 10th St
 City, State, Zip: ABILENE, TX 79605 Fax: _____
 Phone: 325-721-3999 Email: Barry.NUHOME@GMAIL.COM

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

Agent Name: Barry Fletcher
 Address: 3449 S. 10th St.
 City, State, Zip: ABILENE, TX 79605 Fax: _____
 Phone: 325-721-3999 Email: Barry.NUHOME@GMAIL.COM

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

Signature Owner: [Signature] Date: 11/12/19

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.

CURRENTLY ZONED AGRICULTURAL. I AM REQUESTING TO ZONE RESIDENTIAL RS-6.
NUT HOME CONSTRUCTORS WILL BUILD 3 SINGLE FAMILY HOMES ON THE PROPOSED LOTS.



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

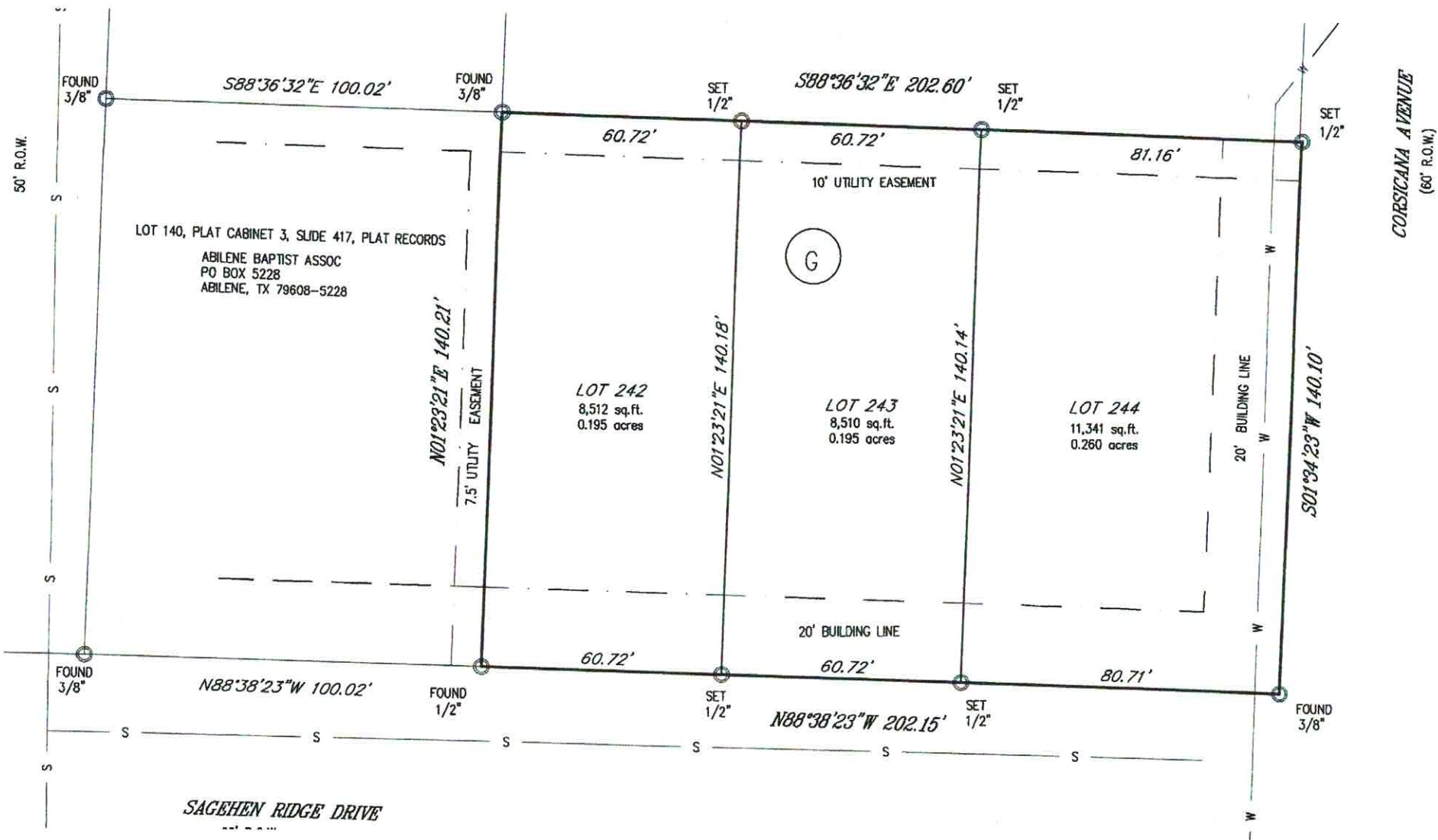
The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood 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: Don F. [Signature] DATE: 11/12/19



CASE #: Z-2019-30

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: ABILENE BAPTIST ASSOC
Address: 3 WOODCOCK CR

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

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature:



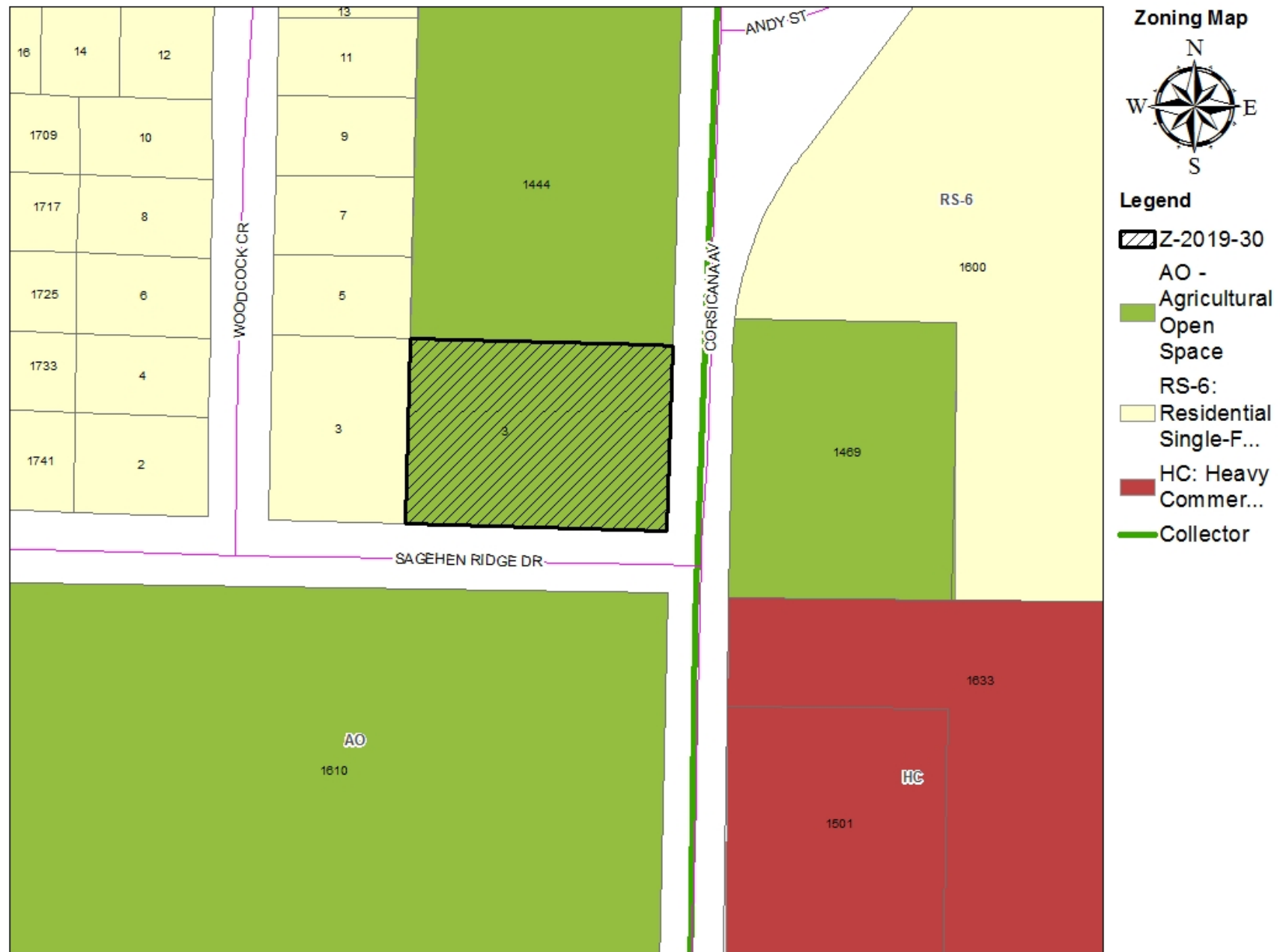
Larry Tarver
Abilene Baptist Association
2058 Marshall / P.O. Box 5228
Abilene TX 79608-5228

DEC 2 AM 10:48

Case:	Z-2019-30
Owner:	NuHome Constructors LLC
Agent:	Barry Fletcher
Request:	Rezone from Agricultural Open Space (AO) to Residential Single-Family (RS-6)
Location:	0.65 acre at Northwest corner of Corsicana Ave and Sagehen Drive
Notification:	1 in Favor, 0 Opposed
Planning & Zoning Recommendation: Approval	



Z-2019-30 ZONING MAP



Z-2019-30 VIEWS OF SUBJECT PROPERTY



Z-2019-30 NOTIFICATION AREA MAP



0- In Favor- ●

0- Opposed- ●



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Consistent with General Land Use and Zoning Character of Immediate Area (Section 2.3.2.5)
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Approval
- Planning & Zoning Recommendation: Approval



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 11. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

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

A. 551.071 (Consultation with Attorney)

1. City of Abilene, Texas v. Aurora Bumgarner; 104th Judicial District Court, Taylor County, Texas; filed November 17, 2011
2. Chad Carter v. City of Abilene, Texas; Cause No. 10138-D, In the 350th Judicial District Court, Taylor County, Texas, filed June 17, 2014
3. Susan Lewis King & Austin King MD vs Ken Paxton, Attorney General of Texas and the City of Abilene, Cause No. D-1-GN-16-001160, filed March 16, 2016
4. Ruby Flores and Cory Almanza v. Jesus Verastegui, Alfredo Verastegui, Rosalva Verastegui, and City of Abilene, Cause No. 49368-A, 42nd District Court, Abilene, Taylor County, Texas, filed April 13, 2016
5. 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
6. Officer Patrick Sumrall and City of Abilene, Case No. 01-18-000-8653; Appeal of Indefinite Suspension to Arbitration, filed February 6, 2018
7. Tracy Kennedy and Richard Kennedy v. Katie Snell, Richard Perez, Thomas Bryant, John Doe 1, and John Doe 2; Case No. 1:18-cv-162, In the United States District Court, Northern District of Texas, Abilene Division, filed October 16, 2018
8. Alfredo Valencia v. Corey Davis and City of Abilene; Case No. 1:19-cv-00017-C; In the United

States District Court, Northern District of Texas, Abilene Division, filed February 4, 2019.

9. City of Abilene v. Patrick Sumrall; Cause No. 27,733-B, In the 104th Judicial District Court, Taylor County, Texas, filed May 28, 2019
10. Ovation Services, LLC v. Blanca Cortez, et al.; Case No. 11875-D; In the 350th Judicial District Court, Taylor County, Texas; filed July 15, 2019
11. 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
12. Maria Ramirez v. The City of Abilene; Cause No. 27880-B, In the 104th Judicial District Court, Taylor County, Texas; filed October 22, 2019
13. The State of Texas v. The Unknown Heirs of B.E. Caffey, Senior, et al., Cause No. 6939, Condemnation Proceeding filed in the County Court at Law No. 2, Taylor County, Texas, filed August 20, 2019

B. 551.072 (Deliberations about Real Property)

1. Clyde Water

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. Abilene Convention Center Hotel Project
2. Allen Ridge Development

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 12. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approval of Deed Donating 3.59 Acres of Land to Taylor County, Texas for Expansion of Taylor County Detention Center (Robert Hanna)

GENERAL INFORMATION

Information shall be provided during Executive Session.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2020 Resolution 3.59 acres to County deed
2. 05-09-2019 - Taylor County
3. City of Abilene Mail - FW_ Survey of 3.59 acres near Taylor County Adult Detention Center
4. Quitclaim Deed
5. Quitclaim Deed Ex A Survey of 3.59 Acres near Detention Center
6. Deed to County

Resolution:
**Approval of Deed donating 3.59 Acres
to Taylor County, Texas**





**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: 13. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on supporting a Housing Tax Credit Application for Tuscan Court Villas and Commitment of Development Incentives (Mike Warrix)

GENERAL INFORMATION

Tuscan Court Villas LLP is requesting a Resolution from City Council in support of an application for housing tax credits through the Texas Department of Housing and Community Development. The proposed development will consist of affordable senior rental housing units and be located at 5308 Highway 277 in Abilene.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

A commitment is being made by the City of Abilene in the form of a loan, grant, fee reductions, or contribution equalling \$500.00 conditioned upon the project receiving 2020 Competitive Housing Tax Credits from the Texas Department of Housing and Community Development.

STAFF RECOMMENDATION

Staff recommends approval of the Resolution.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Tuscan Court Villas Resolution
2. Tuscan Court PowerPoint

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
SUPPORTING A HOUSING TAX CREDIT APPLICATION SUBMITTED FOR TUSCAN
COURT VILLAS AND COMMITTING DEVELOPMENT INCENTIVES**

WHEREAS, Tuscan Court Villas, LP has proposed the development of affordable senior rental housing located at 5308 Highway 277, Abilene, Texas, and named Tuscan Court Villas in the City of Abilene, Texas;

WHEREAS, Tuscan Court Villas, LP has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2020 Competitive 9% Housing Tax Credits for the proposed development.

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

PART 1. That the City of Abilene, acting through its governing body, hereby confirms that it supports the application for Tuscan Court Villas, located at 5308 Highway 277 and that this formal action has been taken to put on record the opinion expressed by the City of Abilene on January 9, 2020.

PART 2. That the City of Abilene does hereby commit to provide a loan, grant, reduced fees, or contribution of other value that equals \$500.00, conditioned upon Tuscan Court Villas receiving a commitment of 2020 Competitive 9% Housing Tax Credits from the Texas Department of Housing and Community Development.

PART 3. That for and on behalf of the Governing Body of the City of Abilene, Mr. Robert Hanna, City Manager, is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PART 4. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Abilene, and it is accordingly so resolved.

ADOPTED this 9th day of January 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney

TUSCAN COURT VILLAS

New, safe, and beautiful 55+ housing in Abilene, Texas



PROPOSAL OVERVIEW

- Tax Credit Program Overview
- Who is VCZ Development, LLC
- Developer Experience - Portfolio
- Tuscan Court Villas- Overview
 - Location Map
 - Development Overview
 - Developer's Comparable Property Photos
 - Product Amenities and Services
 - Target Market
- Property Management
- Benefits to Abilene



TAX CREDIT PROGRAM HIGHLIGHTS

- Reduction in debt thus allowing for lower rents
 - ALL tenants must go through a thorough screening process
 - Zero tolerance for criminal violations
 - Compliance with TDHCA to ensure safe, efficient, and quality housing for a 40 year period.

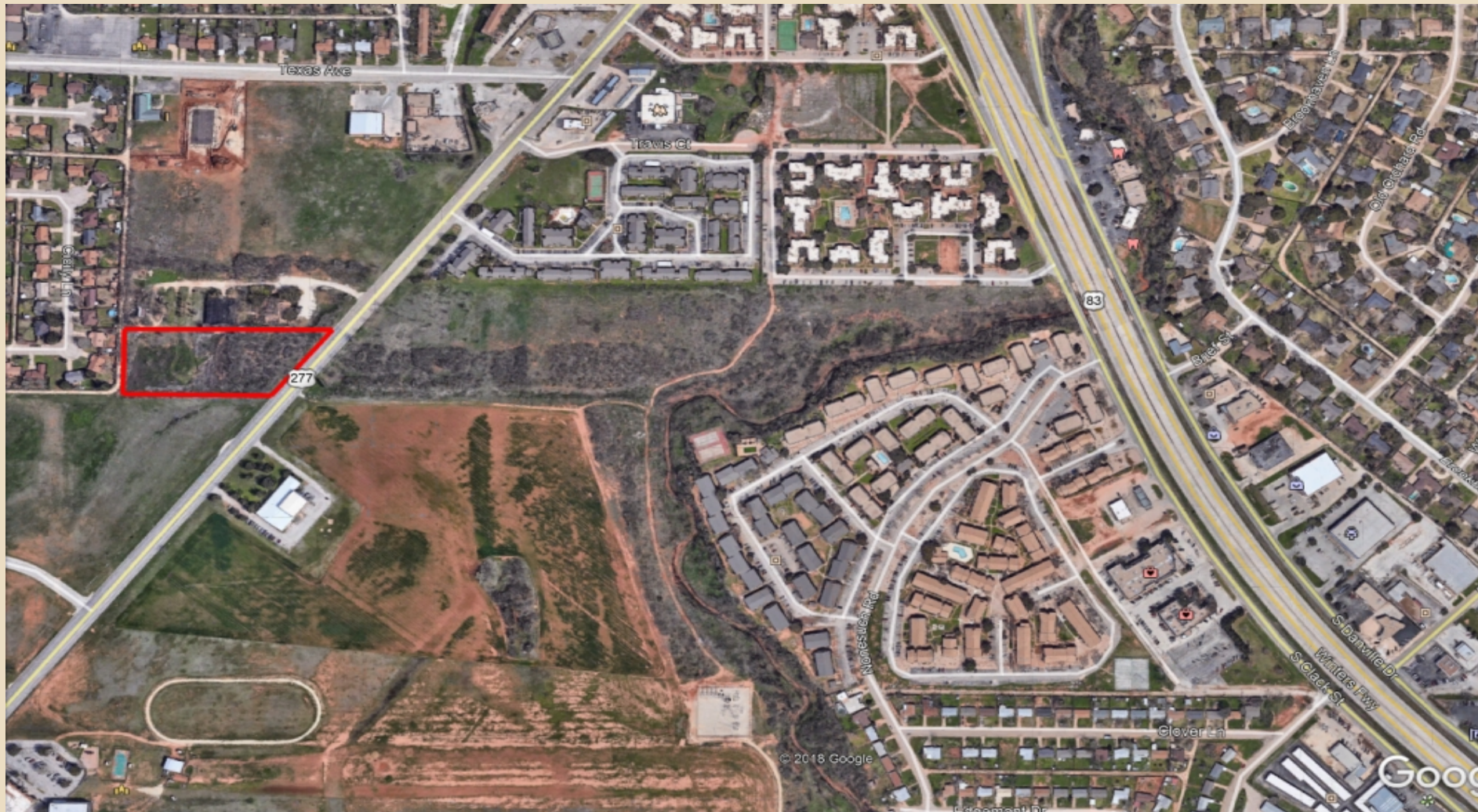
TAX CREDIT PROGRAM HIGHLIGHTS (CONT'D)

- Regulated by the Internal Revenue Service
- Administered by each state through a Qualified Allocation Plan
- Texas: credits awarded competitively through the Texas Department of Housing and Community Affairs

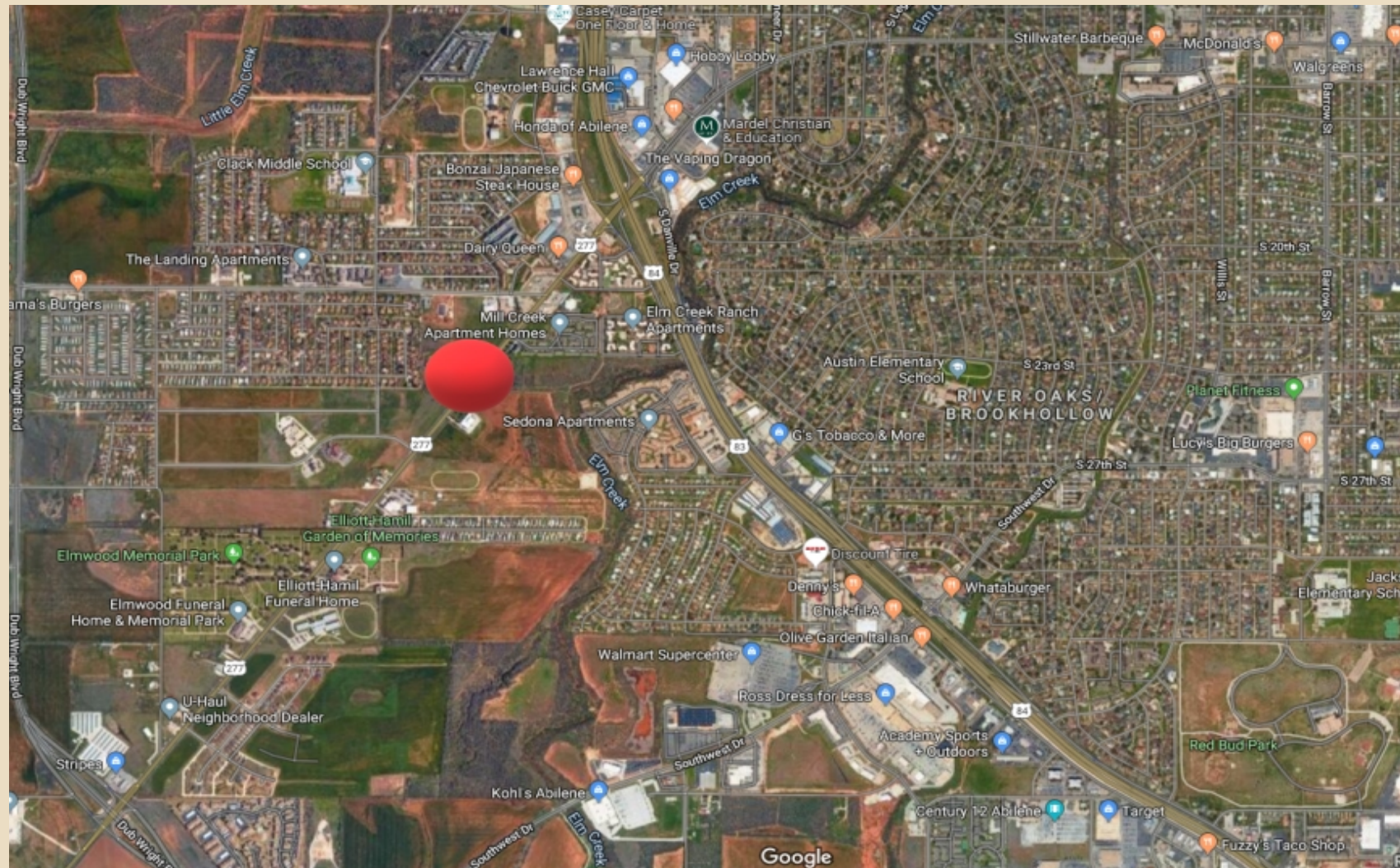
WHO IS VCZ DEVELOPMENT, LLC

- Our team has the cross industry experience of...
 - 20+ years in Real Estate Development
 - 15+ years in Tax Credit Compliance
 - 20+ years in Tax Credit Property Management
 - 15+ years in Real Estate Underwriting

TUSCAN COURT VILLAS- SITE LOCATION



AREA USES



DEVELOPMENT OVERVIEW

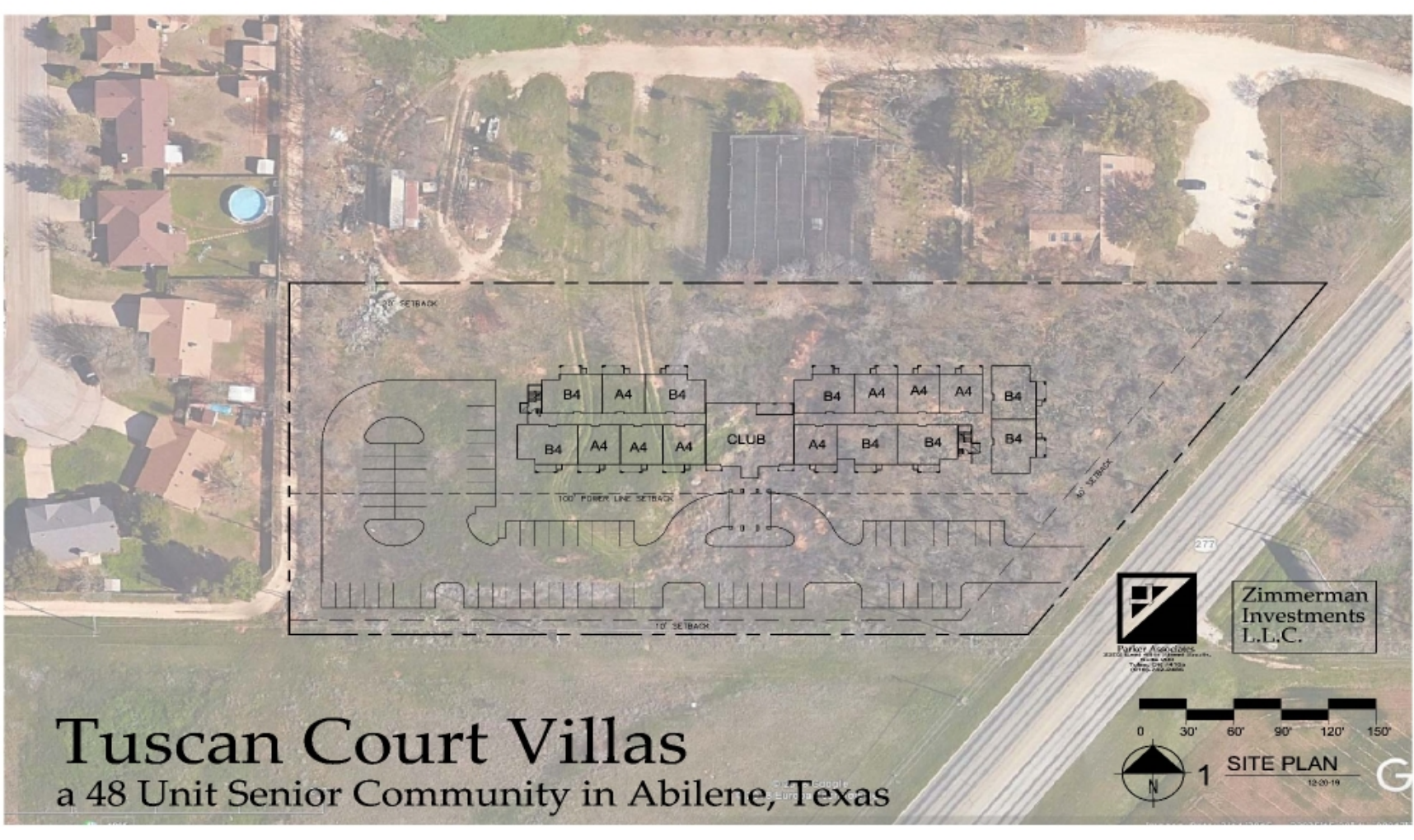
TUSCAN COURT VILLAS

- 3 – Story apartment building
- Mix of 1 and 2 bedroom units
- Tenant clubhouse
- Fitness center
- Community courtyard
- Picnic Area and BBQ Area
- Computer Center/Library
- Services Offered
- 48 units (24 One Bedrooms, 24 Two Bedrooms)

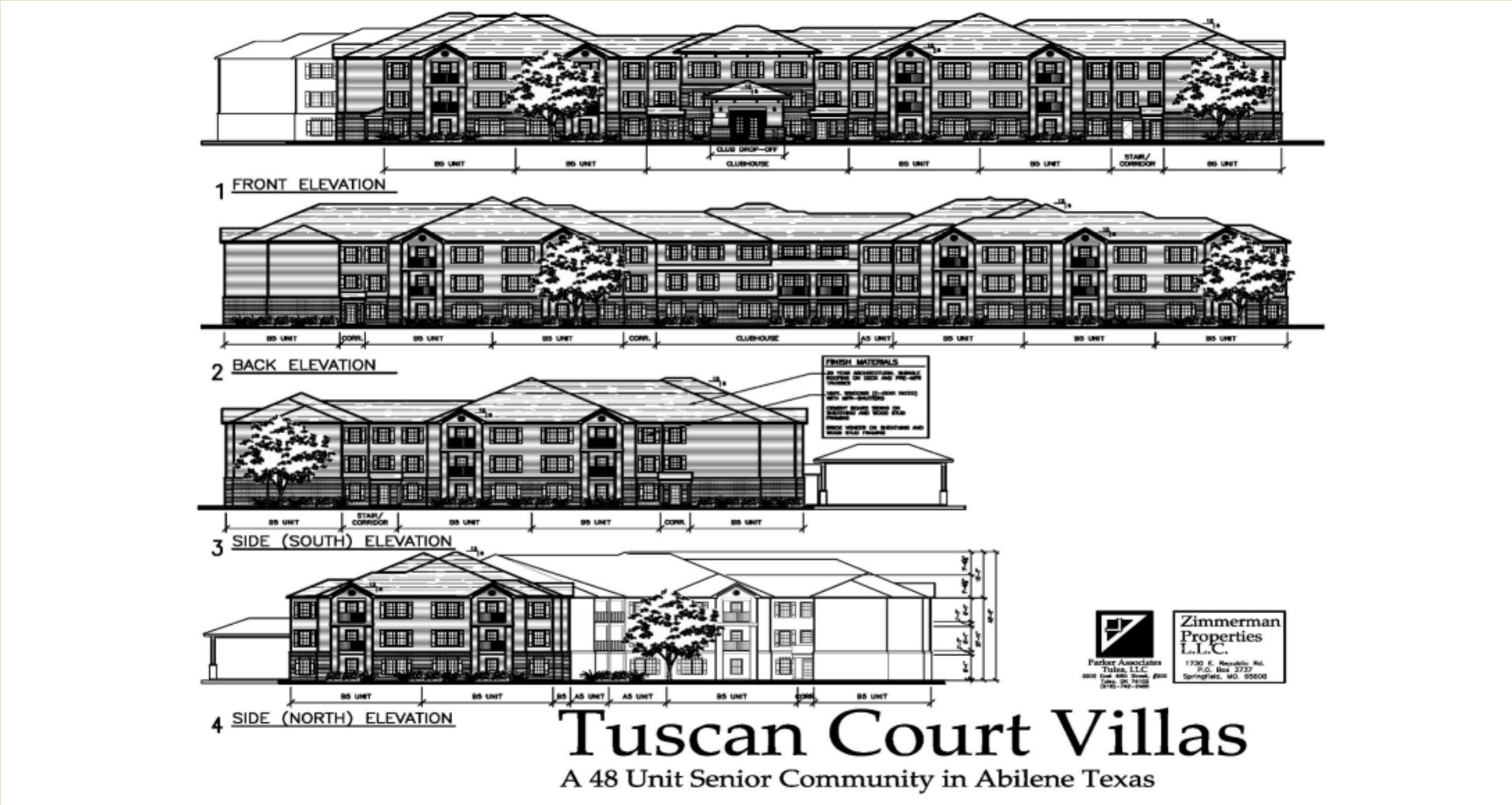


Villas at Meadow Springs – Ankeny Iowa

PRELIMINARY SITE PLAN



SAMPLE ELEVATIONS



A 48 Unit Senior Community in Abilene Texas

PROFESSIONAL MANAGEMENT

- On-Site Management and Staff
- Professional Landscaping and Maintenance
- Ongoing preventative maintenance for both the buildings and units
- Residents are screened thoroughly via various checks that include credit, criminal, rental history and income
- Residents must comply with community rules and regulations or may be evicted.

BENEFITS TO ABILENE

Economic Benefits

- Approximately \$7 Million dollar investment to the City
- Creation of approximately 150 jobs during construction
- Creation of approximately 3 permanent jobs after construction
- Generation of permitting and fees for the City
- New Property taxes paid annually to the City
- New Utilities Revenues generated for the City
- New Sales Taxes generated for the City

CONTACT US

James McDonald
Broker-Officer
(417) 890-3217

Melissa Forster
Assistant Vice President of Development
(417) 885-3500

Jeff Beckler
Development Associate
(417) 890-3234



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Robert Hanna, City Manager

FROM: Mike Warrix, Director

SUBJECT: 14. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on supporting a Housing Tax Credit Application for Elm Creek Cottages and Commitment of Development Incentives (Mike Warrix)

GENERAL INFORMATION

JES Dev Co, Inc. is requesting a Resolution from City Council in support of an application for housing tax credits through the Texas Department of Housing and Community Development. The proposed development will consist of up to 48 affordable senior rental housing units and be located at 4001 Sharon Road in Abilene.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

A commitment is being made by the City of Abilene in the form of a loan, grant, fee reductions, or contribution equalling \$500.00 conditioned upon the project receiving 2020 Competitive Housing Tax Credits from the Texas Department of Housing and Community Development.

STAFF RECOMMENDATION

Staff recommends approval of the Resolution.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Request for City Support for 4001 Sharon Road
2. Resolution Elm Creek Cottages
3. Elm Creek Cottages Powerpoint Presentation



JES DEV CO, INC

December 10, 2019

Mr. Michael Warrix
Director of Planning and Development
City of Abilene
555 Walnut Street
Abilene, TX 79604

Re: Resolution of Support and Development Funding

Dear Mr. Warrix:

Our company is proposing to develop 48 units of senior rental housing on the southwest side of Abilene using housing tax credits administered by the Texas Department of Housing and Community Affairs. I am writing to request your assistance in obtaining a resolution of support as well as development funding from the City of Abilene.

The Project

The project will be located at 4001 Sharon Road in Abilene. A map showing the site location is attached as Exhibit 1. The site is 5.0 acres and is currently zoned multifamily. Water and sewer lines appear to be available nearby to the northwest of the site.

We are proposing to develop approximately 48-units of rental housing targeted to senior households aged 55 and over. The project will be a mix of 1 and 2-bedroom units and will be a cottage-style development. The units will be between 750 and 900 square feet in size. There will be 8 single-story buildings, each containing 6 units. There will also be a community building which will contain the leasing office and community amenities such as a computer lab, fitness center, and community room and kitchen. The building exteriors will be a combination of stone and Hardie-board.

Unit amenities will include:

- Disposal and Energy-Star rated dishwasher;
- Energy-Star rated refrigerator;
- Oven/Range;
- Blinds or window coverings for all windows;
- At least one Energy-Star rated ceiling fan per Unit;
- Energy-Star rated lighting in all Units;
- Wiring with current cabling technology for data and phone;
- Laundry connections;
- Exhaust/vent fans (vented to the outside) in the bathrooms;
- Screens on all operable windows;
- All areas of the Unit (excluding exterior storage space on an outdoor patio/balcony) must have heating and air-conditioning;
- Parking spaces consistent with local code; and
- Energy-Star rated windows;

A conceptual site plan is attached as Exhibit 2. Photos of a similar project we have developed in Salado, TX are attached as Exhibit 3. The design of the Abilene project will be very similar to that shown in the photos.

The Company

JES Holdings is a privately held family of companies with more than 800 employees. Since our beginning in 1984, our expertise has grown from affordable multi-family and senior housing communities to include skilled nursing care centers, market-rate apartment and loft communities, historic renovations and market rate independent senior living communities. Our growth is the result of our commitment to creating partnerships through which we strive to serve each client's specific need with integrity, timeliness and unmatched professionalism.

JES Dev Co, Inc. would act as the Developer with related entities providing the construction, management, and syndication services. Exhibit 4 provides an overview of the experience and capability within the JES Holdings family of companies.

Timeline

Preliminary funding applications are due to TDHCA on January 8, 2020. Final applications are due February 28, 2020. The Resolution of Support we are requesting would have to be submitted with our final application on February 28, 2020.

The Request

We have two specific requests for the City:

- A resolution of support for the project itself and
- A resolution or letter from an official of the City stating that the City will provide a loan, grant, reduced fees or contribution of other value that equals \$500 or more for the benefit of the Development. The letter must describe the value of the contribution, the form of the contribution, e.g. reduced fees or gap funding, and any caveats to delivering the contribution.

Exhibit 5 contains suggested/requested language for the resolution of support and development funding.

Please let me know if you need any additional information from me. I am happy to provide you with any additional information needed. I plan to reach out to the city council members to make myself available to them and to answer any questions they may have. I will give you a call later this week to follow up and thank you in advance for your assistance.

Sincerely,



Michael P Ash
JES Dev Co, Inc.
737-228-4962

EXHIBIT 1



EXHIBIT 2



EXHIBIT 3



EXHIBIT 4



JES HOLDINGS, LLC

JES Holdings is a privately-held family of companies with more than 800 employees. Since our beginning in 1984, our expertise has grown from affordable multi-family and senior housing communities to include skilled nursing care centers, market-rate apartment and loft communities, historic renovations and market rate independent senior living communities. Our growth is the result of our commitment to creating partnerships through which we strive to serve each client's specific need with integrity, timeliness and unmatched professionalism.

**FULLY
INTEGRATED
FROM SITE
SELECTION
TO DIRECT
DELIVERY OF
INVESTOR
BENEFITS**

JES DEV CO, INC.

FOUNDED: 1994

- Developed more than 135 single and multi-family housing properties with a special niche in the Section 42 Low Income Housing Tax Credit (LIHTC) development program
- New construction and historic rehabilitation of LIHTC housing, as well as conventional development, all totaling over \$1 billion



FAIRWAY CONSTRUCTION

FOUNDED: 1984

- Design and construct single, multi-family and senior housing for conventional and affordable housing markets
- More than 200 projects completed over a seven-state area
- Construct third-party developed properties
- Expertise in historic and new construction



FAIRWAY MANAGEMENT

FOUNDED: 1994

- Specializes in the property management of Section 42 Low Income Housing Tax Credit (LIHTC) housing
- Property managers are trained and certified yearly in compliance for Section 42 LIHTC by property compliance experts in the industry
- More than 190 properties and approximately 9,000 units under management in New Mexico, Iowa, Missouri, Georgia, Texas, Nebraska and South Carolina



AFFORDABLE EQUITY PARTNERS

FOUNDED: 1997

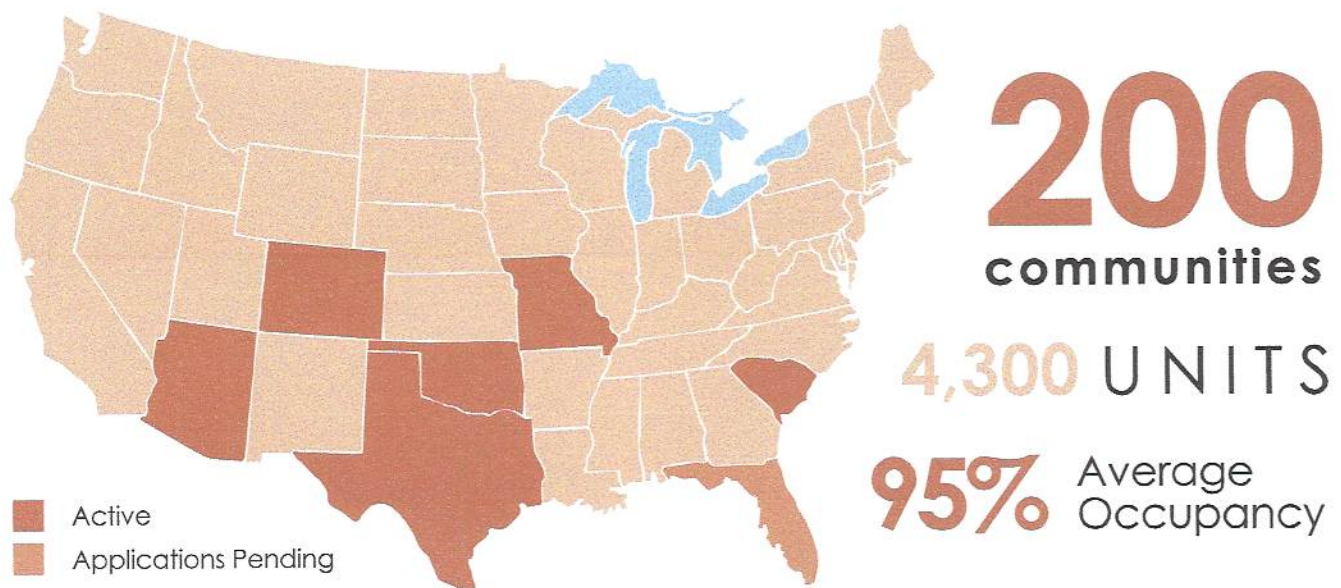
- AEP is a financial resources company providing a full range of services for developers and investors in the Section 42 LIHTC Program
- AEP has more than 400 tax credit developments and has never had a foreclosure or credit recapture
- Reputation for target delivery and, in many cases, over-delivery of tax credits and projected rates of return
- Full integration with development, construction and management companies allows AEP to draw from this expertise and offer unmatched reliability for delivery of projected tax credits
- Active in several states, but predominantly in Missouri and Georgia
- Syndicated over \$3 billion in Federal and State Tax Credits





JES DEV CO, INC

JES Dev Co, Inc., originally founded in 1994 through its predecessor companies, is an acknowledged leader in the development of affordable multi-family housing properties. JES Dev Co, Inc. (JES) specializes in building relationships and gaining local support by surveying community leaders and government officials and working together to bring a quality development to that community. Through careful site selection and market analysis JES identifies locations that will lead to the best living outcome for prospective residents. Over the years, JES has successfully developed affordable housing in multiple states throughout the country. JES has over 200 affordable housing communities with approximately 4,300 units and maintains an average occupancy of over 95%.



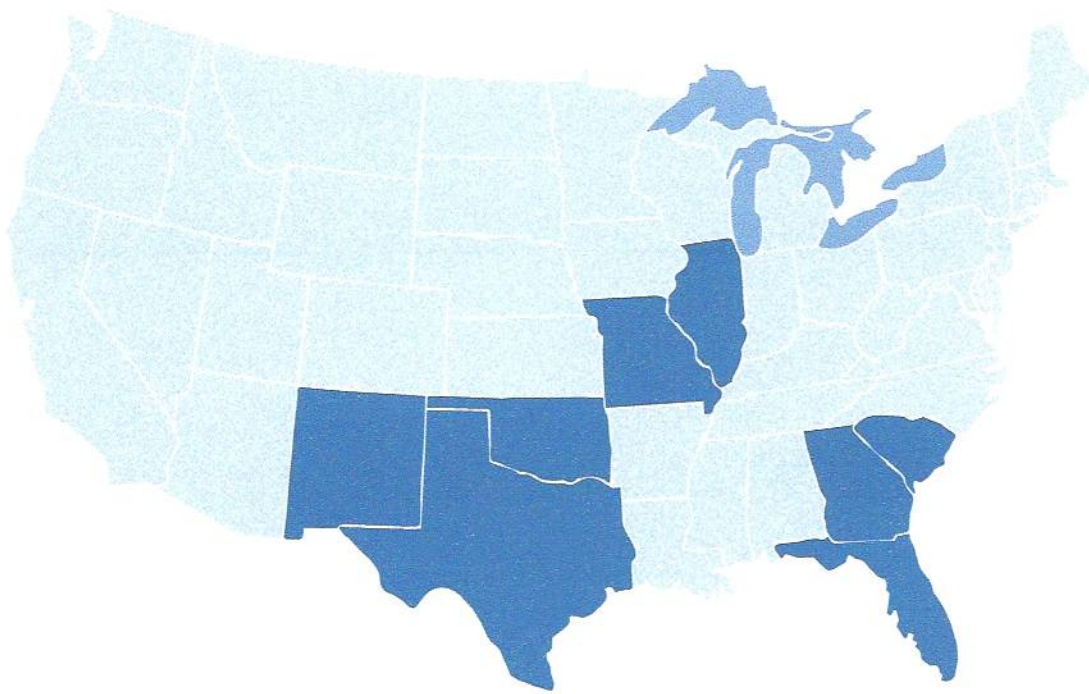
Our experienced team of developers and underwriters work seamlessly through the state agency application and closing process. Working with our affiliated Construction, Syndication and Management Companies we remain engaged through issuance of 8609's and beyond. JES developers and underwriters attend agency workshops and continuing education courses on a minimum of a yearly basis.

JES Dev Co, Inc. develops properties that offer many indoor and outdoor community amenities aimed at enhancing our residents daily living. Some of these indoor areas include community kitchen and dining areas, furnished fitness centers, business centers, theaters and multi-purpose areas. Exterior amenities include patio areas, walking trails, water features, raised planting beds, picnic areas and playgrounds that meet the needs of the particular development. JES develops properties that include supportive service coordination for seniors and families. Senior-aged residents in JES developed communities benefit from services such as health lectures and screenings, transportation services, financial literacy services and wellness programs. Family communities benefit from coordination with local resources to assist with financial planning, home ownership and family social services. JES firmly believes in its mission statement which is that we develop, build, manage and invest in quality housing where our families would be proud to live.



FAIRWAY CONSTRUCTION CO, INC

Fairway Construction Co., Inc. was founded in 1984 to provide construction services for JES Holdings, LLC. Throughout the years, Fairway Construction's expertise has grown from building affordable multi-family housing communities to include the construction of skilled nursing care centers, market-rate apartment communities, residential lofts, the rehabilitation of historic properties and conventional senior memory care facilities. Due to our reputation for consistently completing quality developments on time and within budget, FWC has expanded to add third-party construction developments and provides project management and consulting services for numerous developers. FWC offers a wide range of services to assist our clients from pre-construction through completion.



Since 1984, Fairway Construction Co., Inc. has emerged as a leading contractor in the affordable housing industry. The quality of our product reflects our commitment to excellence and efficiency.

Our experienced management team is focused on developing budgets, valued engineering and development schedules to provide coordination and supervision to assure maximum value to our customers. FWC also prequalifies subcontractors, analyzes, estimates and establishes cash flow projections. We continue to utilize industry leading products and concepts that are economical and efficient to construct quality communities.

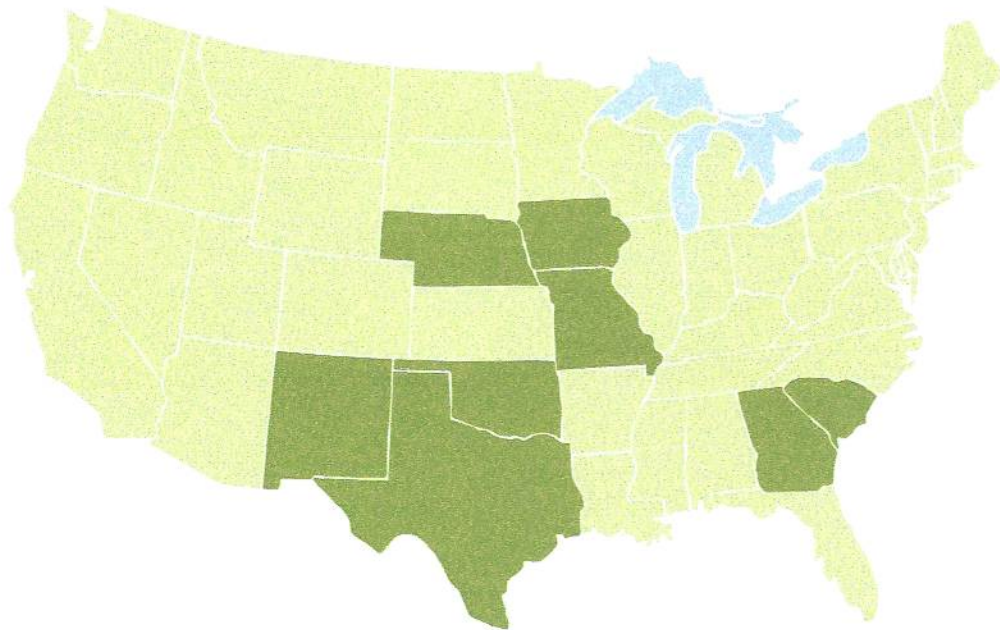
FWC has constructed over 130 projects across a seven-state portfolio, aggregating over 4,500 living units with a completed value in excess of \$2 billion. Fairway Construction's success is evident in the exemplary work that has been completed.



FAIRWAY MANAGEMENT, INC.

Fairway Management, Inc. (FWM) provides management and compliance services for a portfolio of 190 properties with approximately 8,500 units including Section 42, Section 8, Section 236, rural development and market rate communities.

FWM has more than 20 years of experience in affordable housing and provides valuable tax credit management consulting services offering an experienced team of management, accounting and compliance professionals.



SERVICES

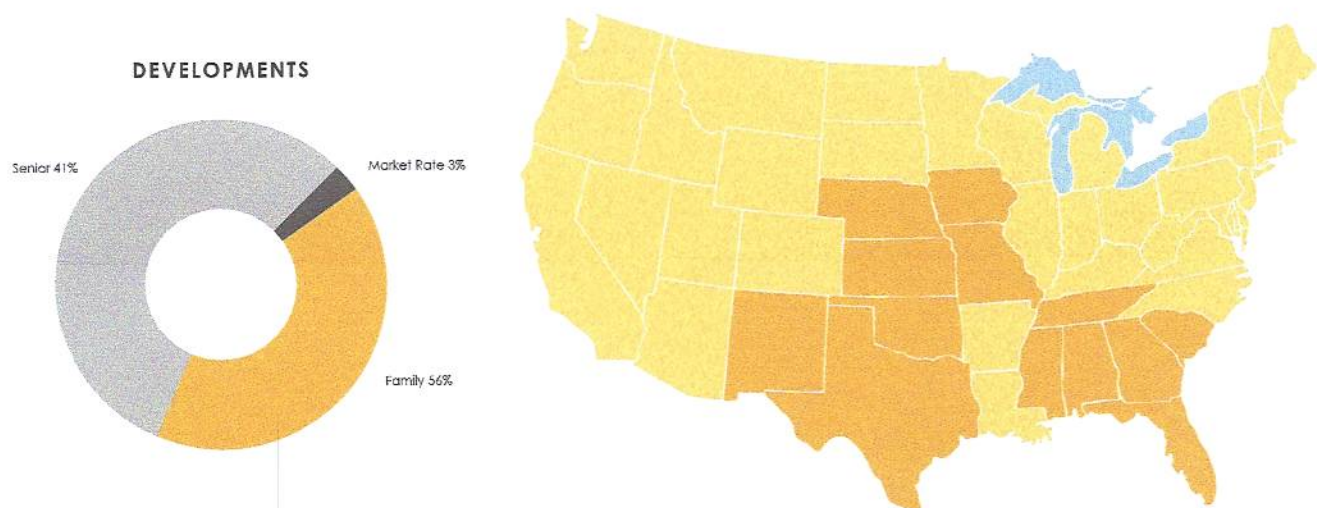
Fairway Management offers a comprehensive array of property management services for single family residences, apartment complexes and senior living communities including:

- A/R preparation
- Fee and assessment collection
- Accounts payable processing
- Monthly and YTD financial statements
- Full-time leasing team
- Maintaining compliance according to regulatory requirements
- Routine on-site inspection
- On-site property management and maintenance
- Property management and compliance training
- Marketing literature design and production
 - Brochures and flyers
 - Amenity sheets
 - Direct mail and postcards
 - Property website



AFFORDABLE EQUITY PARTNERS, INC.

Affordable Equity Partners, Inc. (AEP) provides a full range of investment banking services for those seeking to finance, build, purchase or rehabilitate multi-family housing. For over 30 years, AEP has invested in nearly 21,000 homes in 500 communities. We serve the growing need for affordable housing across 13 states in 215 cities. We have successfully syndicated over \$3 billion in tax credits to build or preserve homes for working class families and seniors.



Affordable Equity Partners has the ability to offer experience from acquisition to tax credit delivery enables partners to invest with confidence. In order to safeguard investment, AEP's asset management team plays an important role during the life of each asset within the AEP portfolio. Asset management is responsible for monitoring each asset from the time of closing at the property level through its disposition following the expiration of the tax credit compliance period.

AEP minimizes risk and improves investor returns by facilitating aggressive lease-up efforts that begin up to 120 days prior to construction completion. The lease-up team acts as an auxiliary partner to the existing management company to secure residents for occupancy and ensure lease-up compliance. AEP's lease up effort protects investors by providing a faster tax credit delivery.

In addition to providing alternative revenue streams, AEP is able to differentiate itself from competitors by providing a full service platform for its developers to promote exclusivity and solidify long term relationships. In addition, when AEP's affiliates are involved in a transaction, more flexibility is allowed in negotiating deal terms and serves as an added risk control measure for transactions.

BLUFF VIEW SENIOR VILLAGE

Crandall, Texas



HIDDEN GLEN

Salado, Texas



RIVERWOOD COMMONS

Bastrop, Texas



EXHIBIT 5

WHEREAS, [INSERT PROJECT NAME] and its affiliates (the "Applicant") propose to build an affordable housing development with up to 48 residential units (the "Housing") in the City of Abilene, to house senior citizens; and

WHEREAS, the Housing is expected to be located at 4001 Sharon Road, Abilene, TX 79606 and is expected to be named "[INSERT PROJECT NAME]"; and

WHEREAS, the Applicant has advised that it intends to submit a final application (TDHCA No.XX) for the financing of the Housing, which includes Competitive 9% Housing Tax Credits ("Tax Credits") from the Texas Department of Housing and Community Affairs;

NOW, THEREFORE, it is hereby:

RESOLVED, that the City of Abilene, acting through its governing body, hereby confirms that it supports the Applicant's application for Tax Credits from the Texas Department of Housing and Community Affairs, and that this formal action has been taken to put on record the opinion expressed by the city on this date;

RESOLVED, that the City of Abilene does hereby commit to provide a loan, grant, reduced fees or contribution of other value that equals \$500, conditioned upon [INSERT PROJECT NAME] receiving a commitment of Competitive 9% Housing Tax Credits ("Tax Credits") from the Texas Department of Housing and Community Affairs, and

FURTHER RESOLVED that for and on behalf of the City Council, [name, position of authorized person] is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs; and

FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage.

PASSED AND APPROVED this ____ day of _____, 2020 at a Regular Meeting of the City Council of the City of Abilene, Texas.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
SUPPORTING A HOUSING TAX CREDIT APPLICATION SUBMITTED FOR ELM CREEK
COTTAGES AND COMMITTING DEVELOPMENT INCENTIVES**

WHEREAS, JES Development Company, Inc. has proposed the development of up to 48 affordable senior rental housing units located at 4001 Sharon Road, Abilene, Texas, named Elm Creek Cottages in the City of Abilene, Texas;

WHEREAS, JES Development Company, Inc. has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2020 Competitive 9% Housing Tax Credits for the proposed development.

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

PART 1. That the City of Abilene, acting through its governing body, hereby confirms that it supports the application for Elm Creek Cottages, located at 4001 Sharon Road and that this formal action has been taken to put on record the opinion expressed by the City of Abilene on January 9, 2020.

PART 2. That the City of Abilene does hereby commit to provide a loan, grant, reduced fees, or contribution of other value that equals \$500.00, conditioned upon Elm Creek Cottages receiving a commitment of 2020 Competitive 9% Housing Tax Credits from the Texas Department of Housing and Community Development.

PART 3. That for and on behalf of the Governing Body of the City of Abilene, Mr. Robert Hanna, City Manager, is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PART 4. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Abilene, and it is accordingly so resolved.

ADOPTED this 9th day of January 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney

ELM CREEK COTTAGES

Abilene, TX



JES HOLDINGS, LLC

OVERVIEW

- Company Overview
- Texas Communities
- Community Features
- Unit Features & Resident Profile
- Support Request

COMPANY OVERVIEW

JES HOLDINGS, LLC

DEVELOP

BUILD

MANAGE

INVEST



QUALITY HOUSING WHERE **OUR FAMILIES**
WOULD BE PROUD TO LIVE.

DEVELOPER



- Over 20 years experience developing affordable multi-family housing
- Developed 200 apartment communities with over 4,300 residential units
- Four communities in Central Texas and a fifth under construction in Central Texas.

GENERAL CONTRACTOR



Fairway Construction Co., Inc.

- 30 years experience
- Over 130 apartment communities
- Over 4,500 apartment units
- Over \$2 billion in construction value

PROPERTY MANAGER



- Over 20 years of experience
- Currently manages over 8,500 apartment units throughout the South, Southwest, and Midwest.
- 190 apartment communities under management
- Overall portfolio occupancy of 97%

SYNDICATOR



Affordable Equity Partners, Inc.

- Provides a full range of services for developers and investors in the Section 42 LIHTC Program.
- More than 500 tax credit developments and has never had a foreclosure or credit recapture.
- Syndicated over \$3 billion in Federal and State Tax Credits.

Texas Communities



Settlement Estates

70 Garden-Style Senior Units
(32) One Bedroom Units – 651 Sq. Ft.
(38) Two Bedroom Units – 859 Sq. Ft.



Riverwood Commons

36 Senior Units Located in a Three-Story Building
(11) One Bedroom Units – 725 Sq. Ft.
(25) Two Bedroom Units – 935 Sq. Ft.



Hidden Glen

50 Garden-Style Senior Units
(15) One Bedroom Units – 700 Sq. Ft.
(35) Two Bedroom Units – 850 Sq. Ft.



Bluff View Senior Village

48 Senior Units Located in a Three-Story Building
(15) One Bedroom Units – 710 Sq. Ft.
(33) Two Bedroom Units – 893 to 925 Sq. Ft.



Highlander Senior Village

66 Garden-Style Senior Units
(20) One Bedroom Units – 740 Sq. Ft.
(46) Two Bedroom Units – 850 Sq. Ft.

SETTLEMENT ESTATES



RIVERWOOD COMMONS



HIDDEN GLEN

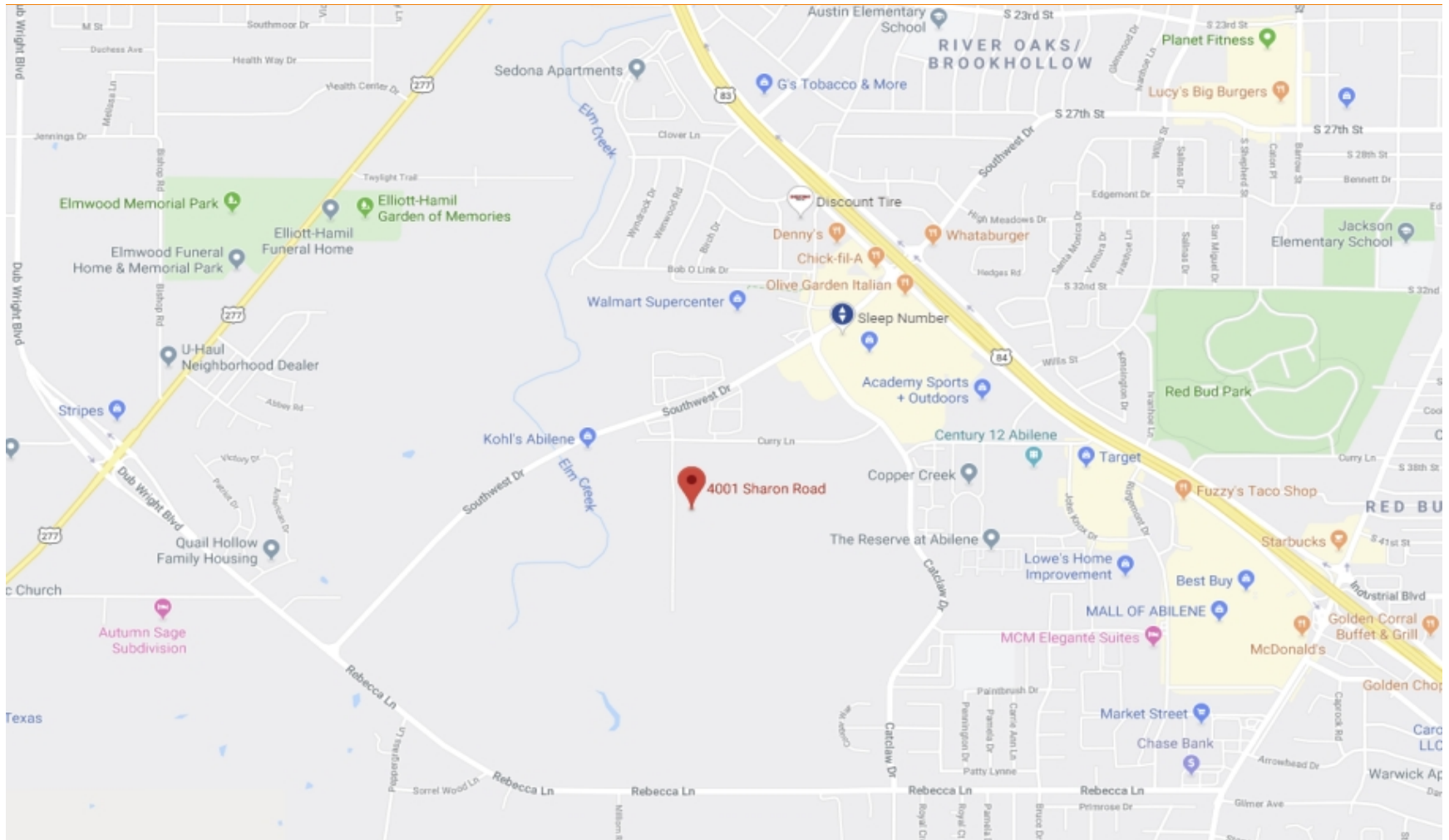


BLUFF VIEW SENIOR VILLAGE



COMMUNITY FEATURES

SITE LOCATION



PRELIMINARY SITE PLAN: 40-48 UNITS



SHARON RD: Conceptual Site Plan

Arlene, TX



November 21, 2019

rosemann
& ASSOCIATES PC

EXTERIOR DESIGN



- 30% or greater masonry stone or brick
- 70% or less fiber cement board
- 30 Year architectural shingles

COMMUNITY FEATURES

- 2,000 sq. ft. community building
- Community lounge
- Community kitchen
- Fitness room
- Business center
- Pavilion with BBQ grills
- Leasing office w/ full-time manager



UNIT FEATURES & RESIDENT PROFILE

RESIDENTIAL UNIT FEATURES



Unit Mix

- 20-24 one-bedroom units
- 20-24 two-bedroom units

Unit Features

- Full kitchen with energy-star appliances
- In unit washer/dryer
- Carpet and vinyl flooring
- Covered entry & patio
- Attached storage



RESIDENT PROFILE



Age Requirements

- Age restricted 55 +



Screening Requirements

- Rental history
- Credit history
- Criminal background

SUPPORT REQUEST

SUPPORT REQUESTED

- Resolution of Support
- Commitment of \$500 in funding-can take form of waived fees

REASONS TO SUPPORT

- Site zoned appropriately
- Utilities at site
- Low density: 8-10 units per acre
- \$7.5-\$9MM project will add to tax base
- Attractive design--senior tested and approved
- High quality building materials--stone and Hardie-plank exterior
- Services for seniors

CONTACT

Michael Ash, Development Manager

- 737-228-4962
- mash@aepartners.com



**City Council
Agenda Memo**

City Council Meeting Date: 1/9/2020

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: **15. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Members to Various Boards and Commissions per the City Charter (*Shawna Atkinson*)

- Board of Adjustments
- Child Advocacy Center Board
- Frontier Texas! Board of Directors
- Landmarks Commission

GENERAL INFORMATION

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

SPECIAL CONSIDERATIONS

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

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

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

RESOLUTION NO. _____

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

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

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

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

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

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

PASSED this 9th day of January, 2020.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Board of Adjustment</i>	
Bob Beermann [Reappointment]	November 2021
<i>Child Advocacy Center Board</i>	
Jason Shaw [Reappointment]	December 2022
<i>Frontier Texas! Board of Directors</i>	
Brent Hill [New]	February 2023
Tim Chandler [Reappointment]	February 2023
Weldon Hurt [Reappointment]	February 2023
Jessica Haile [New]	February 2023
Jessica Adams [Reappointment]	February 2023
<i>Landmarks Commission</i>	
Steve Butman [Reappointment]	November 2022
Sidney Levesque [Reappointment] [Alternate] [At-Large]	November 2022
Morgan Roden [New] [Alternate] [At-Large]	November 2021 (unexpired term)

Resolution:

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

- Board of Adjustment
- Child Advocacy Center Board
- Frontier Texas! Board of Directors
- Landmarks Commission

Oral Resolution: Evaluation of the Municipal Court Judge

