



City of Abilene City Council Agenda

Shane Price, Mayor Pro-tem
Lynn Beard, Deputy Mayor Pro-tem
Blaise Regan, Council Member
Robert Hanna, City Manager

Weldon Hurt, Mayor

Brian Yates, 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 May 9, 2024, 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. Councilmember Blaise Regan

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. **Service Awards:**

- Don Green - 20 Years - Transportation Services

3. **Presentation & Recognition:**

- Vexus Gigabit City Presentation
- Wylie ISD Destination Imagination Teams

4. **Proclamation:**

- Bicycle Safety Month & Ride of Silence

5.

Issue Certificate of Election and Oath of Office to:

- Councilmember-Elect Shane Price - Place 1
- Councilmember-Elect Lynn Beard - Place 2

6. **Presentation:** Annual Salary Checks to Councilmembers and Mayor

CONSENT AGENDA AND PUBLIC COMMENTS

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

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

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

7. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 25, 2024 **(Shawna Atkinson)**

8.

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

- Airport Development Board
- Street Maintenance Advisory & Appeals Board

9. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Authorize the City Manager to Enter a Master Lease Agreement with D&M Leasing **(Don Green)**

10. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Authorize Leasing Three (3) Police Administration Vehicles under the Master Lease Agreement with D&M Leasing and using Buyboard Contract 652-21. **(Don Green)**

11. **Resolution:** Receive a Report, Hold a Discussion, and Take Action to Approve Amendment Five to the Ground Lease with Abilene Aero for an Above Ground Fuel Farm **(Don Green)**

12. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing Contracts for Texas Courts and Windscreens that Cumulatively are Over \$50,000 **(Lesli Andrews)**

13. **Resolution:** Receive a Report, Hold a Discussion, and Take Action on Amending Section 3.1.3(d) and Section 3.4 in the Governing Principles, Rules of Procedures, and Council Policies **(Marjorie Knight)**

14. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager and City Attorney to Access Police Department and Fire Department

Personnel Files (Stanley Smith)

15. **Resolution:** Receive a Report, Hold a Discussion, and Take Action on Approving the 2024 Water Conservation Plan Update and Affirming the Drought Contingency Plan Ordinance as Adopted (Rodney Taylor)
16. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving an Economic Development Agreement with Chowning Realty LLC for 1438 N 6th St. (Tim Littlejohn)
17. **Resolution:** Receive a Report, Hold a Discussion and Take Action on approving an Economic Development Agreement with Salazar Custom Homes on 766 Jeanette St. (Tim Littlejohn)
18. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the Approval to Purchase Various Software and Services from Sigma Surveillance Inc DBA STS360 BuyBoard Contract # 654-21 (Troy Swanson)
19. **Resolution:** Receive a Report, Hold a Discussion, and Take Action on Awarding Bid# CB-2432 Piping Rock Dr. Alley Rehabilitation to Raydon, Inc. (Max Johnson)
20. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Approve an Extended Term Street Use License with Don and Cindy Terhune located at 4002 Forrest Creek Court (Max Johnson)

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

21. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE XIII, "SCHEDULES," SECTION 18-289.1, "ONE-WAY STREETS – CERTAIN TIMES," of the Abilene Municipal Code to Change Traffic Restrictions at Bonham Elementary (Max Johnson)
22. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter into a Professional Services Pre-Development Agreement with Garfield Public/Private, LLC for Capital Improvements to the City of Abilene Convention Center Located at 1100 N 6th Street (Robert Hanna)
23. **Ordinance (Final Reading) CUP-2024-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Owner, To Apply A Conditional Use Permit To Approximately .16 Acres Zoned Residential Single Family (RS-6) To Allow For A Counseling Ministry, Located At 526 Highland Ave. (Tim Littlejohn)
24. **Ordinance (Final Reading) CUP-2024-04:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Owner, To Apply A Conditional Use Permit To Approximately .19 Acres Zoned Residential Single Family (RS-6) To Allow For A Duplex, Located At 1902 Bridge Avenue (Tim Littlejohn)
25. **Ordinance (Final Reading) TC-2024-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Owner, Represented By Gospel Restoration Church, To Abandon The Entire Length Of An "L" Shaped Alley Located Between Oakland Drive And Forrest Avenue, Adjacent To 2317 Forrest Avenue (Tim Littlejohn)

EXECUTIVE SESSION

26. **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 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
2. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
3. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
4. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
6. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023
7. The Woodlands Pride, Inc., et al. v. Ken Paxton, Attorney General of Texas, et al., Case No. 4:23-cv-02847, In the United States District Court, Southern District of Texas, Houston Division, filed August 2, 2023
8. PFAS Litigation
9. Ginger Robertson v. City of Abilene and Abilene Zoological Society; Cause No. 13179-D, In the 350th Judicial District Court, Taylor County, Texas; filed December 5, 2023
10. City of Dallas, et al, v. Disney DTC, LLC, et al., Cause No. DC-22-09128, In the 14th Judicial District Court, Dallas County, Texas, filed August 3, 2022
11. Patricia Anderson v. City of Abilene; Cause No. 51867-A, IN the 42nd Judicial District Court, Taylor County, Texas; filed March 1, 2024
12. Mary Lou Gonzales v. City of Abilene, Board of Building Standards; Cause No. 29156-B; In the District Court, 104th Judicial District, Taylor County, Texas; filed April 10, 2024

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. Project Prism

RECONVENE

REGULAR AGENDA

27. **Oral Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing a Mayor Pro-tem & Deputy Mayor Pro-tem

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 May, 2024, at 3:00 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 7. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 25, 2024
(*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on April 25, 2024

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 04-25-2024 Minutes - Regular - Morning

CITY COUNCIL MEETING
April 25, 2024 at 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Regular Session on April 25, 2024, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Weldon Hurt was present and presiding, along with Mayor Pro-tem Shane Price, and Councilmembers Blaise Regan, Brian Yates, Kyle McAlister and Travis Craver. Deputy Mayor Pro-tem Lynn Beard was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Mayor Weldon Hurt delivered the invocation.

Cullen Faulks, Kindergartner at Allie Ward Elementary, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

- Proclamations:
 - Child Abuse Prevention Month – accepted by the Big Country CASA staff.
 - National Safe Digging Month – accepted by Sean Martin with Atmos Energy.
 - National Crime Victims’ Rights Week – accepted by APD staff.
- Recognition: Mayor Hurt and Council congratulated Mike Rains, Director of Finance, on his upcoming retirement.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 3-19. No items were pulled for individual consideration. Item 7 was pulled from consideration prior to the meeting.

PUBLIC COMMENTS

Mayor Hurt opened the public comment period. With no speakers coming forward, the public comment period was closed.

CONSENT AGENDA

Councilmember Craver moved to approve the consent agenda consisting of items 3-6 and 8-19. Councilmember McAlister seconded the motion. Motion carried.

AYES (6): Mayor Hurt, Mayor Pro-tem Price, and Councilmembers Regan, Yates, McAlister and Craver
NAYS (0): None
ABSENT (1): Deputy Mayor Pro-tem Beard

3. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on April 11, 2024
4. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve a Contract with Kutchins & Groh to Perform an Airport Rates and Charges Update and On-Call Land Lease Rate Appraisals
[ASSIGNED RESOLUTION NO. 91-2024]

5. Resolution: Receive a Report, Hold a Discussion, and Take Action on Approving a Professional Services Contract with Jacob & Martin, LLC for the Ivie Booster Pump Station Electrical & Mechanical Improvements
[ASSIGNED RESOLUTION NO. 92-2024]
6. Resolution: Receive a Report, Hold a Discussion, and Take Action on Approving a Contract with Infrastructure Rehab USA, Inc. for the Rehabilitation of Seven Sewer Manholes
[ASSIGNED RESOLUTION NO. 93-2024]
8. Resolution: Receive a Report, Hold a Discussion and Take Action on the Approval to Purchase Fiber Re-Routing and Splicing Services from FiberTex LLC
[ASSIGNED RESOLUTION NO. 95-2024]
9. Resolution: Receive a Report, Hold a Discussion, and Take Action on Awarding Pebble Beach Storm Pipe Repair Contract to Bontke Brothers Construction Co., Inc.
[ASSIGNED RESOLUTION NO. 96-2024]
10. Resolution: Receive a Report, Hold a Discussion and Take Action on A Request to Approve an Extended Term Street Use License with ONEOK West Texas NGL Pipeline, LLC. .
[ASSIGNED RESOLUTION NO. 97-2024]
11. Resolution: Receive a Report, Hold a Discussion and Take Action to Approve a Professional Services Contract with Huitt-Zollars, Inc. for the Metropolitan Transportation Plan (MTP) FYs 2025-2050
[ASSIGNED RESOLUTION NO. 98-2024]
12. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on Amending Chapter 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE XIII, "SCHEDULES," SECTION 18-289.1, "ONE-WAY STREETS – CERTAIN TIMES," of the Abilene Municipal Code to Change Traffic Restrictions at Bonham Elementary
13. Resolution: Receive a Report, Hold a Discussion and Take Action on A Resolution Supporting a Request by the Applicant to the Federal Home Loan Bank Of Dallas for Affordable Housing Program Fund in Support Of the Elsie Manor Project
[ASSIGNED RESOLUTION NO. 99-2024]
14. Ordinance (First Reading) CUP-2024-03: Receive a Report, Hold a Discussion, and Take Action on A Request From The Owner, To Apply A Conditional Use Permit To Approximately .16 Acres Zoned Residential Single Family (RS-6) To Allow For A Counseling Ministry. Located At 526 Highland Ave.
15. Ordinance (First Reading) CUP-2024-04: Receive a Report, Hold a Discussion, and Take Action on A Request From The Owner, To Apply A Conditional Use Permit To Approximately .19 Acres Zoned Residential Single Family (RS-6) To Allow For A Duplex. Located At 1902 Bridge Avenue
16. Ordinance (First Reading) TC-2024-01: Receive a Report, Hold a Discussion, and Take Action on A Request From The Owner, Represented By Gospel Restoration Church, To Abandon The Entire Length Of An "L" Shaped Alley Located Between Oakland Drive And Forrest Avenue, Adjacent To 2317 Forrest Avenue.
17. Resolution: Receive a Report, Hold a Discussion and Take Action on the Approval to Purchase Hardware, Software and Services from Dell via the contract using the Texas Contract, DIR-TSO-3763 contract
[ASSIGNED RESOLUTION NO. 100-2024]

18. Resolution: Receive a Report, Hold a Discussion and Take Action on Amending the Rebuild ABI Economic Development Program to add Clear Fork Bank as an additional approved Lender
[ASSIGNED RESOLUTION NO. 101-2024]
19. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Reimbursement Agreement with Energy Transfer
[ASSIGNED RESOLUTION NO. 102-2024]

ITEMS PULLED FROM CONSIDERATION

7. Resolution: Receive a Report, Hold a Discussion, and Take Action on Approving the 2024 Water Conservation Plan Update and Affirming the Drought Contingency Plan Ordinance as Adopted
[NOT CONSIDERED]

REGULAR AGENDA

20. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Execute Professional Services Contracts with West Texas Occupational Corporate Health Solutions (WTX-OCHS) and Screening For Life to Conduct Annual Medical Physicals for Employees of the Abilene Fire Department (AFD)
[ASSIGNED RESOLUTION NO. 103-2024]

Cande Flores, Fire Chief, presented the item. Adoption of the item would approve a contract with West Texas Occupational Corporate Health Solutions and Screening for Life for annual medical physicals for all employees within the Fire Department.

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

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

AYES (6): Mayor Hurt, Mayor Pro-tem Price, and Councilmembers Regan, Yates, McAlister and Craver
NAYS (0): None

ABSENT (1): Deputy Mayor Pro-tem Beard

21. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Authorize the City Manager to Execute an Agreement with Daco Fire Equipment for the Purchase of Structural Firefighting Protective Gear for the Abilene Fire Department
[ASSIGNED RESOLUTION NO. 104-2024]

Cande Flores, Fire Chief, presented the item. Adoption of the item would approve the purchase of a second set of firefighting protective gear for all firefighters.

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

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

AYES (6): Mayor Hurt, Mayor Pro-tem Price, and Councilmembers Regan, Yates, McAlister and Craver
NAYS (0): None
ABSENT (1): Deputy Mayor Pro-tem Beard

EXECUTIVE SESSION

Mayor Hurt recessed into Executive Session at 9:01 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 22. A.551.071 (Consultation with Attorney)
 - 1. PFAS Litigation
 - 2. Patricia Anderson v. City of Abilene
- 22. F.551.072 (Deliberations about Real Property)
 - 1. Maxwell Golf Course
- 22.D.551.074 (Personnel Matters)
 - 1. Boards & Commissions (re)Appointments

The Executive Session ended at 9:32 a.m. and reconvened to Open Session. Mayor Hurt reported no votes or action were taken in Executive Session.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:32 a.m.

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 8.

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

- **Airport Development Board**
- **Street Maintenance Advisory & Appeals Board**

GENERAL INFORMATION

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

SPECIAL CONSIDERATIONS

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

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

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

RESOLUTION NO. _____

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

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

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

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

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

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

PASSED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Airport Development Board</i>	
Mark Perkins [New]	November 2024 [unexpired term]
<i>Street Maintenance Advisory & Appeals Board</i>	
Brock Isbell [New]	March 2026
Antonio Pallarez [Reappointment]	March 2026



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

- Airport Development Board
- Street Maintenance Advisory & Appeals Board





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action to Authorize the City Manager to Enter a Master Lease Agreement with D&M Leasing (Don Green)

GENERAL INFORMATION

The City of Abilene has primarily purchased and wholly-owned its vehicle and equipment fleet. At the instruction of the City Manager, Fleet Services engaged in finding alternative vehicle acquisition methods that would allow for the expansion of both the Police Patrol fleet and potentially other municipal vehicles. D&M Leasing has been awarded a cooperative purchasing contract with Buyboard that provides a wide array of vehicles to be leased and may allow the City to place some vehicles in service more efficiently. D&M Leasing requires a Master Leasing Agreement (MLA) that details the legal relationship between the entities. The MLA that is part of this agenda is a draft. The executable MLA will have an effective date of May 9, 2024.

Fleet Services will evaluate future vehicle acquisitions to determine if leasing or purchasing is the best option for the City.

SPECIAL CONSIDERATIONS

D&M Leasing has been awarded a cooperative purchasing contract 652-21 with Buyboard Purchasing Cooperative.

FUNDING/FISCAL IMPACT

The leasing agreement will allow for alternate vehicle acquisition methods for the expansion of both the Police Patrol fleet and other municipal vehicle services as requested. The 36-month leasing option will eliminate the initial capital investment of city funds to purchase the vehicles

outright, and allow for monthly payments that will ease the financial burden on the city's yearly budget.

STAFF RECOMMENDATION

Staff recommends Council approval to authorize the City Manager to enter a master lease agreement with D&M Leasing.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. D&M Lease Resolution
2. Master Leasing Agreement
3. FY24 Leasing Agreement PiP

RESOLUTION NO _____

**A RESOLUTION OF THE CITY OF ABILENE, TEXAS
TO AUTHORIZE THE CITY MANAGER TO ENTER A LEASE AGREEMENT WITH D&M LEASING
COMMERCIAL**

WHEREAS, City of Abilene has a need for alternative fleet vehicle acquisition methods; and

WHEREAS, D&M Leasing Commercial can provide the needed vehicles through a leasing program; and

WHEREAS, D&M Leasing Commercial has Contract 652-21 with Buyboard Purchasing Cooperative; and

WHEREAS, D&M Leasing Commercial requires a signed Master Leasing Agreement to lease vehicles.

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

PART 1: That the City Council authorizes the City Manager to sign the Master Leasing Agreement with D&M Leasing Commercial of Dallas, TX.

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

ADOPTED this 9th day May, 2024

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

INCUMBENCY CERTIFICATE

I do hereby certify that I am the duly elected or appointed and acting City Attorney
for the City of Abilene, Texas ("Lessee"),
a municipal corporation duly organized and existing under the laws of the STATE OF TEXAS that I have
custody of the records of such entity, and that, as of the date hereof, the individuals named below are the
duly elected or appointed officers of such entity holding the offices set forth opposite their respective
names. I further certify that (i) the signatures set opposite their respective names and titles are their true
and authentic signatures and (ii) such officer(s) have the authority on behalf of such entity to enter into
that certain **Master Open-End Vehicle Lease Agreement** dated Apr 01, 2024 between
such entity and Commercial Vehicle Leasing, L.L.C., d/b/a D&M Leasing ("Lessor") and any other contract
or document contemplated thereby. Additionally, I certify that Lessee has duly ratified and/or confirmed
(as the case may be) all prior actions of its officers related as to the above-referenced Lease and/or any
other contracts or documents contemplated thereby.

NAME	TITLE	SIGNATURE
Robert Hanna	City Manager	
Mindy Patterson	Deputy City Manager	

IN WITNESS WHEREOF ((General Counsel or another Authorized Officer):

I Stanley Smith (name), City Attorney (title)
do affirm the above reference names have authority to execute contract documents for
City of Abilene, Texas ("Lessee"), and duly executed this
certificate and affixed the seal of such entity hereto this 04/01/2024 (date).

WITNESS SIGNATURE: _____
(General Counsel or another Authorized Officer)

MASTER OPEN-END VEHICLE LEASE AGREEMENT

MASTER OPEN-END VEHICLE LEASE AGREEMENT ("Master Lease") is entered into as of Apr 1, 2024 ("Effective Date") between COMMERCIAL VEHICLE LEASING, L.L.C., d/b/a D&M Leasing ("Lessor") and City of Abilene, Texas ("Lessee").

1. **Vehicles.** Lessor will, from time to time at the request of Lessee, lease to Lessee motor vehicles (together with all parts, accessions and accessories individually a "Vehicle" and collectively the "Vehicles") to be more fully described in schedules now or hereafter executed with reference to and incorporating therein this Master Lease (individually the "Schedule"). When Lessor accepts Lessee's request to lease a Vehicle, Lessor will order the Vehicle. If, at the time it requests to lease a Vehicle, Lessee requires any Upfitting (as defined in Section 11 below), Lessee shall communicate its needs to Lessor. As appropriate or otherwise agreed upon, Lessor may coordinate, manage, schedule and/or facilitate the Upfitting and/or incorporate the Upfitting (and the cost of the Upfitting) into this Lease, a lease quote and/or a Schedule. Lessee will take delivery of the Vehicle upon notice that the Vehicle is available for delivery. The taking by Lessee of delivery of a Vehicle shall conclusively establish Lessee's acceptance thereof for all purposes of this Master Lease. Subsequent to acceptance of the Vehicle, Lessor shall provide Lessee the Schedule applicable to the Vehicle which describes the Vehicle, indicates the applicable rent and sets forth certain other matters relative to the Vehicle as determined in accordance with the prior agreement of Lessor and Lessee. Lessee will promptly execute and return the specified copies of the Schedule to Lessor. Each Schedule shall constitute a separate lease incorporating the terms of this Master Lease. References in this Master Lease to the "Lease," "this Lease", "hereunder" and "herein" shall be construed to mean each Schedule together with this Master Lease as incorporated herein.

2. **Lessee's Obligations.** Except as provided in Section 3, the obligations of Lessee under this Lease respecting the Vehicle commence at the earliest time any purchase order, confirming purchase order or contract of any nature transfers any right, title, and/or interest in the Vehicle to Lessor or creates or gives rise to any obligation or liability on the part of Lessor respecting the Vehicle. Except as provided in Sections 5, 14 and 19 and subject to Section 7, the term of this Master Lease with respect to the Vehicle shall end upon the date Lessor no longer has any interest therein.

3. **Rent and Other Payments.** Payment of rent and any other amounts due under this Master Lease shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment. Any and all amounts payable hereunder shall be paid to Lessor at 1400 W. 7th Street, Suite 200, Fort Worth, Texas 76102, or as otherwise directed by Lessor or Lessor's assignee.

4. **Essential Use.** Lessee has a need for the Equipment and expects to make use of the Equipment. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Lease Term.

5. **Non-Appropriation.** Lessee agrees that its responsible financial officer will take all steps reasonably necessary to seek appropriations each year, to the extent permitted by law, that are sufficient to cover Lessee's payment obligations owed during the term of this Lease. Notwithstanding the foregoing and Section 3, in the event sufficient funds are not appropriated by the applicable government body or authority of Lessee for a budget period prior to the beginning of that budget period, or sufficient funds are otherwise not legally available with respect to the rent for the budget period for one or more Vehicle(s) (a "Non-Appropriation Event"), Lessee shall have no obligation to make payments for such Vehicle(s) for that budget period and shall only be obligated to make payments for the then current budget period, including any past due amounts. If a Non-Appropriation Event occurs, this Master Lease shall terminate as of the end of the then current budget period for all Vehicles and Schedules affected by the Non-Appropriation Event. Lessee agrees to provide notice of any Non-Appropriation Event promptly. If this Master Lease is terminated in accordance with this Section with respect to some or all Vehicles and Schedules, Lessee agrees to deliver and return the affected Vehicles to the location agreed upon by both parties.

The obligation of Lessee to pay rent hereunder will constitute a current expense of Lessee, is from year to year, and does not constitute a mandatory payment obligation of Lessee in any fiscal year beyond the then current fiscal year of Lessee. Lessee's obligation hereunder will not in any way be construed to be an indebtedness of Lessee in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor will anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

6. Intentionally Omitted.

7. **Unconditional Net Lease; No Offset; Survival.** This Lease is a net lease, and Lessee will not be entitled to any abatement of rent or other payments due hereunder or any reduction thereof under any circumstances or for any reason whatsoever. Lessee hereby waives any and all existing and future claims and offsets, against any rent or other payments due hereunder and agrees to pay such rent and other amounts as and when due regardless of any claim which may be asserted by Lessee. Lessee by agreeing to make all payments under this Lease without offset has not waived any rights Lessee may have to prosecute any claim against Lessor in an action unrelated to this Lease. This Lease is terminable only as provided herein. The respective obligations of Lessor or Lessee will not be affected, nor will Lessor have any liability whatsoever to Lessee, by reason of any failure or delay in delivery of the Vehicle, any defect in or damage to or loss or destruction of the Vehicle from whatever cause, the prohibition of Lessee's use of the Vehicle, the interference with such use by any government, person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, any lack of right, power or authority of Lessor or Lessee to enter into this Lease or any other cause whether similar or dissimilar to the foregoing. The obligations and liabilities of Lessee hereunder respecting events

occurring with respect to the Vehicle while covered hereby will survive the termination of this Lease.

Notwithstanding any terms and conditions in the Base Contract providing otherwise, payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

Section 403.055 of the Texas Government Code shall govern for unpaid fees or rebates.

8. Lessor's Disclaimer of Warranties; Finance Lease Treatment under UCC and Waiver of UCC and Similar Rights. Lessee agrees that it has selected each Vehicle leased hereunder based upon its own judgment and disclaims any reliance upon any statements or representations made by Lessor. LESSEE ACKNOWLEDGES THAT: THE VEHICLE IS OF A SIZE, DESIGN, TYPE AND MANUFACTURE SELECTED BY LESSEE; LESSOR IS NOT THE MANUFACTURER OF THE VEHICLE; LESSOR IS NOT AN AGENT FOR THE MANUFACTURER OF THE VEHICLE; LESSOR IS NOT A DEALER WITH RESPECT TO THE VEHICLE; LESSEE IS LEASING THE VEHICLE **AS-IS** AND THAT ACCORDINGLY LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY EXPRESS AGREEMENT, REPRESENTATION OR WARRANTY WITH RESPECT TO THE VEHICLE AND FURTHER SPECIFICALLY DISCLAIMS ANY AGREEMENT, REPRESENTATION OR WARRANTY IMPLIED BY LAW, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, WITH RESPECT THERETO, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. Lessor does warrant, however, that Lessor has whatever quality of title to the Vehicle Lessor obtains from the supplier thereof, subject to this Lease and any liens or encumbrances created by Lessor pursuant to Section 24 hereof or which Lessee is obligated to discharge or satisfy. Lessee will make any claims as to the Vehicle against the manufacturers or suppliers or other appropriate third parties, and in connection therewith Lessor agrees, so long as no event of default has occurred and is continuing hereunder, that Lessee will have the right to obtain the benefit of and enforce in Lessee's own name and at Lessee's sole expense any manufacturer's or other third party's warranty or agreement in favor of Lessor with respect to the Vehicle to the extent such warranty or agreement is assignable. Lessor will execute and deliver such instruments as may be reasonably requested by Lessee to enable Lessee to obtain such benefits.

LESSEE UNDERSTANDS AND AGREES THAT THIS LEASE WILL BE TREATED AS A "FINANCE LEASE" WITHIN THE PURVIEW OF THE UNIFORM COMMERCIAL CODE ("UCC") AND THUS UNDER LAW LESSEE WILL BE ENTITLED TO THE PROMISES AND WARRANTIES LESSOR RECEIVES UNDER THE CONTRACT EVIDENCING LESSOR'S PURCHASE OF THE VEHICLE, INCLUDING ANY MANUFACTURER, DEALER OR OTHER THIRD-PARTY WARRANTIES. LESSEE ACKNOWLEDGES THAT LESSOR HAS ADVISED LESSEE TO CONTACT THE DEALER FOR A DESCRIPTION OF THOSE PROMISES AND WARRANTIES, INCLUDING ANY RELATED DISCLAIMERS OR LIMITATIONS, INCLUDING OF REMEDIES. CONSISTENT WITH THE ASSUMPTION BY LESSEE OF ALL RISKS RESPECTING THE VEHICLE AND

THE TREATMENT OF THIS LEASE AS A “FINANCE LEASE,” LESSEE WAIVES ANY RIGHTS, DEFENSES AND CLAIMS AGAINST LESSOR WHICH RELATE TO THE VEHICLE ARISING UNDER THE UCC OR SIMILAR APPLICABLE LAW.

LESSOR SHALL NOT BE LIABLE TO LESSEE FOR ANY LOSS, DAMAGE, OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE VEHICLE OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OR OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED. LESSOR SHALL NOT BE LIABLE FOR DAMAGES OF ANY KIND INCLUDING ANY LIABILITY FOR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE VEHICLE.

9. **No Agency.** LESSEE ACKNOWLEDGES THAT NO AGENT OF A LEASE FACILITATOR OR THE DEALER OF THE VEHICLE IS AN AGENT OF LESSOR. LESSOR IS NOT BOUND BY A REPRESENTATION OF ANY SUCH PARTY AND, AS CONTEMPLATED IN SECTION 29 BELOW, THE ENTIRE AGREEMENT OF LESSOR AND LESSEE CONCERNING THE LEASING OF THE VEHICLE IS CONTAINED IN THIS LEASE AS IT MAY BE AMENDED AS PROVIDED IN THAT SECTION.

10. **Location; Inspection; Use.** Lessee will permanently garage the Vehicle at the Garaging Location designated in the Schedule, or at such other location at which the Vehicle may be garaged with the prior written consent of Lessor, and at all times, unless Lessor otherwise consents in writing, keep the Vehicle in Lessee’s possession and control. Lessee will not remove the Vehicle from the United States for any period or from the state in which the Garage Location is located as specified in the applicable Schedule for more than thirty (30) consecutive days without Lessor’s prior written consent. Whenever requested by Lessor, Lessee will advise Lessor as to the exact location of the Vehicle. Lessor will have the right to inspect the Vehicle and observe its use during normal business hours, and Lessee will ensure Lessor’s ability to enter into and upon the premises where the Vehicle may be located for such purpose. The Vehicle will at all times be used primarily for commercial or business purposes, exclusive of transportation for hire, and operated by duly licensed adult drivers in a careful and proper manner and in compliance with all applicable laws, ordinances, rules and regulations, all conditions and requirements of the policy or policies of insurance required to be carried by Lessee under the terms of this Lease and all manufacturer’s instructions and warranty requirements. Any modifications or additions to the Vehicle required by any such governmental edict or insurance policy will be promptly made by Lessee at its own expense.

11. **Alterations and Upfitting.** For purposes of this Lease, the term “Upfitting” means any augmentation, alteration or customization by adding or installing extra or auxiliary features or equipment to a Vehicle. When requesting Upfitting prior to delivery of a Vehicle, Lessor shall have discretion to accept any Upfitting request from Lessee, which will generally not be withheld so long as the requested Upfitting does not detract from or impair the Vehicle’s value or functional

utility. Notwithstanding the foregoing, after delivery of a Vehicle, Lessee shall obtain Lessor's prior written consent before making any Upfitting, or any other alterations, additions or improvements of whatever kind or nature to a Vehicle. All additions and improvements of whatever kind or nature made to the Vehicle which cannot be removed without detracting from the Vehicle's value or functional utility shall belong to and immediately become the property of Lessor and shall be returned to Lessor with the Vehicle upon the Vehicle's return to Lessor.

12. **Vehicle Maintenance; Factory Recall.** Lessee, at its own expense, will: (i) maintain the Vehicle in good repair, condition and working order; (ii) will furnish all parts, mechanisms, devices and labor required to keep the Vehicle in such condition; and (iii) will pay all costs of the Vehicle's operation. All maintenance will be procured through qualified service facilities. If the manufacturer announces a recall campaign of which Lessee has knowledge for the repair and/or replacement of defective parts in/on the Vehicle, Lessee shall promptly have the relevant work performed on the Vehicle by a factory-authorized dealer. Lessor will send Lessee a copy of any manufacturer's notification received by Lessor indicating that the Vehicle or any part attached thereto has a potential defect or other possibly unsafe condition unless Lessor has previously sent Lessee the same notice as to another Vehicle of the same type. Lessor has no further obligation with respect to any manufacturer's recall campaign respecting the Vehicle.

13. **Loss and Damage.** Lessee assumes the risk of loss or damage to the Vehicle and, except as provided in this Section, no such event will affect the duties of the parties under this Lease. If the Vehicle is lost, stolen, damaged, confiscated, requisitioned, destroyed or otherwise rendered incapable of being in service, Lessee will notify Lessor thereof within two (2) business days. If the Vehicle has been damaged, and Lessor determines the Vehicle is repairable and/or Lessee's insurer does not declare the Vehicle a total loss, Lessee will cause the repairs to be made. Upon receipt of proof of the making thereof, Lessor will reimburse Lessee's repair costs up to the amount of any insurance proceeds Lessor receives under any insurance Lessee maintains hereunder with any excess being applied as contemplated in Section 15. If Lessor determines the Vehicle is not reasonably repairable, Lessee's insurer declares the Vehicle a total loss or any of the other events specified in the second preceding sentence occurs, Lessee will pay Lessor the Termination Value (as defined and set forth in Section 14 below) of the Vehicle. Upon such payment this Lease shall terminate with respect to such Vehicle, and Lessee or Lessee's insurer will be entitled to retain possession and ownership of the Vehicle on an **AS-IS, WHERE-IS** basis.

14. **Lease Settlement; Termination Value.**

a. **Surrender of Vehicle.** At any time after the expiration of one (1) year from delivery of the Vehicle to Lessee (such one year date, the "First Anniversary Date"), or upon proper notification of Non-Appropriation Event as described in Section 5, Lessee, upon not less than thirty (30) days prior notice to Lessor, may surrender the Vehicle to Lessor, for purposes of Lessor selling the Vehicle, at a location reasonably specified by Lessor, as more fully set forth below, provided the Lease is not then in default. Lessee shall so surrender the Vehicle upon expiration of the term hereof, as specified in the Schedule, unless Lessor and Lessee agree to extend this Lease, in which case the Vehicle will be returned on or prior to expiration of the extended term with the same thirty (30) day

notice to be given if the return is prior to expiration of the extended term. The parties agree to return the surrendered Vehicle to a location mutually agreed upon. Following such surrender, Lessee's obligation to make further rent payments will cease (except as otherwise noted in this Section with respect to any rental adjustments), and Lessor shall sell the Vehicle through Lessor's standard wholesale sales procedure for the highest bona fide bid received and open at the time of sale; provided Lessor may choose ultimately to retain the Vehicle. Lessor may move the Vehicle from the location where surrendered to any other location Lessor deems advisable and/or clean or repair the Vehicle in connection with such sale in Lessor's sole discretion. If the amount received by Lessor on account of such sale or the highest bona fide bid received and open at the time of crediting when the Vehicle is retained by Lessor, as appropriate, net in either instance, Lessor's costs of sale (including but not limited to sales commission costs and costs of cleaning, repairing or transporting the Vehicle) exceeds the Vehicle's then Termination Value, Lessee shall have no further settlement obligation to Lessor as to the Vehicle, and the excess shall be returned to Lessee after application to any amounts then owed by Lessee to Lessor. If the net amount is less than the Vehicle's Termination Value, Lessee shall pay Lessor the deficiency.

b. Termination Value. The "Termination Value" of the Vehicle shall equal the sum of: (a) all then due amounts hereunder other than rent; and (b) the then-outstanding Capitalized Cost (as set forth in the Schedule) of the Vehicle plus any accrued and unpaid lease charges. For purpose of calculating the outstanding Capitalized Cost, any Capitalized Cost Reduction (as set forth in the Schedule) will be deducted at lease inception and thereafter rents will be applied as of receipt first to related taxes, then to lease charges which have accrued on the outstanding Capitalized Cost since the prior rent payment at the "level yield" rate implicit in the Lease as to the Vehicle and finally to reduce the outstanding Capitalized Cost. The level yield rate will be calculated as contemplated in Financial Accounting Standards Board, Standard No. 13 for direct financing leases with reference to the net Capitalized Cost after deducting any Capitalized Cost Reduction, Residual Value (as set forth in the Schedule), rents and term for the Vehicle and the 30 day month, 360 day year and timely payment assumptions employed under that Standard.

c. Purchase of Vehicle.

i. Early Termination Purchase. As an alternative to surrendering the Vehicle to Lessor, so long as the Master Lease is not in default, Lessee may purchase the Vehicle for a purchase fee of \$500 plus the Vehicle's then fair market value as reasonably determined by Lessor; provided, however, that such purchase option may only be exercised on the First Anniversary Date. Payment of such purchase price will be subject to the same credit and deficiency rules which apply when a Vehicle is surrendered to Lessor, including but not limited to accrued taxes, lease charges, tolls and other amounts owed by Lessee per this Master Lease. Any transfer of Lessor's interest in a Vehicle, whether to Lessee or a third party, shall be **AS-IS, WHERE-IS** and without any other warranty.

ii. Scheduled Termination Purchase. Further, as an alternative to surrendering the Vehicle to Lessor on the scheduled lease maturity, if the Lease is not in default, Lessee may purchase the Vehicle for a purchase fee of \$500 plus the Residual Value, as specified in the Schedule. Payment of such purchase price will be subject to the same credit and deficiency rules which apply when a Vehicle is surrendered to Lessor, including but not limited to accrued taxes, lease charges, tolls and other amounts owed by Lessee per this Master Lease. Any transfer of Lessor's interest in a Vehicle, whether to Lessee or a third party, shall be **AS-IS, WHERE-IS** and without any other warranty.

15. **Insurance**. Lessee shall keep the Vehicle insured under a standard collision and comprehensive policy providing coverage for not less than the Termination Value thereof and deductibles not in excess of \$1,000 naming Lessor and/or such other party as Lessor may designate as loss payee, and shall carry public liability and property damage insurance and uninsured motorist coverage with limits of not less than \$1,000,000 single limit covering the Vehicle and naming Lessor and such other parties as Lessor may designate as additional insureds and/or loss payee(s). All said insurance shall be primary, shall name Lessee as a named insured and shall be in a form and with companies approved by Lessor. Lessee shall deliver to Lessor a certificate or other evidence of the required insurance satisfactory to Lessor. Lessee's insurance company shall be listed on the certificate of insurance. Such insurance shall be in full force and current as of the date of this Master Lease and/or any Schedule, and Lessee shall maintain such insurance for the entire term of the Lease for the Vehicle or as long as Lessee has possession of the Vehicle, whichever is longer. Each insurer shall agree to give Lessor at least thirty (30) days written notice before the policy in question may be altered or canceled. Lessee agrees that Lessor and any assignee of Lessor are authorized by Lessee to contact Lessee's insurance provider, change the insurance limits, and obtain a copy of the policy in its entirety. The proceeds of such insurance, at the option of Lessor, will be applied toward (a) the restoration or repair of the Vehicle or (b) payment of amounts due under Section 12 and/or 13 and (c) payment of other obligations of Lessee then due hereunder. Any excess of such proceeds remaining shall belong to Lessee.

In the event Lessee is a self-insured governmental unit pursuant to Chapter 2259 of the Texas Government Code, then Lessee shall provide Lessor a certificate or other documentation that demonstrates that insurance coverage is provided through Lessee's self-insurance fund, and that Lessee's self-insurance and/or self-insurance fund meets the requirements of the State of Texas and this Master Lease. If Lessee is a State agency, then in lieu of any insurance from a third-party insurer required under this Section, Lessee may supply Lessor with a letter that agrees to insure the Vehicle(s) for risk of loss or damage with funds available from the Lessee's appropriations. Notwithstanding the foregoing, in the event Lessee is a State agency, Lessee's obligations in this Section are subject to and superseded by any constitutional or statutory restrictions or limitations imposed upon Lessee and its ability to procure insurance.

16. **Titling; Registration**. Lessor shall retain title to all Vehicles leased pursuant to this Master Lease, and no right, title or interest in any Vehicles leased hereunder shall pass to Lessee except as expressly set forth in the Master Lease. Except as Lessor may effect titling or registration, in which event Lessee will reimburse Lessor its related expenses, the Vehicle will at

all times be titled and/or registered by Lessee, at its own expense and as Lessor's agent and attorney-in-fact with full power and authority to register (but without power to affect title to) the Vehicle, in such manner and in such jurisdiction or jurisdictions as Lessor directs. Lessee will promptly notify Lessor of any necessary or advisable re-titling and/or re-registration of the Vehicle in a jurisdiction other than one in which the Vehicle is then titled and/or registered. Lessee will use reasonable efforts to cause any and all documents of title to be furnished Lessor within sixty (60) days of the date of filing any application for titling or for re-titling of the Vehicle by or at the direction of Lessee. Absent Lessee's purchase of the Vehicle, Lessee understands and agrees that the Vehicle shall never be titled in Lessee's name; rather, title for any Vehicle shall reflect Lessor, Lessor's assignee, if any, or any other person as Lessor may determine in its sole discretion as the title owner of the Vehicle.

17. **Taxes; Fines.** Lessee will pay as directed by Lessor or reimburse Lessor for all taxes, including but not limited to property, excise and sales and use taxes (exclusive of federal and state taxes based on Lessor's net income, unless such net income taxes are in substitution for or relieve Lessee from any taxes which Lessee would otherwise be obligated to pay under the terms of this section 17), registration and other fees, charges and assessments whatsoever, however designated, whether based on the rent or levied, assessed or imposed upon the Vehicle or upon, or in respect of, the manufacture, purchase, delivery, ownership, leasing, use, return or other disposition of the Vehicle, now or hereafter levied, assessed or imposed under the authority of a federal, state or local taxing jurisdiction, regardless of when and by whom payable. Returns required in connection with the obligations which Lessee has assumed under this Section 17 will, at Lessor's option, be prepared and filed by Lessor or by Lessee in such manner as Lessor may direct. Each party will upon request furnish the other a copy of any such filing made or any governmental invoice received by such party covering such obligations.

a. **Tax Exemption.** If Lessee holds an exemption which would exempt Lessor and Lessee from any assessment contemplated hereby, Lessee agrees to provide a tax-exempt certificate (or other satisfactory evidence of the exemption) to Lessor within five (5) business days of the Effective Date of this Master Lease. Upon receipt of the tax-exempt certificate, Lessor will not attempt to pay taxes on Lessee's behalf, and Lessee will not be obligated to reimburse Lessor for any such taxes paid. Until presentation of a tax-exempt certificate, Lessor will proceed on the assumption that any applicable tax assessment is due. Once Lessee has provided a tax-exempt certificate, Lessor will adjust its procedures prospectively, but not retroactively. Lessor agrees to assign to Lessee, to the extent assignable, any claim for refund Lessor has with respect to prior payment of an assessment. If Lessee provides a tax-exempt certificate or otherwise claims to be tax exempt and it is subsequently determined that Lessee owes taxes and/or is not tax exempt, then Lessee shall be solely responsible and liable for any and all taxes.

b. **Tickets, Tolls and Fines.** Lessee is solely responsible for paying and shall be liable for all amounts incurred due to Lessee's possession, use and operation of the Vehicle, including but not limited to traffic tickets, parking tickets, toll charges, and all other charges, fines or fees incurred.

18. **Lessor's Payment.** If Lessee fails to procure or maintain insurance that is required to be carried by Lessee under the terms of this Lease, to pay any taxes or other assessments required to be paid by Lessee or to perform any other obligation hereunder, Lessor shall have the right, but shall not be obligated, to effect such insurance, pay said assessments or perform such other obligation. In that event, Lessee will reimburse Lessor's cost thereof and pay Lessor a service charge of \$25.

19. Intentionally Omitted.

20. **Default.** Any of the following will constitute an "Event of Default" hereunder:

a. Lessee's failure to pay any amounts due in accordance with Chapter 2251 of the Texas Government Code (provided that a Non-Appropriation Event shall not be considered an Event of Default hereunder);

b. Lessee's failure to perform any other covenant, obligation or condition of this Master Lease or any other agreement between Lessor and Lessee, provided that such default continues for more than twenty (20) days, except as provided in c. and d. below;

c. any writ or order of attachment or execution or legal process being levied on or charged against the Vehicle as a result of Lessee's conduct and such is not released or satisfied within ten (10) calendar days;

d. Lessee's failure to comply with its obligations under Section 15 or any attempted assignment of Lessee's interest in this Lease or to the Vehicle in violation of Section 24;

e. the filing by Lessee of a petition under the Bankruptcy Act, or any amendment thereto, or under any other insolvency law or law providing for the relief of debtors, or the commission by Lessee of an act of bankruptcy;

f. Lessee ceases to exist or function, in any respect; or;

g. any certificate, statement, representation, warranty or audit heretofore or hereafter furnished by or on behalf of Lessee that contain false statements or information or prove to be false in any material respect.

21. **Remedies.** Upon the occurrence of an Event of Default, Lessor may exercise any one or more of the following remedies:

a. for an Event of Default under 20.a above, Lessor may suspend performance in accordance with Chapter 2251 of the Texas Government Code, which can include the suspension of any obligation Lessor has to permit possession and use of a Vehicle(s);

b. if Lessee is a "unit of state government," then Lessor may pursue a claim and recover all amounts due hereunder in accordance with Chapter 2260 of the Texas Government Code;

c. to the extent permitted under Texas law, Lessor may declare all amounts under the Lease due in the current fiscal year of Lessee immediately due and payable, whereupon such amounts shall be immediately due and payable;

d. to the extent permitted by law, Lessee agrees to deliver and return the affected Vehicles to the location agreed upon by both parties;

e. to the extent permitted by law, as liquidated damages for the loss of the bargain and not as a penalty in the event a Vehicle is not returned, Lessor may declare due and payable, and Lessee shall pay a sum equal to, the Termination Value;

f. to the extent permitted by law, Lessor may retain the Vehicle and credit the reasonable value thereof, after deducting all disposition- or -retrieval-related costs incurred to the date of crediting, to the Termination Value, in which case the credit and deficiency rules set forth in this Master Lease shall apply;

g. to the extent permitted by law, Lessor may sell or otherwise dispose of the Vehicle(s), whether or not in Lessor's possession, at public or private sale with or without notice, and apply the net proceeds of such disposal, after deducting all costs thereof, including but not limited to costs of transportation, repossession, storage, refurbishing, advertising and broker's fees, to the Termination Value, in which case the credit and deficiency rules set forth in this Master Lease shall apply. If such a disposition is by a re-lease, the proceeds of the disposition shall equal the present value of the rental stream, excluding taxes, under the new lease using as the discount rate the implicit rate in the new lease, or if none, the most recently published Wall Street Journal Prime Rate (or its equivalent) per annum; or;

h. all other remedies permitted by or available at law or in equity.

No right or remedy conferred herein is exclusive of any other right or remedy conferred herein or by law; but all such remedies are cumulative of every other right or remedy conferred hereunder or at law or in equity, by statute or otherwise, and may be exercised concurrently or separately from time to time, except to the extent a conflict exists by law.

22. **Dispute Resolution.** To the extent applicable, and in the event of a dispute regarding whether Lessee has breached the Lease, the parties shall comply with the dispute resolution process as provided in Chapter 2260 of the Texas Government Code. The procedures contained in Chapter 2260 are a prerequisite to suit.

23. **Lessor's Expenses.** Lessee will pay or reimburse Lessor for all costs and expenses, including repossession, Vehicle disposition and court costs and attorney's fees and other legal expenses (including a reasonable fee for services of salaried counsel employed by Lessor) as

provided or permitted by law (including but not limited to Texas Government Code § 2251.043), not offset against amounts recovered or credited as contemplated in Section 21, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions hereof. This obligation includes the payment or reimbursement of all such amounts whether an action is ultimately filed and whether an action filed is ultimately dismissed.

24. **Assignment; Liens.** Without the prior written consent of Lessor, Lessee shall not: (a) assign or otherwise transfer any of Lessee's rights or obligations under this Lease, (b) lend the Vehicle to any party or transfer any other interest in the Vehicle to any party by sublease or otherwise or (c) permit the Vehicle or this Lease to be subject to any lien, charge or encumbrance of any nature not created by Lessor.

Consent to any of the foregoing prohibited acts applies only in the specific, given instance and is not a consent to any subsequent like act by Lessee or any other person. Lessee's rights hereunder are not assignable and shall not be assigned or transferred by operation of law.

All rights of Lessor hereunder and in and to the Vehicle may be assigned, pledged, mortgaged, transferred or otherwise disposed of, either in whole or in part, without notice to Lessee, but always, however, subject to the rights of Lessee under this Lease. If Lessee is given notice of any such assignment, Lessee will acknowledge receipt thereof in writing and will thereafter pay any amounts due hereunder specified in said notice as directed therein. In the event Lessor assigns this Lease or the rent due or to become due hereunder or any other interest herein, whether as security for any of its indebtedness or otherwise, no breach or default by Lessor hereunder or pursuant to any other agreement between Lessor and Lessee will excuse performance by Lessee of any provision hereof, it being understood that in the event of default or breach by Lessor that Lessee will pursue any rights on account thereof solely against Lessor, that the rights of the assignee will be free of any claim or defense Lessee may have against Lessor and that Lessee will not assert against the assignee any claim or defense Lessee may have against Lessor. Without limiting the generality of the foregoing, the rights of an assignee will not be affected by any claim Lessee may have against Lessor resulting from Lessor's rejection of the Lease in a bankruptcy proceeding or Lessor's interference with Lessee's quiet enjoyment of the Vehicle. No such assignee will be obligated to perform any duty, covenant or condition required to be performed by Lessor under the terms of this Lease, and Lessee agrees that no such assignment shall be deemed to increase or change Lessee's obligations hereunder.

Subject always to the foregoing, this Lease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors and assigns of the parties hereto.

25. **Late Charge; Dishonored Check.** Notwithstanding any terms and conditions in the Base Contract providing otherwise, payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

26. **Markings.** If Lessor supplies Lessee with decals or other markings stating that the Vehicle is owned by Lessor, Lessee will affix and keep the same displayed on the Vehicle as directed by Lessor.

27. **Additional Documents.** If requested by a party, the other party shall procure and deliver to the requesting party such documents as the requesting party shall reasonably deem necessary or desirable in connection with this Lease. Without limiting the generality of the foregoing, Lessee further will furnish Lessor: (a) a fiscal year-end financial statement including balance sheet and profit and loss statement within one hundred twenty (120) days of the close of each fiscal year; (b) any other information normally provided by Lessee to the public; and (c) such other financial data or information relative to this Lease and the Vehicle as Lessor may from time to time request.

28. **Non Waiver.** No covenant or condition of this Lease can be waived except by the written consent of the party whose rights are affected. Forbearance or indulgence by a party in any regard whatever shall not constitute a waiver of the covenant or condition to be performed by the other party, and, until complete performance by said party of said covenant or condition, the party to which the performance is owed shall be entitled to invoke any remedy available to that party despite such forbearance or indulgence.

29. **Entire Agreement; Amendment and Modification.** This Master lease incorporates all terms and conditions of the Base Contract, as amended, and any other exhibits or addenda hereto, including but not limited to the Schedule(s), Texas Comptroller of Public Accounts Statewide Procurement Division Texas Multiple Award Schedule Terms and Conditions (attached hereto as Exhibit A, and herein referred to as "TXMAS Terms and Conditions"), the Addendum to Exhibit A, and TXMAS Offer Packet Application Checklist (attached hereto as Exhibit B) (collectively, the aforementioned documents, Schedule(s) and this Master Lease are referred to in this Section as the "Agreement"). The Agreement constitutes and contains the entire agreement between Lessee and Lessor regarding the leasing of Vehicles by Lessor to Lessee and any other matters set forth herein, and it supersedes any and all prior agreements and understandings of the parties, whether written or oral, that relate to the subject matter hereof. This Agreement cannot be amended or modified orally; rather, the parties may amend, alter or supplement only by a written agreement signed by both parties. In the event of a conflict between this Agreement and any of the exhibits and attachments referenced herein, the conflict shall be resolved in the following order of priority:

- a. Addendum to Exhibit A;
- b. TXMAS Terms and Conditions;
- c. TXMAS Offer Packet Application Checklist; and
- d. this Master Lease.

30. **Notices; Designation of Authorized Representative.** Notices under this Lease shall be sufficient if in writing and given personally, mailed, U.S. mail certified postage prepaid, or sent by electronic means (such as email) to the party involved at its respective address set forth below or at such address as such party may provide from time to time on notice given as provided

in this Section. Any such notice so mailed to such address shall be effective when deposited in the United States mail, duly addressed, with postage prepaid. Notices personally delivered will be effective upon delivery. Notice sent via electronic means is effective on the date the recipient receives the notice. For purposes of this Lease, Lessee shall designate its chief administrative officer or other officer or person as its Authorized Representative to receive any notices or other communications required under this Lease. Accordingly, Lessee hereby names and designates the following person as its Authorized Representative:

Authorized Representative Name: Robert Hanna
Title/Position: City Manager
Address: 555 Walnut Street Abilene, TX 79601
Phone Number: 325-676-6226
Email Address: Robert.hanna@abeilenetx.gov

31. **Number; Joint and Several Liability.** Whenever the context of this Lease requires, the singular number includes the plural. If there is more than one Lessee named in this Lease, the liability of each shall be joint and several.

32. **Titles.** The titles to the sections of this Lease are solely for the convenience of the parties and are not an aid in the interpretation hereof.

33. **Time.** Time is of the essence of this Lease and each and all of its provisions.

34. **Governing Law; Venue.** This Lease will be governed by the laws of the State of Texas. This Lease is performable in whole or in part in Travis County, Texas. Venue for any action related hereto will be in an appropriate court in Travis County, Texas, to which all parties consents.

35. **Lessee's Representations and Warranties.** As of the Effective Date of this Master Lease, and the date on which Lessee signs the Schedule, Lessee represents and warrants to Lessor: (a) RESERVED; (b) Lessee is authorized under the constitution and laws of the State to enter into this Lease and the transaction contemplated hereby and to perform all of its obligations hereunder; (c) the execution and delivery of this Master Lease and any Schedule and the performance of Lessee's obligations hereunder and thereunder have been duly authorized by all necessary action on the part of Lessee; (d) no event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof; (e) as of the date of entering into this Master Lease and/or any Schedule, Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to pay the rent scheduled to come due during the current fiscal year and to meet its other obligations under this Lease during the current fiscal year, and such funds have not been expended for other purposes; (f) Lessee has complied with such public bidding requirements as may be applicable to this Lease and the acquisition by Lessee of the Vehicle(s) hereunder; (g) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Lease or any other document,

agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Lease or materially adversely affect the financial condition or properties of Lessee; (h) all authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Lease or in connection with the carrying out by Lessee of its obligations hereunder have been obtained; (i) the entering into and performance of this Lease or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Vehicle(s) pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided; (j) each person executing this Master Lease, the Schedule or any other related document on behalf of Lessee has been duly authorized to do so (each person so signing, joins in and makes this representation and warranty along with Lessee); (k) any and all financial data and other information which Lessee has submitted, or will submit, to Lessor is, or shall be at the time of delivery, as appropriate, a true, correct and complete statement of the matters therein contained; (l) this Master Lease and the Schedule constitute a legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally; (m) the Vehicle, if delivered in conjunction herewith by Lessor to a department or agency of Lessee or to any other entity or person designated by Lessee, whether at the request of Lessee, such department, agency, entity or person, is the Vehicle for all purposes of this Lease, and Lessee is primarily liable and shall remain primarily liable for its obligations under this Lease with respect to the Vehicle; (n) the Vehicle is essential to the governmental functions of Lessee, that Lessee has an immediate need for the Vehicle and will be used by Lessee solely for the purpose of performing one or more of Lessee's essential governmental functions consistent with the permissible scope of Lessee's governmental authority immediately after delivery and for the foreseeable future; and (o) the Vehicle will not be used in a non-governmental capacity such as by a business or for the personal use of a person or entity other than the Lessee.

36. **Waiver of Trial by Jury.** LESSOR AND LESSEE IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT A RIGHT TO A JURY IS A CONSTITUTIONAL RIGHT, THAT THEY HAVE HAD AN OPPORTUNITY TO CONSULT WITH INDEPENDENT COUNSEL, AND THAT THIS JURY WAIVER HAS BEEN ENTERED INTO KNOWINGLY AND VOLUNTARILY BY THE PARTIES. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO TRIAL BY THE COURT.

37. **Prohibition Against Boycotting Israel & Doing Business with Foreign Terrorist Organization.** Pursuant to sections 2252.152 and 2270.002 of the Texas Government Code, Lessor represents and warrants that it does not boycott Israel and will not boycott Israel during the term of the Master Lease. Further, Lessor represents and warrants that it does not

engage in business with Iran, Sudan, or any foreign terrorist organization (as defined and/or determined by the Texas Comptroller).

38. **Severability.** If any provision in this Master Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect, as if this Master Lease had been executed without any such invalid provision having been included.

39. **Electronic Signatures.** The parties hereto agree that this Master Lease (and any Schedules or any other related or ancillary documents) may be signed by electronic means. Any electronic signature and any contract formation or record-keeping through electronic means shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law including the Electronic Signatures in Global and National Commerce Act and/or any State law based on the Uniform Electronic Transactions Act. Each party agrees that any electronic signatures may used by the parties in lieu of an original, manual signature page(s) for any and all purposes, and each party agrees that they shall be entitled to rely on any such electronic signature purportedly given by or on behalf of the executing party without further verification. Notwithstanding anything contained herein to the contrary, Lessor is under no obligation to accept an electronic signature in any form or in any format unless expressly agreed to by Lessor pursuant to procedures approved by it. Lessee agrees that, if requested by Lessor, Lessee will provide an original manually executed counterpart.

Certification by Lessee under Section 7701(h)
of the Internal Revenue Code

Lessee hereby certifies under penalty of perjury that Lessee intends that more than 50% of the use of each Vehicle will be in Lessee's trade or business. Lessee further states that Lessee has been advised that Lessee will not be treated as the owner of any of the Vehicles for federal income tax purposes.

LESSEE:

City of Abilene, Texas

By: _____

Name: Robert Hanna

Title: City Manager

Signature Page Follows

IN WITNESS WHEREOF, the parties hereto have executed this Master Lease as of the Effective Date set out above.

LESSOR:

COMMERCIAL VEHICLE LEASING,
L.L.C., d/b/a D&M Leasing

By: _____
Name: Lauren Crysup
Title: Commercial Lease Servicer

Address:
1400 W. 7th Street, Suite 200
Forth Worth TX, 76102

LESSEE:

City of Abilene, Texas

By: _____
Name: Robert Hanna
Title: City Manager

Address:
555 Walnut Street
Abilene TX, 79601

City Council Meeting

05/09/2024





FY24 Master Leasing Agreement

- Leasing Agreement will be through D&M Leasing, Inc.
- D&M Leasing, Inc. was awarded Buyboard contract 652-21.
- This agreement has no cost associated with it, but will govern lease terms as those leases are executed.
- Leases that meet the purchasing policy threshold will be brought to Council for approval.





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion and Take Action to Authorize Leasing Three (3) Police Administration Vehicles under the Master Lease Agreement with D&M Leasing and using Buyboard Contract 652-21. (Don Green)

GENERAL INFORMATION

At the request of City Administration and the Abilene Police Department, Fleet Services will add three (3) supervisor-specified Tahoes to the fleet. These additions to the fleet will be acquired from D&M Leasing on a 36-month lease. Police equipment outfitting is included in the lease package and will be installed prior to delivery.

The D&M Leasing quote of the Total Monthly Rental of \$1,555.37 per vehicle is an estimate. The firm lease price will be determined based on the manufacturer's actual invoice price and the interest rate on the date of delivery per Notes 1 and 2 on the Lease Quote.

The City Manager is recommending that we explore lease options for police Tahoe procurement as it allows the City to purchase more Tahoes for less money than our current practice of purchasing the full cost value of the Tahoe up front. As we move into FY 25, embracing vehicle procurement practices used by many large corporations and even the Texas Department of Public Safety will allow the City to meet our goal of one Tahoe per patrol officer in the most cost-effective manner possible. At the end of the lease, the City receives credit for the remaining value of the vehicle and then leases a replacement vehicle. This essentially treats police Tahoes as a traded commodity rather than a depreciating asset. In addition, it will reduce some of the heavier maintenance costs associated with older Tahoes since we will be replacing them on a three-year rotating basis. We wish to pursue this first lease with a limited number of vehicles to better understand timing and delivery.

SPECIAL CONSIDERATIONS

D&M Leasing has been awarded a cooperative purchasing contract 652-21 with Buyboard Purchasing Cooperative.

FUNDING/FISCAL IMPACT

The lease of these vehicles was unplanned, but there remains available appropriated dollars in the fleet fund for the remainder of FY 2024 to pay for these unplanned vehicles. The monthly lease charges will be collected through the Fleet Replacement monthly billing process once we have taken delivery of the vehicles. The monthly fee, per vehicle, is estimated to be \$1,555.37.

STAFF RECOMMENDATION

Staff recommends approval of the acquisition of three (3) Police Administrative Tahoes as additions to the fleet through a lease program with D&M Leasing. This lease will also serve to analyze the feasibility of future lease acquisitions.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. D-M Leasing Tahoe Lease Resolution (5-9-24)
2. Abilene PD Quote 36 Month
3. FY24 Asst. Chief's Tahoes PiP

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF ABILENE, TEXAS

TO AUTHORIZE THE CITY MANAGER TO ENTER A LEASE UNDER THE MASTER LEASE AGREEMENT WITH D&M LEASING FOR THREE (3) CHEVROLET TAHOE PPVS THOUGH BUYBOARD CONTRACT 652-21, QUOTE 24424

WHEREAS, City of Abilene has a need for an additional three (3) Police Administration vehicles; and

WHEREAS, the City has a Master Lease Agreement with D&M Leasing; and

WHEREAS, D&M Leasing provided lease pricing and terms in Quote 24424 for three (3) 2024 PPV Chevrolet Tahoes under Buyboard Purchasing Cooperative Contract 652-21 for thirty six (36) months; and

WHEREAS, D&M Leasing Commercial is an approved vendor for the PPV Tahoes.

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

PART 1: That the City Council authorizes the City Manager to enter into the lease agreement with D&M Leasing Commercial of Dallas, TX for the thirty six (36) month lease of three (3) PPV Chevrolet Tahoes in the estimated amount of \$1,555.37 per vehicle per month using Buyboard Purchasing Cooperative Contract 652-21, Quote 24424.

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

ADOPTED this 9th day May, 2024

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



Open-End (Equity) Lease Quote

Quote: 24424

Prepared For: City of Abilene, Texas

Date: 04/30/2024

Unit#: 24424

Unit: 2024 Chevrolet Trucks TAHOE 2WD 4dr Wgn LS

Order Type: Ordered

Term: 36

State: TX

Customer#: 7770

Schedule#: 0.00

\$ 65,563.00	Capitalized Cost of Vehicle ¹
\$ 0.00	Up Front Sales Tax Rate <u>6.25%</u> State <u>TX</u>
\$ 21.75	Initial License and Registration Fees
\$ 15,028.00	Added Equipment (See Page 2)
\$ 0.00	Acquisition Fee
\$ 0.00	Other Capitalized Fees Tax
\$ 0.00	on Gain on Prior Vehicle
\$ 0.00	Inventory Tax Extended
\$ 0.00	Service Contract Gross
\$ 65,584.75	Capitalized Cost LESS:
\$ 0.00	Cash Down
\$ 0.00	Trade Equity
\$ 0.00	Rebate
\$ 65,584.75	Total Capitalized Cost (Delivered Price)

All language and acknowledgements contained in the signed quote apply to all vehicles ordered under this signed quote

Order Information

Driver
Ext Color
Int Color
License
GVWR 0



Contract # 652-21

\$ 1,192.30	Depreciation Reserve @ <u>1.818%</u>
\$ 363.07	Monthly Lease Charge (Based on Rate - Subject to a Floor) ²
\$ 1,555.37	Total Monthly Rental Excluding Additional Services

Additional Fleet Management and Services

\$ 0.00	Full Maintenance Program ³
\$ 0.00	Miscellaneous
\$ 0.00	Additional Services Sub Total

Contract Miles 0
Incl: #Brake Sets (1 set = 1 axle) 0

Over Mileage Charge \$ 0.0000 / Mile
#Tires 0 Loaner Vehicle Not Incl

\$ 0.00	Monthly Sales Tax <u>0.00%</u>
\$ 0.00	Total Monthly Insurance

\$ 1,555.37 Total Monthly Rental Including Additional Services

\$ 22,661.80	Reduced Book Value at <u>36</u> Months
\$ 250.00	Service Charge Due at Lease Termination

Monthly Insurance Premiums and Disclosures

<u>\$ 0.00</u>	Commercial Liability Enrollment (Estimate Only)
<u>\$ 0.00</u>	Physical Damage (Estimate Only)
	Liability Limit <u>\$ 0.00</u>
	Comprehensive/Collision Deductible: <u>\$ 0.00 / \$ 0.00</u>

Quote based on estimated annual mileage of 25,000 and a Security Deposit of \$ 0.00

(Current market and vehicle conditions may also affect value of vehicle)

(Quote is Subject to Customer's Credit Approval)

Terms:

Commercial Vehicle Leasing, L.L.C., d/b/a D&M Leasing Commercial (Lessor) will be the owner of the vehicle(s) covered by this Quote, and shall have all rights and remedies arising under the Master Lease. By signing below, Lessee authorizes Lessor to order the vehicle(s), and Lessee agrees to accept delivery and lease the vehicle(s) pursuant to the Master Lease. In the event Lessee fails or refuses to accept delivery of the vehicle(s), Lessor shall have the right to recover from Lessee any damages (whether actual, general consequential, special, incidental or otherwise) and seek any other available relief, at law or in equity, arising from such failure or refusal. The terms of the Master Lease are referenced and incorporated herein. Lessee acknowledges and agrees that Lessor makes no promises, representations or warranties concerning the manufacture or delivery date for the vehicle(s). Lessee certifies that it intends for more than 50% of the use of the vehicle is to be in a trade or business of Lessee. **ALL TAX AND LICENSE FEES TO BE BILLED TO Lessee AS THEY OCCUR.**

LESSEE City of Abilene, Texas

BY

TITLE

DATE

04/30/2024

* INDICATES ITEMS TO BE BILLED ON DELIVERY.

1 Capitalized Cost of Vehicle may be adjusted to reflect final manufacturer's invoice. Lessee hereby assigns to LESSOR any Manufacturer Rebates and/or Manufacturer incentives intended for the Lessee, which Rebates and/or incentives have been used by LESSOR to reduce the Capitalized Cost of the Vehicle.

2 Monthly Lease Charge will be adjusted to reflect the Interest Rate on the Delivery Date (Subject to a Floor).

3 The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of the Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule /Quote] all such maintenance services are to be performed by LESSOR and all such maintenance fees are payable by Lessee solely for the account of LESSOR pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and LESSOR; provided that such maintenance fees are being billed by LESSOR and are payable at the direction of LESSOR solely as an authorized agent for collection on behalf of LESSOR.

Quote: 24424

Date: 04/30/2024

Unit: 2024 Chevrolet Trucks TAHOE 2WD 4dr Wgn LS

Description	(B)illed or (C)apped	Price
Police Upfit Package - Slick Top	C	\$ 14,678.00
Delivery/Transport	C	\$ 350.00
Total Charges (B)illed		\$ 0.00
Total Charges (C)apitalized		\$ 15,028.00
Total of All Added Equipment and Other Charges		\$ 15,028.00

City Council Meeting

05/09/2024





FY24 Police Fleet Additions

- These leases were unplanned purchases, but there is available funding in the in the FY24 budget.
- These vehicles will be additions to the fleet.
- Units to be upfitted 2024 Chevrolet Tahoe PPVs.
- Leased through D&M Leasing, Inc. under the Master Lease Agreement and using Buyboard contract 652-21.





FY24 Police Fleet Additions





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 11. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve Amendment Five to the Ground Lease with Abilene Aero for an Above Ground Fuel Farm (Don Green)

GENERAL INFORMATION

Abilene Aero is constructing an Above Ground Fuel Tank Farm to service its customers. This new tank farm provides new fuel storage and dispensing equipment, a fuel spill catch basin, double walled NFPA-approved tanks for Jet A, AvGas, and Unleaded fuels. The new farm is placed on a new leasehold area and will replace the Underground Fuel Tanks used by Abilene Aero for many years.

Once the new fuel farm is operating satisfactorily, Abilene Aero will remove the Underground Storage Tanks and all associated equipment and restore the area to open ground.

Amendment 5 to the Ground Lease with Abilene Aero, adds the Above Ground Tank area, approximately 7,750 square feet, to the leasehold and allows for the removal of the Underground Tank Area, approximately 4,890 square feet, from the leasehold when restoration of the area is complete.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of Amendment 5 to the Ground Lease with Abilene Aero.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board approved its recommendation for approval at its February 8, 2023 meeting and reconfirmed at its April 24, 2024 meeting.

ATTACHMENTS:

1. Amendment 5 - Abilene Aero Ground Lease Resolution
2. Abilene Aero Lease Amendment 5 Presentation 5-9-24

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, APPROVING AMENDMENT FIVE
TO THE GROUND LEASE WITH ABILENE AERO AT ABILENE REGIONAL AIRPORT**

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

WHEREAS, by Agreement signed by parties on May 26, 2004, the City of Abilene (Lessor) and Abilene Aero, Inc., (Lessee) entered into an Agreement for Land Lease at the Abilene Regional Airport; and,

WHEREAS, Lessee requests Lessor amend the 2004 Agreement for Land Lease between Lessor and Lessee to include the new leasehold area (**Amendment 5 Exhibit A**), for the necessary placement of Above Ground Storage Tanks for various fuel products distributed by Lessee's fixed base operations; and,

WHEREAS, this amendment will release the leased premises depicted in **Amendment 5 Exhibit B**, where the Lessee's Underground Storage Tanks are currently placed, after removal of the tanks and restoration of the premises has taken place in accordance with requirements of the Texas Commission on Environmental Quality, U.S. Environmental Protection Agency, and to the satisfaction of the Lessor; and

WHEREAS, such proposed additional leasehold and improvements will be operated within the scope of, and in conformance with, all sections and provisions of the existing Agreement for Land Lease, and therefore, constitutes only an expansion of the Leased Premises as depicted in **Amendment 5 Exhibit A**.

WHEREAS, Amendment 5 and its Exhibits are made a part of this Resolution as Attachment 1.

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

1. That the City Manager is authorized to enter into Amendment 5 of the Ground Lease with Abilene Aero, Inc.
2. That this Resolution takes effect immediately upon Council approval.

ADOPTED this 9th day of May 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

AMENDMENT #5

LAND LEASE FOR FIXED BASE OPERATIONS
For
ABILENE AERO, INC.

WHEREAS, by Agreement signed by parties on May 26, 2004, the City of Abilene (Lessor) and Abilene Aero, Inc., (Lessee) entered into an Agreement for Land Lease at the Abilene Regional Airport; and,

WHEREAS, Lessor is party to an Agreement for Land Lease; and,

WHEREAS, Lessee will construct improvements on leasehold for the expansion of Lessee's fixed base operations; and,

WHEREAS, Lessee requests Lessor amend the 2004 Agreement for Land Lease between Lessor and Lessee to include the new leasehold area (Exhibit A), for the necessary placement of Above Ground Storage Tanks for various fuel products distributed by Lessee's fixed base operations; and,

WHEREAS, this amendment will release the leased premises depicted in Exhibit B, where the Lessee's Underground Storage Tanks are currently placed, after removal of the tanks and restoration of the premises has taken place in accordance with requirements of the Texas Commission on Environmental Quality, U.S. Environmental Protection Agency, and to the satisfaction of the Lessor; and

WHEREAS, such proposed additional leasehold and improvements will be operated within the scope of, and in conformance with, all sections and provisions of the existing Agreement for Land Lease, and therefore, constitutes only an expansion of the Leased Premises as depicted in **Exhibit A**.

NOW, THEREFORE, the parties do mutually agree as follows:

Section 3.01: Demise of Leased Premises, is revised by adding the following: Exhibit A, which depicts Section 5 of Lessor's revised leasehold that shall become a part of Lessor's existing Land Lease and subject to all provisions therein.

Section 4.01 (a): Initial Ground Rental, is revised by adding a second paragraph as follows:

Exhibit A depicts the added Area A, consisting of approximately Seven Thousand Seven Hundred Fifty (7,750) square feet of unimproved land. The initial annual rental for the leasehold depicted in Exhibit A shall be at a rate of Twenty-Three and Seventy-One Hundredths Cents (\$.2371) per square foot per year to the City, resulting in an initial annual rental for the Section Five unimproved leasehold depicted in Exhibit A of One-Thousand Eight Hundred Thirty-Seven Dollars and Fifty- Three Cents (\$1,837.53) the first year.

Exhibit B depicts the area to be removed from the leasehold upon satisfactory removal of all equipment and restoration of the leasehold by the Lessee. This will result in a reduction of the leasehold area of 4,889 square feet and a reduction of rent of up to \$1,159.19 per year.

Section 4.01 (b): Commencement of Rental, is revised by adding the following: The obligation for ground rental of Lessee to Lessor as aforesaid for that portion of the leasehold depicted in Exhibit A shall commence on **June 1, 2024**.

Section 4.01 (c): Adjustment of Rent, is revised by adding the following as a second paragraph: The adjustment of rent provision set forth above shall apply to Section Five of Lessor's leasehold depicted in **Exhibit A** on the scheduled date of adjustment for the original leasehold.

IN WITNESS WHEREOF this Amendment has been entered into and is effective as of the Effective Date and has been executed by the respective officers of the parties hereto as of the dates noted below.

(THE REST OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY)

Lessee:

ABILENE AERO, INC.,

ATTEST:

By: _____
JOE CRAWFORD, PRESIDENT

By: _____

Date: _____

Date: _____

Lessor:

ATTEST:

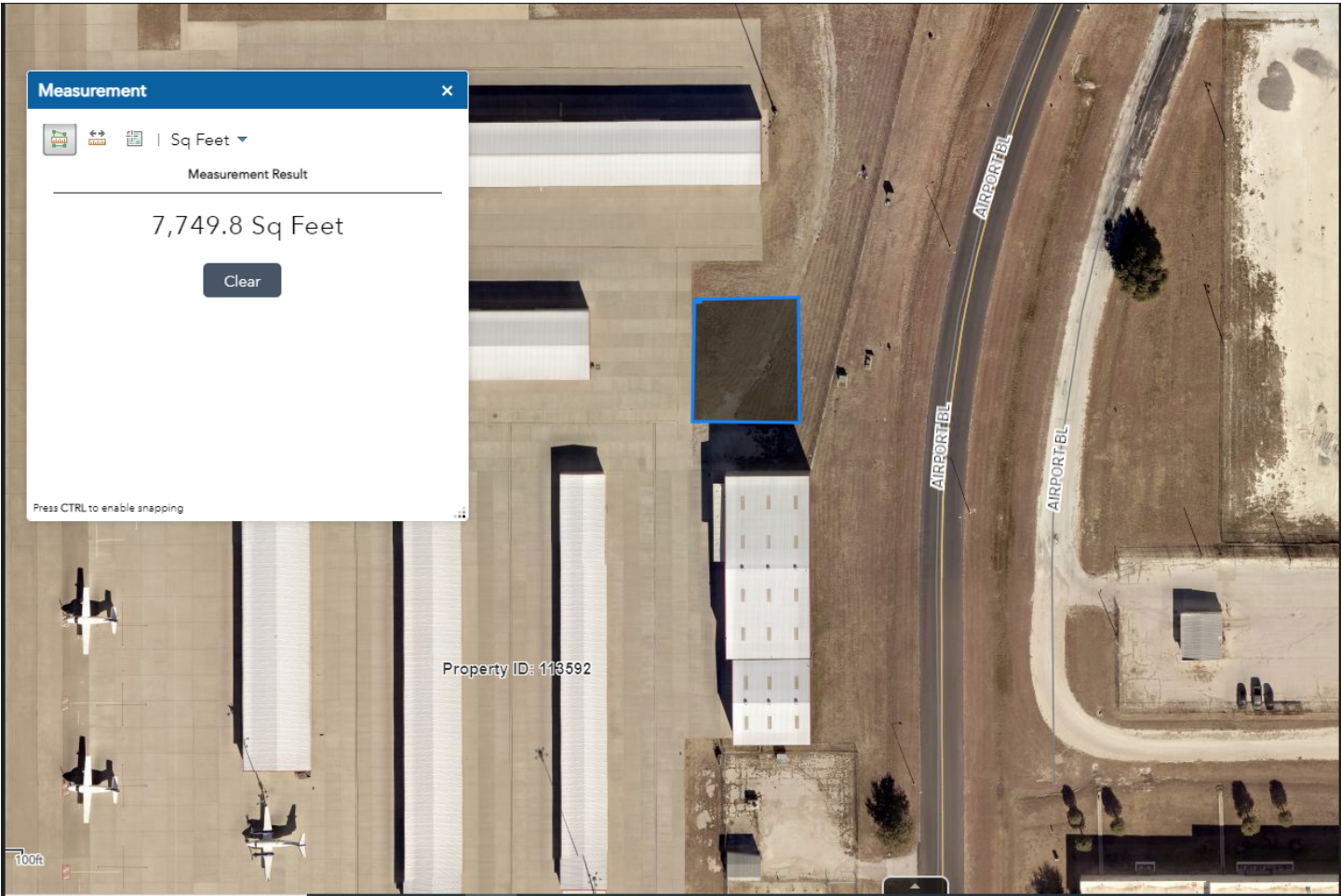
CITY OF ABILENE:

SHAWNA ATKINSON, CITY SECRETARY

ROBERT HANNA, CITY MANAGER

APPROVED:

STANLEY SMITH, CITY ATTORNEY





City Council Meeting

5/9/2024





Amendment 5 to the Ground Lease with Abilene Aero

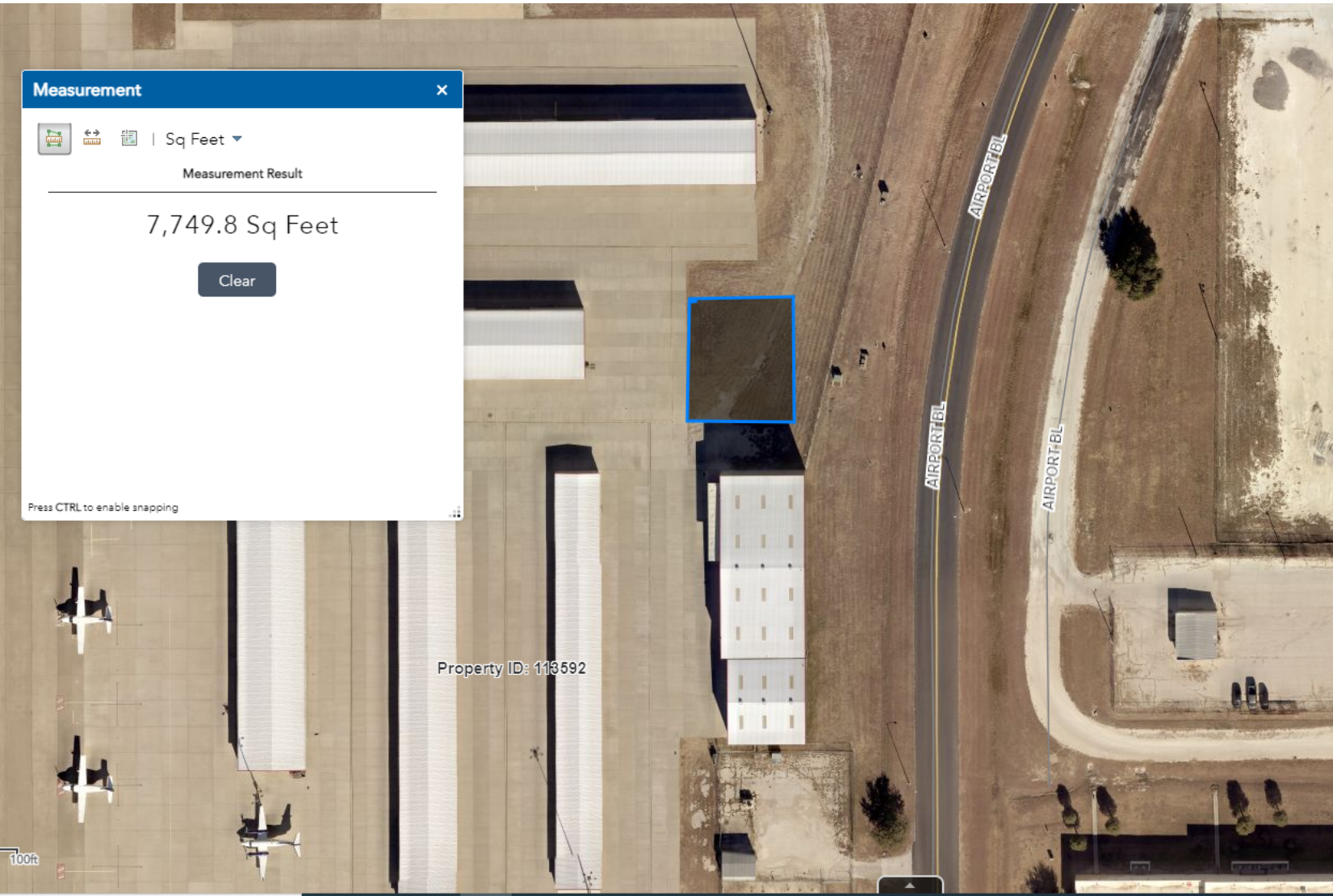
- Abilene Aero is constructing an Above Ground Fuel Tank Farm to service its customers. This new tank farm provides new fuel storage and dispensing equipment, a fuel spill catch basin, double walled NFPA-approved tanks for Jet A, AvGas, and Unleaded fuels.
- The new farm is placed on a new leasehold area (Area A) and will replace the Underground Fuel Tanks used by Abilene Aero for many years.



- Once the new fuel farm is operating satisfactorily, Abilene Aero will remove the Underground Storage Tanks (Area B) and all associated equipment and restore the area to open ground.
- Amendment 5 to the Ground Lease with Abilene Aero, adds the Above Ground Tank area, approximately 7,750 square feet, to the leasehold and allows for the removal of the Underground Tank Area, approximately 4,890 square feet, from the leasehold when restoration of the area is complete.



Amendment Area A



Amendment 5 Area B







**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 12. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing Contracts for Texas Courts and Windscreens that Cumulatively are Over \$50,000 (Lesli Andrews)

GENERAL INFORMATION

The City of Abilene had four, stand-alone projects. Texas Courts and Windscreens was the low bid on all projects. Cumulatively, they will go over the \$50,000 threshold requiring City Council approval pursuant to the City's procurement policy.

The City Council approved \$300,000 MIP funds for league park improvements. The resurfacing of the Cal Young hockey rink is one of the approved improvements. The City of Abilene resurfaces two of the 15 courts annually at the Rose Tennis Center as general maintenance to keep up with normal wear and tear from extensive use. The City of Abilene is resurfacing the Sears basketball court and the Nelson Wilson half court as part of the FY 24 park improvements.

Texas Courts and Windscreens is the only local contractor that provides this service. Therefore, receiving competitive bids for resurfacing services is not common.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Cal Young Hockey Rink Resurface = \$27,950 will be paid 80% from approved FY24 MIP funds and 20% league funds

Rose Tennis Courts Repair/Resurface = \$16,215 will be paid from approved FY24 General Fund

Sears Basketball Court Resurface = \$12,800 will be paid from approved FY24 General Fund
Nelson Wilson Half Court Resurface = \$4,200 will be paid from approved FY24 MIP funds
Total Expected Cost to Date = \$61,165

STAFF RECOMMENDATION

Staff recommends approval of all four contracts with Texas Courts and Windscreens.

BOARD OR COMMISSION RECOMMENDATION

The Parks and Recreation Board approved the Cal Young Hockey Rink resurfacing as part of the \$300,000 MIP FY24 Capital Improvement Grant program on February 20, 2024.

ATTACHMENTS:

1. 5_9_24 Resolution_ Approval Authorizing Contracts for Texas Courts and Windscreens that Cumulatively are Over \$50,000
2. Cal Young Hockey Resurfacing Contract
3. Sears Park Basketball Resurface Contract
4. Rose Tennis Center Tennis Court Resurface Contract
5. Nelson Wilson Half Court Resurface Contract
6. Bid memos
7. Presentation - Authorizing Contracts for Texas Courts and Windscreens Cumulatively Over 50K

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY STAFF TO AUTHORIZE CONTRACTS FOR TEXAS COURTS
AND WINDSCREENS THAT CUMULATIVELY ARE OVER \$50,000.**

WHEREAS, the City of Abilene had four separate stand-alone projects. Texas Courts and Windscreens was the low bid on all projects. Cumulatively, they will go over the \$50,000 threshold requiring City Council approval.; and

WHEREAS, the City Council approved \$300,000 MIP funds for league park improvements. The resurfacing of the Cal Young hockey rink is one of the approved improvements.; and

WHEREAS, the City of Abilene resurfaces two of the 15 courts annually at Rose Tennis Center as general maintenance to keep up with normal wear and tear from extensive use; and

WHEREAS, The City of Abilene is resurfacing the Sears basketball court and the Nelson Wilson half court as part of the FY 24 park improvements.

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

Part 1: The City Staff is hereby authorized to authorize contracts for Texas Courts and Windscreens that cumulatively are over \$50,000.

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

ADOPTED this 9th day of May 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



CONSTRUCTION CONTRACT (Short Form)

This Contract, dated the 11 day of April, 2024, is between the City of Abilene ("City"), a home rule municipal corporation of the State of Texas and Texas Courts & Windscreens ("Contractor"), a privately owned business organized under the laws of the State of Texas.

I. TERMS

In consideration of \$27,950, the Contractor must provide the services described in Attachment A, which is incorporated by reference, according to all its provisions.

After the Contractor has fully performed the terms of this Contract and the City's agent is satisfied that the work has been completed with the terms of this Contract, the City's agent shall pay the Contractor in one lump sum the payment specified.

The City reserves the right to prorate or to withhold payment from the Contractor if the City's agent determines that the Contractor failed to fully perform the work in accordance with the terms of this Agreement, in which case the Contractor shall bear all costs, including the cost to the City of hiring someone else, due to the Contractor's neglect, delay, or refusal to fulfill the terms of this Contract.

The City reserves the right to have its agent inspect the premises to determine whether or not the Contractor has fully complied with the terms of this Contract.

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

II. PAYMENT

Payment shall be made under the terms of Attachment B, which is incorporated by reference, according to all its provisions.

III. DURATION

Contractor must complete all required work within 60 calendar days after the effective date of this Contract.

IV. ASSIGNMENT

Contractor may not assign any interest under this Contract without the City's prior written consent. In the event of an assignment by the Contractor 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 Contractors successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONTRACTOR

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

VI. AMENDMENT OR MODIFICATION

This Contract, including any attachments, constitutes the parties' entire agreement. This agreement may not be modified or replaced except by another signed written agreement.

VII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

B. Indemnity

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

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

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

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

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

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

**CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE
DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.**

VIII. INSURANCE

A. GENERAL REQUIREMENTS

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

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

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

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

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

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

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

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured for operations under this Contract.
2. Provide for thirty (30) days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

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

<u>Type</u>	<u>Amount</u>
X1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
X2. Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
X3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
___4. Professional Liability	\$500,000 combined single limit (per occurrence)
___5. See Addendum for Special Coverages and/or revisions	
___6. No Insurance Required	

IX. VENUE, CHOICE OF LAW, AND INTERPRETATION

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

X. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XI. INDEBTEDNESS TO CITY

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

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

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

XII. EQUAL EMPLOYMENT OPPORTUNITY

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

XIII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids for this Contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion, or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XIV. SALES TAX

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

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

XVI. PAYMENT AND PERFORMANCE BONDS

If the value of this Bid is below \$50,000, Performance and Payment Bonds are not required; however, the City will not pay the Contractor until the work is accepted and the Contractor furnishes an acceptable Release of Lien and Affidavit of Bills Paid to the City.

If the value of this Bid exceeds \$50,000, the Contractor must furnish a payment bond. If the value of this Bid exceeds \$100,000, the Contractor must also furnish a performance bond when the Contract is executed and delivered to the City. The Bonds, for the full amount of the Contract, must be executed by a corporate surety company authorized to do business in the State of Texas and acceptable to the City. Bonds for projects using federal dollars must be underwritten by a surety name in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

The City may require additional security if the initial surety becomes insolvent, bankrupt, or otherwise financially unable to protect the City under the terms of the Contract. The City's requiring new or additional security relieves neither the original surety nor the Contractor of their obligations under the Contract. City may, without incurring any liability, stop work under the Contract until Contractor furnishes additional security.

XVII. SEVERABILITY AND WAIVER

The partial or complete invalidity of one or more provisions of the Contract shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Contract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

XVII. NOTICES

Any notices or other communications required or permitted under this agreement are sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, addressed to City at:

ATTN: Lesli Andrews, Director Parks and Recreation
P.O. Box 60
Abilene, Texas 79604-0060

or to Contractor at:

ATTN: Jeffrey R. Wise, Owner
5026 Sue Lookout
Abilene, Texas 79606

or to such other address furnished in writing by any party to the others. Notice will be deemed given as of the date so delivered or on the date of deposit in the United States mail, as the case may be.

XVII. COUNTERPARTS

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

XVIII. STATUTORY VERIFICATIONS

Verification Against Boycott of Israel Provision. In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement 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 agreement. The term "company" does not include a sole proprietorship. Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.

Verification Against Discrimination of Firearm or Ammunition Industries Provision. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term “company” does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.

Verification Against Boycott of Energy Companies Provision. Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term “company” does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity’s constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller’s office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Unless the Contractor is not subject to a provision above, the signatory executing this Agreement on behalf of the Contractor verifies that the Contractor: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association; (3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller’s office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

XIX. SECTIONS AND OTHER HEADINGS

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

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

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

CITY OF ABILENE

CONTRACTOR

By: _____

By: Jeffrey R. Wise

Name: Mindy Patterson

Name: Jeffrey R. Wise

Title: Deputy City Manager

Title: Owner

ATTEST:

City Secretary

Federal Tax ID#: Click or tap here to enter text.

75-2524512

APPROVED:

By: _____
City Attorney

Corporate Seal if applicable

ATTACHMENT A

Scope of Work

Prepare and resurface of hockey rink at Cal Young Park. See attached quote.

ATTACHMENT B
PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION(S) SELECTED

OPTION 1

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

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

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

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

OPTION 2 X

Payment is in a lump sum amount of \$27,950. upon completion of the work and written acceptance by the City.

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

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

OPTION 3

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

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

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

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

c. The Contractor must provide a certificate of coverage to the City prior to being awarded the contract.

d. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.

e. Contractor shall obtain from each person providing services on a project and provide to City:

(1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Document)

TEXAS COURTS & WINDSCREENS
5026 Sue Lookout
Abilene, Texas 79606

Jeffrey R. Wise
Owner
(325) 691-1324

BID PROPOSAL
4/4/2024

Presented to: **Mr. Jesus Coronado**
 City of Abilene

Surfacing area: **One hockey rink at Cal Young Park.**

For the sum of: **\$27,950.00 dollars (Labor is \$8,000.00 and materials are \$19,950.00)}**

Colors: **Cape Gray or Colors of your choice from the Plexflor color lineup and standard lines**

Warranty: **This warranty for Plexipave surfacing material and our workmanship is for one year from invoice date. Warranty covers Texas Courts and Windscreens work only and does not include structural defects such as cracks, settlement and/or stains from mineral deposits on concrete or asphalt courts. Repairs under this warranty are limited to correction of defective area only. Cracks and bird baths will be filled and sanded and in most instances will reappear at different intervals of time due to climatic changes, conditions and other factors. Delamination or bubbling resulting from the failure of existing surface or improper court construction, will not be covered by this warranty. Levelling to facilitate drainage must be included in preparatory work. Levelling is not a part of surfacing work unless otherwise noted.**

Jeffrey R. Wise



CONSTRUCTION CONTRACT (Short Form)

This Contract, dated the 18 day of April, 2024, is between the City of Abilene ("City"), a home rule municipal corporation of the State of Texas and Texas Courts & Windscreens ("Contractor"), a privately owned business organized under the laws of the State of Texas.

I. TERMS

In consideration of \$12,800, the Contractor must provide the services described in Attachment A, which is incorporated by reference, according to all its provisions.

After the Contractor has fully performed the terms of this Contract and the City's agent is satisfied that the work has been completed with the terms of this Contract, the City's agent shall pay the Contractor in one lump sum the payment specified.

The City reserves the right to prorate or to withhold payment from the Contractor if the City's agent determines that the Contractor failed to fully perform the work in accordance with the terms of this Agreement, in which case the Contractor shall bear all costs, including the cost to the City of hiring someone else, due to the Contractor's neglect, delay, or refusal to fulfill the terms of this Contract.

The City reserves the right to have its agent inspect the premises to determine whether or not the Contractor has fully complied with the terms of this Contract.

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

II. PAYMENT

Payment shall be made under the terms of Attachment B, which is incorporated by reference, according to all its provisions.

III. DURATION

Contractor must complete all required work within 60 calendar days after the effective date of this Contract.

IV. ASSIGNMENT

Contractor may not assign any interest under this Contract without the City's prior written consent. In the event of an assignment by the Contractor 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 Contractors successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONTRACTOR

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

VI. AMENDMENT OR MODIFICATION

This Contract, including any attachments, constitutes the parties' entire agreement. This agreement may not be modified or replaced except by another signed written agreement.

VII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

B. Indemnity

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

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

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

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

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

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

CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

VIII. INSURANCE

A. GENERAL REQUIREMENTS

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

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

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

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

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

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

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

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured for operations under this Contract. 2. Provide for thirty (30) days advance written notice of cancellation or material change.

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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.

Type Amount

X1. Workers' Compensation Statutory

Employer's Liability \$100,000 per occurrence

X2. Commercial (Public) Liability \$500,000 combined single including, but not limited to: limit for bodily injury

- Premises/Operations and property damage
- Independent Contractors (per occurrence)
- Products/Completed Operations
- Contractual Liability
(insuring above indemnity)
and where the exposures exist
- Explosion Collapse and Underground

X3. Business Automobile Liability \$500,000 combined single to include coverage for: limit for bodily injury

- Owned/Leased Autos and property damage
- Non-Owned Autos (per occurrence)
- Hired Cars

_4. Professional Liability \$500,000 combined single limit (per occurrence)

_5. See Addendum for Special Coverages and/or revisions

_6. No Insurance Required

IX. VENUE, CHOICE OF LAW, AND INTERPRETATION

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

X. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XI. INDEBTEDNESS TO CITY

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

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

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

XII. EQUAL EMPLOYMENT OPPORTUNITY

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

XIII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids for this Contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion, or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XIV. SALES TAX

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

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

XVI. PAYMENT AND PERFORMANCE BONDS

If the value of this Bid is below \$50,000, Performance and Payment Bonds are not required; however, the City will not pay the Contractor until the work is accepted and the Contractor furnishes an acceptable Release of Lien and Affidavit of Bills Paid to the City.

If the value of this Bid exceeds \$50,000, the Contractor must furnish a payment bond. If the value of this Bid exceeds \$100,000, the Contractor must also furnish a performance bond when the Contract is executed and delivered to the City. The Bonds, for the full amount of the Contract, must be executed by a corporate surety company authorized to do business in the State of Texas and acceptable to the City. Bonds for projects using federal dollars must be underwritten by a surety name in the current list of "Surety Companies Acceptable on Federal Bonds" as

published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

The City may require additional security if the initial surety becomes insolvent, bankrupt, or otherwise financially unable to protect the City under the terms of the Contract. The City's requiring new or additional security relieves neither the original surety nor the Contractor of their obligations under the Contract. City may, without incurring any liability, stop work under the Contract until Contractor furnishes additional security.

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XVII. SEVERABILITY AND WAIVER

The partial or complete invalidity of one or more provisions of the Contract shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Contract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

XVII. NOTICES

Any notices or other communications required or permitted under this agreement are sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, addressed to City at:

ATTN: Lesli Andrews, Director Parks and Recreation
P.O. Box 60
Abilene, Texas 79604-0060

or to Contractor at:

ATTN: Jeffrey R. Wise, Owner
5026 Sue Lookout
Abilene, Texas 79606

or to such other address furnished in writing by any party to the others. Notice will be deemed given as of the date so delivered or on the date of deposit in the United States mail, as the case may be.

XVII. COUNTERPARTS

This Contract may be executed in two or more counterparts (including fax, email, or

electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

XVIII. STATUTORY VERIFICATIONS

Verification Against Boycott of Israel Provision. In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement 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 agreement. The term “company” does not include a sole proprietorship. Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.

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Verification Against Discrimination of Firearm or Ammunition Industries Provision. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term “company” does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.

Verification Against Boycott of Energy Companies Provision. Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term “company” does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity’s constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller’s office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Unless the Contractor is not subject to a provision above, the signatory executing this Agreement on behalf of the Contractor verifies that the Contractor: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance,

or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association;

(3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

XIX. SECTIONS AND OTHER HEADINGS

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

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

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

CITY OF ABILENE

CONTRACTOR

By: _____

By: Jeffrey R. Wise

Name: Mindy Patterson

Name: Jeffrey R. Wise

Title: Deputy City Manager

Title: Owner

ATTEST: _____

City Secretary

Federal Tax ID#: Click or tap here to enter text.

75-2524512

APPROVED:

By: _____

City Attorney

Corporate Seal if applicable

ATTACHMENT A

Scope of Work

Prepare and resurface the basetball court of Sears Park. See attached quote.

**PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION(S) SELECTED**

OPTION 1

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

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

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

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

OPTION 2 X

Payment is in a lump sum amount of \$12,800. upon completion of the work and written acceptance by the City.

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

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

OPTION 3

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

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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.

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

c. The Contractor must provide a certificate of coverage to the City prior to being awarded the contract.

d. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.

e. Contractor shall obtain from each person providing services on a project and provide to City:

(1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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

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

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

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

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

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

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

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

(4) obtain from each other person with whom it contracts, and provide to the Contractor: (a) a certificate of coverage, prior to the other person beginning work on the project; and

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

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

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

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(7) contractually require each person with whom it contracts, to perform as required by

paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

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

(End of Document)

TEXAS COURTS & WINDSCREENS
5026 Sue Lookout
Abilene, Texas 79606 (325) 691-1324

Jeff R. Wise
Owner
(325) 691-1324

Presented to: Mr. Jesus Coronado
City of Abilene

BID PROPOSAL
November 14, 2023

This bid is for the repair and resurfacing of one basketball court at Sears Park. Colors to be Dark blue, light blue and red. Lines will be white.

The work will be as follows: The court will be blown and cleaned. The bare concrete court will be primed with a Court patch binder. Spalling areas and cracks will be filled and sanded. Two applications of Acrylic Resurfacer and sand will be applied. Two coatings of texturized color will be applied in their respective areas. And with texturized white lines.

The bid price is \$8,000.00.

The new slab and the older half court surfaced (60 feet X 80 feet) will be \$4,800.00. Procedures same as above. Colors to be determined later.

Total: \$12,800.00

Jeffrey R. Wise

Owner Approval/Acceptance

Date



CONSTRUCTION CONTRACT (Short Form)

This Contract, dated the 18th day of April, 2024, is between the City of Abilene ("City"), a home rule municipal corporation of the State of Texas and Texas Courts & Windscreens. ("Contractor"), a Company organized under the laws of the State of Texas.

I. TERMS

In consideration of \$16,215.00, the Contractor must provide the services described in Attachment A, which is incorporated by reference, according to all its provisions.

After the Contractor has fully performed the terms of this Contract and the City's agent is satisfied that the work has been completed with the terms of this Contract, the City's agent shall pay the Contractor in one lump sum the payment specified.

The City reserves the right to prorate or to withhold payment from the Contractor if the City's agent determines that the Contractor failed to fully perform the work in accordance with the terms of this Agreement, in which case the Contractor shall bear all costs, including the cost to the City of hiring someone else, due to the Contractor's neglect, delay, or refusal to fulfill the terms of this Contract.

The City reserves the right to have its agent inspect the premises to determine whether or not the Contractor has fully complied with the terms of this Contract.

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

II. PAYMENT

Payment shall be made under the terms of Attachment B, which is incorporated by reference, according to all its provisions.

III. DURATION

Contractor must complete all required work within 90 calendar days after the effective date of this Contract.

IV. ASSIGNMENT

Contractor may not assign any interest under this Contract without the City's prior written consent. In the event of an assignment by the Contractor 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 Contractors successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONTRACTOR

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

VI. AMENDMENT OR MODIFICATION

This Contract, including any attachments, constitutes the parties' entire agreement. This agreement may not be modified or replaced except by another signed written agreement.

VII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

B. Indemnity

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

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

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

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

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

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

WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

VIII. INSURANCE

A. GENERAL REQUIREMENTS

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

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

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

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

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

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (B) remodeling, extending, repairing, or demolishing a structure; or
- (C) otherwise improving real property or an appurtenance to real property through similar activities.

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured for operations under this Contract.
2. Provide for thirty (30) days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

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

<u>Type</u>	<u>Amount</u>
<u>X</u> 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
<u>X</u> 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)
<u>X</u> 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)
<u> </u> 4. Professional Liability	\$500,000 combined single limit (per occurrence)
<u> </u> 5. See Addendum for Special Coverages and/or revisions	
<u> </u> 6. No Insurance Required	

IX. VENUE, CHOICE OF LAW, AND INTERPRETATION

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

X. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XI. INDEBTEDNESS TO CITY

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

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

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

XII. EQUAL EMPLOYMENT OPPORTUNITY

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

XIII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids for this Contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion, or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XIV. SALES TAX

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

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

XVI. PAYMENT AND PERFORMANCE BONDS

If the value of this Bid is below \$50,000, Performance and Payment Bonds are not required; however, the City will not pay the Contractor until the work is accepted and the Contractor furnishes an acceptable Release of Lien and Affidavit of Bills Paid to the City.

If the value of this Bid exceeds \$50,000, the Contractor must furnish a payment bond. If the value of this Bid exceeds \$100,000, the Contractor must also furnish a performance bond when the Contract is executed and delivered to the City. The Bonds, for the full amount of the Contract, must be executed by a corporate surety company authorized to do business in the State of Texas and acceptable to the City. Bonds for projects using federal dollars must be underwritten by a surety name in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

The City may require additional security if the initial surety becomes insolvent, bankrupt, or otherwise financially unable to protect the City under the terms of the Contract. The City's requiring new or additional security relieves neither the original surety nor the Contractor of their obligations under the Contract. City may, without incurring any liability, stop work under the Contract until Contractor furnishes additional security.

XVII. SEVERABILITY AND WAIVER

The partial or complete invalidity of one or more provisions of the Contract shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Contract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

XVII. NOTICES

Any notices or other communications required or permitted under this agreement are sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, addressed to City at:

ATTN: Lesli Andrews

P.O. Box 60
Abilene, Texas 79604-0060

or to Contractor at:

ATTN: Jeffrey Wise

5026 Sue Lookout

Abilene, TX 79606

or to such other address furnished in writing by any party to the others. Notice will be deemed given as of the date so delivered or on the date of deposit in the United States mail, as the case may be.

XVII. COUNTERPARTS

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

XVIII. STATUTORY VERIFICATIONS

Verification Against Boycott of Israel Provision. In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement 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 agreement. The term "company" does not include a sole proprietorship.

Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.

Verification Against Discrimination of Firearm or Ammunition Industries Provision. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.

Verification Against Boycott of Energy Companies Provision. Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Unless the Contractor is not subject to a provision above, the signatory executing this Agreement on behalf of the Contractor verifies that the Contractor: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association; (3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

XIX. SECTIONS AND OTHER HEADINGS

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

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

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

CITY OF ABILENE

CONTRACTOR

By: _____

By: 

Name: Lesli Andrews

Name: Click or tap here to enter text.

Title: Director of Parks and Recreation
Click or tap here to enter text.

Title: Click or tap here to enter text.
Click or tap here to enter text.

ATTEST:

City Secretary

Federal Tax ID#: Click or tap here to enter text.

75-2524512

APPROVED:

By: _____
City Attorney

Corporate Seal if applicable

ATTACHMENT A

Scope of Work

The following work is to be performed at Rose Park Tennis Center:

Repair of tennis court 12

Resurface of two tennis courts

Replace two tennis nets and straps

Windscreens for viewing stands #5 & #11 installed.

ATTACHMENT B

**PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION(S) SELECTED**

OPTION 1 ____

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

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

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

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

OPTION 2 X

Payment is in a lump sum amount of \$16,215.00 upon completion of the work and written acceptance by the City.

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

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

OPTION 3 ____

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

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

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

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

 - (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

- (2) no later than seven (7) days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- f. The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- g. The Contractor shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Contractor shall post on each project site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
 - (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 - (6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

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

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

(End of Document)

TEXAS COURTS & WINDSCREENS
5026 Sue Lookout
Abilene, Texas 79606

Jeffrey R. Wise
Owner
(325) 691-1324

Presented to: Mr. Chris Redman
Rose Park Tennis Center/ City of Abilene

BID PROPOSAL
April 2, 2024

This bid is for the resurfacing and repair of two tennis courts.
(# 8 & # 9). The courts will be medium green out of bounds and
Dark Blue playing surfaces. **The price will be \$13,000.00.**
(Two courts at \$6,500.00 each, includes blended lines for youth courts

Two tennis nets and straps are (\$220.00 each) or \$440.00 plus
shipping costs of \$76.00. **Total is \$516.00.**

Also, repairs court #12 **\$300.00**

Windscreens for viewing stands #5 & #11 installed is **\$899.00.**

Repair & resurface the covered area and bleachers net to court #9
will be **\$1,500.00.**

The total for all the above is \$16,215.00

Jeffrey R. Wise



CONSTRUCTION CONTRACT (Short Form)

This Contract, dated the 09 day of May, 2024 , is between the City of Abilene ("City"), a home rule municipal corporation of the State of Texas and Texas Courts and Windscreens. ("Contractor"), a company. organized under the laws of the State of Texas.

I. TERMS

In consideration of \$4,200, the Contractor must provide the services described in Attachment A, which is incorporated by reference, according to all its provisions.

After the Contractor has fully performed the terms of this Contract and the City's agent is satisfied that the work has been completed with the terms of this Contract, the City's agent shall pay the Contractor in one lump sum the payment specified.

The City reserves the right to prorate or to withhold payment from the Contractor if the City's agent determines that the Contractor failed to fully perform the work in accordance with the terms of this Agreement, in which case the Contractor shall bear all costs, including the cost to the City of hiring someone else, due to the Contractor's neglect, delay, or refusal to fulfill the terms of this Contract.

The City reserves the right to have its agent inspect the premises to determine whether or not the Contractor has fully complied with the terms of this Contract.

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

II. PAYMENT

Payment shall be made under the terms of Attachment B, which is incorporated by reference, according to all its provisions.

III. DURATION

Contractor must complete all required work within [Click or tap here to enter text.](#) calendar days after the effective date of this Contract.

IV. ASSIGNMENT

Contractor may not assign any interest under this Contract without the City's prior written consent. In the event of an assignment by the Contractor 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 Contractors successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONTRACTOR

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

VI. AMENDMENT OR MODIFICATION

This Contract, including any attachments, constitutes the parties' entire agreement. This agreement may not be modified or replaced except by another signed written agreement.

VII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

B. Indemnity

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

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

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

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

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

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

**CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE
DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.**

VIII. INSURANCE

A. GENERAL REQUIREMENTS

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

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

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

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

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

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

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

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured for operations under this Contract.
2. Provide for thirty (30) days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

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

<u>Type</u>	<u>Amount</u>
<u>X</u> 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
<u>X</u> 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)
<u>X</u> 3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
___ 4. Professional Liability	\$500,000 combined single limit (per occurrence)
___ 5. See Addendum for Special Coverages and/or revisions	
___ 6. No Insurance Required	

IX. VENUE, CHOICE OF LAW, AND INTERPRETATION

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

X. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XI. INDEBTEDNESS TO CITY

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

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

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

XII. EQUAL EMPLOYMENT OPPORTUNITY

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

XIII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids for this Contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion, or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XIV. SALES TAX

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

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

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If the value of this Bid is below \$50,000, Performance and Payment Bonds are not required; however, the City will not pay the Contractor until the work is accepted and the Contractor furnishes an acceptable Release of Lien and Affidavit of Bills Paid to the City.

If the value of this Bid exceeds \$50,000, the Contractor must furnish a payment bond. If the value of this Bid exceeds \$100,000, the Contractor must also furnish a performance bond when the Contract is executed and delivered to the City. The Bonds, for the full amount of the Contract, must be executed by a corporate surety company authorized to do business in the State of Texas and acceptable to the City. Bonds for projects using federal dollars must be underwritten by a surety name in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

The City may require additional security if the initial surety becomes insolvent, bankrupt, or otherwise financially unable to protect the City under the terms of the Contract. The City's requiring new or additional security relieves neither the original surety nor the Contractor of their obligations under the Contract. City may, without incurring any liability, stop work under the Contract until Contractor furnishes additional security.

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XVII. NOTICES

Any notices or other communications required or permitted under this agreement are sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, addressed to City at:

ATTN: Lesli Andrews.
P.O. Box 60
Abilene, Texas 79604-0060

or to Contractor at:

ATTN: Jeffrey Wise
5026 Sue Lookout

Abilene, TX 79606

or to such other address furnished in writing by any party to the others. Notice will be deemed given as of the date so delivered or on the date of deposit in the United States mail, as the case may be.

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

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Verification Against Boycott of Israel Provision. In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement 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 agreement. The term "company" does not include a sole proprietorship. Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.

Verification Against Discrimination of Firearm or Ammunition Industries Provision. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.

Verification Against Boycott of Energy Companies Provision. Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

Unless the Contractor is not subject to a provision above, the signatory executing this Agreement on behalf of the Contractor verifies that the Contractor: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association; (3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

XIX. SECTIONS AND OTHER HEADINGS

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

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

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

CITY OF ABILENE

CONTRACTOR

By: _____

By: Jeffrey R Wise

Name: Lesli Andrews

Name: Jeffrey Wise.

Title: Director Parks and Recreation.

Title: Owner

ATTEST:

City Secretary

Federal Tax ID#: 75-2524512

APPROVED:

By: _____

City Attorney

Corporate Seal if applicable

ATTACHMENT A

Scope of Work

The following work is to be performed at Nelson Wilson Park: Resurface half-court basketball court at Nelson Wilson Park, See attached for details.

ATTACHMENT B
PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION(S) SELECTED

OPTION 1 ____

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

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

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

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

OPTION 2 _X_

Payment is in a lump sum amount of \$4,200. upon completion of the work and written acceptance by the City.

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

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

OPTION 3 ____

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

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

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

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

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

- f. The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- g. The Contractor shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Contractor shall post on each project site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Contractor shall contractually require each person with whom it contracts to provide services on a project to:

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

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

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

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

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

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

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

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

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

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

(End of Document)

**TEXAS COURTS
5026 Sue Lookout
Abilene, Texas 79606**

**Jeffrey R. Wise
Owner
(325) 691-1324**

**BID PROPOSAL
3/21/2024**

Presented to: Mr. Jesus Coronado
City of Abilene

Surfacing area: One Half Court Basketball Court at Nelson Wilson Park

For the sum of: \$4,200.00 dollars

Colors: Dark Blue or your choice of colors.
With standard white lines.

Warranty: This warranty for Ultra Plexipave surfacing material and our workmanship is for one year from invoice date. Warranty covers Texas Courts and Windscreens work only and does not include structural defects such as cracks, settlement and/or stains from mineral deposits on concrete or asphalt courts. Repairs under this warranty are limited to correction of defective area only. Cracks and bird baths will be filled and sanded and in most instances will reappear at different intervals of time due to climatic changes, conditions and other factors. Delamination or bubbling resulting from the failure of existing surface or improper court construction, will not be covered by this warranty. Levelling to facilitate drainage must be included in preparatory work. Levelling is not a part of surfacing work unless otherwise noted.

Specs: This bid is for two applications of Acrylic Resurfacer & sand and two textured coatings of color with white lines.

Jeffrey R. Wise



MEMORANDUM

City of Abilene, Texas

To: Lesli Andrews, Director of Parks and Recreation

From: Jesús Coronado, Parks Division Manager

Date: 04/11/2024

Subject: Hockey Rink Resurfacing

Mrs. Andrews,

We received two quotes for the Nelson Wilson resurfacing project. One quote came from Texas Courts and Windscreens with a price of \$27,950 the second quote came from KMS Sports Surfaces LLC with a price of \$29,900. We also asked Sport Court Texas for a quote as well but did not receive one from them.

Respectfully,

Jesús Coronado



MEMORANDUM

City of Abilene, Texas

To: Lesli Andrews, Director of Parks and Recreation

From: Jesús Coronado, Parks Division Manager

Date: 04/24/2024

Subject: Nelson Wilson Surfacing

Mrs. Andrews,

We received two quotes for the Nelson Wilson resurfacing project. One quote came from Texas Courts and Windscreens with a price of \$4,200 the second quote came from KMS Sports Surfaces LLC with a price of \$6,100 We also asked Sport Court Texas for a quote as well but did not receive one from them.

Respectfully,

Jesús Coronado

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

Respect • Integrity • Service Above Self • Excellence in All We Do



MEMORANDUM

City of Abilene, Texas

To: Lesli Andrews, Director of Parks and Recreation

From: Jesús Coronado, Parks Division Manager

Date: 5/1/2024

Subject: Sears Basketball Resurfacing

Mrs. Andrews,

We received one quote for the Sears Basketball resurfacing project. The one quote came from Texas Courts and Windscreens with a price of \$12,800. We asked two other companies for a quote as well but did not receive anything from them.

Respectfully,

Jesús Coronado



MEMORANDUM

City of Abilene, Texas

To: Lesli Andrews, Director of Parks and Recreation

From: Ann Hall, Recreation Division Manager

Date: 05/01/2024

Subject: Tennis Courts Resurfacing

Mrs. Andrews,

We reached out to four companies regarding resurfacing two tennis courts at Rose Park Tennis Center. Texas Courts and Windscreens came in at the lowest bid at \$16,215.00. Sports Courts Court Texas no longer offers this service. KMS Sports Surface referred us to CourTex Construction due to not having any time on their schedule. CourTex Construction is not accepting any jobs right now due to no having enough time.

Respectfully,

Ann Hall

Authorizing Contracts for Texas Courts & Windscreens Cumulatively Over \$50K for FY24

May 9, 2024





General Information:

- The City of Abilene had four separate stand-alone projects. Texas Courts and Windscreens was the low bid on all projects. Cumulatively, they will go over the \$50,000 threshold requiring City Council approval.
- The City Council approved \$300,000 MIP funds for league park improvements. The resurfacing of the Cal Young hockey rink is one of the approved improvements.
- The City of Abilene resurfaces two of the 15 courts annually at Rose Tennis Center as general maintenance to keep up with normal wear and tear from extensive use.
- The City of Abilene is resurfacing the Sears basketball court and the Nelson Wilson half court as part of the FY 24 park improvements.





Funding Information:

- Cal Young Hockey Rink Resurface = \$27,950 will be paid 80% from approved FY24 MIP funds and 20% league funds
- Rose Tennis Courts Repair/Resurface = \$16,215 will be paid from approved FY24 General Fund
- Sears Basketball Court Resurface = \$12,800 will be paid from approved FY24 General Fund
- Nelson Wilson Half Court Resurface = \$4,200 will be paid from approved FY24 MIP funds
- Total Expected Cost to Date = \$61,165





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Marjorie Knight, Assistant Director

SUBJECT: **13. Resolution:** Receive a Report, Hold a Discussion, and Take Action on Amending Section 3.1.3(d) and Section 3.4 in the Governing Principles, Rules of Procedures, and Council Policies (*Marjorie Knight*)

GENERAL INFORMATION

On January 14, 2021, the City Council adopted the Governing Principles, Rules of Procedures, and Council Policies to provide governance and guidance to the administration of the City (Resolution 005-2021). This item is to amend Financial Policies in Section 3.1.3(d) and Section 3.4 to further clarify and expand certain funds, programs, and procedures.

Regarding Budget reserves and capital project funds, changes to Section 3.1.3(d) clarify and expand the use of the 5% contribution of utility sales to include other utility system related capital needs.

Regarding Revenues collected in excess of revised budget, changes to Section 3.4 expand the policy to apply to the Utility Fund in addition to the General Fund, as follows:

Revenues to be set aside at annual audit

- (1) The annual audit shall identify revenue in excess of revised budget amounts greater than the required fund reserves for the General Fund and Utility Fund.
- (2) Identified General Fund revenue shall be set aside in the Minor Improvement Fund for Council's consideration and expended in accordance with an adopted funding program.
- (3) Identified Utility Fund revenue shall be set aside in the Utility Capital Development Fund for Council's consideration and expended in accordance with an adopted funding program.

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of the item.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. Resolution No XX-2024 - Amending Governing Principles Rules of Procedures and Council Policies for Utility Fund
2. Article III Financial Policies from Res 005-2021 Governing Principles Rules of Procedures and Council Policies Before Changes
3. Presentation - Resolution Amending Governing Principles Rules of Procedures and Council Policies

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AMENDING SECTION 3.1.3(d), AND SECTION 3.4 IN THE GOVERNING
PRINCIPLES, RULES OF PROCEDURES, AND COUNCIL POLICIES OF THE CITY
OF ABILENE, TEXAS.**

WHEREAS, the City Council adopted the Governing Principles, Rules of Procedures and Council Policies on January 14, 2021 (Resolution No. 05-2021) to provide governance and guidance to the administration of the City of Abilene; and

WHEREAS, Section 3.1.3(d) sets aside 5% of utility sales to a Utility Capital Development Fund, and Section 3.4 controls how revenues in excess of budgeted amounts are used; and

WHEREAS, The City Council now desires to further clarify and expand certain funds, programs, and procedures authorized in Section 3.13(d) and Section 3.4 respectively.

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

Part 1: That the City Council hereby amends Section 3.1.3 (d) to read as follows, language that is ~~struck through~~ is removed, and language that is underlined is added:

(d) The City of Abilene shall contribute 5% of utility sales to a “Utility Capital Development Fund” for expansion of the utility system to unserved, or underserved areas, and for other ~~business-activity~~ utility system related capital needs. In order to achieve this requirement without impacting the ability to provide essential services, the City shall phase in the contribution over a three-year period. For FY 2022, the contribution shall be 1.66%, for FY 2023 the contribution shall increase an additional 1.67%, and for FY 2024 the contribution shall increase an additional 1.67%.

In the event transferring 5% of utility sales into the Utility Capital Development Fund, creates a financial hardship, the Council will be notified and will be asked to provide direction on whether or not to make the required transfer.

Part 2: That the City Council hereby repeals Section 3.4 – Revenues collected in excess of revised budget in its entirety, and replaces it with the following:

3.4 Revenues collected in excess of revised budget.

3.4.1 Purpose

The purpose of this policy is to establish rules governing the use of revenues collected in excess of revised budget amounts for the General Fund and the Utility Fund in any given fiscal year.

3.4.2 Policy and Procedure

The City shall exercise sound, conservative principles and other recognized best practices when estimating revenues to be collected in any given fiscal year. It is recognized that the use of these principles have historically resulted in the collection of revenues in excess of budgeted amounts, and may continue to do so in the future. For any given fiscal year, it shall be the policy of the City Council of the City of Abilene, Texas that the City shall collect and expense revenue in excess of amounts needed to balance expenditures as follows:

(a) Revenues to be set aside at annual audit

1. The annual audit shall identify revenue in excess of revised budget amounts greater than the required fund reserves for the General Fund and the Utility Fund.
2. Identified General Fund revenue shall be set aside in the Minor Improvement Fund for Council's consideration and expended in accordance with an adopted funding program.
3. Identified Utility Fund revenue shall be set aside in the Utility Capital Development Fund for Council's consideration and expended in accordance with an adopted funding program.

(b) Funds to be spent in accordance with an adopted funding program

1. The City Council shall adopt a funding priority list as part of the annual budget process for the upcoming fiscal year. The funding program shall consider unfunded budget requests, additional resources for recurring operating expenses, one-time capital expenditures, dedication of resources for capital replacement funds or other internal service funds.
2. The City Manager shall inform the City Council of the auditor's findings and present a recommended funding program based on Council's adopted funding priority list within 30 days of receiving the final audit. The City Manager may recommend a program that differs from the adopted Council funding priority list if, in the opinion of the City Manager, a business necessity exists.

3. The City Council may authorize the City Manager to expend revenue in excess of revised budget amounts, and in accordance with the City Manager's recommended funding program as amended and adopted by the City Council.

(c) Reserve requirement obligations

1. Nothing in this policy supersedes the City's obligation to maintain reserve requirements at their adopted levels.

Part 2. That this Resolution is effective upon the date of its adoption.

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

Article III – Financial Policies

The purpose of this article is to establish rules governing the financial activities of the City of Abilene, Texas. It is not intended to be an all-encompassing article and it is expected that this article shall be amended from time to time as required. (Adopted by Ordinance XX-2020)

3.1 Financial Planning Policies

3.1.1 General Policies

- (a) The City's fiscal year shall begin October 1, and end September 30 of the following calendar year.
- (b) The City shall account for all revenue and expenditures on a budget basis, except in those instances where identified elsewhere in this policy.
- (c) The City shall adopt the budget on or before the 25th day in September of the previous budget year. Should the City Council fail to enact a budget within this time period, then the budget as submitted by the City Manager becomes the legally authorized budget.
- (d) The budget as adopted must set forth the appropriations for services, functions and activities of the various city departments and agencies, and shall meet all fund requirements provided by law and required by bond covenants.
- (e) The budget shall balance upon adoption and at year's end. At the close of each fiscal year, any unencumbered appropriation balance shall lapse and revert to the unassigned fund balance, unless Council designates the balance for other purposes (See Section 3.4, Council Policy Statement 2015-001).
- (f) The City shall comply with all applicable federal, state and local requirements in the conduct of its financial affairs and shall conform to the practices set forth by the Governmental Accounting Standards Board (GASB) and Generally Accepted Accounting Principles (GAAP).
- (g) The budget for all capital projects are legally adopted for specific projects using project length budgeting rather than fiscal year based budgeting. The unencumbered appropriated balance for capital projects does not lapse at

fiscal year end, rather they lapse at the conclusion of the project. Unencumbered appropriated balances at the conclusion of a capital project are transferred to the Minor Improvement Fund, the Utility Capital Development Fund, or such other fund as may be specified by the City Council.

- (h) Formal budgetary integration is not employed for the proprietary funds. The City adopts an annual budget as a financial plan for all proprietary funds. These budgets are used in a manner similar to commercial enterprises to determine whether their costs will be recovered or to estimate the amount of subsidy needed from the City, if costs are not meant to be recovered.
- (i) The City shall strive to ensure that the taxpayers receive the full benefit of "qualified" tax-exempt debt issuances and do not subsidize the interest expense of other debt issuers using corporations created by the City on their behalf. Any differential in interest expense to the City between "qualified" and "non-qualified" tax exempt debt status that results from debt issued through corporations established by the City Council will be born by those issuers of debt. The differential will be prorated among the issuers utilizing the corporations based on the amount of debt it issues to total debt issued by all corporation issuers during the calendar year. Any differential in the City's cost shall be calculated by the City's financial advisor based on market conditions on the date of the City sale of debt.
- (j) The budget document shall contain a fund summary sheet(s) that lists all funds, their beginning and ending balances, the anticipated revenues and the appropriated expenses authorized for the fiscal year being appropriated. It being the intent of this requirement that the taxpayer may see all sources and uses of public funds in one section of the budget document.

3.1.2 Long range planning

The City of Abilene shall conduct an annual strategic planning session at the start of the budget process in the early spring. Council shall consider current strategic goals, the adoption of additional goals, the current financial condition of the City, and the impact that current and future operating and capital needs will have on the financial condition of the City for the upcoming fiscal year and four subsequent years thereafter.

3.1.3 Budget reserves and capital project funds

- (a) The City of Abilene shall strive to maintain an unassigned fund balance of twenty-five (25%) percent of General Fund expenditures. A fund balance of less than twenty (20%) percent is cause for concern.
- (b) The City of Abilene shall strive to maintain an unassigned fund balance of twenty-five (25%) percent of Utility Fund expenditures. A fund balance of less than twenty (20%) percent is cause for concern.
- (c) The City of Abilene shall contribute 5% of sales tax receipts to a “Minor Improvement Fund” for general government related capital project purposes. In order to achieve this requirement without impacting the ability to provide essential services, the City shall phase in the contribution over a three-year period. For FY 2022, the contribution shall be 1.66%, for FY 2023 the contribution shall increase an additional 1.67%, and for FY 2024 the contribution shall increase an additional 1.67%.

In the event transferring 5% of sales tax receipts into the Minor Improvement Fund, creates a financial hardship, the Council will be notified and will be asked to provide direction on whether or not to make the required transfer.

- (d) The City of Abilene shall contribute 5% of utility sales to a “Utility Capital Development Fund” for expansion of the utility system to unserved, or underserved areas, and for other business activity related capital needs. In order to achieve this requirement without impacting the ability to provide essential services, the City shall phase in the contribution over a three-year period. For FY 2022, the contribution shall be 1.66%, for FY 2023 the contribution shall increase an additional 1.67%, and for FY 2024 the contribution shall increase an additional 1.67%.

In the event transferring 5% of utility sales into the Utility Capital Development Fund, creates a financial hardship, the Council will be notified and will be asked to provide direction on whether or not to make the required transfer.

3.1.4 Capital Project Budgeting

- (a) The City may consider the use of pay as you go financing by using the Minor Improvement Fund or Utility Capital Development Fund when prudent.

- (b) The City shall schedule bond issues so that an equal principal amount is retired each year over the life of the issuance, thus producing a total debt service schedule with a declining balance each year. (This does not prohibit the issuance of new debt.)

3.2 Revenue Policies

3.2.1 Revenue diversification

The City of Abilene shall seek ways to reduce its reliance on ad-valorem tax by pursuing and adopting alternative revenue streams as allowed by statute and entrepreneurial endeavors.

3.2.2 Fees and charges

- (a) The City of Abilene shall review fee schedules every year through the budget process to ensure that all fees and service charges capture the revenue requirements set forth by the City Council.
- (b) Fees and charges should recover direct costs and indirect costs. A cost of service study should be completed at least once every five years.
- (c) The City will use the following methodologies to determine fees and charges:
 - (1) Full-cost and return on investment pricing – under most circumstances, enterprise services should be priced at full cost, including both direct and indirect costs associated with providing the service. A return on investment should also be considered.
 - (2) Partial-cost pricing – partial-cost pricing is the subsidy of a program or service with tax revenues and it is justified (1) when some of the benefits from the service accrue to the whole community, or (2) the City wants to stimulate demand for the service, or (3) enforcement of full-cost pricing will result in widespread evasion of the fee or charge, or (4) the service is primarily used by low-income households. Council shall determine how much a service should be subsidized, will use the following table to determine the amount of subsidy.

For each question in the table below, if answered in the affirmative, 25 points are assigned. The total points for all questions equals the percent discount off full-cost pricing for the program or service.

Question	Weight
Does a substantial portion of the program or service benefit the whole community?	25
Does the City need to stimulate demand for the program or service?	25
Will full cost pricing cause widespread evasion of the program or service?	25
Is the program or service primarily used by low-income households?	25
Percent discount off full-cost pricing =	100%

3.2.3 Use of one-time revenues and other unpredictable revenues

The City of Abilene shall use one-time revenues (gas and oil royalties, cash settlements, etc.) for non-recurring capital purchases. At no time may the funds be used for recurring costs (salaries, dues, etc.), except for cases of emergency, and as authorized by the City Council.

3.3 Expenditure Policies

3.3.1 Current expenditures paid with current revenues

The City of Abilene shall fund current operating expenditures with current operating revenues, approved grants or through the use of fund balance if specifically authorized by the City Council.

3.3.2 Regular financial reporting required

The City Manager, or his or her designee, shall provide a report on the financial conditions of the City of Abilene to the City Council no less frequently than once per quarter.

3.3.3 Department Heads responsible for adherence to the adopted budget

Department Heads are charged with budgetary responsibility for managing the expenditures of their departments. Department heads are expected to manage total expenditures within the limits established by City Council during the budget process for that fiscal year. The department head shall notify the City Manager and Finance Director in writing as soon as possible when it is identified that total expenditures are expected to exceed the authorized limits of the adopted budget.

3.3.4 City Manager empowered to adjust allocations as necessary

The City Manager or his or her designee, is empowered to adjust budget allocations within departments, and from department to department, but is not authorized to increase total budget appropriations within a fund without prior Council approval. The City of Abilene shall only expend funds, regardless of the funding source, if they have been appropriated for expenditure by the City Council.

3.3.5 Number of authorized positions established by the City Council

- (a) The number of authorized full-time positions are established by the City Council during the annual budget process. Part time, seasonal or temporary positions are budgeted not by authorized positions, but by authorized total dollar amounts.
- (b) The City Manager may employ the number of part time, seasonal or temporary employees necessary to perform the required work provided the City Manager does not exceed the total authorized dollar amount. Any increase of full-time positions above the City's authorized workforce must be approved by the City Council.
- (c) The City Manager may reallocate authorized positions between departments, combine positions, or eliminate positions for the purpose of adding new positions or redistributing the workforce without Council approval, provided that the total authorized positions and the total appropriated funds do not exceed the levels approved by the City Council during the annual budget process, or as may otherwise be amended by the City Council.

3.4 Revenues collected in excess of revised budget. (Council Policy Statement 2015-001 – adopted 08/27/2015; Amended by Resolution 55-2019 passed on 03/14/2019)

3.4.1 Purpose

The purpose of this policy is to establish rules governing the use of revenues collected in excess of revised budget amounts for the General Fund in any given fiscal year.

3.4.2 Policy and Procedure

The City shall exercise sound, conservative principles and other recognized best practices when estimating revenues to be collected in any given fiscal year. It is recognized that the use of these principles have historically resulted in the collection of revenues in excess of budgeted amounts, and may continue to do so in the future. For any given fiscal year, it shall be the policy of the City Council of the City of Abilene, Texas that the City shall collect and expense revenue in excess of amounts needed to balance expenditures as follows:

(a) Revenues to be set aside at annual audit

1. The annual audit shall identify revenue in excess of revised budget amounts.
2. Identified revenues shall be set aside in the Minor Improvement Fund for Council's consideration and expended in accordance with an adopted funding program.

(b) Funds to be spent in accordance with an adopted funding program

1. The City Council shall adopt a funding priority list as part of the annual budget process for the upcoming fiscal year. The funding program shall consider unfunded budget requests, additional resources for recurring operating expenses, one-time capital expenditures, dedication of resources for capital replacement funds or other internal service funds.
2. The City Manager shall inform the City Council of the auditor's findings and present a recommended funding program based on Council's adopted funding priority list within 30 days of receiving the final audit. The City Manager may recommend a program that differs

from the adopted Council funding priority list if, in the opinion of the City Manager, a business necessity exists.

3. The City Council may authorize the City Manager to expend revenue in excess of revised budget amounts, and in accordance with the City Manager's recommended funding program as amended and adopted by the City Council.

(c) Reserve requirement obligations

1. Nothing in this policy supersedes the City's obligation to maintain reserve requirements at their adopted levels.

3.5 Pursuing an insurable loss. (Council Policy Statement 2016-002 – adopted 07/14/2016)

3.5.1 Purpose

The purpose of this policy is to establish rules governing whether or not the City will decide to pursue an insurable loss of its municipal infrastructure against a party that may or may not have insurance.

3.5.2 Policy and Procedure

- (a) The City Manager, in his or her discretion, is directed by the City Council to pursue remuneration of the full or partial recovery of municipal infrastructure damaged or destroyed by a vehicle, vandalism or any other act or failure to act that causes the damage or destruction, but not including a natural disaster whereby:

1. The party or parties responsible for the damage or destruction is readily known or otherwise ascertainable; and
2. The party or parties responsible for the damage or destruction is insured; or
3. The party or parties responsible for the damage or destruction is not insured or the status of insurance is not known, and the City Manager in consultation with the City Attorney reasonably believes that the legal costs to pursue full or partial recovery of the damaged or destroyed municipal infrastructure is less than the replacement cost of the damaged or destroyed item.

- (b) Nothing in this policy limits or otherwise prohibits the City Manager from consulting the City Council and the City Attorney on loss events that are not contemplated in this policy.

3.6 Fleet Replacement (Council Policy Statement 2015-002 – adopted 01/07/2016; Amended by Ordinance XX-2020)

3.6.1 Purpose

The purpose of the fleet replacement policy is to provide exceptional service at the best possible price to the end recipient, the citizen. These replacement guidelines will be used to ensure the citizens the best value for their tax dollars.

3.6.2 Policy and Procedure

a. Equipment and Vehicle Procurement

1. The City shall procure equipment and vehicles in the most productive and cost-effective way including exploring the purchase of used equipment and/or leasing of infrequently needed equipment.
2. The City shall develop standard specifications for equipment and vehicles that maximize the likelihood of receiving multiple bids, rather than narrowing the specifications so that only one equipment or vehicle manufacturer will qualify to submit a bid.

OR

3. The City shall develop standard specifications for equipment and vehicles that maximize the City's ability to qualify only one equipment or vehicle manufacturer as a qualified bidder. It being the express intent of this policy to minimize part and maintenance variations by coalescing equipment and vehicle manufacturers through vehicle standardization across the fleet.

b. Equipment and Vehicle Replacement

1. The City shall use a scoring process to determine equipment or vehicle replacement eligibility. Final determination on whether or not to replace a piece of equipment or a vehicle, is at the discretion of the City Manager.

2. The City shall assign one point to each of the following criteria when the minimum requirements for the individual criterion is achieved:

CRITERION	MINIMUM REQUIREMENT
Useful Life	As defined on the Life Expectancy Table.
Miles/Hours	As defined on the Life Expectancy Table.
Maintenance Costs	Total maintenance cost equates to 75% of purchase price, or vehicle is out for maintenance more than 25% of total available operating hours in the past 12 months.
Fleet Determination	Fleet Maintenance makes a recommendation for replacement or not based on the totality of the circumstances.

3. Unless as otherwise determined by the City Manager, a vehicle must score 3 or more points to be eligible for replacement. Eligibility for replacement does not guarantee replacement, as replacement is determined based on the totality of the circumstances, priorities of the City, and the availability of funds.

3.6.3 Life Expectancy Table

ASSET CLASS	USEFUL LIFE	MILES/HOURS
Light Duty Vehicles	10 years	125,000 miles
Police Patrol Vehicles	7 years	15,000 hours
Police Motorcycles	10 years	60,000 miles
Heavy Duty Vehicles (single axle)	12 years	125,000 miles
Heavy Duty Vehicles (tandem axle)	12 years	150,000 miles
Refuse Trucks (Front and Side Loader)	7 years	10,000 hours
Refuse Trucks (Rear Loaders)	10 years	14,000 hours
Refuse Trucks (roll off)	12 years	200,000 miles
Sewer (flushing) Trucks	10 years	100,000 miles
Bucket Trucks	12 years	125,000 miles
Street Sweepers	7 years	10,000 hours
Knuckle Boom Trucks	12 years	10,000 hours
Small Riding Equipment Small Tractors Out Front Mowers	15 years	1,800 hours
Motorgraders Tracked Equipment Backhoes Loaders	15 years	8,000 hours
Other Heavy Equipment (2-ton +) Tractor Mowers	15 years	5,000 hours

Diesel Zero Turn Mowers		
Trenchers		
Scrapers		
Compaction Equipment		
Forklifts	30 years	7,500 hours
ATV's, Side-by-Sides	10 years	5,000 hours
Fire Apparatus (front line)	15 years	N/A
Fire Apparatus (reserve)	5 years	N/A

Resolution Amending Section 3.1.3(d) and Section 3.4 in the Governing Principles, Rules of Procedures, and Council Policies





Amending the Governing Principles, Rules of Procedures, and Council Policies

- Adopted January 14, 2021 (Resolution 05-2021)
- Amend Financial Policy Section 3.1.3(d) regarding Budget reserves and Capital Project Funds
 - The City of Abilene shall contribute 5% of utility sales to a “Utility Capital Development Fund” for expansion of the utility system to unserved, or underserved areas, and for other ~~business activity~~ utility system related capital needs.





Amending the Governing Principles, Rules of Procedures, and Council Policies

- Amend Financial Policy Section 3.4, regarding Revenues collected in excess of revised budget
 - Updates policy to also apply to the Utility Fund
 - Provides that “the annual audit shall identify revenue in excess of revised budget amounts **greater than the required fund reserves for the General Fund and the Utility Fund.**”
 - Clarifies “**General Fund** revenue shall be set aside in the Minor Improvement Fund”
 - Adds that “**Identified Utility Fund revenue should be set aside in the Utility Capital Development Fund for Council’s consideration and expended in the accordance with an adopted funding program.**”





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 14. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager and City Attorney to Access Police Department and Fire Department Personnel Files (Stanley Smith)

GENERAL INFORMATION

Section 143.089(g), Local Government Code, provides that a Fire or Police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a firefighter or police officer.

Without access to these files, the City Manager, as the chief executive of the City, and the City Attorney, as the legal advisor to the City, may be unable to effectively perform their duties to the City. In Attorney General Opinion JC-0283, the Attorney General determined that information made confidential by subsection 143.089(g) of the Texas Local Government Code may be released to the city manager and the city attorney with the consent of the governing body of the municipality.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends that the City Council approve the release of information made confidential by subsection 143.089(g) of the Texas Local Government Code to the City Manager and the City Attorney, and their assistants.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2024 Resolution G File Access
2. Authorize Access Police Fire Files

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
GRANTING THE CITY MANAGER AND CITY ATTORNEY ACCESS TO CIVIL
SERVICE PERSONNEL FILES OF THE ABILENE POLICE AND FIRE
DEPARTMENTS IN ACCORDANCE WITH CHAPTER 143 THE TEXAS LOCAL
GOVERNMENT CODE.**

WHEREAS, Chapter 143, Section 143.089(g), of the Local Government Code, authorizes the Police and Fire Departments to maintain for their separate use a personnel file on a police officer or fire fighter; and

WHEREAS, the City Council may designate individuals who shall have access to those personnel files.

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

Part 1: That the City Council grants the City Manager and Assistant City Managers access to Civil Service personnel files of the Abilene Police and Fire Departments.

Part 2: That the City Council grants the City Attorney and Assistant City Attorneys access to Civil Service personnel files of the Abilene Police and Fire Departments.

Part 3: That this Resolution take effect immediately upon its adoption.

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**AUTHORIZE CITY MANAGER AND CITY
ATTORNEY ACCESS TO POLICE AND
FIRE DEPARTMENT PERSONNEL
FILES, SECTION 143.089(G), LOCAL
GOVERNMENT CODE**





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: **15. Resolution:** Receive a Report, Hold a Discussion, and Take Action on Approving the 2024 Water Conservation Plan Update and Affirming the Drought Contingency Plan Ordinance as Adopted (Rodney Taylor)

GENERAL INFORMATION

Water Utilities Staff recommends that the Abilene City Council approve the City of Abilene 2024 Water Conservation Plan Update and affirm the City's Drought Contingency Plan ordinance, as adopted July 14, 2022, without changes. Texas Administrative Code (TAC) Chapter 288, "Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements", requires water systems holding surface water rights in excess of 1,000 acre-feet per year to maintain and submit to the Texas Commission on Environmental Quality (TCEQ) a current Water Conservation Plan (WCP) and a current Drought Contingency Plan (DCP). The final version of the 2024 Water Conservation Plan Update (24 WCP Update) is attached as Exhibit A. Exhibit B is a redline copy of the 24 WCP Update showing recent edits in response to questions and an intensive review by staff and consulting Engineer Enprotec/Hibbs & Todd, Inc. The Drought Contingency Plan ordinance (under Chapter 32, Article VI of the City of Abilene Municipal Code, Water Conservation Plan Ordinance) is affirmed to have been reviewed without changes, and a Summary of the Existing Drought Contingency Plan Ordinance is attached as Exhibit C.

SPECIAL CONSIDERATIONS

The 24 WCP Update, complete with updated utility profile information and water use reduction goals, must be adopted by Abilene's governing body and be received by the TCEQ on or before May 1, 2024 to comply with TAC Chapter 288 requirements. Changes to Abilene's WCP to meet current TAC Chapter 288 requirements are summarized below. Public water systems holding 1,000 acre-feet or more of annual surface water rights for municipal water use to include specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use in total gallons per capita per day (gpcd) and

residential gpcd. The water use and loss goals included in the 24 WCP Update are based on current utility profile data collected and analyzed as a part of the WCP review process, and are consistent with the draft 2026 Region G Water Plan.

These goals are:

- The 5- and 10-year municipal goals for total per capita water use by City of Abilene users are to maintain per capita water use at or below 147 gpcd by the end of 2029, and 146 gpcd by the end of 2034.
- The 5- and 10-year goals for residential per capita water use by City of Abilene users are to maintain residential per capita water use at or below 74 gpcd by the end of 2029 and 73 by end of 2034.
- The 5- and 10-year per capita water loss goals for Abilene water users are to maintain per capita water loss at less than 8 gpcd by the end of 2029 and 7 gpcd by the end of 2034.
- The 5- and 10-year goals for wholesale users supplied by the City of Abilene are to maintain per capita use at 76 gpcd by the end of 2029 and 75 gpcd by the end of 2034 with loss rates for wholesale water deliveries to the wholesale users maintained at less than 15%.
- The 5- and 10-year goals for industrial water savings are to maintain source water diversion for processing, wash-down, transport, dust control and sanitary/domestic uses by current industrial users at not more than 500 acre-feet per year through the end of 2029 and 2034.
- The 5-year and 10-year goals for water savings are to maintain the agricultural irrigation requirement at or below the area agronomic standard of 24-inches per acre per year through the end of 2029 and 2034.

The Drought Conservation Plan ordinance was last updated on July 14, 2022 to implement Drought Stage Trigger levels based on the combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill, and to incorporate mandated language authorizing the City Manager to initiate allocation of water supplies on a pro rata basis in accordance with V.T.C.A., Water code SS 11.039, and other minor edits. This Resolution makes no changes to the current Drought Conservation Plan ordinance, but only affirms the current ordinance.

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council Approve the 2024 Water Conservation Plan Update and Affirm the Drought Contingency Plan Ordinance as adopted on July 14, 2022.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Written Resolution-Approving 2024 WCP Update and Affirming DCP Ordinance as adopted-7-14-2022-5-9-2024
2. Resolution-Exhibit A-FINAL-Water Conservation Plan Update-5-9-2024
3. Resolution-Exhibit B-REDLINE of recent edits-Water Conservation Plan Update-5-9-2024
4. Resolution-Exhibit C-Summary of Drought Contingency Plan Ordinance-5-9-2024
5. Presentation-Resolution approving updated 2024 WCP and DCP as adopted-5-9-2024

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
APPROVING THE 2024 WATER CONSERVATION PLAN UPDATE AND
AFFIRMING THE DROUGHT CONTINGENCY PLAN ORDINANCE AS ADOPTED.**

WHEREAS, Texas Administrative Code (TAC) Chapter 288, “Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements”, requires water systems holding surface water rights in excess of 1,000 acre-feet per year to maintain and submit to the Texas Commission on Environmental Quality (TCEQ) a current Water Conservation Plan (WCP) and a current Drought Contingency Plan (DCP); and

WHEREAS, on April 24, 2014 through Resolution 09-2014 the City of Abilene approved updates to the City’s Water Conservation Plan; and

WHEREAS, the City maintains a Drought Contingency Plan ordinance (under Chapter 32, Article VI of the City of Abilene Municipal Code, Water Conservation Plan ordinance), last amended on July 14, 2022 through Ord. No. 27-2022; and

WHEREAS, the City is committed to enacting and implementing a Water Conservation Plan that will increase water use efficiency and ensure the longevity of the City’s water supplies; and

WHEREAS, the TCEQ requires each WCP to be updated at least every five years, with this update submitted to the TCEQ by May 1, 2024; and

WHEREAS, in order to comply with the TCEQ requirement, staff desires to update the Water Conservation Plan at this time; and

WHEREAS, the TCEQ requires each DCP to be reviewed and, if needed, updated at least every five years, with this submittal due to the TCEQ by May 1, 2024; and

WHEREAS, in order to comply with the TCEQ requirement, staff desires to have the Drought Contingency Plan ordinance affirmed with no changes at this time;

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

Part 1: That the 2024 update to the City of Abilene Water Conservation Plan shall be approved as presented.

Part 2: That the 2024 updates to the Water Conservation Plan, which include the following system inventory information, are accepted and approved: (1) Utility Profile and Water Conservation Plan Requirements for Municipal Water Use by Retail Public Water Suppliers; (2) Profile and Water Conservation Plan Requirements for Wholesale Public Water Suppliers;

(3) System Inventory and Water Conservation Plan for Agricultural Water Suppliers Providing Water to More than One User; and (4) Industrial/Mining Water Conservation Plan.

- Part 3:** That Exhibit “A” is the 2024 Water Conservation Plan Update to be submitted to the Texas Commission on Environmental Quality, the Texas Water Development Board, and to the Region G Water Planning Group, and which describes the goals for total and residential water consumption, goals for wholesale, industrial and agricultural water consumption and use, and goals for water loss, which are accepted and approved.
- Part 4:** That Exhibit “B” is a redlined version of the 2024 Water Conservation Plant Update showing recent edits to the document in response to questions and an intensive review by staff and consultant Enprotec/Hibbs & Todd, Inc.
- Part 5:** That Exhibit “C” provides a general summary of the Drought Contingency Plan ordinance last updated on July 14, 2022, which is affirmed to have been reviewed without changes.

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney

WATER CONSERVATION PLAN AND DROUGHT CONTINGENCY PLAN

CITY OF ABILENE

PWSID 2210001

APRIL 2024

Prepared for:
CITY OF ABILENE
PO BOX 60
ABILENE, TEXAS 79601



Abilene | Lubbock | Granbury
PE Firm Registration No. 1151
PG Firm Registration No. 50103
RPLS Firm Registration No. 10011900

Corporate Headquarters
402 Cedar Street
Abilene, Texas 79601
T: (325) 698-5560
F: (325) 690-3240

www.e-ht.com



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- Appendix A Service Area Maps**
- Appendix B Utility Profile for Retail Water Supplier**
- Appendix C Water Conservation Goals for Retail Water Supplier**
- Appendix D City of Abilene Reservoir Operation Plan**
- Appendix E Resolution Adopting the Water Conservation Plan and Affirming Drought Contingency Plan Ordinance**
- Appendix F Notification to Wholesale Purchasers**
- Appendix G City of Abilene Water Rate Structure**

CITY OF ABILENE, TEXAS WATER CONSERVATION PLAN

Section I. Declaration of Policy, Purpose and Intent

The City of Abilene (City) recognizes the importance of its water resources and seeks to protect and maximize those supplies. The City recognizes the importance of efficient use of our existing supplies to make them last as long as possible. The City has embraced water conservation and reuse as a way to maximize the longevity and sustainability of its water resources and to protect the water supplies of its citizens. The City maintains an active reuse program. Through its direct reuse program the City provides treated wastewater effluent from the Hamby Water Reclamation Facility to a number of users throughout the City, including golf courses and universities, in order to reduce reliance on potable water. Through its indirect potable reuse program, treated wastewater effluent from the Hamby Water Reclamation Facility is discharged into Lake Fort Phantom Hill which serves as one of the City's surface water sources. The City's extensive reuse program has successfully lowered the City's water usage. The City also aggressively pursues water conservation through the enactment and implementation of this Water Conservation Plan.

The purpose of the Water Conservation Plan (Plan) is to: promote the wise and responsible use of water by implementing structural programs that result in quantifiable water conservation results; develop, maintain, and enforce water conservation policies and ordinances; and support public education programs that educate customers about water and wastewater facilities operations, and water conservation.

In accordance with 30 Texas Administrative Code (TAC) Chapter 288, the City of Abilene practices and promotes conservation of water through the implementation of practices described in the Texas Water Development Board's (TWDB's) *Best Management Practices (BMP) Guide for Municipal and Wholesale Users*. The City has implemented a number of those municipal BMPs identified by the TWDB in order to maximize its water conservation efforts. BMPs implemented by the City are noted throughout the Plan.

Section II. Definitions

The following words and terms, when used in this Plan, shall have the following meanings, unless the context clearly indicates otherwise (Source: 30 TAC §288.1).

A. Agricultural or Agriculture: Any of the following activities:

1. cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
2. the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;

3. raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
 4. raising or keeping equine animals;
 5. wildlife management; and
 6. planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.
- B.** Agricultural use: Any use or activity involving agriculture, including irrigation.
- C.** Best management practices: Voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.
- D.** Conservation: Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.
- E.** Commercial use: The use of water by a place of business, such as a hotel, restaurant, or office building. This does not include multi-family residences or agricultural, industrial, or institutional users.
- F.** Drought contingency plan: A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).
- G.** Industrial use: The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, and the development of power by means other than hydroelectric, but does not include agricultural use.
- H.** Institutional use: The use of water by an establishment dedicated to public service, such as a school, university, church, hospital, nursing home, prison or government facility. All facilities dedicated to public service are considered institutional regardless of ownership.
- I.** Irrigation: The agricultural use of water for the irrigation of crops, trees, and pastureland, including, but not limited to, golf courses and parks which do not receive water from a public water supplier.

- J.** Irrigation water use efficiency: The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.
- K.** Mining use: The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field re-pressuring.
- L.** Municipal use: The use of potable water provided by a public water supplier as well as the use of sewage effluent for residential, commercial, industrial, agricultural, institutional, and wholesale uses.
- M.** Nursery grower: A person engaged in the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, who grows more than 50% of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, grow means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease, and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.
- N.** Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- O.** Public water supplier: An individual or entity that supplies water to the public for human consumption.
- P.** Residential use: The use of water that is billed to single and multi-family residences, which applies to indoor and outdoor uses.
- Q.** Residential gallons per capita per day: The total gallons sold for residential use by a public water supplier divided by the residential population served and then divided by the number of days in the year.
- R.** Regional water planning group: A group established by the Texas Water Development Board to prepare a regional water plan under Texas Water Code §16.053.
- S.** Retail public water supplier: An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.

- T.** Reuse: The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.
- U.** Total use: The volume of raw or potable water diverted and provided by a public water supplier to billed customer sectors or nonrevenue uses and the volume lost during conveyance, treatment, or transmission of that water.
- V.** Total gallons per capita per day (GPCD): The total amount of water diverted and/or pumped for potable use divided by the total permanent population divided by the days of the year. Diversion volumes of reuse as defined in 30 TAC Section 288.1 shall be credited against total diversion volumes for the purposes of calculating GPCD for targets and goals.
- W.** Water conservation plan: A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).
- X.** Wholesale public water supplier: An individual or entity that for compensation, diverts and supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity but does not own the right to the water which is conveyed, whether or not for a delivery fee.
- Y.** Wholesale use: Water diverted and sold from one entity or public water supplier to other retail water purveyors for resale to individual customers.

Section III. Utility Profile Summary

The City supplies treated potable water to municipal, industrial and wholesale users, limited amounts of raw water to some industrial and agricultural users, and one public water supplier, and treated wastewater for reuse to agricultural users and to irrigation users as reclaimed water (recognized under Municipal BMP 8.3). The City holds Certificate of Convenience and Necessity (CCN) Number 11823. Abilene's municipal, industrial and agricultural use customers are located within Abilene's CCN area encompassing approximately 108 square miles as depicted in the service area map in Appendix A.

Abilene's wholesale service area for potable water encompasses approximately 874 square miles situated outside of Abilene's CCN. Maps of the potable water wholesale service area have been included in Appendix A. A more detailed utility profile is included in Appendix B. The utility profile is summarized as follows.

A. Population

Abilene's population in the year 2023 as estimated using information supplied by the Texas Water Development Board (TWDB) for the Brazos G Regional Water Planning Group is estimated to be 124,262 and is projected to reach 134,466 by 2030. Abilene supplies treated water to wholesale purchasers who in turn resell that water to their system users. Total population of wholesale users receiving potable water in the year 2023 is estimated to be 33,736 and is projected to reach 42,976 persons by the year 2030. Table 1 provides population figures for City and Abilene's potable water wholesale users for the previous five years.

Table 1: Population for City of Abilene and Potable Water Wholesalers for Preceding Five Years

Year	Abilene Population	Wholesale Population
2019	121,994	33,164
2020	122,542	33,273
2021	123,115	33,427
2022	123,688	33,581
2023	124,262	33,736
Source: 2021 Regional Water Plan, and Texas Drinking Water Watch		

Table 2 depicts projected population figures for Abilene and Abilene's wholesale users through the year 2060.

Table 2: Projected Population for City of Abilene and Potable Water Wholesalers

Year	Abilene Population	Wholesale Population
2030	134,466	42,976
2040	145,047	46,149
2050	153,959	48,877
2060	162,895	51,985
2070	172,845	55,425
Source: 2026 Regional Water Plan, and Texas Drinking Water Watch		

B. Customer Data and Water Use Data

On average, the City diverts approximately 23,800 acre-feet per year of raw water from its surface water sources to satisfy the demands of raw and treated water users. The City produces an average of 22,500 acre feet per year of treated surface water from its three surface water treatment plants. The raw water diverted by the City goes to some raw water industrial and irrigation users, one public water supplier (supplemental supply for the City of Ballinger) and for production of potable water at the City's treatment plants.

Abilene's water customers consist of a mixture of residential, commercial, industrial, wholesale, institutional and irrigation users. The City serves approximately 52,383 residential connections, 5,416 commercial connections, 1,140 institutional connections, and 43 industrial connections. Wholesale customers that purchase treated potable water from Abilene for resale are summarized in Table 3.

Currently 25 contracted reclaimed water customers citywide and an additional approximately 10 agricultural irrigators around the Hamby Water Reclamation Plant utilize treated wastewater for agricultural and irrigation use. Supplemental raw water of 280 acre feet per year is currently contracted to Ballinger.

Abilene customers including residential, commercial, industrial, and institutional users use approximately 87% of the total water delivered from the City's potable water treatment works while wholesale potable water customers use approximately 13% of the total water delivered from the City's treatment works. Table 4 summarizes the expected water use figures for Abilene municipal and wholesale potable water users over the next decade.

Table 3: City of Abilene Wholesale Potable Water Purchasers

Wholesale Customer	Contracted Amount (ac-ft/yr)
City of Baird	77
Blair WSC	77
City of Buffalo Gap	153
City Clyde	307
Eula WSC	61
Hamby WSC	308
Hawley WSC	307
City of Lawn	153
City of Merkel	353
Potosi WSC	307
S.U.N. WSC	230
Steamboat Mountain WSC	307
Tuscola Taylor County WCID 1	92
City of Tye	184
View-Caps WSC	199
Total	3,115
Source: City of Abilene Records	

Table 4: Projected Water Demand for the Coming Decade

Year	Abilene Population	Wholesale Population	Abilene Demand (gal/yr)	Wholesale Demand (gal/yr)	Total Demand (gal/yr)
2025	129,824	39,592	7,187,947,209	1,367,094,675	8,555,041,884
2026	130,752	40,268	7,297,042,124	1,432,495,609	8,729,537,733
2027	131,681	40,945	7,406,137,039	1,497,896,544	8,904,033,583
2028	132,609	41,622	7,515,231,953	1,563,297,479	9,078,529,433
2029	133,538	42,299	7,624,326,868	1,628,698,414	9,253,025,282
2030	134,466	42,976	7,733,421,783	1,694,099,349	9,427,521,132
2031	135,524	43,293	7,842,516,698	1,707,361,485	9,549,878,183
2032	136,582	43,611	7,951,611,613	1,720,623,620	9,672,235,233
2033	137,640	43,928	8,060,706,527	1,733,885,756	9,794,592,284
2034	138,698	44,245	8,169,801,442	1,747,147,892	9,916,949,334
Source: 2026 Regional Water Plan, and Texas Drinking Water Watch					

C. Water Supply System

1. Water Sources

Abilene's water sources are presented in Table 5. Appendix D presents Abilene's Reservoir Operations Plan, outlining the coordinated use of supplies from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. Use of the Reservoir Operation Plan optimizes raw water supplies delivered from these sources.

Table 5: Water Sources

Source	Amount (ac-ft/yr)
Lake Fort Phantom Hill	9,316
Hubbard Creek Reservoir ¹	13,080
Lake O.H. Ivie ²	13,441
Possum Kingdom Lake ^{3,4}	17,282
¹ Delivered under contract from the West Central Texas MWD. ² Delivered under contract from the Colorado River MWD. Amount limited to current treatment capacity of approximately 12 million gallons per day (MGD). ³ Abilene has executed various System Water Availability Agreements with the Brazos River Authority which total 19,418 acre-feet per year. Due to elevated dissolved solids in Possum Kingdom requiring advanced treatment, 89% (17,282 acre-feet per year) is considered available as a water source. ⁴ Abilene contracted in 2024 with the Palo Pinto County Municipal Water District No. 1 for 3,000 acre-feet per year of its Possum Kingdom supply. During the term of the contract, Abilene's available water supply from Possum Kingdom would be reduced by 2,670 acre-feet per year (89% of 3,000 acre-feet per year).	

Raw surface water is supplied to Abilene's treatment works from several sources. The City owns and holds surface water rights to 30,690-acre feet per year (ac-ft/yr) from Lake Fort Phantom Hill, of which 25,690 ac-ft/yr are for municipal purposes, 4,000 ac-ft/yr are for industrial purposes, and 1,000 ac-ft/yr are for irrigation. The Clear Fork Diversion, owned and operated by Abilene, allows a maximum of 30,000 ac-ft/yr to be diverted from the Clear

Fork of the Brazos to Lake Fort Phantom Hill. The City holds 17,282 ac-ft/yr of available water from Possum Kingdom Lake for municipal water use.

The City owns and is allocated use of 1,675 ac-ft/yr of water for municipal purposes from Lake Abilene. Lake Abilene, however, is not considered a dependable supply by the City and is currently not used. The City also holds surface water rights to 3,880 ac-ft/yr from Lake Kirby, also owned by Abilene, for multiple use purposes. Hubbard Creek Reservoir, owned and operated by the West Central Texas Municipal Water District, provides by contract 13,080 ac-ft/yr of raw surface water for use by the City. Abilene may utilize by contract up to 16.54% of the safe yield of Lake O.H. Ivie, however, this source is limited by current treatment capacity to 13,441 ac-ft/yr.

2. Water Treatment

A pump station located on the eastern bank of Lake Ft. Phantom Hill pumps raw surface water from Lake Ft. Phantom Hill to the Northeast Treatment Plant and the Grimes Treatment Plant. A raw water delivery system consisting of two parallel pipelines can provide up to 27 million gallons per day (MGD) from Hubbard Creek Reservoir to the Ft. Phantom Hill delivery system. During times when water shortage requires supplementing surface water from the City's other sources, raw surface water may be pumped from Possum Kingdom Lake to the Raw Water Roughing Facility in Breckenridge to undergo treatment to reduce the total dissolved solids concentration in the raw water from Possum Kingdom Lake. The water treated at the roughing facility is pumped to the raw water delivery system from Hubbard Creek Reservoir to Abilene and is subsequently treated at the Grimes and Northeast water treatment plants (WTPs) as described below. Raw water is pumped approximately 50 miles from Lake O.H. Ivie to the Hargesheimer Water Treatment Plant located on Highway 83/84 near Tuscola. A pump station on the banks of the Clear Fork of the Brazos River, near Lake Ft. Phantom Hill provides diversion pumping of up to 30,000 ac-ft/yr into Lake Ft. Phantom Hill.

The City's Water Treatment System consists of three treatment plants having a maximum rated treatment capacity of 62 MGD (49.5 MGD sustained capacity). The Northeast Water Treatment Plant on East Lake Road has a rated capacity of 25 MGD (sustained capacity of 22.5 MGD) and treats raw water drawn from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. The Grimes Water Treatment Plant on East Highway 80 has a rated treatment capacity of 25 MGD (sustained capacity of 15 MGD) and treats water drawn from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. The Hargesheimer Water Treatment Plant located on Highway 83/84 near Tuscola has a micro-filtration and a rated and sustained reverse osmosis/ blended capacity of 12.0 MGD, and treats raw water drawn from Lake O.H. Ivie.

3. Water Distribution

The City's water distribution system provides economical and compatible facilities that are capable of furnishing sufficient water at suitable pressures to both Abilene retail and wholesale purchasers. The system consists of approximately 955 miles of underground water mains, twelve pumping stations, seven ground storage tanks, eight elevated storage tanks, over 13,400 valves, over 3,215 fire hydrants, and nearly 43,000 meters.

After the water is processed at the treatment plants, it is stored in ground and elevated storage tanks with a combined volume of 38.60 million gallons. The distribution network is laid out in a continuous looped system to circulate water and maintain constant system pressure. Pumping stations are located strategically throughout the system to pump water, maintain uniform pressure and maintain storage tank levels.

Treated water from the Abilene treatment plants enters the potable water wholesalers' systems through metered interconnections. According to TCEQ's records as available through the Texas Drinking Water Watch (TDWW), production and delivery capacity of the wholesale purchasers' systems amount to approximately 22.3 MGD. Based on TDWW records, ground storage capacity within the wholesalers' systems is approximately 5.0 million gallons while total elevated and pressure storage volume is approximately 4.5 million gallons.

D. Wastewater System

1. Wastewater Collection

Abilene's wastewater collection system consists of a network of approximately 670 miles of sewers, five lift stations, and approximately 10,000 manholes serving the cities of Abilene, Tuscola, Tye and the Hawley Independent School District. Sewage flows by gravity, aided when necessary by lift stations, through the collection system into the Buck Creek Pump Station, which has a rated pumping capacity of approximately 24 MGD. Sewage is metered at the Buck Creek Pump Station and pumped approximately five miles to the wastewater treatment plant. Collected wastewater is treated at the City's Hamby Wastewater Reclamation Plant which is operated under a permit issued by the TCEQ.

2. Wastewater Treatment

When wastewater reaches the Hamby treatment facilities northeast of town, it undergoes full biological treatment that includes grit removal, screening, membrane bioreactor treatment, and disinfection. A portion of the treated effluent is either discharged to Deadman Creek via Outfall 001 or is sent to

reuse customers/Kirby Lake through Outfall 002. A portion of the effluent from the AT Storage Basin may also be sent to the advanced treatment processes where it undergoes treatment via two advanced treatment trains. Advanced Treatment Train 1 consists of reverse osmosis treatment while Advanced Treatment Train 2 includes ozonation and BAC filtration. Effluent from both advanced treatment trains are blended together and then chemically disinfected, pH adjusted, aerated, dechlorinated and discharged through Outfall 003 to Lake Fort Phantom Hill which serves as one of the City's three surface water sources. The permitted capacity of the Hamby facility is 22.0 MGD.

Wastewater quality is protected against industrial pollution through Abilene's Industrial Pre-Treatment Program. Industrial users are required to treat wastewater to specific standards before it is released into the municipal sanitary sewer system. Irrigators in and around the City reuse some of the treated effluent (recognized under Municipal BMP 8.3). The remainder is discharged to Deadman Creek by way of Freewater Creek or is discharged to Lake Kirby by way of the City's reclaimed water system. Sewage biosolids are disposed of in a sludge disposal unit at the Hamby treatment plant site.

Section IV. Water Conservation Goals

A. Municipal Use Goals

The 5- and 10-year goals (also referred to as targets) for total per capita water use by City users is to maintain per capita water use at or below 147 gallons per capita per day (gpcd) by the end of 2029, and at or below 146 gpcd by the end of 2034. The 5- and 10-year goal for residential per capita water use by City users is to maintain residential per capita water use at or below 74 gpcd by the end of 2029 and 73 gpcd by the end of 2034. The 5- and 10-year per capita water loss goal is to maintain per capita water loss at less than 8 gpcd by the end of 2029 and 7 gpcd by the end of 2034. These goals are set in accordance with the 2026 Regional Water Plan and City records.

B. Wholesale Use Goals

Wholesale potable water users served by the City, located outside the City's CCN coverage area, historically use approximately 77 gpcd of water supplied by Abilene. The 5- and 10-year goals for wholesale users supplied potable water by the City is to maintain per capita use at 76 gpcd by the end of 2029 and 75 gpcd by the end of 2034 with loss rates for wholesale water deliveries to the wholesale users maintained at less than 15%. These goals are set in accordance with contracted water sales totals with Abilene's wholesale potable water users.

C. Industrial Use Goals

The 5- and 10-year target for industrial water savings is to maintain source water diversion for processing, wash-down, transport, dust control and sanitary/domestic uses by current industrial users at not more than 500 acre-feet per year through the end of 2029 and 2034. The 5- and 10-year goals were developed considering Abilene's current industrial user base.

D. Agricultural Use Goals

The 5- and 10-year target for agricultural water savings is to maintain the irrigation requirement at or below the area agronomic standard of 24-inches per acre per year through the end of 2029 and 2034. It should be noted that occasionally the City may allow the agronomic standard rate to be exceeded in order to flush the crop root zone to improve plant productivity, livelihood, growth enhancement and overall reduction in crop water demand.

Section V. Metering Devices

It is Abilene's policy to purchase meters that meet at least the minimum standards developed by the American Water Works Association. All metering devices used to meter water diverted from the source of supply are accurate to within plus or minus 5% to measure and account for water diverted from the source of supply. All service connections in the distribution system are metered. Meters are systematically tested and replaced, if necessary, to assure reliability of meter performance. The City has established the following meter maintenance and replacement programs:

<u>Meter Type</u>	<u>Calibration Period and Replacement</u>
Master Meters	Annually and replaced, as needed
1-1/2 inch and larger	Replaced as needed ^{1,2}
1-1/2 inch and smaller	Replaced as needed ^{1,2}

Notes ¹ Representative meter samples are tested annually to verify meter accuracy.
² Meters are replaced as necessary.

The wholesale water purchasers are responsible for metering device installation, maintenance and calibration for meters located within their service areas.

Section VI. Universal Metering

It is Abilene's policy to individually meter all water usage, except for fire protection and flushing to maintain a safe potable water distribution system, including all new construction within the City's CCN coverage area. Combined with an aggressive leak detection and repair program, electronic data collection devices, and a computerized billing system, Abilene's universal metering program has resulted in a water delivery accuracy rate within industry operating standards and comports with Municipal BMP 4.1.

Section VII. Measures to Determine and Control Unaccounted-For Uses of Water

The record management system utilized by the City segregates water sales and users into user classes of single-family residential, multi-family residential, commercial, public/institutional, and industrial. It is Abilene's policy to investigate customer complaints of low pressure and possible leaks. Abilene visually inspects suspected leaks and makes quick and timely repairs to those leaks when detected. Abilene utilizes a record management system which records water pumped, water delivered, water sales and water losses to track water transmission, distribution, and delivery to customers. Customer delivery is segregated by user class. This information is used to evaluate the integrity of the water delivery system from source to end user to control and minimize unaccounted-for uses of water.

Section VIII. Water Conservation Program

The City's Water Conservation Program utilizes Supply Management Methods and Demand Management Methods to work towards optimizing use of Abilene's water resources.

A. Supply Management Program Elements consist of:

1. Coordinated use of water supplies to ensure the City withdraws water from its water supply reservoirs in a manner that ensures optimum dependable yield and efficiency of operation.
2. Watershed management to ensure diversion channels, creeks, natural drainage ways, etc. discharging to Lake Ft. Phantom Hill are clean, relatively straight, and obstruction-free to increase captured water flow while minimizing flooding potential in populated areas, and reducing siltation entering Lake Ft. Phantom Hill.
3. Metering all service connections to ensure maximum return for delivered water while minimizing unaccounted-for water loss.
4. Leak detection and repair to minimize unaccounted-for water loss.
5. Treated wastewater reuse and recycling to lessen the demand for raw water used to produce potable water for irrigation uses pursuant to Municipal BMP 8.3.

B. Demand Management Program Elements consist of:

1. Water pricing as a mechanism for encouraging water customers to conserve pursuant to Municipal BMP 3.1.
2. Regulations for conserving water via the Water Conservation Plan and the Drought Contingency Plan ordinance adopted by the City.

3. Plumbing Code for the City requires maximum standard plumbing fixture capacities not be exceeded.
4. Continuing education programs to increase public awareness of supply, treatment and conveyance systems in Abilene, to increase public awareness of the benefits and need for conservation, and to make information about practical cost-effective methods and technologies to achieve conservation available (Effort recognized under Municipal BMPs 6.1, 6.2 and 6.3).
5. The City utilizes year-round water conservation measures to restrict certain potable water use activities by all customers of the Water Utility System (recognized under Municipal BMP 5.3). Pursuant to this measure all potable water irrigation by commercial, industrial and residential customers utilizing individual sprinklers, or sprinkler systems, on lawns, gardens, landscaped areas, trees, shrubs or other plants may water only on designated day(s) and then only during designated hours as outlined in the City's Drought Contingency Plan ordinance.

Section IX. Public Education

Public education is an ongoing and integral part of Abilene's water conservation programs. A public information and education program developed and implemented by the City is an important component in the City's water conservation strategy. Water Utilities education programs have these principal objectives including:

- Increase public awareness of supply, treatment, and conveyance systems in Abilene, and
- Increase public awareness of the needs for and benefits of conservation.

A variety of communication techniques either have or are being utilized including: electronic information materials via Abilene's internet website; newspaper supplements; presentations at neighborhood, civic, social, and professional organizations; public service announcements; and public school and university programs (recognized under Municipal BMP 6.1).

A. Schools

Water and conservation has been introduced into area schools. Presentations are made directly to classes of all ages, including university level (recognized under Municipal BMP 6.2). Presentations are supported by a variety of printed materials. Tours of the water treatment plants are often used by area teachers as an education tool.

Water conservation is emphasized to Leadership Abilene participants. Leadership Abilene is a program sponsored by the Abilene Chamber of Commerce designed to develop competent community leaders.

Water conservation is also emphasized in the City University Program, a community leadership and involvement program that offers a way for participants to become better informed about City programs and services. The program teaches participants how to access government and elected officials and explores the value of serving on City boards and commissions. Participants go behind the scenes of City facilities, find out how various divisions operate and meet City employees who deliver City services.

B. Landscaping

Implementation of the Xeriscape Program began in 1986 with the creation of a Xeriscape Advisory Committee composed of representatives of the landscape industry, business and residential communities. The committee assisted in the development of an informational brochure and plant list.

A public information campaign called "Project Xeriscape" has included public service announcements, workshops, displays, landscape competition, a coloring contest for children, and distribution of materials. The City's website offers useful information regarding xeriscaping and water conservation landscaping measures. The City's efforts have increased landscape irrigation conservation and are recognized under Municipal BMPs 5.3 and 7.5.

In addition, the City has actively pursued the transfer of golf course irrigation from potable water use to reclaimed water use. Currently, all golf courses within the City are irrigated using reclaimed water, an effort reflective of Municipal BMP 5.2.

C. Commercial/Industrial Conservation

The Water Utilities Department works with area businesses to keep water bills as low as possible by conserving water use. Written contracts, industrial inspections, and individual responses to public inquiries about water and waste help to focus conservation efforts towards the commercial sector needs (recognized under Municipal BMP 7.1).

D. Agricultural Conservation

In order to lessen the demand on the City's raw water sources the City relies on reuse of treated wastewater for supply to irrigators located within the City's service area fulfilling Municipal BMP 8.3. It is the City's policy to assist irrigators where feasible and practical to utilize reclaimed wastewater as their irrigation supply water. The City strives to work closely with local irrigation water users to ensure effective use of the City's water resources.

E. Local Media

The Water Utilities Department has prepared several public service announcements which are periodically aired on local television stations addressing the education program objectives. The Water Utilities Department routinely presents information on local public broadcasting systems addressing the objectives described above (recognized under Municipal BMP 6.1).

Section X. Water Rate Structure

The City has adopted a non-promotional, inverted rate structure. Under this rate structure the billing rate increases as individual water consumption increases. This rate structure promotes conservation and shifts the cost of supplying water to those consumers using it most. The City's rate structure incents conservation and comports with Municipal BMP 3.1. A copy of the City's current water rates is provided in Appendix G.

Section XI. Means of Implementation and Enforcement

This Water Conservation Plan has been adopted by the City. A copy of the resolution adopting this Plan is included in Appendix E. The City Manager works with the Director of Water Utilities in the implementation and enforcement of the Plan, and in the City's submission of its annual water conservation implementation report. This report is used by the City to review the effectiveness of its water conservation program.

The Director of Water Utilities designates a member of the Water Utilities Department staff as a Conservation Coordinator. The Conservation Coordinator is responsible for implementation and coordination of water conservation programs (recognized under Municipal BMP 2.1).

To support the City's Water Conservation Plan and water conservation efforts, the City maintains a Drought Contingency Plan Ordinance (see City of Abilene Municipal Code Chapter 32, Article VI-Water Conservation Plan). This ordinance provides year-round water conservation measures, as well as conservation measures during times of water shortage or other emergency water supply conditions. The ordinance provides for enforcement of ordinance violations.

A. Enforcement Within Abilene's CCN Area

The Plan is enforced within the Abilene CCN coverage area by providing service taps only to customers complying with adopted ordinances, maintaining a non-declining rate structure, discontinuing service to those customers who do not pay their water bills until payment is made, and verifying new construction conforms to adopted ordinances and plumbing codes.

B. Enforcement for Abilene's Wholesale Purchasers

Wholesale customers receive written notification of Plan adoption and any subsequent Amendments. Adoption of this Plan by the City per 30 Texas

Administrative Code (TAC) §288.5 obligates wholesale customers as defined in 30 TAC §288.1 to implement water conservation measures. A copy of the notification letter to wholesale users has been included in Appendix F. The City makes best efforts to ensure implementation and enforcement of the Plan by wholesale users via these contractual requirements and outreach efforts, fulfilling Municipal BMP 3.2.

Section XII. Additional Wholesale Water Contract Requirements

It is Abilene's policy to include in every wholesale water supply contract entered into or renewed after official adoption of the Plan, including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using applicable elements in 30 TAC Chapter 288. If the wholesale customer intends to resell the water, then the contract between Abilene and the wholesale customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with 30 TAC Chapter 288. These efforts are recognized as part of Municipal BMP 3.2.

Section XIII. Coordination with Brazos G Regional Water Planning Group

All of the customers served by the City are located within the Brazos G Regional Water Planning Area. Abilene has provided a copy of this Plan to the Brazos G Regional Water Planning Group.

Section XIV. Revisions to the Water Conservation Plan

The City will review and update this water conservation plan, as appropriate, based on new or updated information. As a minimum the Plan will be updated every five (5) years.

Section XV. Severability

It is Abilene's intention that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable. If, any phrase, clause, sentence, paragraph or section shall be declared unconstitutional by a valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Plan, since the same would not have been enacted by Abilene without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph or section.

**CODE OF THE CITY OF ABILENE, TEXAS
CHAPTER 32 ARTICLE VI
WATER CONSERVATION PLAN**

DIVISION 1 GENERALLY

Sec. 32-140. Declaration of Policy

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire prevention and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Abilene hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this water conservation plan (the plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Sections 32-147 through 32-155 of this Plan.

No person shall make, cause, use or permit the use of water from the City of Abilene Water Utility System for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to provisions of this plan or in an amount in excess of that use permitted by the plan in effect pursuant to action taken by the mayor or his/her designee in accordance with the provisions of this Plan.

Sec. 32-141. Authorization

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

Sec. 32-142. Application

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

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

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

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

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

Sec. 32-143.1 Coordination with Regional Planning Groups

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

Sec. 32-143.2 Public Involvement

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

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

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

DIVISION 2 WATER CONSERVATION PLAN PROCEDURES

Sec. 32-144. Year Round Water Use Management

To conserve water supplies available to the City of Abilene, Year Round Water Use Management shall be implemented to restrict certain potable water use activities by all customers of the City of Abilene Water Utility System.

When conditions warrant, pursuant to Sec 32-141, the Water Conservation Plan will be implemented in accordance with the applicable provisions of this Plan.

1. Year-Round Water Use Management. The following year-round provisions shall apply to all potable water customers of the City of Abilene Water Utility System:

- a. Watering Days: Customers are encouraged to conserve water by watering their lawn areas only once every seven (7) days on one of their designated watering days.

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

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is above fifty (50) percent, the following three-day a week watering schedule applies:

Designated Watering Days:

Wednesday, Friday, Sunday	Odd numbered addresses
Tuesday, Thursday, Saturday	Even numbered addresses
Monday, Wednesday, Friday	Industrial, commercial, government customers, public and private schools and universities

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between forty and fifty (40-50) percent, the following two (2) day a week watering schedule applies:

Designated Watering Days:

Thursday, Sunday	Odd numbered addresses
Tuesday, Saturday	Even numbered addresses
Monday, Friday	Industrial, commercial, government customers, public and private schools and universities

- b. Watering Times:

Watering by all commercial, industrial, and residential customers utilizing individual sprinklers, or sprinkler systems, on lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on designated day(s) and then only during the hours of 12:00

midnight to 10:00 am and from 6:00 pm until 12:00 midnight.

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

A Drip Irrigation System shall not be used to irrigate lawns except on designated days and at designated times.
- e. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least fifty (50) percent of an existing yard.
- f. Water Wasting. The following uses of water are defined as “waste of water” and are absolutely prohibited:
 - i. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - ii. Failure to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - iii. Operating a permanently installed irrigation system with a broken sprinkler head; a sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or a sprinkler head that is misting due to high pressure.

- g. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety, and welfare. The Director of Water Utilities will review written requests on a case-by-case basis for the purchase and withdrawal of fire hydrants for land development and building construction processes.
 - h. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - i. Water may be added to swimming pools to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - j. The operation of charity car washes must:
 - i. Not allow water to run-off more than seventy-five (75) feet, and
 - ii. Use hoses with on/off nozzles and buckets.
 - k. Large-scale recreational development, such as, but not limited to, water parks, shall submit a plan to the Director of Water Utilities that detail expected water consumption and maintenance requirements. Any deviation from the requirements of this ordinance will be resolved on a case-by-case method.
2. Administrative Enforcement, Presumption of Ownership & Control; Hearing Officers; Administration of Hearings, Hearings, Appeals, Payment, Subsequent Violations, Fees, and Requests for Variances as pertaining to Year Round Water Use Management are addressed in Sections 32-147 through 32-156.

Sec. 32- 145. Water Conservation Stages

WATERING DAYS

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

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

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

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

7 or 8
5 or 6

Wednesday
Tuesday

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

STAGE 1 WATER ALERT

Implementation Criteria:

Combined treatment plant pumpage in excess of 45.0 MGD for two (2) consecutive days (while in year-round water use management trigger parameters); or, continually falling water storage facility levels which do not refill above fifty (50) percent overnight; or, combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between thirty to forty (30-40) percent, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

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

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

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

- i. A garden hose is used and is held in the hand during the duration of the irrigation event,
or

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

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

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

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

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

2. Vehicle Washing

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

5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health and safety hazards, or to prepare an area for pavement repair or application.
7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall, in addition to complying with other applicable articles in this ordinance, reduce their monthly consumption of water by a minimum of fifteen (15) percent compared to use during the same month of the previous year.
 - b. Industrial users may, in order to justify water use, present a conservation plan for approval by the Director of Water Utilities.
 - c. Golf courses will submit a conservation plan for approval by the Director of Water Utilities if potable irrigation water is to be used.

STAGE 2 WATER WARNING

Implementation Criteria:

Combined treatment plant pumpage in excess of 40.0 MGD for two (2) days (while in Stage 1 Water Alert trigger parameters); or, continually falling water storage facility levels which do not refill above forty (40) percent overnight or, combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between twenty to thirty (20-30) percent or, major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

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

1. Landscape Irrigation

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

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

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

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

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

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

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

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.

If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.

- b. Charity car washes are prohibited.
- 3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation day.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.
- 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
- 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.
- 7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

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

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

STAGE 3 WATER EMERGENCY

Implementation Criteria:

Combined treatment plant pumpage in excess of thirty-six (36) MGD for three (3) days and depletion of the combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill to less than twenty (20) percent or major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

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

1. Landscape Irrigation

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

- a. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- b. A faucet-filled container of five (5) gallons or less is used, or
- c. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.
- d. New lawns may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retiling or any replanting or reseeding of existing lawns shall not qualify for new lawn status in this section.

Watering of existing lawns is prohibited at any time.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station.
 - b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
 - c. Charity car washes are prohibited.
3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation days. New construction of swimming pools is prohibited.
4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day. New construction of ornamental fountains is prohibited.
5. Use of water from fire hydrants shall be limited to fire-fighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
- a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or a parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

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

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

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

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

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

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.
- c. Each golf course using potable water will reduce consumption by fifty (50) percent of contracted amount.

STAGE 4 WATER CRISIS

Implementation Criteria:

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

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

1. All outdoor irrigation of vegetation including lawns, using potable water is prohibited.
2. New lawns may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retiling or any replanting or reseeding of existing lawns shall not qualify for new lawn status in this section.

3. Only washing of mobile equipment in the critical interest of the public health or safety shall be allowed.
4. The filling, refilling or adding of water to swimming and/or wading pools is prohibited. The construction of new swimming pools is prohibited.
5. The operation of any ornamental fountain or similar structure is prohibited. The construction of new ornamental fountains is prohibited.
6. Use of water from fire hydrants shall be limited to fire fighting and related activities or other activities necessary to maintain public health, safety and welfare. Water for domestic use only may be purchased from the bulk loading station.
7. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards.
8. Commercial and Industrial Users
 - a. Commercial and industrial users of water (for other than drinking water and rest rooms) shall continue to maintain at least a 15 percent reduction of water use compared to use during the same month of the previous year.

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

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

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

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

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

Sec. 32-146. Target Water Use Goals

The following target goals for water use are established for use during water conservation stages as contained in Section 32-145:

Stage 1 WATER ALERT

Target Water Use Goal:

Combined treatment plant production less than forty-five (45.0) million gallons per day (MGD) for all Abilene water treatment facilities.

Stage 2 WATER WARNING

Target Water Use Goal:

Combined treatment plant production less than forty (40.0) MGD for all Abilene water treatment facilities.

Stage 3 WATER EMERGENCY

Target Water Use Goal:

Combined treatment plant production less than thirty-six (36.0) MGD for all Abilene water treatment facilities.

Stage 4 WATER CRISIS

Target Water Use Goal:

Combined treatment plant production less than thirty (30.0) MGD for all Abilene water treatment facilities.

DIVISION 3 WATER CONSERVATION PLAN ENFORCEMENT

Sec. 32-147. Administrative Enforcement

Violations of this plan are declared to be civil penalties with remedies being fines paid directly to Municipal Court. Non-payment of fines will result in surcharges assessed to the customer's water utility bill. Each violation of a particular component of this Plan shall constitute a separate violation, and each day a violation continues shall be considered a new violation for purposes of enforcement and enhancement.

The surcharge will be in addition to the regular water utility bill amount. The water utility office may discontinue water service to the premises if the surcharge is not paid as required under the Plan. Any person whose service is discontinued for failure to pay the surcharge shall not be restored until payment of a reconnection charge and any other costs incurred by the City in discontinuing service.

The city's authority to seek injunctive or other civil relief available under the law is not limited by this section.

The following procedures shall apply to anyone contesting the penalties for violating the Plan. The hearing process shall be a two-phase hearing process with the final phase being heard before the municipal clerk/administrator or deputy in charge of hearing appeals.

Sec. 32-148. Presumption of Ownership & Control

Presumption of Ownership/Control. Any person, including a person classified as a water customer of City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation.

All notices shall be issued to the person or entity whose name appears on the water bill.

In any case of a violation of any terms or provisions of this Plan by any corporation, business, partnership, or entity, the officers and/or agents actively in charge of the business or entity shall be subject to the penalty provided herein.

If a customer is irrigating during a time period or on a day when irrigation is not permitted for the street address of that customer and a city worker cannot find any person at that street address to turn off the irrigation system, the city worker may enter the property and turn off the irrigation system and/or the water source.

Sec. 32-149. Hearing Officers

1. There shall be designated a Hearing Officer(s) who shall be appointed by the municipal court clerk/administrator.
2. Hearing Officer(s) shall have the authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.

3. An order compelling the attendance of witnesses or the production of documents may be enforced by the municipal court.

Sec. 32-150. Administration of Hearings

1. The administrative adjudication process for Plan violations shall be initiated by the issuance of a notice which may be issued by a peace officer or other authorized enforcement agent. Authorized enforcement agents shall include any police officer, water utilities worker, city marshal, or other employee of the city designated by the city manager to enforce the provisions of this code in regard to the Plan.
2. The notice may be issued by affixing it to the front door of the property in question, in a conspicuous place.
3. The notice shall provide that the person charged with violation of the Plan shall have the right of hearing to determine the validity for the charged offense. Such right to a hearing shall be exercised by mail or by appearing in person before a hearing officer within ten (10) days from the date of the notice.
4. The original or any copy of the notice or summons is a record kept in the ordinary course of business in the city and is rebuttable proof of the facts it contains.

Sec. 32-151. Hearings

1. At the hearing before the hearing officer, the violator may admit, admit with explanation, or deny the alleged infraction. It is not a defense to the offense that the violator did not intend the alleged infraction, there being no culpable mental state required for the infraction.
2. The issuing officer shall not be required to attend the hearing.
3. It is not required that the city's attorney attend the hearing. Provided, however, that if the defendant is represented by legal counsel at the hearing, the hearing officer shall notify the city attorney who shall have a right to appear on behalf of the city at said hearing.
4. No formal or sworn complaint shall be necessary. The hearing officer shall examine the contents of the notice and the evidence related to ownership of the property in question and shall hear and review the testimony and evidence presented by the violator. If the hearing officer determines by the preponderance of the evidence that the infraction was committed by the violator, he shall find the violator responsible and assess a fine.
5. At the conclusion of the hearing, the hearing officer shall issue an order stating whether or not the person charged is responsible for the violation of the Plan and the amount of the fine assessed against him. The order shall be filed with the clerk of the municipal court. All such orders shall be kept in a separate index or file by the municipal court clerk using appropriate data processing techniques.
6. Failure of a person charged with the offense to appear at a hearing within the aforesaid ten (10) day period shall be considered an admission of liability for the charged offense.

Sec. 32-152. Appeals

A person determined by the hearing officer to be in violation of any provision of the Plan may appeal this determination to the municipal court clerk or a deputy so designated to hear Plan appeals.

The appeal must be instituted by filing a written petition, not later than the tenth day after the filing of the hearing officer's order, with the clerk of the municipal court along with payment of a nonrefundable administrative appeal filing fee in the amount of ten dollars (\$10.00).

After filing a petition for appeal, the municipal clerk shall schedule a hearing and notify all parties of the date, time, and place of the hearing.

The appeal hearing shall be a de novo review. The municipal court clerk shall examine the evidence presented at the appellate hearing and if the court clerk determines by the preponderance of the evidence that the infraction was committed by the violator, the court clerk shall find the violator responsible therefore.

Sec. 32-153. Payment

1. Any person alleged to have violated the Plan who merely desires to make payment shall provide same to the municipal court clerk in charge of water violations within ten (10) days after receiving notice of said violation.
2. Any person alleged to have violated the Plan and who fails to appear within the ten (10) days as reflected in 32.150.3 above shall be assessed a surcharge on their next water bill in the amount of the minimum fine.
3. Any person found to have violated the Plan by the Hearing Officer shall pay the fine within ten (10) days of said hearing or the fee shall be assessed in a surcharge on the violator's next water bill.

Sec. 32-154. Subsequent Violations-Increased Fees-Discontinuation of Service-Injunctive Relief

Subsequent violations of the Plan shall result in increased fine or upon the occurrence of three (3) violations, after notice, the discontinuation of services. Services discontinued under this provision shall be restored only upon payment of a reconnection fee and any other costs incurred by the City in discontinuing service.

Compliance with the Plan may also be sought through injunctive relief in district court.

Sec. 32-155. Fines-Minimum and Maximum

1. Any person, firm, or corporation found to have violated any provision of the Plan, shall be assessed a fine in an amount not to exceed one thousand dollars (\$1,000.00) for each offense, the amount to be determined by the hearing officer in his reasonable discretion, subject to review on appeal to the municipal court clerk.

2. Unless higher amounts are required by state law or a lesser amount is determined by the hearing officer or municipal court clerk or so designated deputy, the minimum fines for violating the Plan shall be as follows:
 - a. Violation of Year Round Water Use Management, first offense ...\$50.00
 - b. Violation of Year Round Water Use Management, second offense ...\$75.00
 - c. Violation of Year Round Water Use Management, subsequent offenses...\$250.00
 - d. Violation of Stage 1, first offense...\$50.00
 - e. Violation of Stage 1, second offense...\$75.00
 - f. Violation Stage 1, subsequent offenses...\$250.00
 - g. Violation of Stage 2, first offense...\$100.00
 - h. Violation of Stage 2, second offense...\$150.00
 - i. Violation of Stage 2, subsequent offenses...\$500.00
 - j. Violation of Stage 3 or 4, first offense...\$250.00
 - k. Violation of Stage 3 or 4, second offense...\$500.00
 - l. Violation of Stage 3 or 4, subsequent offenses...\$1,000.00
 - m. Reconnect Fees for failure to pay the surcharge...\$250.00
 - n. Reconnect Fees for repeated violations of the Plan...\$500.00
3. It is an affirmative defense to any violation of this article if the customer proves that the misused wasted water is from an operable water well serving said property.
4. Fraudulent misrepresentation of well water use will result in a five hundred dollar (\$500) fine.

Sec. 32-156. Requests for Variance

Requests for variance should be made in writing to the Director of Water Utilities. Requests must include name of customer, location, type of variance requested, reason for variance request and duration of deviation from this plan. Upon the Director's written approval acknowledged by the entity in question, these entities may follow the requested variance and will be responsible for all other provisions of this article.

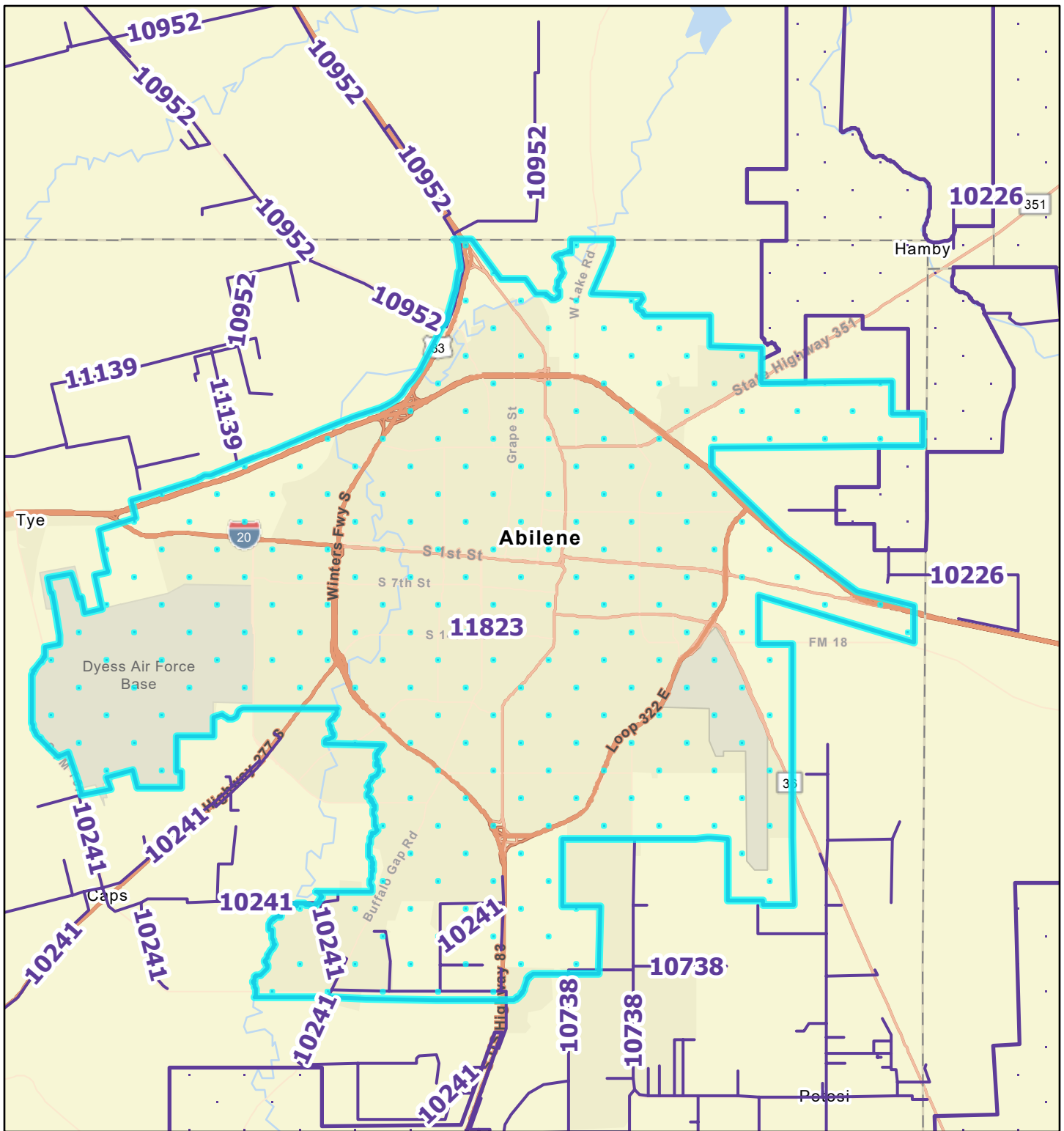
Sec. 32-157. Severability

If any provision or any section of this Plan shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of the Plan, which shall remain in full force and effect.

Appendix A

Service Area Maps

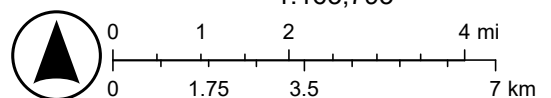
City of Abilene Water Service Area (11823)



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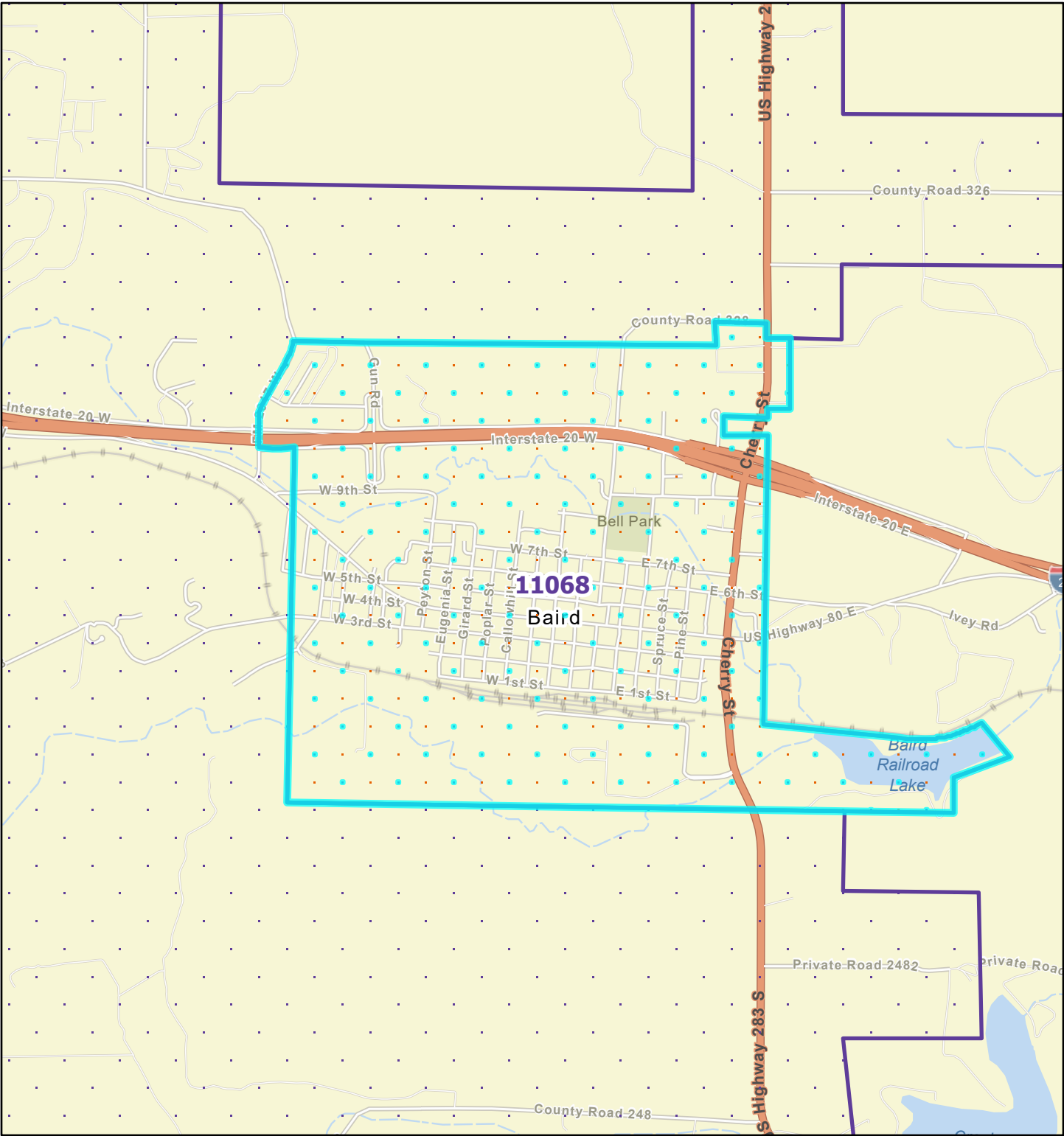
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- Water CCN Facility Lines
- Water CCN Service Areas



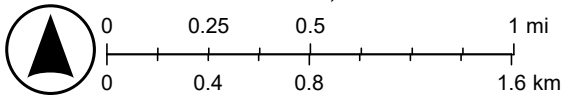
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS

City of Baird Water Service Area



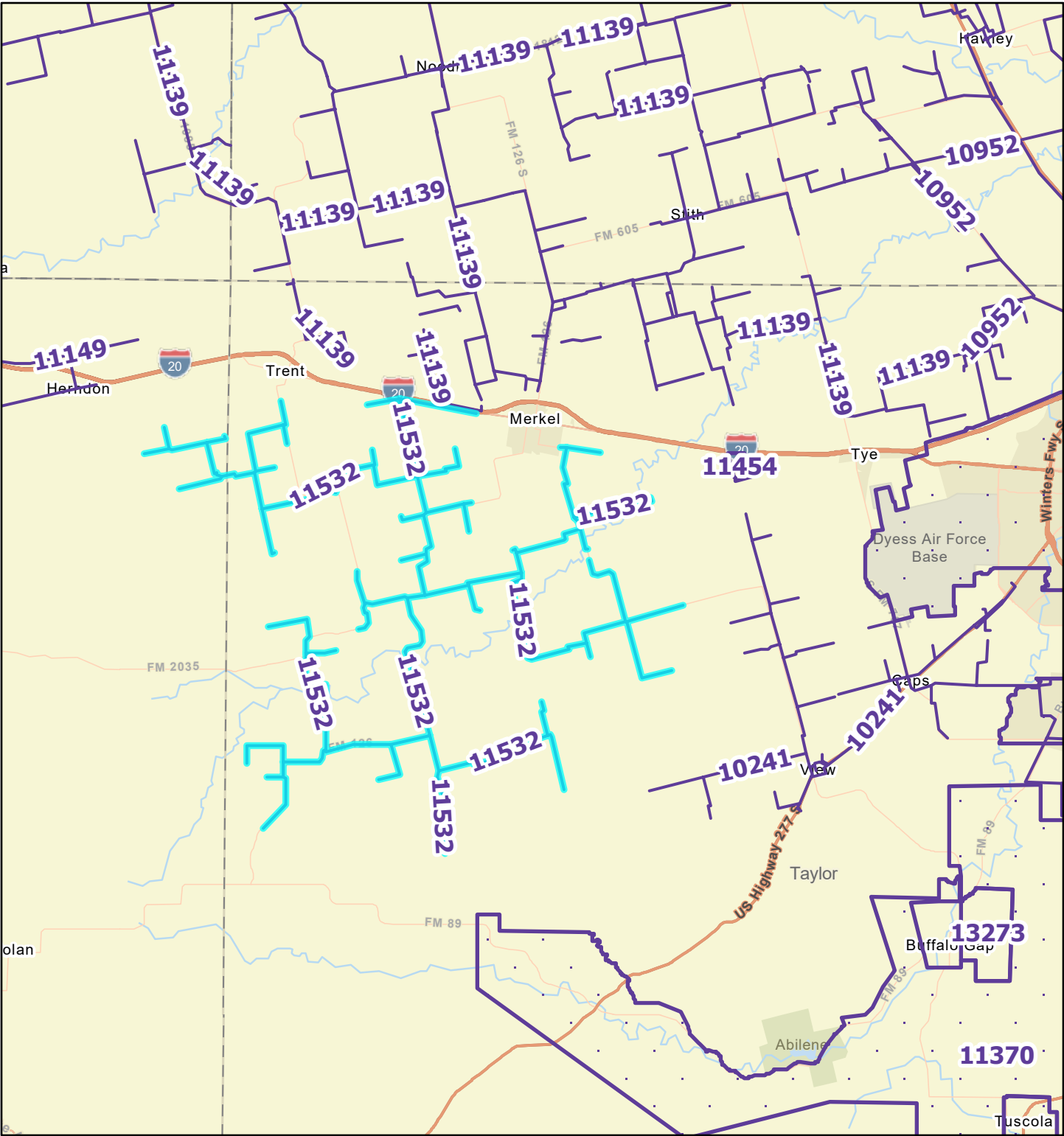
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-  Water CCN Service Areas
-  Sewer CCN Service Areas



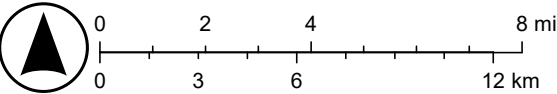
Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Blair WSC Water Service Area (11532)



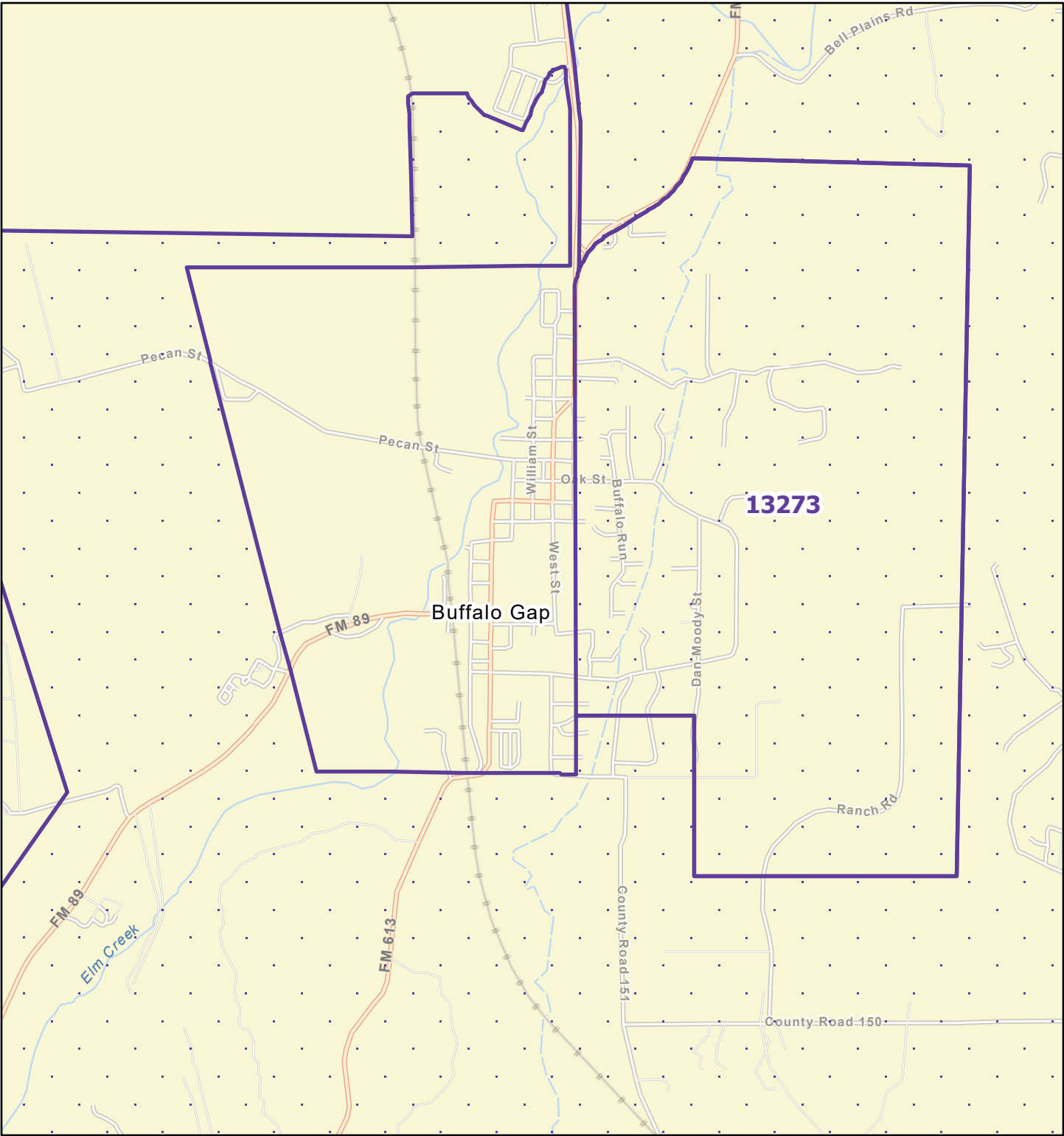
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- Water CCN Facility Lines
- Water CCN Service Areas



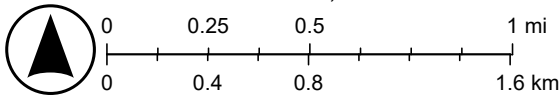
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS

City of Buffalo Gap Water Service Area (10738)



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 Water CCN Service Areas



City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

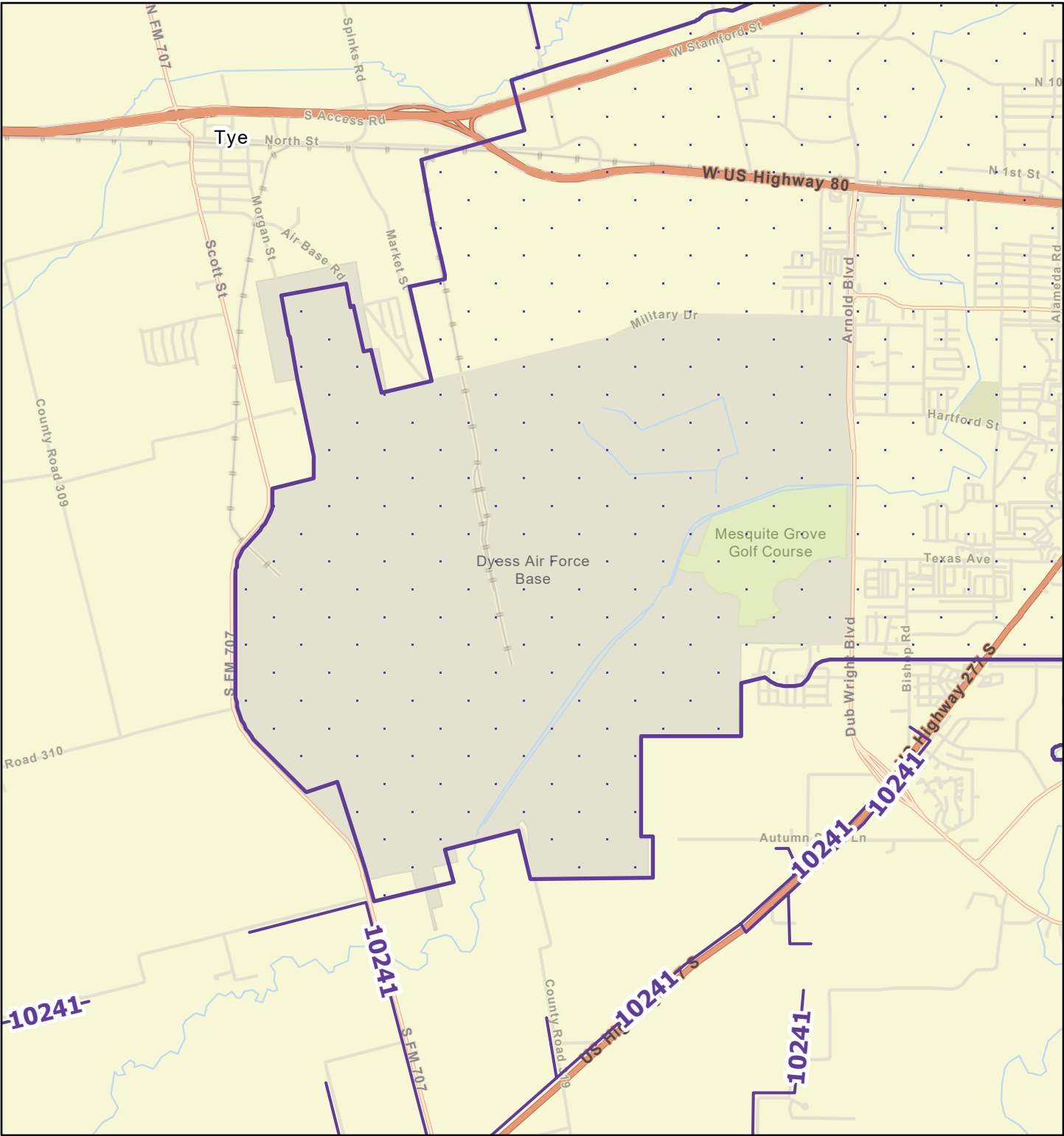
This map displays the city of Clyde, Texas, and its surrounding area. The city boundary is outlined in a thick purple line. Major roads shown include Interstate 20 (I-20) running diagonally across the center, and several County Roads including 110, 112 W, 113, 115, 120, 243, 254, 258, 259, 262, 270, 275, 279, and 504. Other roads include FM 604 N, FM 2700, and FM 604. Local streets such as S 1st St W, Sunset Dr, Stephens St, S 4th St, Gas House Rd, and N Access Rd are also labeled. The town of Clyde is marked with a black dot and labeled. A creek, Kiser Creek, is shown flowing through the southern part of the area. The map includes a grid of latitude and longitude lines.



Water CCN Service Areas

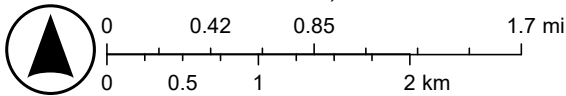
Page 214 of 485

Dyess Air Force Base Water Service Area



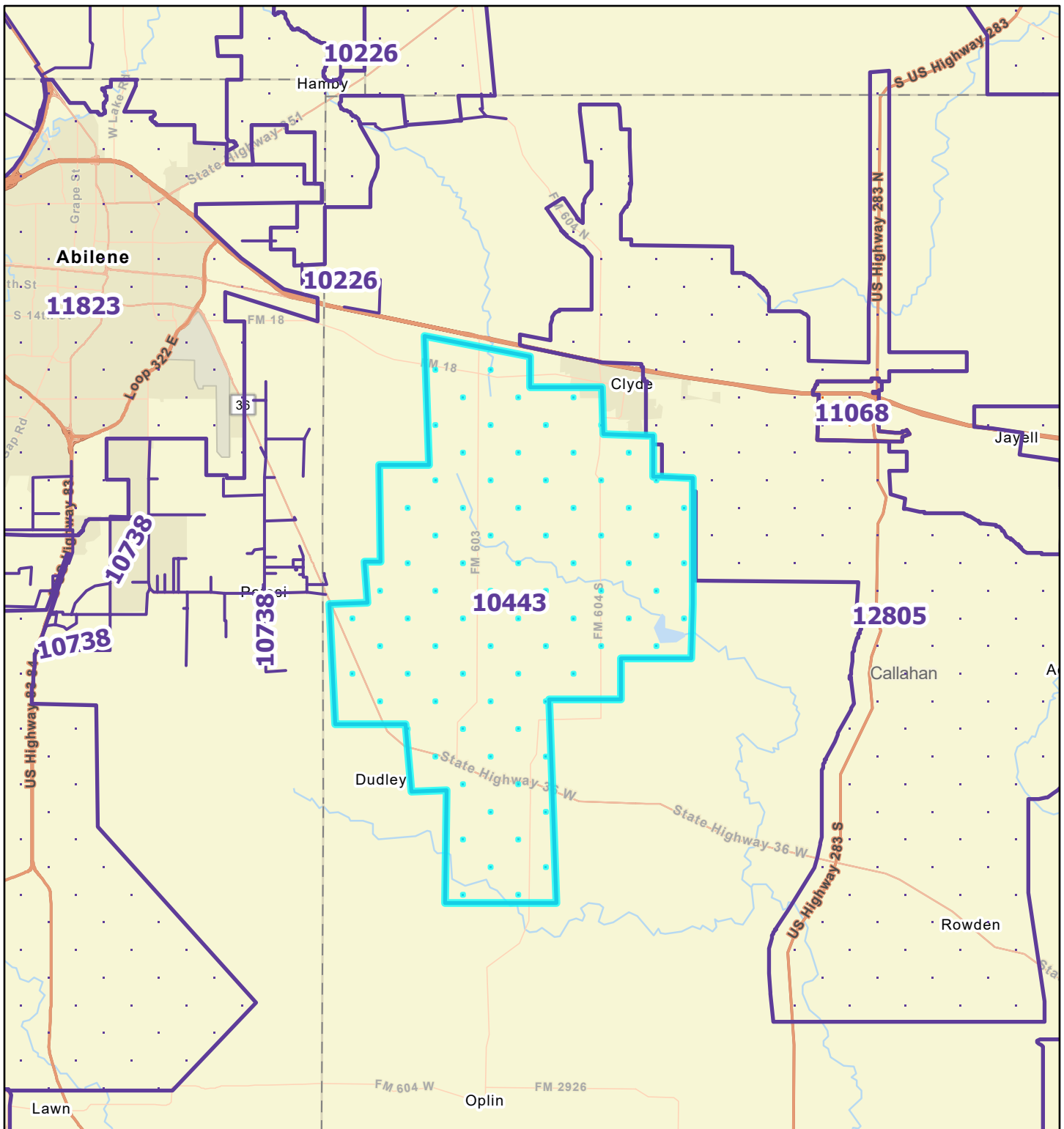
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- Water CCN Facility Lines
- Water CCN Service Areas



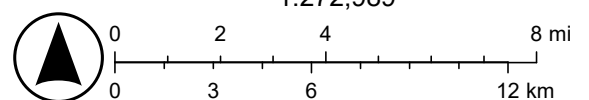
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA, USFWS

Eula WSC Water Service Area (10443)



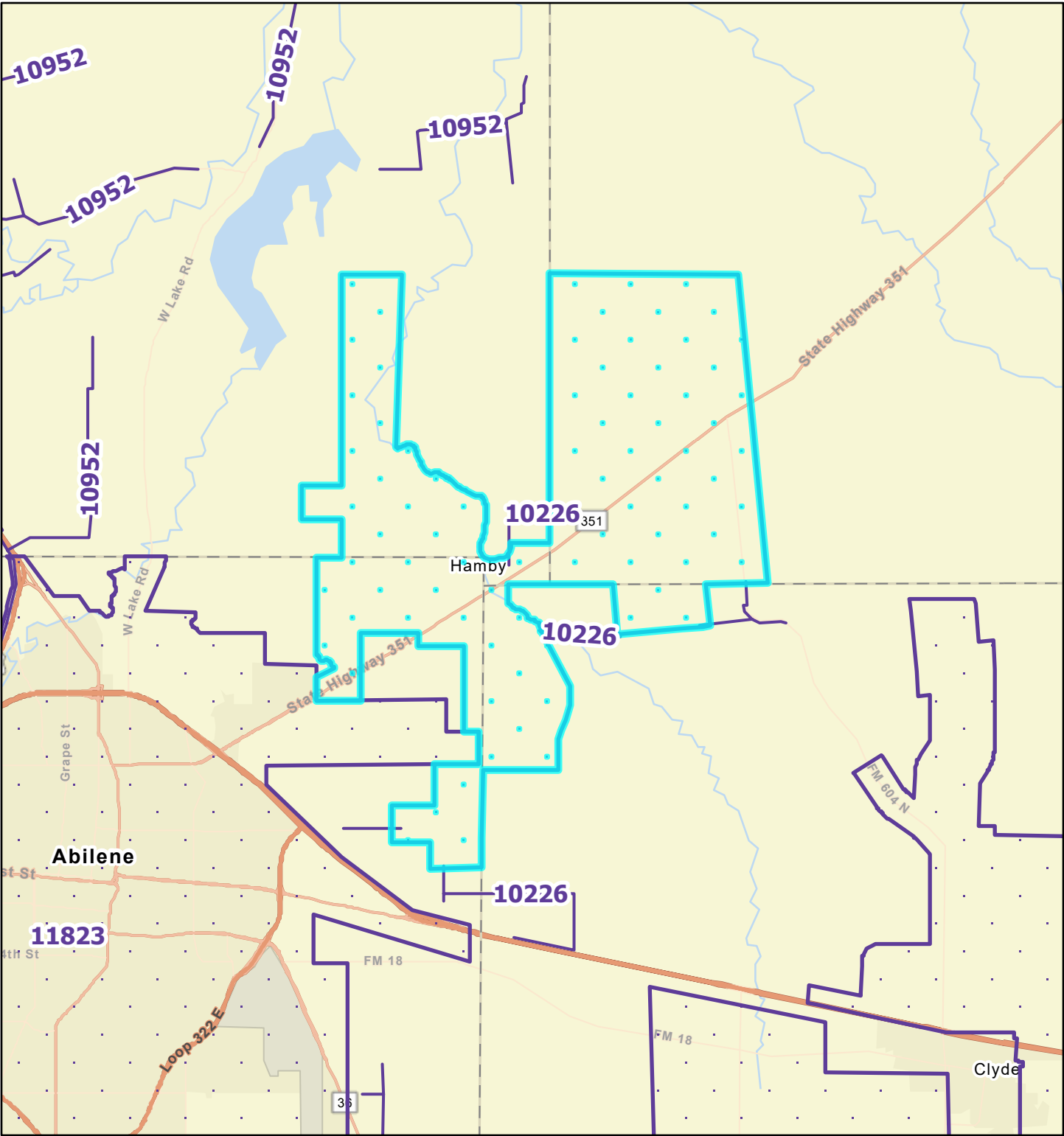
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-  Water CCN Facility Lines
-  Water CCN Service Areas
-  Sewer CCN Service Areas



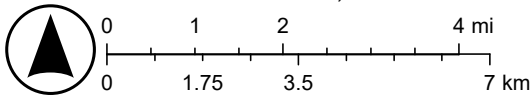
Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/ NASA, USGS, EPA, NPS, USDA, USFWS

Hamby WSC Water Service Area (10226)



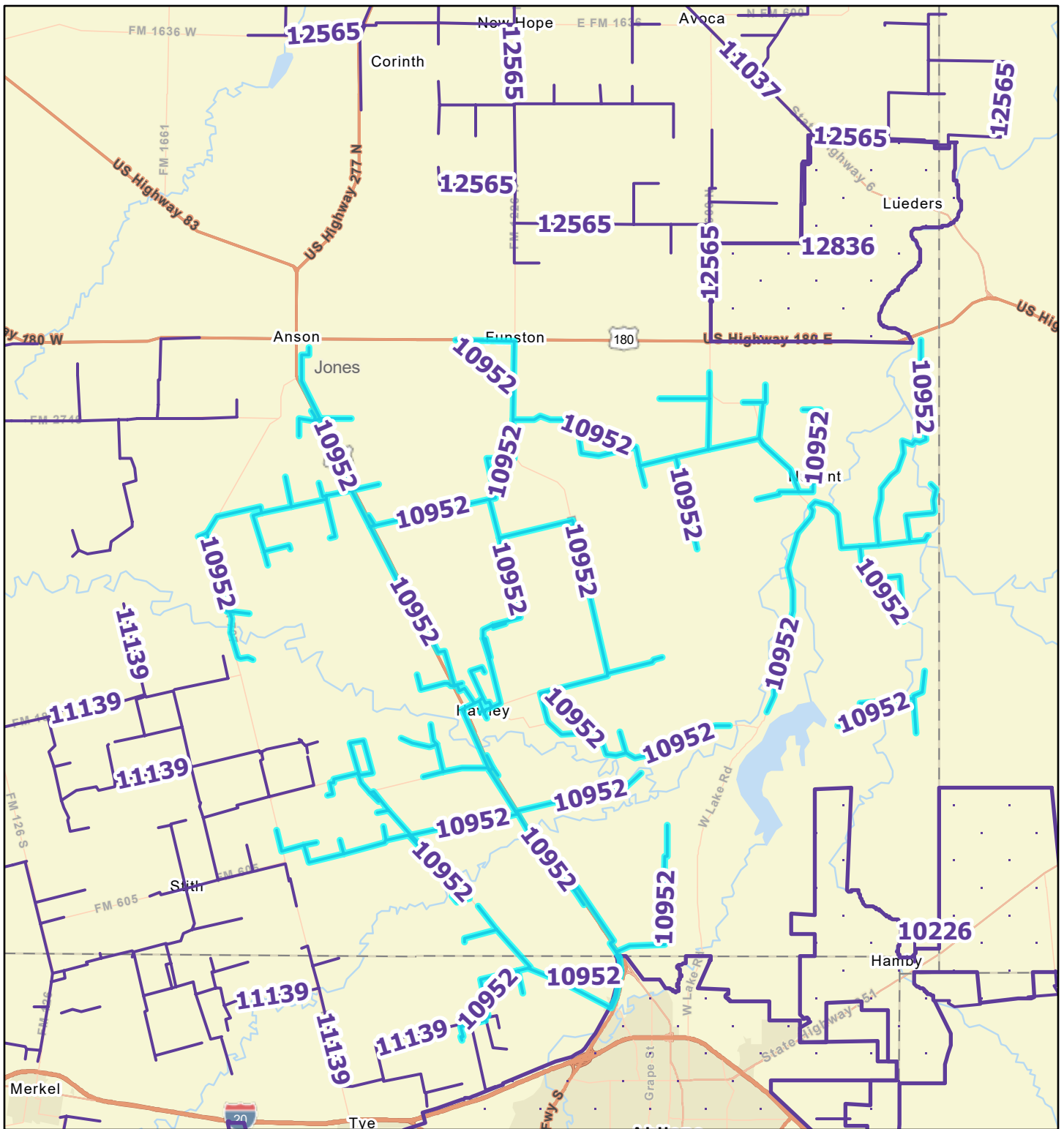
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- Water CCN Facility Lines
- Water CCN Service Areas



Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/ NASA, USGS, EPA, NPS, USDA, USFWS

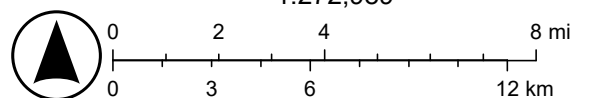
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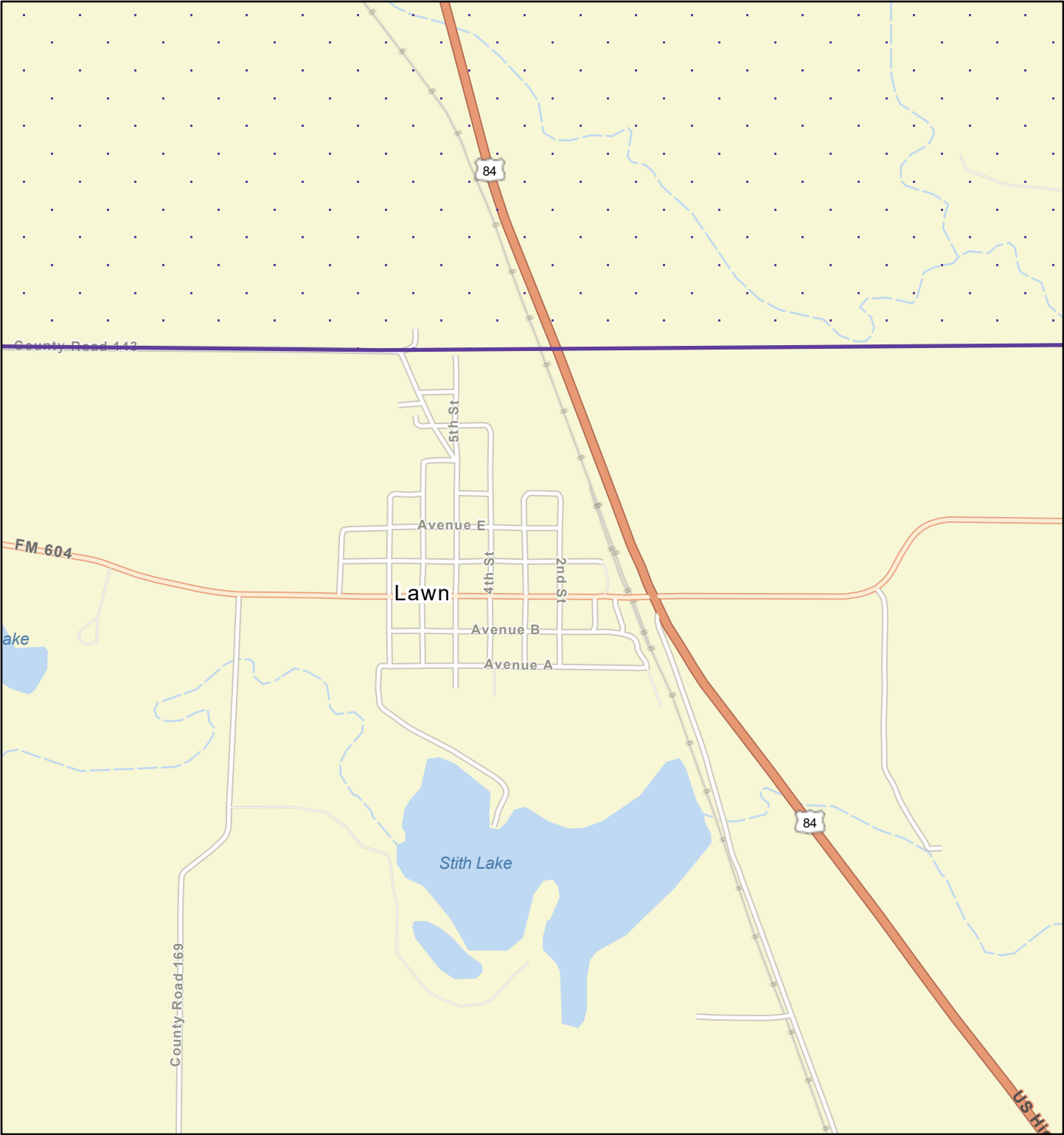
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- Water CCN Facility Lines
- Water CCN Service Areas



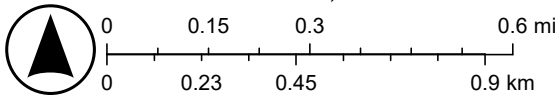
Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/ NASA, USGS, EPA, NPS, USDA, USFWS

City of Lawn Water Service Area



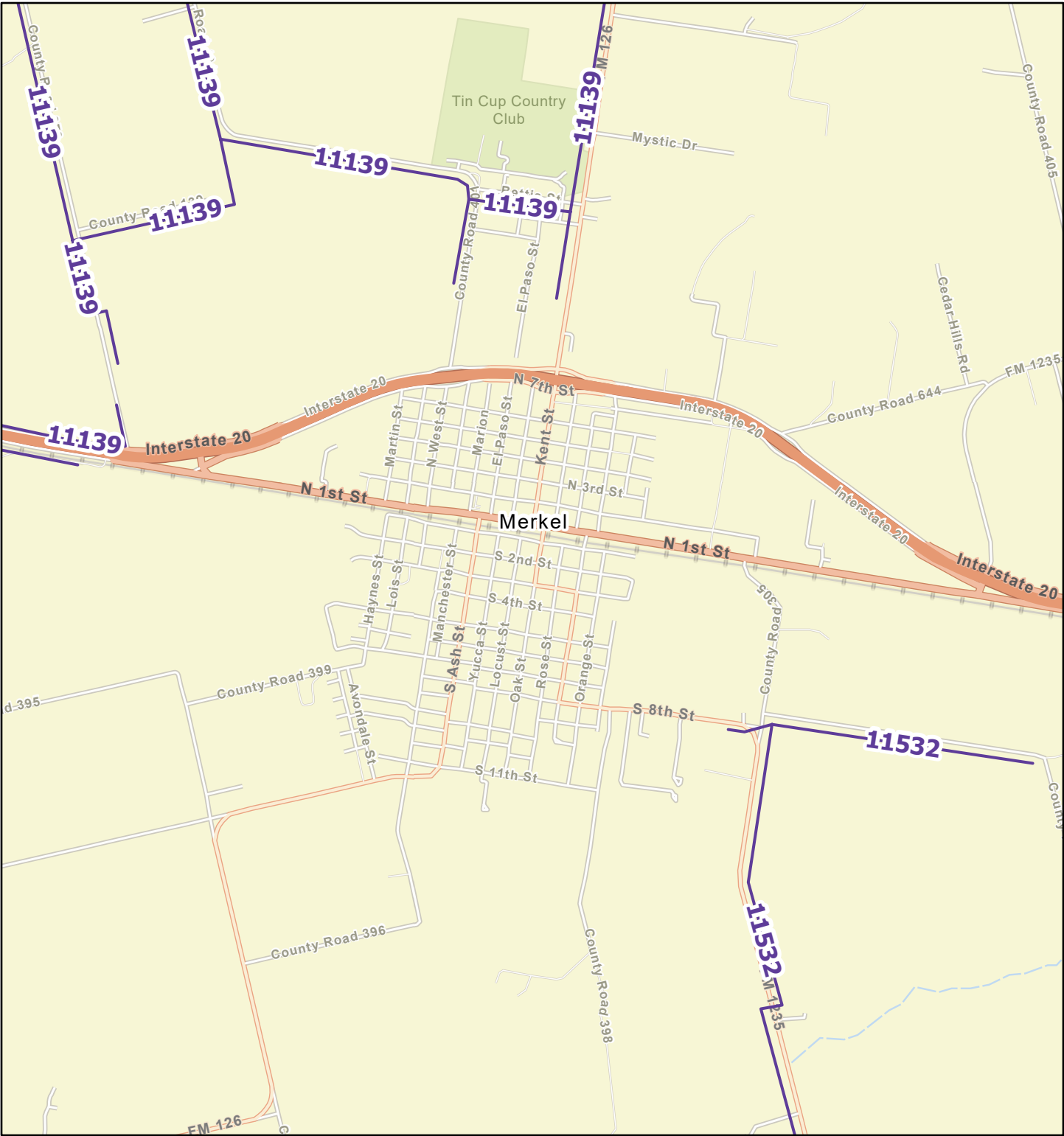
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 Water CCN Service Areas



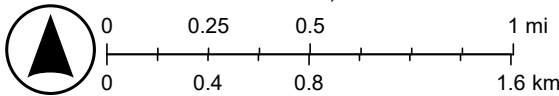
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

City of Merkel Water Service Area



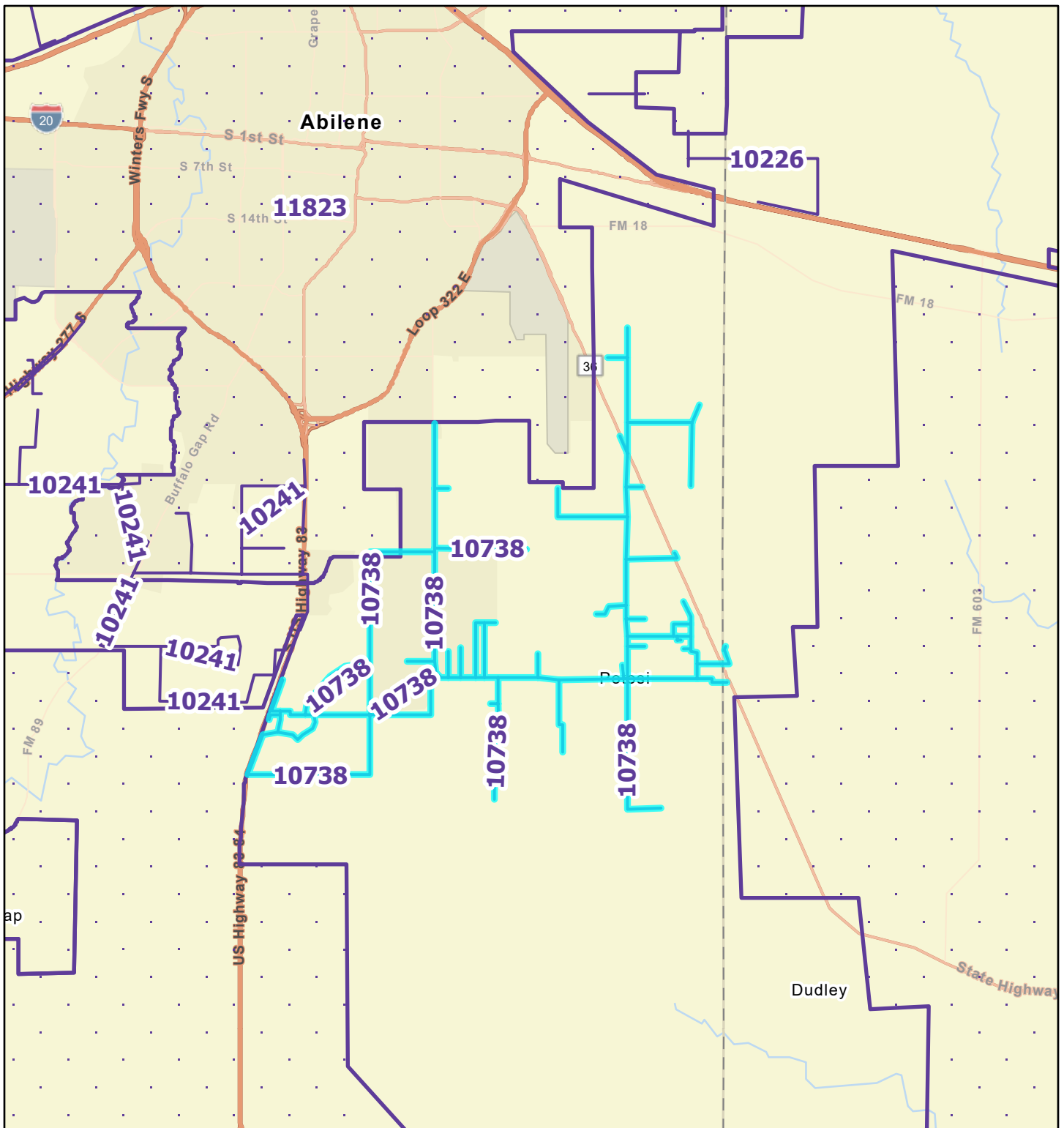
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Water CCN Facility Lines



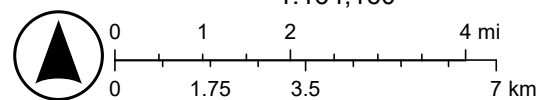
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Potosi WSC Water Service Area (10738)



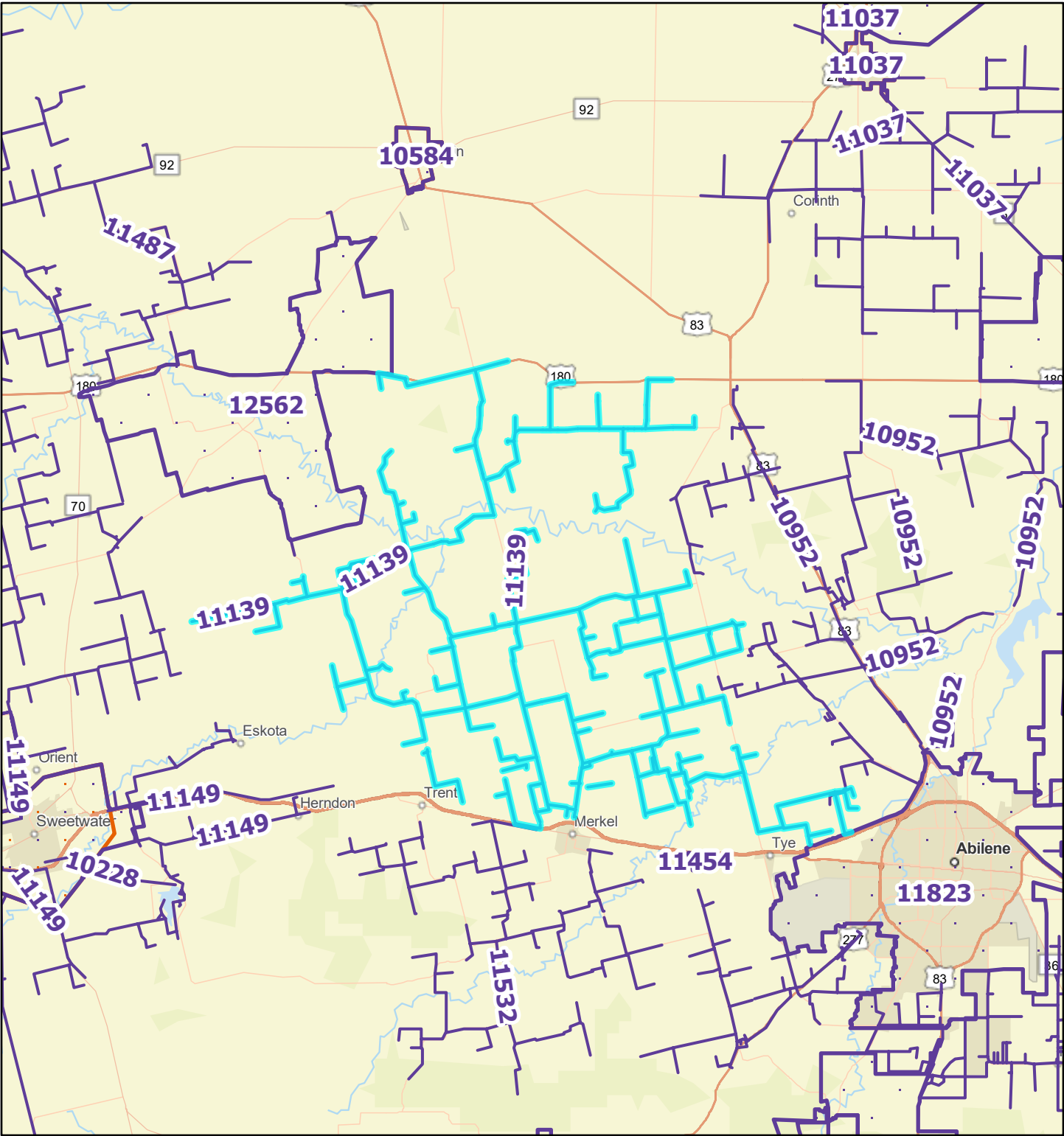
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- Water CCN Facility Lines
- Water CCN Service Areas



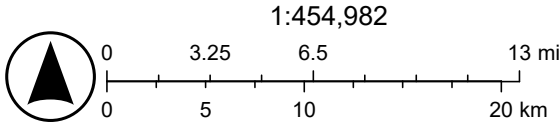
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS

S U N WSC Water Service Area (11139)



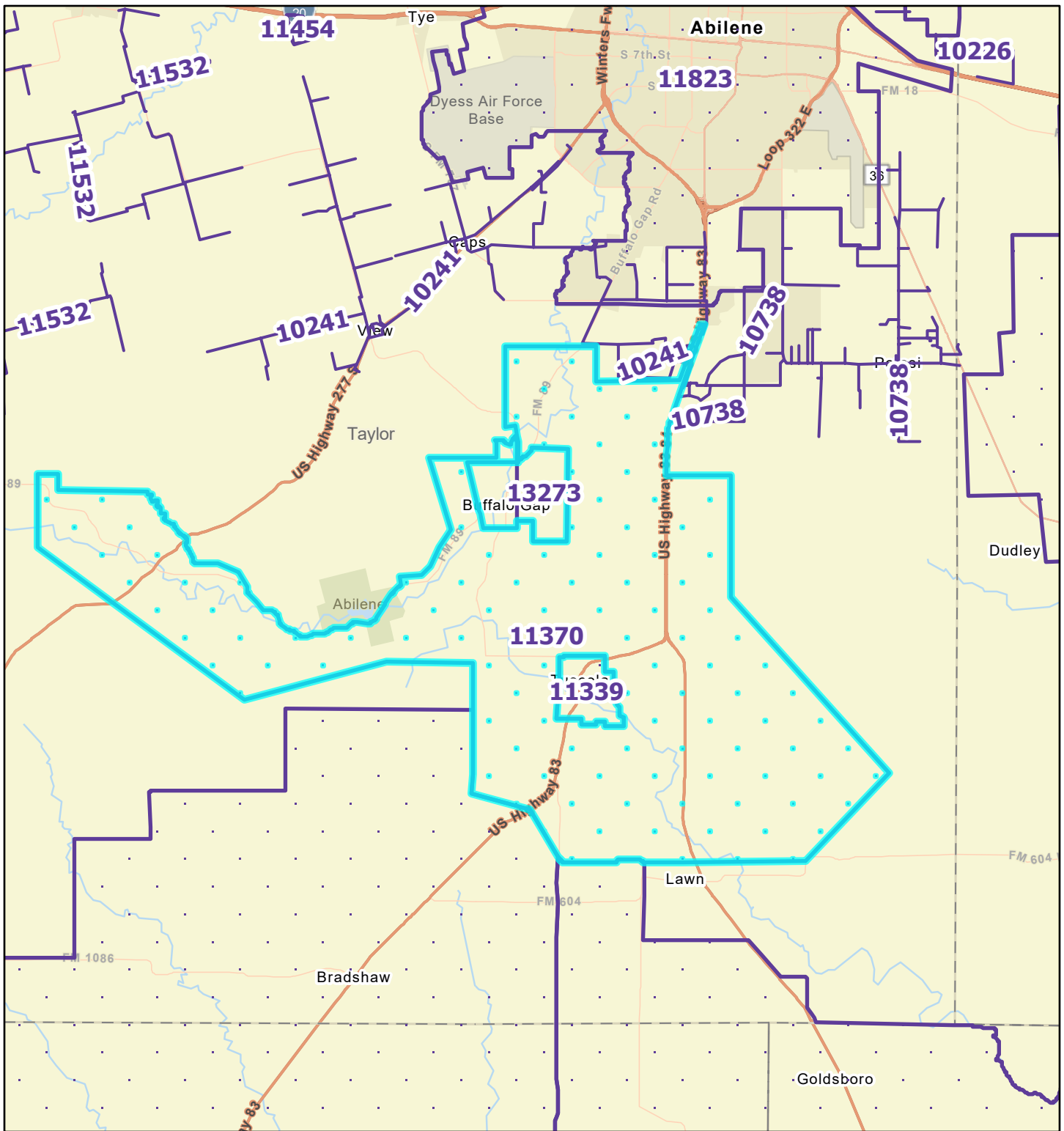
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- Water CCN Facility Lines
- Water CCN Service Areas
- Sewer CCN Service Areas



Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

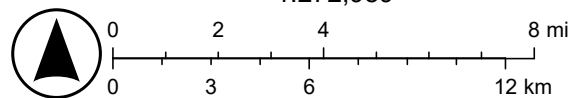
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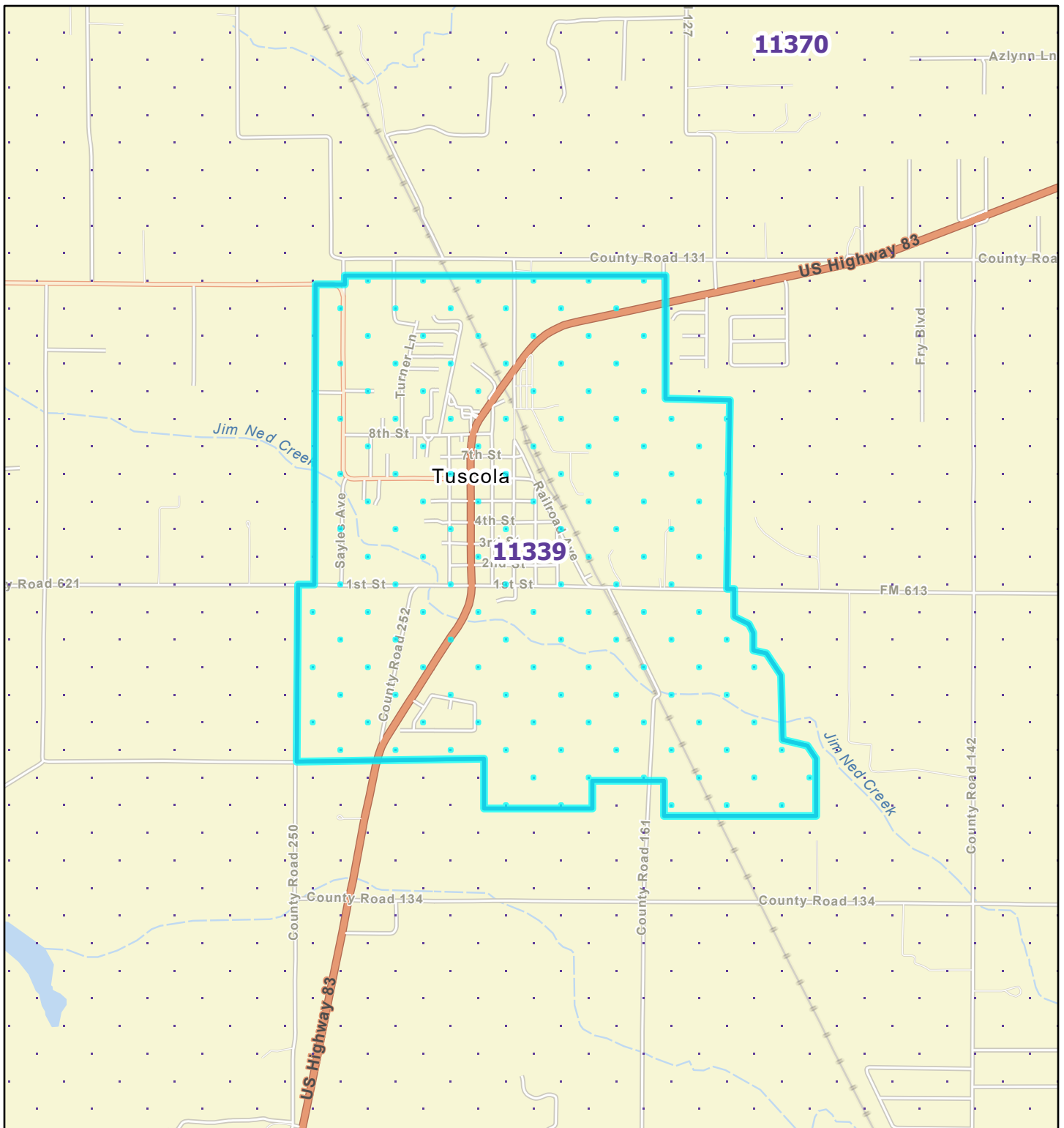
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- Water CCN Facility Lines
- Water CCN Service Areas



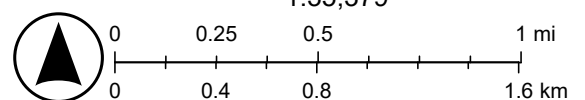
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS

Tuscola-Taylor County WCID 1 Water Service Area (11339)



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 Water CCN Service Areas



1:35,379

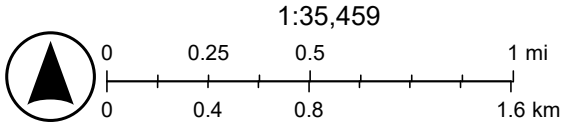
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

City of Tye Water Service Area



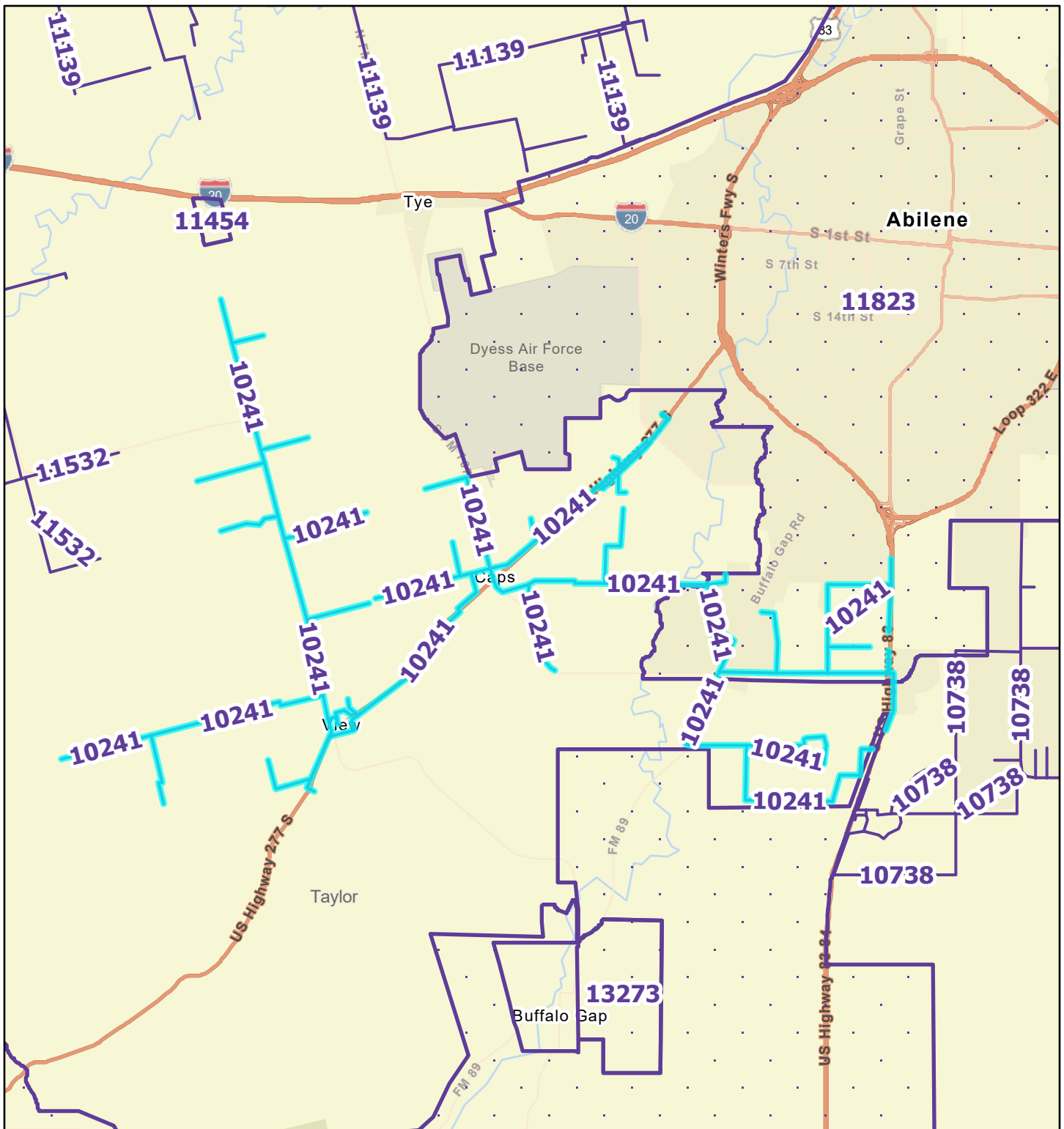
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- Water CCN Facility Lines
- Water CCN Service Areas



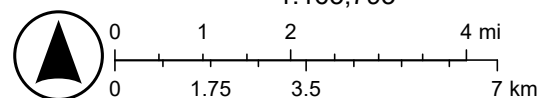
City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

View Caps WSC Water Service Area (10241)



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- Water CCN Facility Lines
- Water CCN Service Areas



1:163,793

City of Abilene, Taylor County, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS

Appendix B

Utility Profile for Retail Water Supplier

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

CONTACT INFORMATION

Name of Utility:	CITY OF ABILENE		
Public Water Supply Identification Number (PWS ID):	TX2210001		
Certificate of Convenience and Necessity (CCN) Number:	11823		
Surface Water Right ID Number:	4139-A, 4142, 4143, 4150-B, 4153, 4161-C, 4165-A, 4266-C, 12212		
Wastewater ID Number:			
Contact:	First Name:	Matthew	Last Name: Dane
	Title:	Assistant Water Utilities Director	
Address:	P.O. Box 60	City:	Abilene State: TX
Zip Code:	79604	Zip+4:	
		Email:	Matthew.Dane@abilenetx.com
Telephone Number:	3256766474	Date:	
Is this person the designated Conservation Coordinator?		☒ Yes ☐ No	

Regional Water Planning Group:	G
Groundwater Conservation District:	

Our records indicate that you:

☒ Received financial assistance of \$500,000 or more from TWDB

☒ Have 3,300 or more retail connections

☒ Have a surface water right with TCEQ

A. Population and Service Area Data

1. Current service area size in square miles: 108

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. Historical service area population for the previous five years, starting with the most current year.

Year	Historical Population Served By Retail Water Service	Historical Population Served By Wholesale Water Service	Historical Population Served By Wastewater Water Service
2023	124,262	33,736	113,078
2022	123,688	33,581	112,556
2021	123,115	33,427	112,035
2020	122,542	33,273	111,513
2019	121,994	33,164	111,015

3. Projected service area population for the following decades.

Year	Projected Population Served By Retail Water Service	Projected Population Served By Wholesale Water Service	Projected Population Served By Wastewater Water Service
2030	134,466	42,976	122,364
2040	145,047	46,149	131,993
2050	153,959	48,877	140,103
2060	162,895	51,985	148,234
2070	172,845	55,425	157,289

4. Described source(s)/method(s) for estimating current and projected populations.

2026 Regional Water Plan and Utility Records.

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

B. System Input

System input data for the previous five years.

Total System Input = Self-supplied + Imported – Exported

Year	Water Produced in Gallons	Purchased/Imported Water in Gallons	Exported Water in Gallons	Total System Input	Total GPCD
2023	8,063,817,000	0	1,333,308,000	6,730,509,000	148
2022	8,148,538,000	0	1,243,140,000	6,905,398,000	153
2021	7,451,452,000	0	1,015,308,000	6,436,144,000	143
2020	7,657,449,000	0	1,040,090,000	6,617,359,000	148
2019	7,481,704,000	0	911,518,000	6,570,186,000	148
Historic Average	7,760,592,000	0	1,108,672,800	6,651,919,200	148

C. Water Supply System

1. Designed daily capacity of system in gallons	49,500,000
2. Storage Capacity	
2a. Elevated storage in gallons:	6,750,000
2b. Ground storage in gallons:	31,850,000

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

D. Projected Demands

1. The estimated water supply requirements for the next ten years using population trends, historical water use, economic growth, etc.

Year	Population	Water Demand (gallons)
2025	129,824	8,555,041,884
2026	130,752	8,729,537,733
2027	131,681	8,904,033,583
2028	132,609	9,078,529,433
2029	133,538	9,253,025,282
2030	134,466	9,427,521,132
2031	135,524	9,549,878,183
2032	136,582	9,672,235,233
2033	137,640	9,794,592,284
2034	138,698	9,916,949,334

2. Description of source data and how projected water demands were determined.

2026 Regional Water Plan

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

E. High Volume Customers

1. The annual water use for the five highest volume
RETAIL customers.

Customer	Water Use Category	Annual Water Use	Treated or Raw
Abilene Plant	Industrial	115,194,000	Treated
Dyess AFB	Institutional	113,562,000	Treated
Jones County-Other Manufacturing	Industrial	19,367,000	Treated
Texas Healthcare Linen	Industrial	13,895,000	Treated
Bridgestone Bandag, Inc.	Industrial	13,302,000	Treated

2. The annual water use for the five highest volume
WHOLESALE customers.

Customer	Water Use Category	Annual Water Use	Treated or Raw
Steamboat Mountain WSC	Municipal	271,895,000	Treated
Potosi WSC	Municipal	224,256,000	Treated
View-Caps WSC	Municipal	98,249,000	Treated
Hawley WSC	Municipal	97,675,000	Treated
City of Baird	Municipal	89,868,000	Treated

F. Utility Data Comment Section

Additional comments about utility data.

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

Section II: System Data

A. Retail Water Supplier Connections

1. List of active retail connections by major water use category.

Water Use Category Type	Total Retail Connections (Active + Inactive)	Percent of Total Connections
Residential - Single Family	41,082	69.59 %
Residential - Multi-Family	11,301	19.14 %
Industrial	43	0.07 %
Commercial	5,416	9.17 %
Institutional	1,140	1.93 %
Agricultural	51	0.09 %
Total	59,033	100.00 %

2. Net number of new retail connections by water use category for the previous five years.

	Net Number of New Retail Connections						
Year	Residential - Single Family	Residential - Multi-Family	Industrial	Commercial	Institutional	Agricultural	Total
2023	2,342	101	0	48	59	51	2,601
2022	0	462	4	0	0	0	466
2021	531	25	0	36	6	0	598
2020	748	132	0	0	40	0	920
2019	266	0	0	0	7	0	273

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

B. Accounting Data

The previous five years' gallons of RETAIL water provided in each major water use category.

Year	Residential - Single Family	Residential - Multi-Family	Industrial	Commercial	Institutional	Agricultural	Total
2023	2,951,307,000	515,585,000	161,758,000	959,055,000	863,422,000	9,438,000	5,460,565,000
2022	3,212,813,000	534,664,000	149,223,000	1,013,812,000	1,004,137,000	0	5,914,649,000
2021	2,701,695,000	520,597,000	138,533,000	880,600,000	907,899,000	0	5,149,324,000
2020	2,813,014,000	510,667,000	160,476,000	794,311,000	950,569,000	0	5,229,037,000
2019	2,487,401,000	464,593,000	164,850,000	769,035,000	916,272,000	0	4,802,151,000

C. Residential Water Use

The previous five years residential GPCD for single family and multi-family units.

Year	Total Residential GPCD
2023	75
2022	87
2021	72
2020	74
2019	66
Historic Average	75

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

D. Annual and Seasonal Water Use

1. The previous five years' gallons of treated water provided to RETAIL customers.

Month	Total Gallons of Treated Water				
	2023	2022	2021	2020	2019
January	542,610,000	530,342,000	529,269,000	514,397,000	547,548,000
February	484,771,000	482,667,000	573,483,000	468,365,000	457,886,000
March	587,054,000	554,370,000	553,704,000	496,052,000	530,489,000
April	659,220,000	643,913,000	598,364,000	549,986,000	556,472,000
May	637,391,000	783,623,000	557,713,000	748,576,000	559,534,000
June	676,014,000	829,404,000	605,811,000	754,070,000	594,020,000
July	865,103,000	965,286,000	687,561,000	325,928,000	804,804,000
August	982,928,000	807,862,000	797,652,000	864,773,000	916,239,000
September	789,228,000	755,173,000	785,962,000	626,061,000	784,467,000
October	697,129,000	675,624,000	647,451,000	686,206,000	681,438,000
November	575,881,000	562,220,000	560,209,000	577,252,000	534,978,000
December	566,488,000	558,052,000	554,273,000	545,789,000	513,829,000
Total	8,063,817,000	8,148,536,000	7,451,452,000	7,157,455,000	7,481,704,000

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. The previous five years' gallons of raw water provided to RETAIL customers.

Month	Total Gallons of Raw Water				
	2023	2022	2021	2020	2019
January	212,000	128,000	176,000	181,000	281,000
February	214,000	230,000	267,000	140,000	116,000
March	235,000	255,000	157,000	150,000	203,000
April	173,000	187,000	283,000	146,000	264,000
May	229,000	150,000	201,000	239,000	184,000
June	195,000	238,000	197,000	248,000	237,000
July	269,000	337,000	182,000	349,000	161,000
August	339,000	479,000	966,000	176,000	320,000
September	592,000	307,000	818,000	250,000	381,000
October	245,000	368,000	243,000	294,000	439,000
November	178,000	234,000	205,000	223,000	516,000
December	255,000	181,000	163,000	239,000	168,000
Total	3,136,000	3,094,000	3,858,000	2,635,000	3,270,000

3. Summary of seasonal and annual water use.

	Summer RETAIL (Treated + Raw)	Total RETAIL (Treated + Raw)
2023	2,524,848,000	8,066,953,000
2022	2,603,606,000	8,151,630,000
2021	2,092,369,000	7,455,310,000
2020	1,945,544,000	7,160,090,000
2019	2,315,781,000	7,484,974,000
Average in Gallons	2,296,429,600.00	7,663,791,400.00

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

E. Water Loss

Water Loss data for the previous five years.

Year	Total Water Loss in Gallons	Water Loss in GPCD	Water Loss as a Percentage
2023	520,997,005	11	6.57 %
2022	330,616,770	8	4.73 %
2021	180,621,500	4	2.81 %
2020	216,423,408	5	3.27 %
2019	588,145,140	13	8.95 %
Average	367,360,765	8	5.27 %

F. Peak Day Use

Average Daily Water Use and Peak Day Water Use for the previous five years.

Year	Average Daily Use (gal)	Peak Day Use (gal)	Ratio (peak/avg)
2023	22,101,241	27444000	1.2417
2022	22,333,232	28300065	1.2672
2021	20,425,506	22743141	1.1135
2020	19,616,684	21147217	1.0780
2019	20,506,778	25171532	1.2275

G. Summary of Historic Water Use

Water Use Category	Historic Average	Percent of Connections	Percent of Water Use
Residential - Single Family	2,833,246,000	69.59 %	53.35 %
Residential - Multi-Family	509,221,200	19.14 %	9.59 %
Industrial	154,968,000	0.07 %	2.92 %
Commercial	883,362,600	9.17 %	16.63 %
Institutional	928,459,800	1.93 %	17.48 %
Agricultural	1,887,600	0.09 %	0.04 %

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

H. System Data Comment Section

Section III: Wastewater System Data

A. Wastewater System Data

1. Design capacity of wastewater treatment plant(s) in gallons per day: 22,000,000

2. List of active wastewater connections by major water use category.

Water Use Category	Metered	Unmetered	Total Connections	Percent of Total Connections
Municipal	0	49,729	49,729	89.87 %
Industrial	0	43	43	0.08 %
Commercial	0	4,709	4,709	8.51 %
Institutional	0	855	855	1.55 %
Agricultural	0	0	0	0.00 %
Total	0	55,336	55,336	100.00 %

3. Percentage of water serviced by the wastewater system: 93.69 %

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

4. Number of gallons of wastewater that was treated by the utility for the previous five years.

Month	Total Gallons of Treated Water				
	2023	2022	2021	2020	2019
January	315,710,000	306,190,000	383,150,000	368,380,000	488,150,000
February	316,910,000	295,120,000	292,070,000	369,600,000	466,620,000
March	368,240,000	313,910,000	427,530,000	476,560,000	459,450,000
April	417,600,000	328,530,000	379,240,000	423,000,000	470,750,000
May	469,970,000	334,580,000	453,950,000	414,530,000	572,940,000
June	428,720,000	316,740,000	458,230,000	357,970,000	526,990,000
July	397,980,000	333,620,000	437,410,000	362,090,000	466,970,000
August	347,960,000	352,390,000	364,660,000	343,300,000	376,850,000
September	340,010,000	341,820,000	339,930,000	377,100,000	351,830,000
October	334,416,000	340,660,000	363,550,000	367,330,000	345,000,000
November	296,290,000	332,460,000	331,050,000	349,040,000	345,180,000
December	349,650,000	319,580,000	317,050,000	343,060,000	358,770,000
Total	4,383,456,000	3,915,600,000	4,547,820,000	4,551,960,000	5,229,500,000

5. Could treated wastewater be substituted for potable water?

☐ Yes
 ☒ No

B. Reuse Data

1. Data by type of recycling and reuse activities implemented during the current reporting period.

Type of Reuse	Total Annual Volume (in gallons)
On-site Irrigation	21,186,000
Plant wash down	210,240,000
Chlorination/de-chlorination	0
Industrial	0
Landscape irrigation (park,golf courses)	447,382,000
Agricultural	35,484,000
Discharge to surface water	2,313,471,000
Evaporation Pond	0
Other	0
Total	3,027,763,000

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

C. Wastewater System Data Comment

Additional comments and files to support or explain wastewater system data listed below.

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Appendix C

Water Conservation Goals for Retail Water Supplier

WATER CONSERVATION GOALS FOR RETAIL WATER SUPPLIER

CONTACT INFORMATION

Name of Utility:	CITY OF ABILENE		
Public Water Supply Identification Number (PWS ID):	TX2210001		
Certificate of Convenience and Necessity (CCN) Number:	11823		
Surface Water Right ID Number:	4139-A, 4142, 4143, 4150-B, 4153, 4161-C, 4165-A, 4266-C, 12212		
Wastewater ID Number:			
Contact: First Name:	Matthew	Last Name:	Dane
Title:	Assistant Water Utilities Director		
Address:	P.O. Box 60	City:	Abilene State: TX
Zip Code:	79604	Zip+4:	
Telephone Number:	3256766452	Email:	Matthew.Dane@abilenetx.com
Date:			

Is this person the designated Conservation Coordinator? ☒ Yes ☐ No

Regional Water Planning Group: G

Groundwater Conservation District:

Our records indicate that you:

- ☒ Received financial assistance of \$500,000 or more from TWDB
- ☒ Have 3,300 or more retail connections
- ☒ Have a surface water right with TCEQ

WATER CONSERVATION GOALS FOR RETAIL WATER SUPPLIER

	Historic 5 Year Average	Baseline	5-Year Goal for Year 2029	10-Year Goal for Year 2034
Water Loss (GPCD)	148	148	147	146
Residential GPCD	75	75	74	73
Water Loss (GPCD)	9	9	8	7
Water Loss Percentage	6.00%	6.00%	5.00%	5.00%

1. Total GPCD = (Total Gallons in System ÷ Permanent Population) ÷ 365
2. Residential GPCD = (Gallons Used for Residential Use ÷ Residential Population) ÷ 365
3. Water Loss GPCD = (Total Water Loss ÷ Permanent Population) ÷ 365
4. Water Loss Percentage = (Total Water Loss ÷ Total Gallons in System) x 100; or (Water Loss GPCD ÷ Total GPCD) x 100

Appendix D

City of Abilene Reservoir Operation Plan

To: Tommy O'Brien, PE Scott Hibbs, PE	
From: Cory Shockley, PE Ken Choffel, PE	Project: Recommended Pumping Plans for Pumping Water from Hubbard Creek Reservoir to Abilene
CC:	
Date: January 22, 2008	Job No: 00040701-001

Recommended Pumping Plans for Pumping Water from Hubbard Creek Reservoir to Abilene

Background

The City of Abilene coordinates delivery of water from Hubbard Creek Reservoir (HCR) with the West Central Texas Municipal Water District (WCTMWD) in accordance with an operating plan that was originally developed by Freese and Nichols, Inc. (FNI) in 1980 and updated by FNI in 1998 (1998 plan). The 1998 plan has been used for the past decade to determine when to turn the HCR pipeline pumps on and off in accordance with a schedule based on month of the year and level of Fort Phantom Hill Reservoir (FPH). HDR has recently developed a new computer simulation model referred to as the Abilene Multi-Source Model (AbileneMSM). The AbileneMSM allows for the simulation of Abilene's water supply system under a variety of system demands and operating plans which enables the user to evaluate components of the system including water supply, water quality and pumping and treatment costs.

Using the AbileneMSM, HDR has completed a series of analyses to evaluate new pumping plans to maintain acceptable FPH levels while minimizing pumping costs from Hubbard Creek Reservoir for a range of water demands. In all cases, these new pumping plans reduce pumping costs as compared to the 1998 plan. The new operating plans take into account changes in water demands and electric rate structures that have occurred since the development of the 1998 plan.

Abilene Water Supply System Changes Since 1998

Key assumptions used in the development of the 1998 plan regarding the operations of the Abilene water supply system have changed over time. The following is a list of significant changes:

- Power Plant is no longer in operation on FPH,
- Lake Abilene is no longer used as an active supply (now used as a back-up supply),
- Electric rate structures have changed,
- City has O.H. Ivie supply of up to 6.0 MGD, and
- City has a reuse system in place to meet some demands.

The associated impacts of these changes on the Abilene water supply system were taken into account during the development of the new pumping plans. With the shut down of the power plant, the demand on FPH has been reduced by 2,000 acft/yr and minimum lake level restrictions are no longer

related to power plant operations. Lake Abilene is used today as a back-up supply which means that the water needed to replace this supply (about 1,000 acft/yr) now comes from either the FPH/HCR system or O.H. Ivie Reservoir. Up to 6 MGD (6,720 acft/yr) is now available from O.H. Ivie Reservoir which reduces the demand on the FPH/HCR system. The change in the electric rate structure means that the HCR pipeline pumps do not have to be cycled on and off during the summer months to avoid demand surcharges associated with pumping during the afternoon and evening hours. The reuse system also has the benefit of reducing the system demand by meeting irrigation demands with treated effluent instead of potable water.

Demand Scenarios and Development of New Pumping Plans

The first step in the development of the new pumping plans included determining Abilene's demand on the FPH/HCR portion of the City's water supply system. The FPH/HCR portion of Abilene's demand is calculated by taking the total annual volume of potable water planned to be used by the City (in MGD) and subtracting the annual average volume of potable water planned to be delivered to the City's system from O.H. Ivie (in MGD). The following equation can be used to determine what the FPH/HCR Abilene demand is and which pumping plan should be selected to operate the HCR pipeline pumps:

$$\text{Abilene's FPH/HCR Demand} = \text{Total Abilene Potable Demand} - \text{Potable Ivie Supply}$$

Once the projected annual average demand on the FPH/HCR system (in MGD) has been calculated then the appropriate pumping plan (see Figures 1 to 5) can be selected from the following list:

- Pumping Plan 1 - 18 MGD Abilene's FPH/HCR Demand – Figure 1A
- Pumping Plan 2 - 20 MGD Abilene's FPH/HCR Demand – Figure 2A
- Pumping Plan 3 - 22 MGD Abilene's FPH/HCR Demand – Figure 3A
- Pumping Plan 4 - 24 MGD Abilene's FPH/HCR Demand – Figure 4A
- Pumping Plan 5 - 26 MGD Abilene's FPH/HCR Demand – Figure 5A

The new pumping plans are numbered in sequence and named based on the associated demands placed by Abilene on the FPH/HCR system. Once the appropriate pumping plan has been selected then the remaining step is to monitor the level of FPH through each month of the year and coordinate with the WCTMWD to activate the appropriate number of HCR pipeline pumps in accordance with the pumping plan as indicated on Figures 1 through 5. Each plan includes a pumping schedule that shows how many additional HCR pipeline pumps are required as the level of FPH drops below selected trigger levels. Depending on the selected pumping plan, the pump(s) should remain on until significant inflow occurs at FPH to raise the level back above the trigger level. The one exception to this plan is under the 18 MGD demand scenario (Figure 1) which does not require pumping from HCR from the beginning of December through the end of the following April. The vertical scale on the pumping plan figures refers to the FPH elevation. Each figure shows the number of pumps needed when the elevation of FPH is within the range shown for each month of the year. For example, if the city is operating under the 18 MGD plan (Figure 1A) and it is May, as soon as the elevation of FPH drops below 1628 ft-msl an operator should turn on one pump from HCR.

History of Recent Potable Water Use by Abilene

For the 2003 to 2006 timeframe total potable water use by Abilene has ranged between 19 and 24 MGD with between 0.9 and 4.0 MGD being supplied from O.H. Ivie.

Operational Constraints used in Development of New Pumping Plans

In the development of the new pumping plans, several operational limits were considered. These limits place practical constraints on the system and include:

- HCR pumps are not operated when FPH levels are above an elevation of 1628 ft-msl. Under Plans 1, 4 and 5, pumping begins when the FPH lake level drops below an elevation of 1628 ft-msl. Under Plans 2 and 3, pumping begins when the FPH lake level drops below an elevation of 1627 ft-msl.
- Minimum FPH lake level is 1616 ft-msl for all plans. (Note: This is the minimum FPH lake level during a stand-alone 1-year safe yield run without any pumping from HCR.)
- Pumping plans minimize pumps cycling on and off. Pumps come on and stay on until significant inflow has occurred at FPH to raise lake level above selected trigger levels. (The one exception to this is under Plan 1 -18 MGD Demand, when there is no pumping from December through April.)
- The maximum monthly pipeline capacity from HCR is limited to 2,600 acft (about 28.2 MGD) based on physical constraints of the delivery system.
- Monthly Abilene demands on the FPH/HCR system are generally equal to or greater than the HCR pipeline pumping rate.
- The AbileneMSM includes operating rules in the water supply contract between the WCTMWD and the City which govern pumping limits associated with the level of HCR.

Comparison of New Pumping Plans with Previous 1998 Plan

Using the AbileneMSM, annual pumping costs were calculated for each new pumping plan and for the previous 1998 plan (using the 2007 electrical rate structure) and compared. Tables 1 to 3 compare average annual, maximum 1-year and maximum 5-year moving average annual pumping costs for the 5 new pumping plans with the 1998 plan. In every case the use of the new operating plan results in a reduction in annual pumping costs. Comparing the average annual operating costs of the five new pumping plans (Table 1) with the previous 1998 plan, average annual savings range from a minimum of \$15,849 (-2.2%) to a maximum of \$97,647 (-9.7%). Comparing the maximum 1-year operating costs of the five new pumping plans (Table 2) with the previous 1998 plan results in annual savings ranging from a minimum of \$23,687 (-0.9%) to a maximum of \$701,663 (-43.2%).

Table 1.
Average Annual Cost (1940 – 2003)

FPH/HCR Demand (MGD)	New	1998 Plan	Difference	Percent Difference
18	\$ 485,002	\$ 521,838 ¹	\$ (36,836)	-7.1%
20	\$ 598,028	\$ 618,354 ¹	\$ (20,326)	-3.3%
22	\$ 714,728	\$ 730,576 ¹	\$ (15,849)	-2.2%
24	\$ 907,788	\$1,005,435 ²	\$ (97,647)	-9.7%
26	\$1,067,436	\$1,129,650 ²	\$ (62,214)	-5.5%
¹ 1998 Plan Operating Rules applied to shown demand.				
² 2008 Plan Operating Rules applied to shown demand.				

Table 2.
Maximum 1-Year Cost

FPH/HCR Demand (MGD)	New	1998 Plan	Difference	Percent Difference
18	\$ 923,741	\$1,625,405 ¹	\$(701,663)	-43.2%
20	\$1,346,942	\$1,819,001 ¹	\$(472,059)	-26.0%
22	\$1,974,690	\$2,008,165 ¹	\$ (33,474)	-1.7%
24	\$2,188,606	\$2,451,425 ²	\$(262,818)	-10.7%
26	\$2,564,459	\$2,588,146 ²	\$ (23,687)	-0.9%
¹ 1998 Plan Operating Rules applied to shown demand.				
² 2008 Plan Operating Rules applied to shown demand.				

Table 3.
Maximum 5 -Year Moving Average Annual Cost

FPH/HCR Demand (MGD)	New	1998 Plan	Difference	Percent Difference
18	\$860,154	\$ 1,009,411 ¹	\$(149,257)	-14.8%
20	\$1,093,652	\$ 1,186,563 ¹	\$ (92,911)	-7.8%
22	\$1,347,065	\$ 1,386,566 ¹	\$ (39,501)	-2.8%
24	\$1,640,697	\$ 1,738,144 ²	\$ (97,447)	-5.6%
26	\$1,923,800	\$ 1,931,672 ²	\$ (7,832)	-0.4%
¹ 1998 Plan Operating Rules applied to shown demand.				
² 2008 Plan Operating Rules applied to shown demand.				

Pumping Plan 1 - 18 MGD Abilene's FPH/HCR Demand

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1636												
1635												
1634												
1633												
1632												
1631												
1630												
1629												
1628					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1627					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1626					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1625					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1624					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1623					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1622					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1621					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1620					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1619					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1618					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1617					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1616					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	
1615					1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	

Figure 1A – FPH Triggers for Plan 1 - 18 MGD Abilene's FPH/HCR Demand

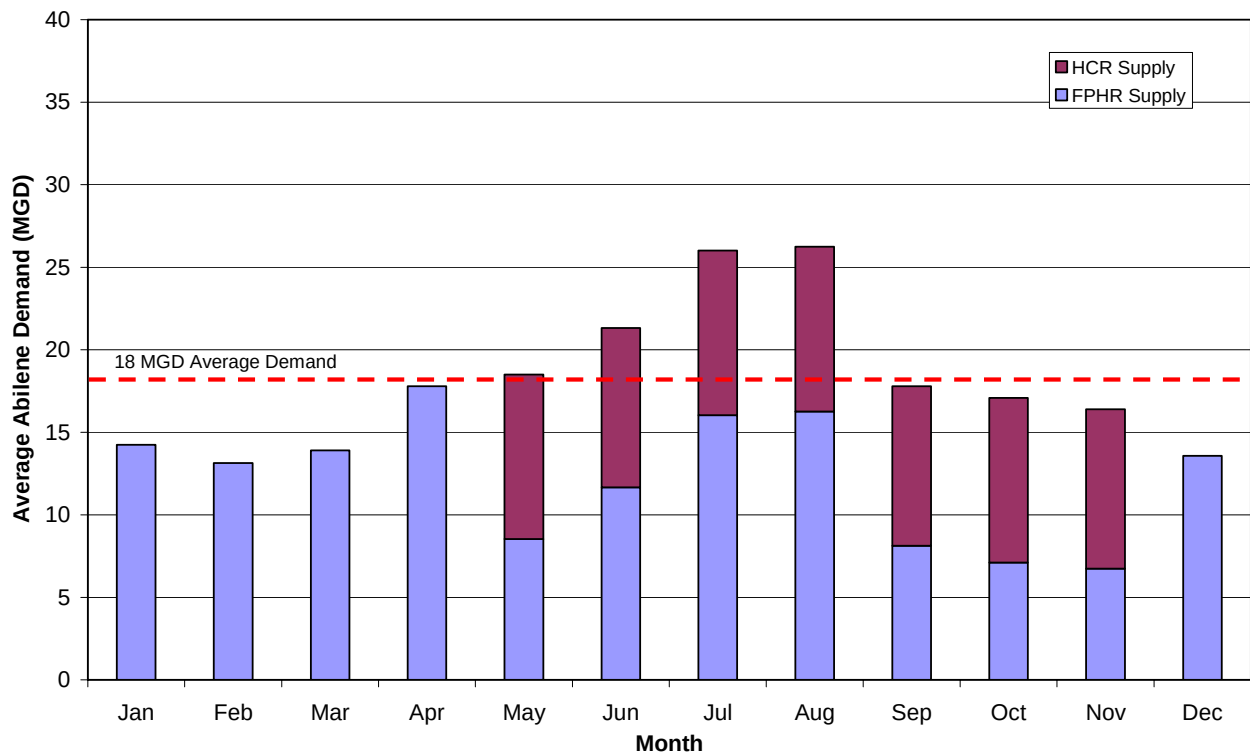


Figure 1B – FPH/HCR Blend Ratios for 18 MGD Demand (with HCR pump on)

Pumping Plan 2 - 20 MGD Abilene's FPH/HCR Demand

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1636												
1635												
1634												
1633												
1632												
1631												
1630												
1629												
1628												
1627	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1626	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1625	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1624	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1623	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1622	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1621	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1620	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1619	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1618	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1617	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1616	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1615	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump

Figure 2A – FPH Triggers for Plan 2 - 20 MGD Abilene's FPH/HCR Demand

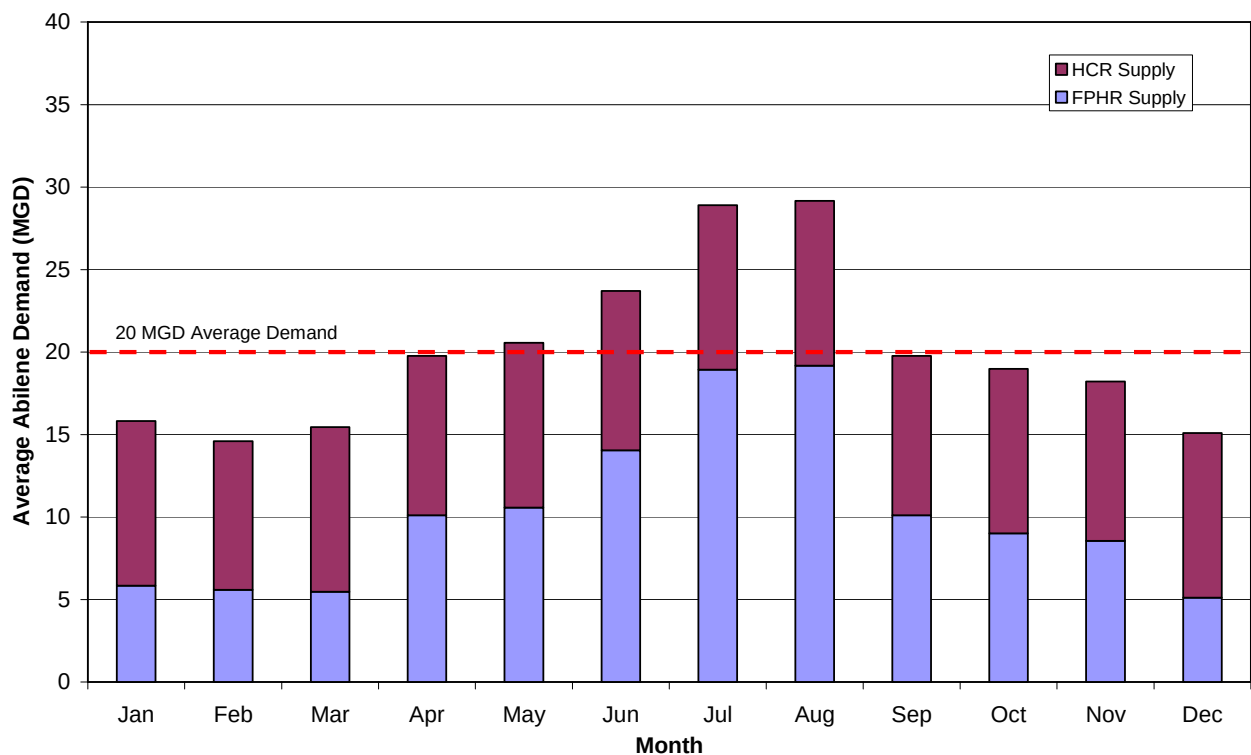


Figure 2B – FPH/HCR Blend Ratios for 20 MGD Demand (with HCR pump on)

Pumping Plan 3 - 22 MGD Abilene's FPH/HCR Demand

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1636												
1635												
1634												
1633												
1632												
1631												
1630												
1629												
1628												
1627	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1626	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1625	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1624	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1623	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1622	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1621	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1620	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1619	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1618	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1617	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1616	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1615	1-Pump	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump

Figure 3A – FPH Triggers for Plan 3 - 22 MGD Abilene's FPH/HCR Demand

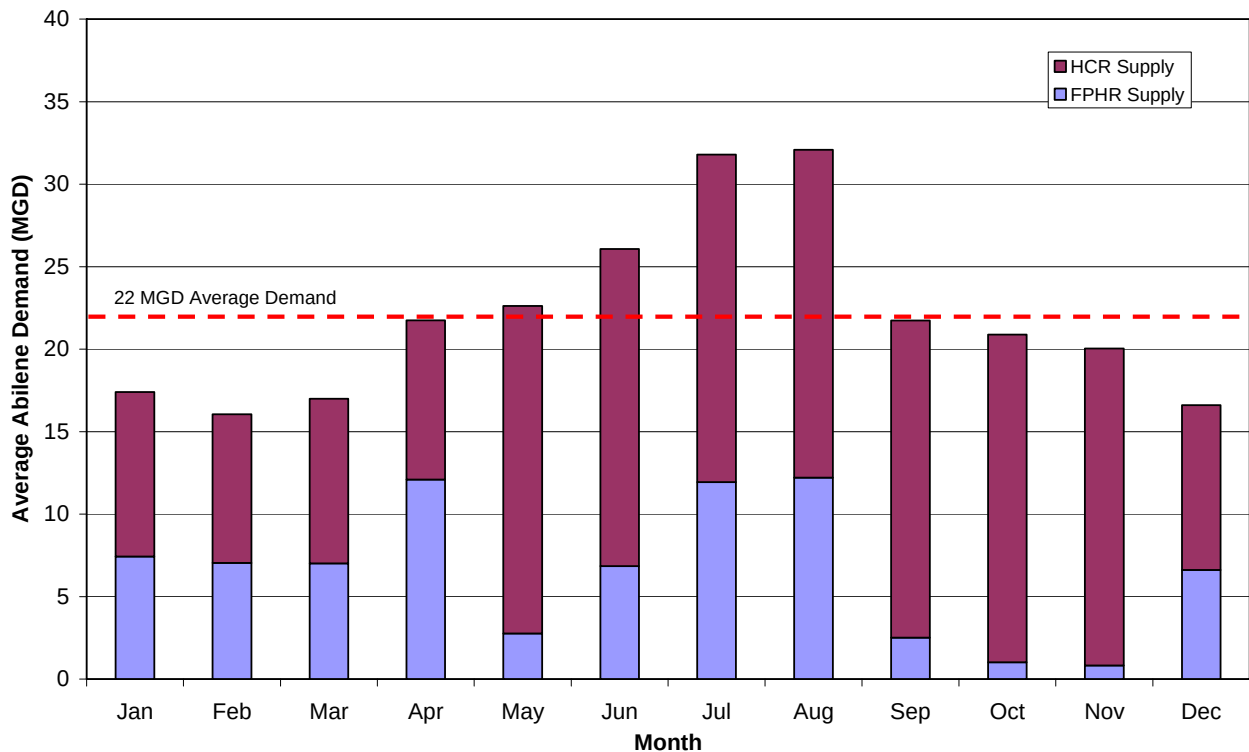


Figure 3B – FPH/HCR Blend Ratios for 22 MGD Demand (with up to 2 HCR pumps on)

Pumping Plan 4 - 24 MGD Abilene's FPH/HCR Demand

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1636												
1635												
1634												
1633												
1632												
1631												
1630												
1629												
1628	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1627	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1626	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1625	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1624	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1623	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1622	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1621	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1620	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1619	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1618	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1617	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1616	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	1-Pump
1615	1-Pump	1-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	1-Pump

Figure 4A – FPH Triggers for Plan 4 - 24 MGD Abilene's FPH/HCR Demand

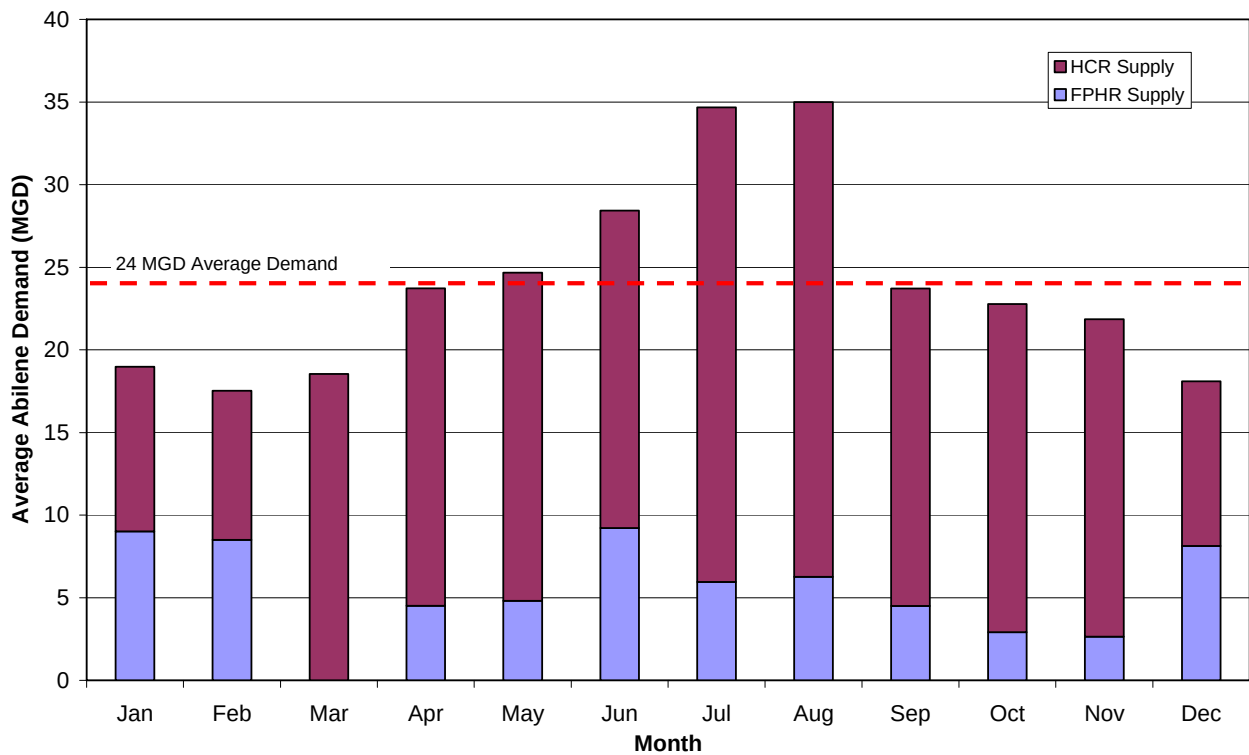


Figure 4B – FPH/HCR Blend Ratios for 24 MGD Demand (with up to 3 HCR pumps on)

Pumping Plan 5 - 26 MGD Abilene's FPH/HCR Demand

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1636												
1635												
1634												
1633												
1632												
1631												
1630												
1629												
1628	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1627	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1626	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump	1-Pump
1625	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1624	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1623	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1622	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1621	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1620	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1619	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1618	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1617	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1616	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	2-Pump
1615	2-Pump	2-Pump	2-Pump	2-Pump	2-Pump	3-Pump	3-Pump	3-Pump	2-Pump	2-Pump	2-Pump	2-Pump

Figure 5A – FPH Triggers for Plan 5 - 26 MGD Abilene's FPH/HCR Demand

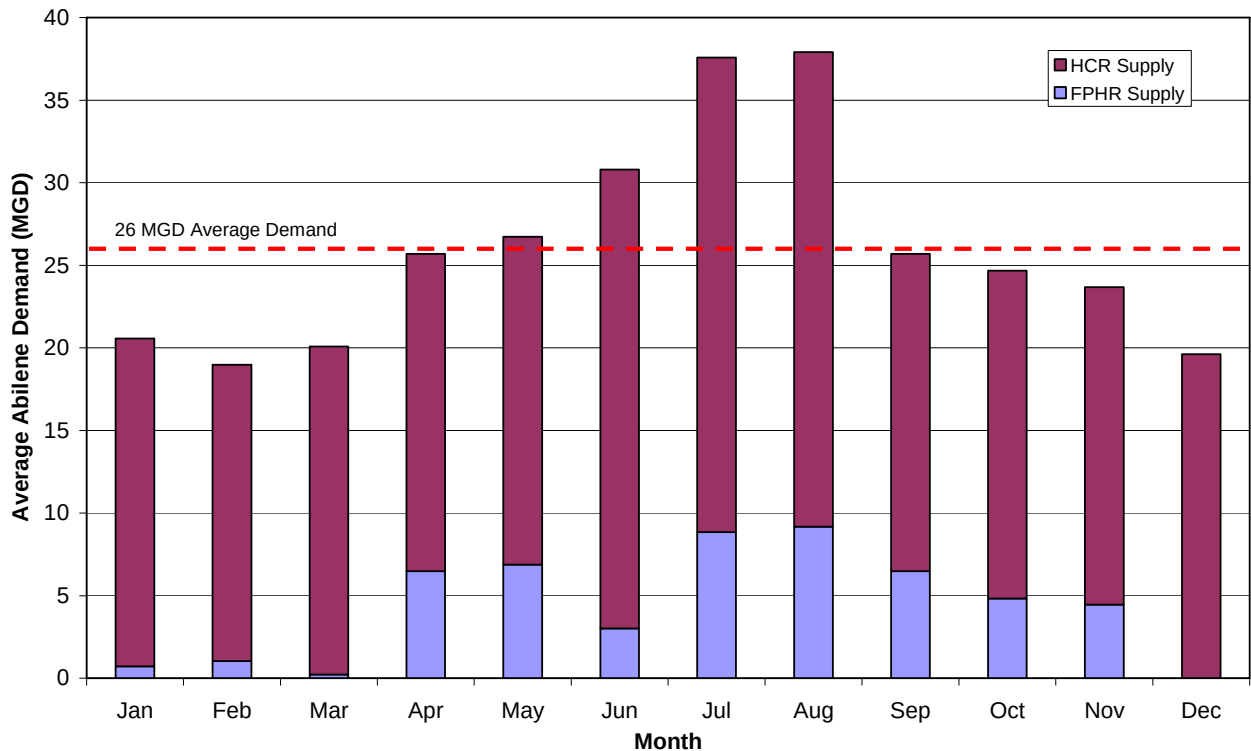


Figure 5B – FPH/HCR Blend Ratios for 26 MGD Demand (with up to 3 HCR pumps on)

Recommendation for Use of New Pumping Plans

Based on analyses using the AbileneMSM, five new pumping plans were developed for operating the HCR pipeline pumps while maintaining critical levels in FPH and minimizing pumping costs. HDR recommends that the City adopt the pumping plans contained in this document for future operations of the HCR pipeline pumps. These new plans will replace the previous plan used since 1998. Figure 6 shows cumulative system cost for the new pumping plan and compares these costs with the previous 1998 operating plan for the same demand of 18 MGD. This figure shows that over the 67-year timeframe, the City would save about \$3,000,000 by operating under the new plan. Figure 7 shows a comparison of the frequency of annual total system costs for the new and previous plans for a demand of 18 MGD. Both figures show how the new pumping plan results in reduced pumping costs compared to the previous plan for the same level of demand. Similar results are obtained when comparing demands of 20, 22, 24 and 26 MGD. HDR recommends that the City utilize these new pumping plans when making operational decisions regarding the FPH/HCR system.

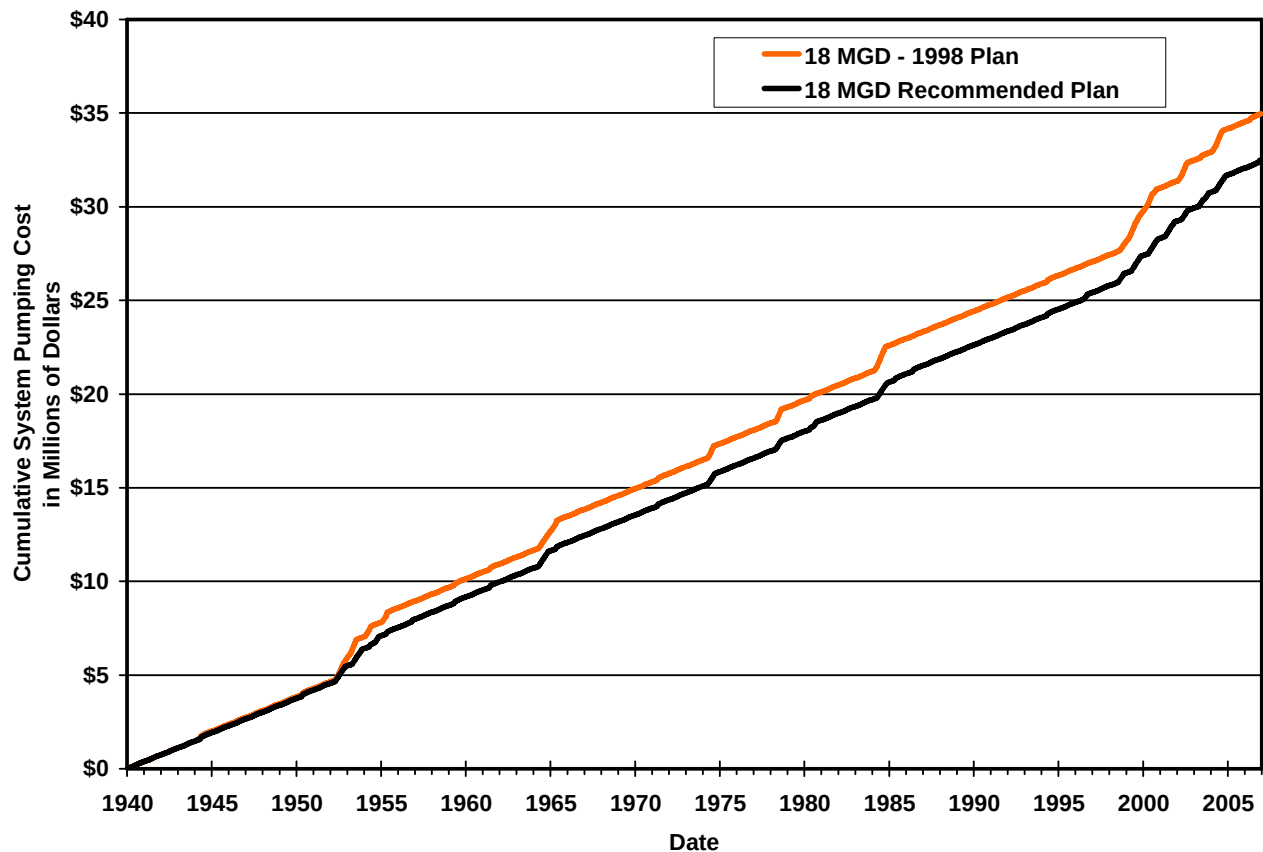


Figure 6 – Comparison of Cumulative Cost for Recommended Pumping Plan and 1998 Plan for 18 MGD FPH/HCR Demand

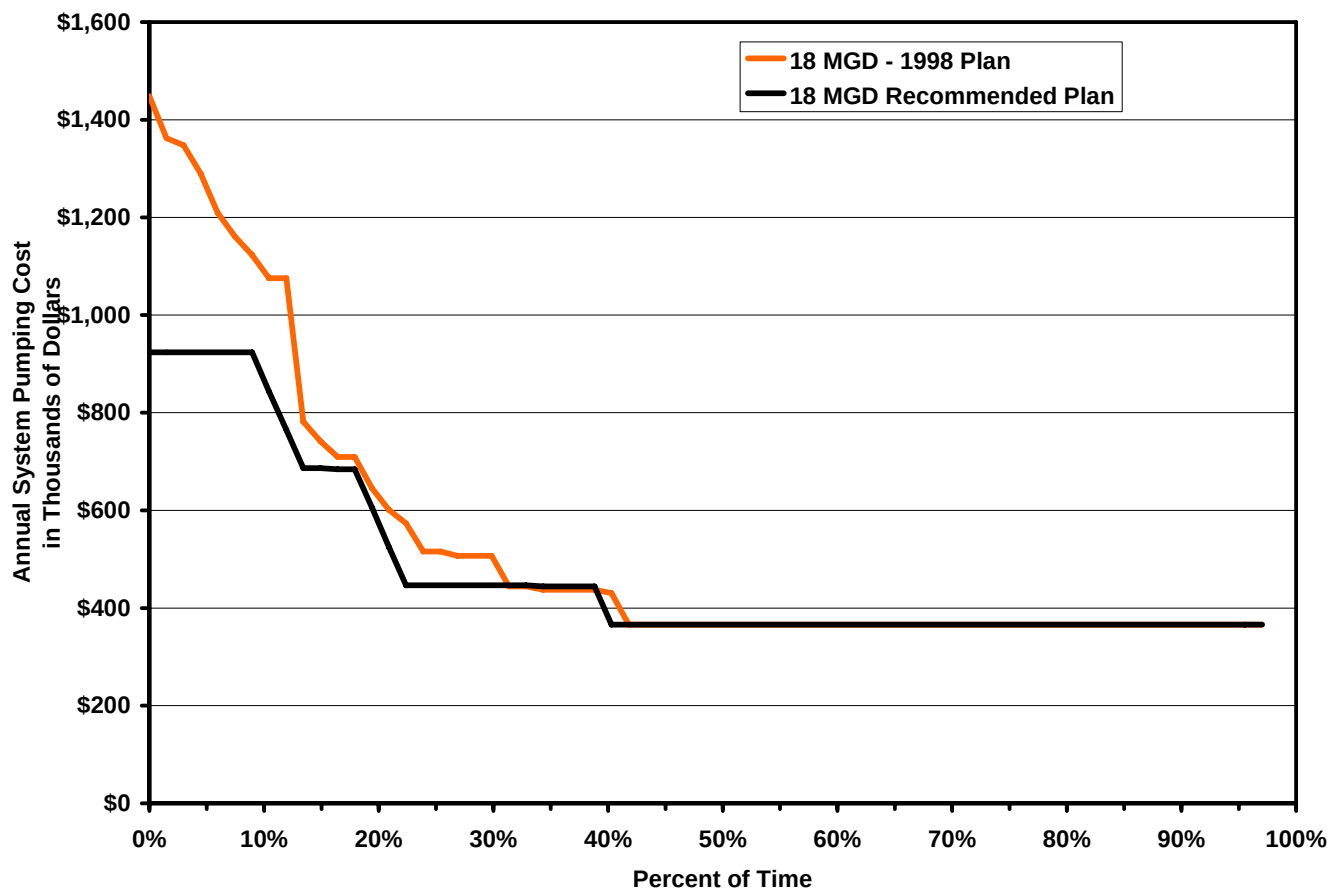


Figure 7 – Comparison of Frequency of Annual Cost for Recommended Pumping Plan and 1998 Plan for 18 MGD FPH/HCR Demand

Figures 8 and 9 show lake level frequency plots for FPH for the various pumping policies. Figure 8 compares the current plan (orange line) with the recommended plan (black line). The graph shows that the current plan results in a higher FPH lake level more of the time. However, this higher lake level comes with the higher costs that are shown in Figures 6 and 7. Figure 9 shows a comparison of FPH levels for all the recommended pumping policies considering demands of 18, 20, 22, 24, and 26 MGD. Figure 9 shows that as demand increases, FPH levels decrease most of the time but the minimum level of 1616 ft-msl is always maintained as pumping from HCR increases as the FPH level decreases.

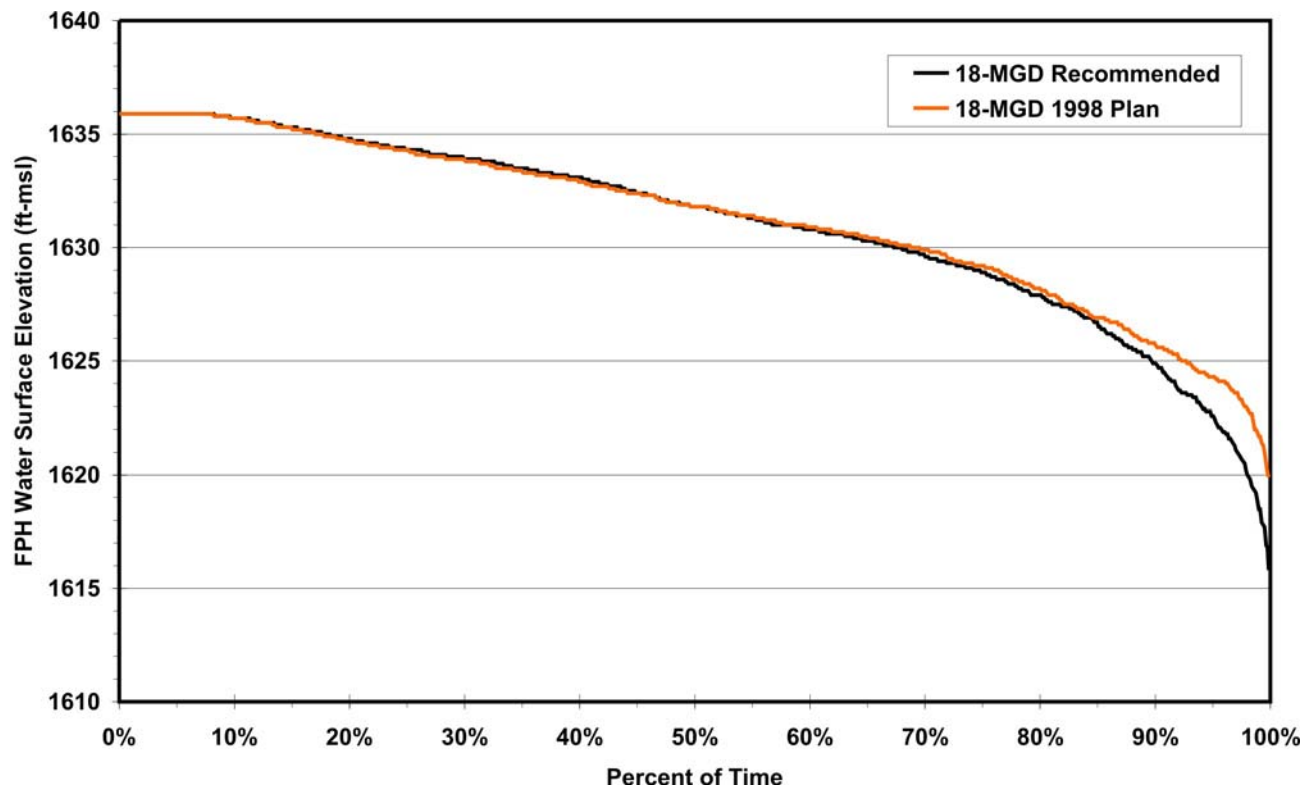


Figure 8 – Comparison of Lake Level Frequency for Recommended Pumping Plan and 1998 Plan for 18 MGD FPH/HCR Demand

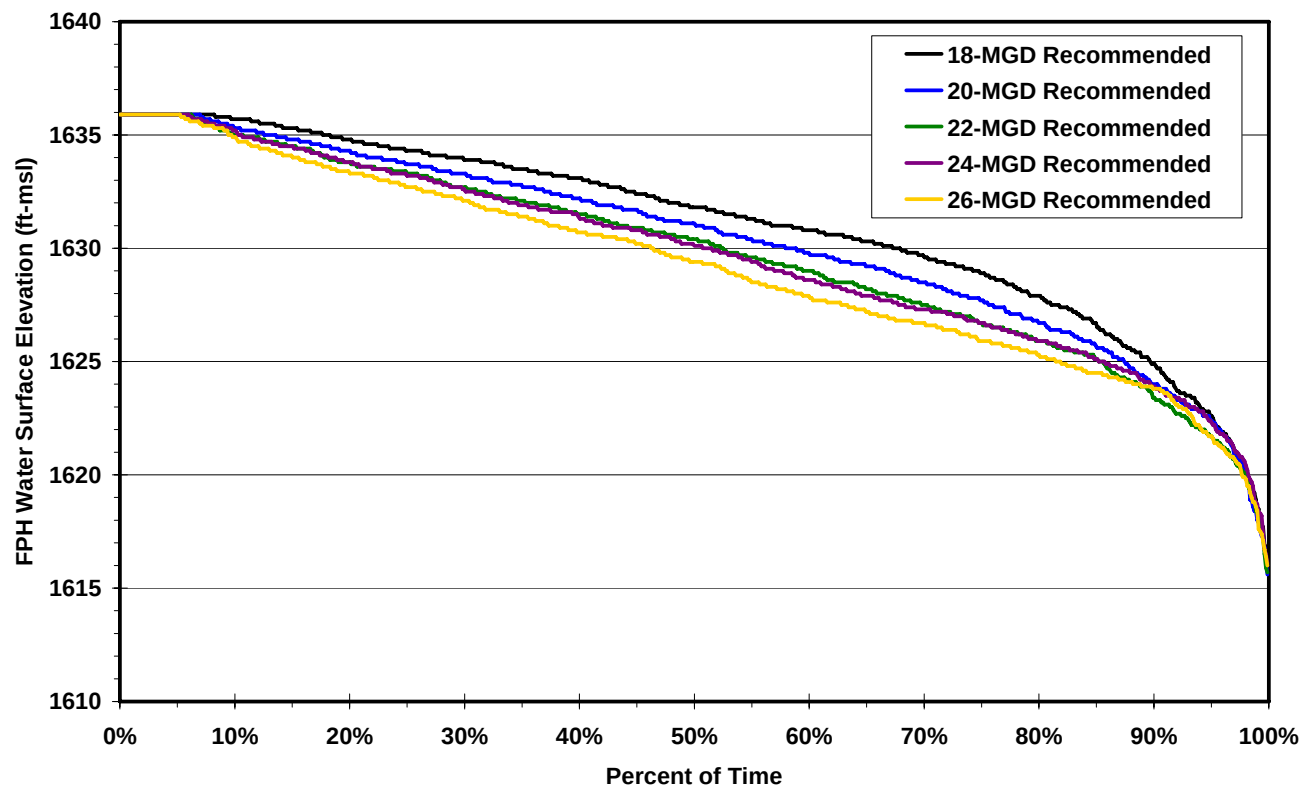


Figure 9 – Comparison of Lake Level Frequency for all Recommended Pumping Plans

Comparison of Changes in Water Quality

The AbileneMSM computes estimates of monthly average concentrations for three constituents; total dissolved solids (TDS), chlorides and sulfates. Two pairs of model analyses were performed for both Plan 1 (18 MGD) and Plan 5 (26 MGD) considering the new recommended pumping plan and the 1998 plan. Results of these analyses are shown on Figure 10 for the two 18 MGD pumping plans and on Figure 11 for the two 26 MGD pumping plans. Figure 10 shows that for the 18 MGD pumping plans, the new pumping plan provides better water quality to the City almost all of the time. Figure 11 shows a comparison of the two 26 MGD pumping plans and shows that 90% of the time the new plan provides better water quality and that during the other 10% of the time (extreme drought conditions) both plans generally provide about the same quality.

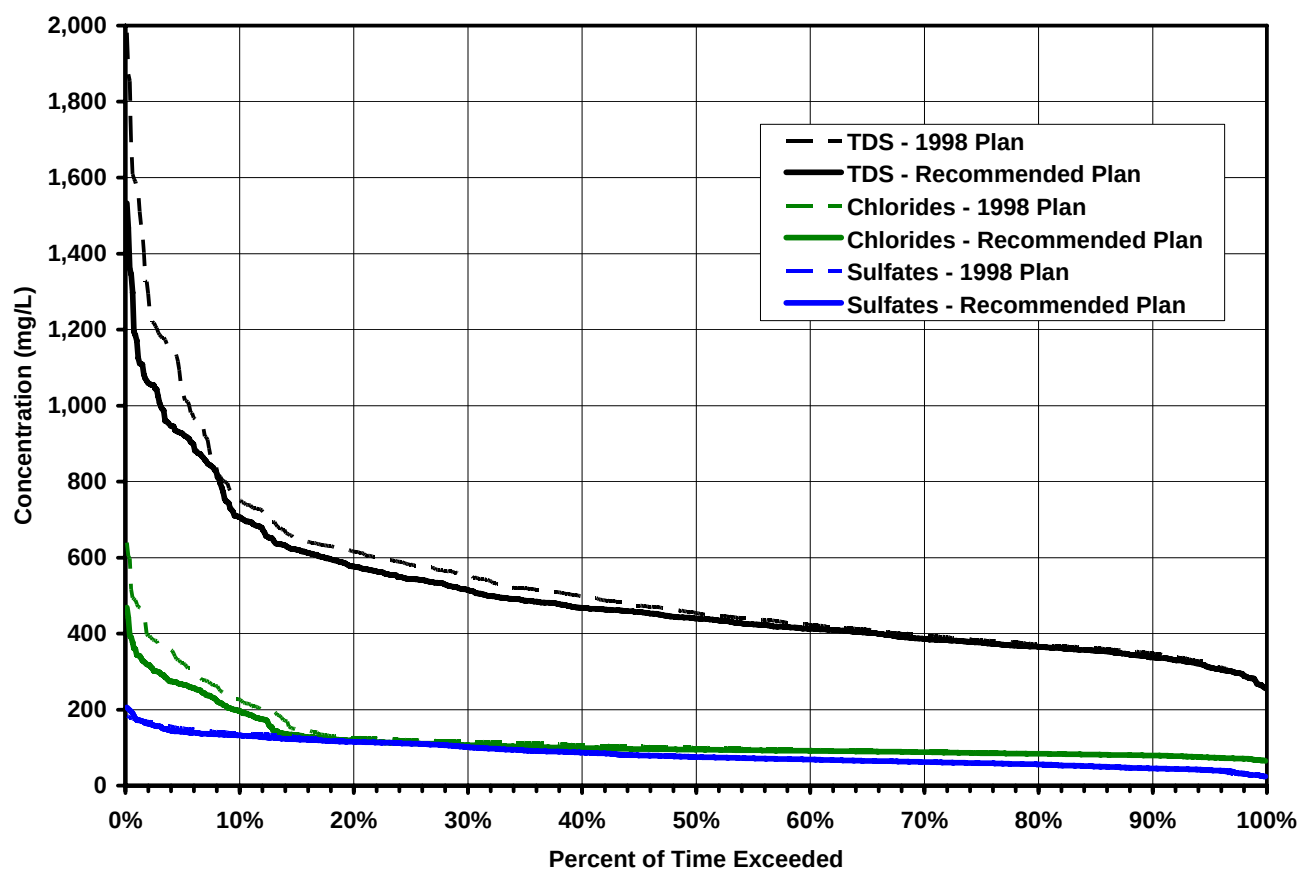


Figure 10 – Comparison of Frequency of Occurrence of Blended Water Quality at WTP's for 18-MGD FPH/HCR Demand

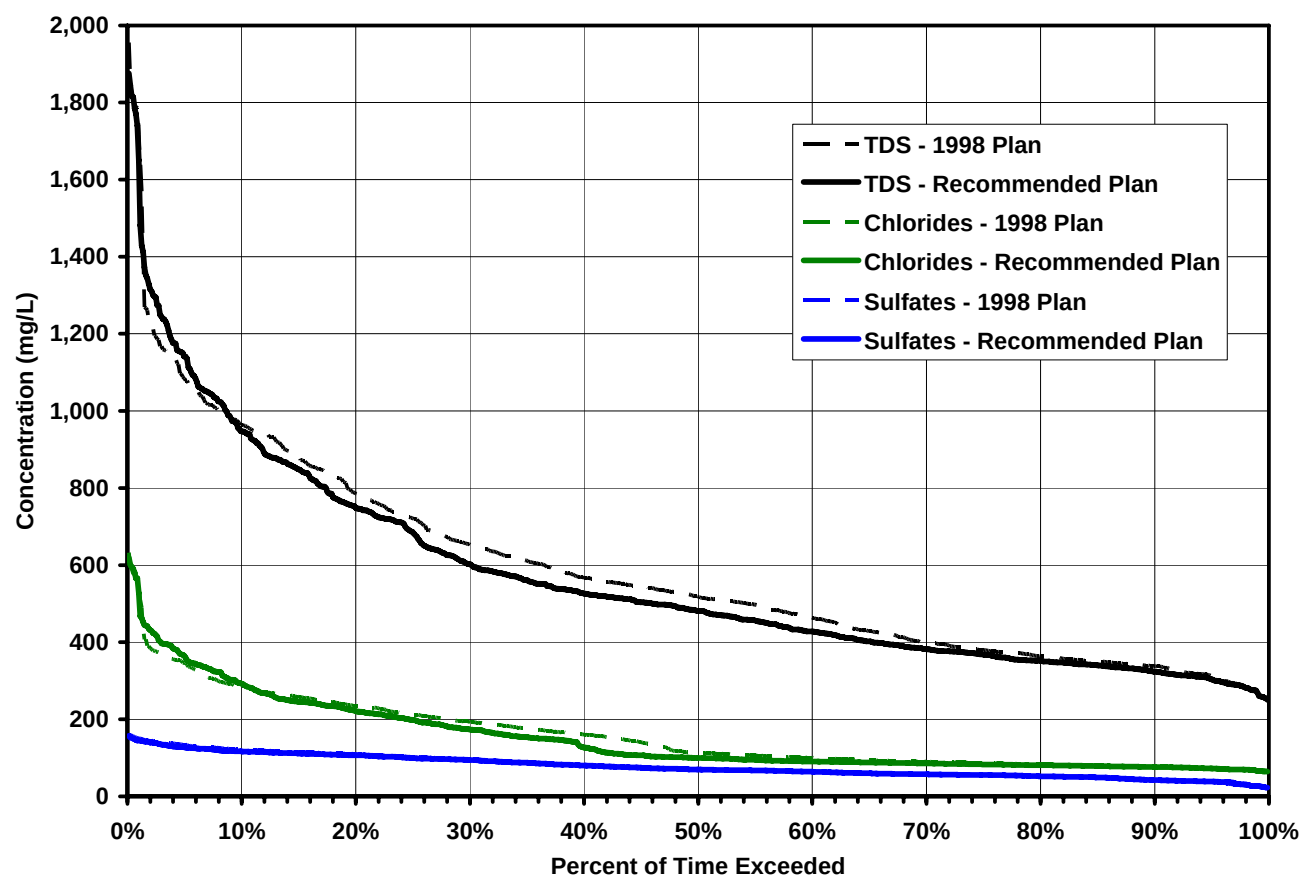


Figure 11 – Comparison of Frequency of Occurrence of Blended Water Quality at WTP's for 26-MGD FPH/HCR Demand

Appendix E

Resolution Adopting the Water Conservation Plan and Affirming Drought Contingency Plan Ordinance

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
APPROVING THE 2024 WATER CONSERVATION PLAN UPDATE AND
AFFIRMING THE DROUGHT CONTINGENCY PLAN ORDINANCE AS ADOPTED.**

WHEREAS, Texas Administrative Code (TAC) Chapter 288, “Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements”, requires water systems holding surface water rights in excess of 1,000 acre-feet per year to maintain and submit to the Texas Commission on Environmental Quality (TCEQ) a current Water Conservation Plan (WCP) and a current Drought Contingency Plan (DCP); and

WHEREAS, on April 24, 2014 through Resolution 09-2014 the City of Abilene approved updates to the City’s Water Conservation Plan; and

WHEREAS, the City maintains a Drought Contingency Plan ordinance (under Chapter 32, Article VI of the City of Abilene Municipal Code, Water Conservation Plan ordinance), last amended on July 14, 2022 through Ord. No. 27-2022; and

WHEREAS, the City is committed to enacting and implementing a Water Conservation Plan that will increase water use efficiency and ensure the longevity of the City’s water supplies; and

WHEREAS, the TCEQ requires each WCP to be updated at least every five years, with this update submitted to the TCEQ by May 1, 2024; and

WHEREAS, in order to comply with the TCEQ requirement, staff desires to update the Water Conservation Plan at this time; and

WHEREAS, the TCEQ requires each DCP to be reviewed and, if needed, updated at least every five years, with this submittal due to the TCEQ by May 1, 2024; and

WHEREAS, in order to comply with the TCEQ requirement, staff desires to have the Drought Contingency Plan ordinance affirmed with no changes at this time;

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

Part 1: That the 2024 update to the City of Abilene Water Conservation Plan shall be approved as presented.

Part 2: That the 2024 updates to the Water Conservation Plan, which include the following system inventory information, are accepted and approved: (1) Utility Profile and Water Conservation Plan Requirements for Municipal Water Use by Retail Public Water Suppliers; (2) Profile and Water Conservation Plan Requirements for Wholesale Public Water Suppliers;

(3) System Inventory and Water Conservation Plan for Agricultural Water Suppliers Providing Water to More than One User; and (4) Industrial/Mining Water Conservation Plan.

- Part 3:** That Exhibit “A” is the 2024 Water Conservation Plan Update to be submitted to the Texas Commission on Environmental Quality, the Texas Water Development Board, and to the Region G Water Planning Group, and which describes the goals for total and residential water consumption, goals for wholesale, industrial and agricultural water consumption and use, and goals for water loss, which are accepted and approved.
- Part 4:** That Exhibit “B” is a redlined version of the 2024 Water Conservation Plant Update showing recent edits to the document in response to questions and an intensive review by staff and consultant Enprotec/Hibbs & Todd, Inc.
- Part 5:** That Exhibit “C” provides a general summary of the Drought Contingency Plan ordinance last updated on July 14, 2022, which is affirmed to have been reviewed without changes.

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney

Appendix F

Notification to Wholesale Purchasers

April __, 2024 (NOTE: Placeholder copy only...Signed copies to be inserted for all groups)

City of Baird
328 Market St.
Baird, TX 79504-6410

Re: Update of City of Abilene Water Conservation Plan

Dear _____;

As you are aware, in accordance with requirements found in 30 Texas Administrative Code (TAC) Chapter 288, the City of Abilene (City) is required by the State of Texas to develop, implement, and maintain a Water Conservation Plan ("Plan"). The City's existing Plan, in place since the mid 1980's, was recently updated. While essential and required elements of the Plan remain unchanged, we take this opportunity to remind you (on behalf of the City of Abilene) of the requirements for your water system. A summary of the City of Abilene, Texas Water Conservation Plan is provided for your review. The full version of the plan is available upon your request.

As a wholesale water customer of the City of Abilene, your system is obligated to develop a Water Conservation Plan of your own. The requirement for your system to develop a Water Conservation Plan is found in 30 TAC §288.5 (G). We request that at the time you submit your system's plan to the State, you furnish a copy to the City of Abilene as well. Providing a copy to the City of Abilene ensures a higher degree of accuracy as Abilene updates their Plan on a regular and prescribed basis. Please call me at 325.698.5560 if I may be of assistance to you on this matter.

Sincerely,

Enprotec/Hibbs & Todd, Inc.

Jordan S. Hibbs, P.E.

c: Rodney Taylor City of Abilene

Appendix G

City of Abilene Water Rate Structure

Billing Structures

Water & Sewer Utility Rates as of November 1, 2023

Residential

Commercial

Residential Water Rates

Type of Rate / Charge / Fee	Rate / Charge / Fee Amount
First 6,000 Gallons	\$3.85 per 1,000 gallons
7,000 to 15,000 Gallons	\$6.55 per 1,000 gallons
Over 15,000 Gallons	\$9.20 per 1,000 gallons
Customer Service Charge	Based on meter size (listed in "Monthly Fees" section)

Residential Sewer Rates

Type of Rate / Charge / Fee	Rate / Charge / Fee Amount
First 10,000 Gallons	\$2.90 per 1,000 gallons
Over 10,000 Gallons	No charge
Customer Service Charge	\$16.00 minimum

Monthly Residential Fees

Type of Fee	Fee Amount
Environmental Fees	\$3.50 - Supports Stormwater services and Solid Waste Environmental Program
Multiple Housing Units	\$2.90 for each additional living or business unit
Fire Line Sprinkler System	\$2.00 per inch in diameter of the service connection

Meter Size Charges (Per Month)

Meter Size (Inches)	Fee Amount
5/8 or 3/4	\$18.25 minimum per month
1	\$28.00
1 1/4	\$51.75
2	\$86.00



Meter Size (Inches)	Fee Amount
3	\$162.00
4	\$243.00
6	\$452.00
8	\$734.00
10	\$990.00

All Rates

View the [City of Abilene Fee Schedule](#).

Commercial Water Rates

Type of Rate / Charge / Fee	Rate / Charge / Fee Amount
All Consumption Per 1,000 Gallons	\$6.55 per 1,000 gallons
Customer Service Charge	Based on meter size (listed in "Monthly Fees" section)

Commercial Sewer Rates

Type of Rate / Charge / Fee	Rate / Charge / Fee Amount
All Use	\$2.90 per 1,000 gallons
Customer Service Charge	\$16.00 minimum

Meter Size Charges (Per Month)

Meter Size (Inches)	Fee Amount
5/8 or 3/4	\$18.25 minimum per month
1	\$28.00
1 1/4	\$51.75
2	\$86.00
3	\$162.00
4	\$243.00
6	\$452.00
8	\$734.00
10	\$990.00

All Rates

View the [City of Abilene Fee Schedule](#).



Exhibit B (Redline Version)

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APPENDICES

- Appendix A Service Area Maps**
- Appendix B Utility Profile for Retail Water Supplier**
- Appendix C Water Conservation Goals for Retail Water Supplier**
- Appendix D City of Abilene Reservoir Operation Plan**
- Appendix E Resolution Adopting the Water Conservation Plan and Affirming Drought Contingency Plan Ordinance**
- Appendix F Notification to Wholesale Purchasers**
- Appendix G City of Abilene Water Rate Structure**

CITY OF ABILENE, TEXAS WATER CONSERVATION PLAN

Section I. Declaration of Policy, Purpose and Intent

The City of Abilene (City) recognizes the importance of its water resources and seeks to protect and maximize those supplies. The City recognizes the importance of efficient use of our existing supplies to make them last as long as possible. The City has embraced water conservation and reuse as a way to maximize the longevity and sustainability of its water resources and to protect the water supplies of its citizens. The City maintains an active reuse program. Through its direct reuse program the City provides treated wastewater effluent from the Hamby Water Reclamation Facility to a number of users throughout the City, including golf courses and universities, in order to reduce reliance on potable water. Through its indirect potable reuse program, treated wastewater effluent from the Hamby Water Reclamation Facility is discharged into Lake Fort Phantom Hill which serves as one of the City's surface water sources. The City's extensive reuse program has successfully lowered the City's water usage. The City also aggressively pursues water conservation through the enactment and implementation of this Water Conservation Plan.

The purpose of the Water Conservation Plan (Plan) is to: promote the wise and responsible use of water by implementing structural programs that result in quantifiable water conservation results; develop, maintain, and enforce water conservation policies and ordinances; and support public education programs that educate customers about water and wastewater facilities operations, and water conservation.

In accordance with 30 Texas Administrative Code (TAC) Chapter 288, the City of Abilene practices and promotes conservation of water through the implementation of practices described in the Texas Water Development Board's (TWDB's) *Best Management Practices (BMP) Guide for Municipal and Wholesale Users*. The City has implemented a number of those municipal BMPs identified by the TWDB in order to maximize its water conservation efforts. BMPs implemented by the City are noted throughout the Plan.

Section II. Definitions

The following words and terms, when used in this Plan, shall have the following meanings, unless the context clearly indicates otherwise (Source: 30 TAC §288.1).

A. Agricultural or Agriculture: Any of the following activities:

1. cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
2. the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;

3. raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
 4. raising or keeping equine animals;
 5. wildlife management; and
 6. planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.
- B.** Agricultural use: Any use or activity involving agriculture, including irrigation.
- C.** Best management practices: Voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.
- D.** Conservation: Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.
- E.** Commercial use: The use of water by a place of business, such as a hotel, restaurant, or office building. This does not include multi-family residences or agricultural, industrial, or institutional users.
- F.** Drought contingency plan: A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).
- G.** Industrial use: The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, and the development of power by means other than hydroelectric, but does not include agricultural use.
- H.** Institutional use: The use of water by an establishment dedicated to public service, such as a school, university, church, hospital, nursing home, prison or government facility. All facilities dedicated to public service are considered institutional regardless of ownership.
- I.** Irrigation: The agricultural use of water for the irrigation of crops, trees, and pastureland, including, but not limited to, golf courses and parks which do not receive water from a public water supplier.

- J.** Irrigation water use efficiency: The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.
- K.** Mining use: The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field re-pressuring.
- L.** Municipal use: The use of potable water provided by a public water supplier as well as the use of sewage effluent for residential, commercial, industrial, agricultural, institutional, and wholesale uses.
- M.** Nursery grower: A person engaged in the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, who grows more than 50% of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, grow means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease, and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.
- N.** Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- O.** Public water supplier: An individual or entity that supplies water to the public for human consumption.
- P.** Residential use: The use of water that is billed to single and multi-family residences, which applies to indoor and outdoor uses.
- Q.** Residential gallons per capita per day: The total gallons sold for residential use by a public water supplier divided by the residential population served and then divided by the number of days in the year.
- R.** Regional water planning group: A group established by the Texas Water Development Board to prepare a regional water plan under Texas Water Code §16.053.
- S.** Retail public water supplier: An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.

- T. Reuse: The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.
- U. Total use: The volume of raw or potable water [diverted and](#) provided by a public water supplier to billed customer sectors or nonrevenue uses and the volume lost during conveyance, treatment, or transmission of that water.
- V. Total gallons per capita per day (GPCD): The total amount of water diverted and/or pumped for potable use divided by the total permanent population divided by the days of the year. Diversion volumes of reuse as defined in 30 TAC Section 288.1 shall be credited against total diversion volumes for the purposes of calculating GPCD for targets and goals.
- W. Water conservation plan: A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).
- X. Wholesale public water supplier: An individual or entity that for compensation, [diverts and](#) supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity but does not own the right to the water which is conveyed, whether or not for a delivery fee.
- Y. Wholesale use: Water [diverted and](#) sold from one entity or public water supplier to other retail water purveyors for resale to individual customers.

Section III. Utility Profile Summary

The City supplies treated potable water to municipal, industrial and wholesale users, limited amounts of raw water to some industrial and agricultural users, and [one public water supplier, and](#) treated wastewater for reuse to agricultural users and to irrigation users as reclaimed water (recognized under Municipal BMP 8.3). The City holds Certificate of Convenience and Necessity (CCN) Number 11823. Abilene's municipal, industrial and agricultural use customers are located within Abilene's CCN area encompassing approximately 108 square miles as depicted in the service area map in Appendix A.

Abilene's wholesale service area [for potable water](#) encompasses approximately 874 square miles situated outside of Abilene's CCN. Maps of the [potable water](#) wholesale service area have been included in Appendix A. A more detailed utility profile is included in Appendix B. The utility profile is summarized as follows.

A. Population

Abilene’s population in the year 2023 as estimated using information supplied by the Texas Water Development Board (TWDB) for the Brazos G Regional Water Planning Group is estimated to be 124,262 and is projected to reach 134,466 by 2030. Abilene supplies treated water to wholesale purchasers who in turn resell that water to their system users. Total population of wholesale users [receiving potable water](#) in the year 2023 is estimated to be 33,736 and is projected to reach 42,976 persons by the year 2030. Table 1 provides population figures for City and Abilene’s [potable water](#) wholesale users for the previous five years.

Table 1: Population for City of Abilene and Potable Water Wholesalers for Preceding Five Years

Year	Abilene Population	Wholesale Population
2019	121,994	33,164
2020	122,542	33,273
2021	123,115	33,427
2022	123,688	33,581
2023	124,262	33,736
Source: 2021 Regional Water Plan, and Texas Drinking Water Watch		

Table 2 depicts projected population figures for Abilene and Abilene’s wholesale users through the year 2060.

Table 2: Projected Population for City of Abilene and Potable Water Wholesalers

Year	Abilene Population	Wholesale Population
2030	134,466	42,976
2040	145,047	46,149
2050	153,959	48,877
2060	162,895	51,985
2070	172,845	55,425
Source: 2026 Regional Water Plan, and Texas Drinking Water Watch		

B. Customer Data and Water Use Data

On average, the City diverts approximately 23,800 acre-feet per year of raw water from its surface water sources to satisfy the demands of raw and treated water users. The City produces an average of 22,500 acre feet per year of treated surface water from its three surface water treatment plants. The raw water diverted by the City goes to some raw water industrial and irrigation users, [one public water supplier \(supplemental supply for the City of Ballinger\)](#) and for production of potable water at the City’s treatment plants.

Abilene’s water customers consist of a mixture of residential, commercial, industrial, wholesale, institutional and irrigation users. The City serves approximately 52,383 residential connections, 5,416 commercial connections, 1,140 institutional connections, and 43 industrial connections. Wholesale customers [are those entities](#)

that purchase treated potable water from Abilene for resale ~~and~~ are summarized in Table 3.

Currently 25 contracted reclaimed water customers citywide and an additional approximately 10 agricultural irrigators around the Hamby Water Reclamation Plant utilize treated wastewater for agricultural and irrigation use. [Supplemental raw water of 280 acre feet per year is currently contracted to Ballinger.](#)

Abilene customers including residential, commercial, industrial, and institutional users use approximately 87% of the total water delivered from the City's potable water treatment works while wholesale [potable water](#) customers use approximately 13% of the total water delivered from the City's treatment works. Table 4 summarizes the expected water use figures for Abilene municipal [and](#) wholesale [potable water](#) users over the next decade.

Table 3: City of Abilene Wholesale [Potable Water](#) Purchasers

Wholesale Customer	Contracted Amount (ac-ft/yr)
City of Baird	77
Blair WSC	77
City of Buffalo Gap	153
City Clyde	307
Eula WSC	61
Hamby WSC	308
Hawley WSC	307
City of Lawn	153
City of Merkel	353
Potosi WSC	307
S.U.N. WSC	230
Steamboat Mountain WSC	307
Tuscola Taylor County WCID 1	92
City of Tye	184
View-Caps WSC	199
Total	3,115
Source: City of Abilene Records	

Table 4: Projected Water Demand for the Coming Decade

Year	Abilene Population	Wholesale Population	Abilene Demand (gal/yr)	Wholesale Demand (gal/yr)	Total Demand (gal/yr)
2025	129,824	39,592	7,187,947,209	1,367,094,675	8,555,041,884
2026	130,752	40,268	7,297,042,124	1,432,495,609	8,729,537,733
2027	131,681	40,945	7,406,137,039	1,497,896,544	8,904,033,583
2028	132,609	41,622	7,515,231,953	1,563,297,479	9,078,529,433
2029	133,538	42,299	7,624,326,868	1,628,698,414	9,253,025,282
2030	134,466	42,976	7,733,421,783	1,694,099,349	9,427,521,132
2031	135,524	43,293	7,842,516,698	1,707,361,485	9,549,878,183
2032	136,582	43,611	7,951,611,613	1,720,623,620	9,672,235,233
2033	137,640	43,928	8,060,706,527	1,733,885,756	9,794,592,284
2034	138,698	44,245	8,169,801,442	1,747,147,892	9,916,949,334

Source: 2026 Regional Water Plan, and Texas Drinking Water Watch

C. Water Supply System

1. Water Sources

Abilene's water sources are presented in Table 5. Appendix D presents Abilene's Reservoir Operations Plan, outlining the coordinated use of supplies from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. Use of the Reservoir Operation Plan optimizes raw water supplies delivered from these sources.

Table 5: Water Sources

Source	Amount (ac-ft/yr)
Lake Fort Phantom Hill	9,316
Hubbard Creek Reservoir ¹	13,080
Lake O.H. Ivie ²	6,720 13,441
Possum Kingdom Lake ^{3,4}	19,418 17,282

¹ Delivered under contract from the West Central Texas MWD.
² Delivered under contract from the Colorado River MWD. Amount limited to current treatment capacity of approximately 12 million gallons per day (MGD).
³ [Abilene has executed various System Water Availability Agreements with the Brazos River Authority which total 19,418 acre-feet per year. Due to elevated dissolved solids in Possum Kingdom requiring advanced treatment, 89% \(17,282 acre-feet per year\) is considered available as a water source.](#)
⁴ [Abilene contracted in 2024 with the Palo Pinto County Municipal Water District No. 1 for 3,000 acre-feet per year of its Possum Kingdom supply. During the term of the contract, Abilene's available water supply from Possum Kingdom would be reduced by 2,670 acre-feet per year \(89% of 3,000 acre-feet per year\).](#)

Raw surface water is supplied to Abilene's treatment works from several sources. The City owns and holds surface water rights to 30,690-acre feet per year (ac-ft/yr) from Lake Fort Phantom Hill, of which 25,690 ac-ft/yr are for municipal purposes, 4,000 ac-ft/yr are for industrial purposes, and 1,000 ac-ft/yr are for irrigation. The Clear Fork Diversion, owned and operated by Abilene, allows a maximum of 30,000 ac-ft/yr to be diverted from the Clear Fork of the Brazos to Lake Fort Phantom Hill. The City holds [19,418](#)

17,282 ac-ft/yr of available water from Possum Kingdom Lake for municipal water use.

The City owns and is allocated use of 1,675 ac-ft/yr of water for municipal purposes from Lake Abilene. Lake Abilene, however, is not considered a dependable supply by the City and is currently not used. The City also holds surface water rights to 3,880 ac-ft/yr from Lake Kirby, also owned by Abilene, for multiple use purposes. Hubbard Creek Reservoir, owned and operated by the West Central Texas Municipal Water District, provides by contract 13,080 ac-ft/yr of raw surface water for use by the City. Abilene may utilize by contract up to 16.54% of the safe yield of Lake O.H. Ivie, however, this source is limited by current treatment capacity to 13,441 ac-ft/yr.

2. Water Treatment

A pump station located on the eastern bank of Lake Ft. Phantom Hill pumps raw surface water from Lake Ft. Phantom Hill to the Northeast Treatment Plant and the Grimes Treatment Plant. A raw water delivery system consisting of two parallel pipelines can provide up to 27 million gallons per day (MGD) from Hubbard Creek Reservoir to the Ft. Phantom Hill delivery system. During times when water shortage requires supplementing surface water from the City's other sources, raw surface water may be pumped from Possum Kingdom Lake to the Raw Water Roughing Facility in Breckenridge to undergo treatment to reduce the total dissolved solids concentration in the raw water from Possum Kingdom Lake. The water treated at the roughing facility is pumped to the raw water delivery system from Hubbard Creek Reservoir to Abilene and is subsequently treated at the Grimes and Northeast water treatment plants (WTPs) as described below. Raw water is pumped approximately 50 miles from Lake O.H. Ivie to the Hargesheimer Water Treatment Plant located on Highway 83/84 near Tuscola. A pump station on the banks of the Clear Fork of the Brazos River, near Lake Ft. Phantom Hill provides diversion pumping of up to 30,000 ac-ft/yr into Lake Ft. Phantom Hill.

The City's Water Treatment System consists of three treatment plants having a maximum rated treatment capacity of 62 MGD (49.5 MGD sustained capacity). The Northeast Water Treatment Plant on East Lake Road has a rated capacity of 25 MGD (sustained capacity of 22.5 MGD) and treats raw water drawn from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. The Grimes Water Treatment Plant on East Highway 80 has a rated treatment capacity of 25 MGD (sustained capacity of 15 MGD) and treats water drawn from Lake Ft. Phantom Hill and Hubbard Creek Reservoir. The Hargesheimer Water Treatment Plant located on Highway 83/84 near Tuscola has a micro-filtration and a rated and sustained reverse osmosis/ blended capacity of 12.0 MGD, and treats raw water drawn from Lake O.H. Ivie.

3. Water Distribution

The City's water distribution system provides economical and compatible facilities that are capable of furnishing sufficient water at suitable pressures to both Abilene retail and wholesale purchasers. The system consists of approximately 955 miles of underground water mains, twelve pumping stations, seven ground storage tanks, eight elevated storage tanks, over 13,400 valves, over 3,215 fire hydrants, and nearly 43,000 meters.

After the water is processed at the treatment plants, it is stored in ground and elevated storage tanks with a combined volume of 38.60 million gallons. The distribution network is laid out in a continuous looped system to circulate water and maintain constant system pressure. Pumping stations are located strategically throughout the system to pump water, maintain uniform pressure and maintain storage tank levels.

Treated water from the Abilene treatment plants enters the [potable water](#) wholesalers' systems through metered interconnections. According to TCEQ's records as available through the Texas Drinking Water Watch (TDWW), production and delivery capacity of the wholesale purchasers' systems amount to approximately 22.3 MGD. Based on TDWW records, ground storage capacity within the wholesalers' systems is approximately 5.0 million gallons while total elevated and pressure storage volume is approximately 4.5 million gallons.

D. Wastewater System

1. Wastewater Collection

Abilene's wastewater collection system consists of a network of approximately 670 miles of sewers, five lift stations, and approximately 10,000 manholes serving the cities of Abilene, Tuscola, Tye and the Hawley Independent School District. Sewage flows by gravity, aided when necessary by lift stations, through the collection system into the Buck Creek Pump Station, which has a rated pumping capacity of approximately 24 MGD. Sewage is metered at the Buck Creek Pump Station and pumped approximately five miles to the wastewater treatment plant. Collected wastewater is treated at the City's Hamby Wastewater Reclamation Plant which is operated under a permit issued by the TCEQ.

2. Wastewater Treatment

When wastewater reaches the Hamby treatment facilities northeast of town, it undergoes full biological treatment that includes grit removal, screening, membrane bioreactor treatment, and disinfection. A portion of the treated effluent is either discharged to Deadman Creek via Outfall 001 or is sent to

reuse customers/Kirby Lake through Outfall 002. A portion of the effluent from the AT Storage Basin may also be sent to the advanced treatment processes where it undergoes treatment via two advanced treatment trains. Advanced Treatment Train 1 consists of reverse osmosis treatment while Advanced Treatment Train 2 includes ozonation and BAC filtration. Effluent from both advanced treatment trains are blended together and then chemically disinfected, pH adjusted, aerated, dechlorinated and discharged through Outfall 003 to Lake Fort Phantom Hill which serves as one of the City's three surface water sources. The permitted capacity of the Hamby facility is 22.0 MGD.

Wastewater quality is protected against industrial pollution through Abilene's Industrial Pre-Treatment Program. Industrial users are required to treat wastewater to specific standards before it is released into the municipal sanitary sewer system. Irrigators in and around the City reuse some of the treated effluent (recognized under Municipal BMP 8.3). The remainder is discharged to Deadman Creek by way of Freewater Creek or is discharged to Lake Kirby by way of the City's reclaimed water system. Sewage biosolids are disposed of in a sludge disposal unit at the Hamby treatment plant site.

Section IV. Water Conservation Goals

A. Municipal Use Goals

The 5- and 10-year goals (also referred to as targets) for total per capita water use by City users is to maintain per capita water use at or below 147 gallons per capita per day (gpcd) by the end of 2029, and at or below 146 gpcd by the end of 2034. The 5- and 10-year goal for residential per capita water use by City users is to maintain residential per capita water use at or below 74 gpcd by the end of 2029 and 73 gpcd by the end of 2034. The 5- and 10-year per capita water loss goal is to maintain per capita water loss at less than 8 gpcd by the end of 2029 and 7 gpcd by the end of 2034. These goals are set in accordance with the 2026 Regional Water Plan and City records.

B. Wholesale Use Goals

Wholesale [potable](#) water users served by the City, located outside the City's CCN coverage area, historically use approximately 77 gpcd of water supplied by Abilene. The 5- and 10-year goals for wholesale users supplied [potable water](#) by the City is to maintain per capita use at 76 gpcd by the end of 2029 and 75 gpcd by the end of 2034 with loss rates for wholesale water deliveries to the wholesale users maintained at less than 15%. These goals are set in accordance with contracted water sales totals with Abilene's wholesale [potable water](#) ~~water~~ users.

C. Industrial Use Goals

The 5- and 10-year target for industrial water savings is to maintain source water diversion for processing, wash-down, transport, dust control and sanitary/domestic uses by current industrial users at not more than 500 acre-feet per year through the end of 2029 and 2034. The 5- and 10-year goals were developed considering Abilene's current industrial user base.

D. Agricultural Use Goals

The 5- and 10-year target for agricultural water savings is to maintain the irrigation requirement at or below the area agronomic standard of 24-inches per acre per year through the end of 2029 and 2034. It should be noted that occasionally the City may allow the agronomic standard rate to be exceeded in order to flush the crop root zone to improve plant productivity, livelihood, growth enhancement and overall reduction in crop water demand.

Section V. Metering Devices

It is Abilene's policy to purchase meters that meet at least the minimum standards developed by the American Water Works Association. All metering devices used to meter water diverted from the source of supply are accurate to within plus or minus 5% to measure and account for water diverted from the source of supply. All service connections in the distribution system are metered. Meters are systematically tested and replaced, if necessary, to assure reliability of meter performance. The City has established the following meter maintenance and replacement programs:

<u>Meter Type</u>	<u>Calibration Period and Replacement</u>
Master Meters	Annually and replaced, as needed
1-1/2 inch and larger	Replaced as needed ^{1,2}
1-1/2 inch and smaller	Replaced as needed ^{1,2}

Notes ¹ Representative meter samples are tested annually to verify meter accuracy.

² Meters are replaced as necessary.

The wholesale water purchasers are responsible for metering device installation, maintenance and calibration for meters located within their service areas.

Section VI. Universal Metering

It is Abilene's policy to individually meter all water usage, except for fire protection and flushing to maintain a safe potable water distribution system, including all new construction within the City's CCN coverage area. Combined with an aggressive leak detection and repair program, electronic data collection devices, and a computerized billing system, Abilene's universal metering program has resulted in a water delivery accuracy rate within industry operating standards and comports with Municipal BMP 4.1.

Section VII. Measures to Determine and Control Unaccounted-For Uses of Water

The record management system utilized by the City segregates water sales and users into user classes of single-family residential, multi-family residential, commercial, public/institutional, and industrial. It is Abilene's policy to investigate customer complaints of low pressure and possible leaks. Abilene visually inspects suspected leaks and makes quick and timely repairs to those leaks when detected. Abilene utilizes a record management system which records water pumped, water delivered, water sales and water losses to track water transmission, distribution, and delivery to customers. Customer delivery is segregated by user class. This information is used to evaluate the integrity of the water delivery system from source to end user to control and minimize unaccounted-for uses of water.

Section VIII. Water Conservation Program

The City's Water Conservation Program utilizes Supply Management Methods and Demand Management Methods to work towards optimizing use of Abilene's water resources.

A. Supply Management Program Elements consist of:

1. Coordinated use of water supplies to ensure the City withdraws water from its water supply reservoirs in a manner that ensures optimum dependable yield and efficiency of operation.
2. Watershed management to ensure diversion channels, creeks, natural drainage ways, etc. discharging to Lake Ft. Phantom Hill are clean, relatively straight, and obstruction-free to increase captured water flow while minimizing flooding potential in populated areas, and reducing siltation entering Lake Ft. Phantom Hill.
3. Metering all service connections to ensure maximum return for delivered water while minimizing unaccounted-for water loss.
4. Leak detection and repair to minimize unaccounted-for water loss.
5. Treated wastewater reuse and recycling to lessen the demand for raw water used to produce potable water for irrigation uses pursuant to Municipal BMP 8.3.

B. Demand Management Program Elements consist of:

1. Water pricing as a mechanism for encouraging water customers to conserve pursuant to Municipal BMP 3.1.
2. Regulations for conserving water via the Water Conservation Plan and the Drought Contingency Plan ordinance adopted by the City.

3. Plumbing Code for the City requires maximum standard plumbing fixture capacities not be exceeded.
4. Continuing education programs to increase public awareness of supply, treatment and conveyance systems in Abilene, to increase public awareness of the benefits and need for conservation, and to make information about practical cost-effective methods and technologies to achieve conservation available (Effort recognized under Municipal BMPs 6.1, 6.2 and 6.3).
5. The City utilizes year-round water conservation measures to restrict certain potable water use activities by all customers of the Water Utility System (recognized under Municipal BMP 5.3). Pursuant to this measure all potable water irrigation by commercial, industrial and residential customers utilizing individual sprinklers, or sprinkler systems, on lawns, gardens, landscaped areas, trees, shrubs or other plants may water only on designated day(s) and then only during designated hours as outlined in the City's Drought Contingency Plan ordinance.

Section IX. Public Education

Public education is an ongoing and integral part of Abilene's water conservation programs. A public information and education program developed and implemented by the City is an important component in the City's water conservation strategy. Water Utilities education programs have these principal objectives including:

- Increase public awareness of supply, treatment, and conveyance systems in Abilene, and
- Increase public awareness of the needs for and benefits of conservation.

A variety of communication techniques either have or are being utilized including: electronic information materials via Abilene's internet website; newspaper supplements; presentations at neighborhood, civic, social, and professional organizations; public service announcements; and public school and university programs (recognized under Municipal BMP 6.1).

A. Schools

Water and conservation has been introduced into area schools. Presentations are made directly to classes of all ages, including university level (recognized under Municipal BMP 6.2). Presentations are supported by a variety of printed materials. Tours of the water treatment plants are often used by area teachers as an education tool.

Water conservation is emphasized to Leadership Abilene participants. Leadership Abilene is a program sponsored by the Abilene Chamber of Commerce designed to develop competent community leaders.

Water conservation is also emphasized in the City University Program, a community leadership and involvement program that offers a way for participants to become better informed about City programs and services. The program teaches participants how to access government and elected officials and explores the value of serving on City boards and commissions. Participants go behind the scenes of City facilities, find out how various divisions operate and meet City employees who deliver City services.

B. Landscaping

Implementation of the Xeriscape Program began in 1986 with the creation of a Xeriscape Advisory Committee composed of representatives of the landscape industry, business and residential communities. The committee assisted in the development of an informational brochure and plant list.

A public information campaign called "Project Xeriscape" has included public service announcements, workshops, displays, landscape competition, a coloring contest for children, and distribution of materials. The City's website offers useful information regarding xeriscaping and water conservation landscaping measures. The City's efforts have increased landscape irrigation conservation and are recognized under Municipal BMPs 5.3 and 7.5.

In addition, the City has actively pursued the transfer of golf course irrigation from potable water use to reclaimed water use. Currently, all golf courses within the City are irrigated using reclaimed water, an effort reflective of Municipal BMP 5.2.

C. Commercial/Industrial Conservation

The Water Utilities Department works with area businesses to keep water bills as low as possible by conserving water use. Written contracts, industrial inspections, and individual responses to public inquiries about water and waste help to focus conservation efforts towards the commercial sector needs (recognized under Municipal BMP 7.1).

D. Agricultural Conservation

In order to lessen the demand on the City's raw water sources the City relies on reuse of treated wastewater for supply to irrigators located within the City's service area fulfilling Municipal BMP 8.3. It is the City's policy to assist irrigators where feasible and practical to utilize reclaimed wastewater as their irrigation supply water. The City strives to work closely with local irrigation water users to ensure effective use of the City's water resources.

E. Local Media

The Water Utilities Department has prepared several public service announcements which are periodically aired on local television stations addressing the education program objectives. The Water Utilities Department routinely presents information on local public broadcasting systems addressing the objectives described above (recognized under Municipal BMP 6.1).

Section X. Water Rate Structure

The City has adopted a non-promotional, inverted rate structure. Under this rate structure the billing rate increases as individual water consumption increases. This rate structure promotes conservation and shifts the cost of supplying water to those consumers using it most. The City's rate structure incents conservation and comports with Municipal BMP 3.1. A copy of the City's current water rates is provided in Appendix G.

Section XI. Means of Implementation and Enforcement

This Water Conservation Plan has been adopted by the City. A copy of the resolution adopting this Plan is included in Appendix E. The City Manager works with the Director of Water Utilities in the implementation and enforcement of the Plan, and in the City's submission of its annual water conservation implementation report. This report is used by the City to review the effectiveness of its water conservation program.

The Director of Water Utilities designates a member of the Water Utilities Department staff as a Conservation Coordinator. The Conservation Coordinator is responsible for implementation and coordination of water conservation programs (recognized under Municipal BMP 2.1).

To support the City's Water Conservation Plan and water conservation efforts, the City maintains a Drought Contingency Plan Ordinance (see City of Abilene Municipal Code Chapter 32, Article VI-Water Conservation Plan). This ordinance provides year-round water conservation measures, as well as conservation measures during times of water shortage or other emergency water supply conditions. The ordinance provides for enforcement of ordinance violations.

A. Enforcement Within Abilene's CCN Area

The Plan is enforced within the Abilene CCN coverage area by providing service taps only to customers complying with adopted ordinances, maintaining a non-declining rate structure, discontinuing service to those customers who do not pay their water bills until payment is made, and verifying new construction conforms to adopted ordinances and plumbing codes.

B. Enforcement for Abilene's Wholesale Purchasers

Wholesale customers receive written notification of Plan adoption and any subsequent Amendments. Adoption of this Plan by the City per 30 Texas Administrative Code (TAC) §288.5 obligates wholesale customers as defined in 30 TAC §288.1 to implement water conservation measures. A copy of the notification letter to wholesale users has been included in Appendix F. The City makes best efforts to ensure implementation and enforcement of the Plan by wholesale users via these contractual requirements and outreach efforts, fulfilling Municipal BMP 3.2.

Section XII. Additional Wholesale Water Contract Requirements

It is Abilene's policy to include in every wholesale water supply contract entered into or renewed after official adoption of the Plan, including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using applicable elements in 30 TAC Chapter 288. If the wholesale customer intends to resell the water, then the contract between Abilene and the wholesale customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with 30 TAC Chapter 288. These efforts are recognized as part of Municipal BMP 3.2.

Section XIII. Coordination with Brazos G Regional Water Planning Group

All of the customers served by the City are located within the Brazos G Regional Water Planning Area. Abilene has provided a copy of this Plan to the Brazos G Regional Water Planning Group.

Section XIV. Revisions to the Water Conservation Plan

The City will review and update this water conservation plan, as appropriate, based on new or updated information. As a minimum the Plan will be updated every five (5) years.

Section XV. Severability

It is Abilene's intention that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable. If, any phrase, clause, sentence, paragraph or section shall be declared unconstitutional by a valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Plan, since the same would not have been enacted by Abilene without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph or section.

**CODE OF THE CITY OF ABILENE, TEXAS
CHAPTER 32 ARTICLE VI
WATER CONSERVATION PLAN**

DIVISION 1 GENERALLY

Sec. 32-140. Declaration of Policy

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire prevention and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Abilene hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this water conservation plan (the plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Sections 32-147 through 32-155 of this Plan.

No person shall make, cause, use or permit the use of water from the City of Abilene Water Utility System for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to provisions of this plan or in an amount in excess of that use permitted by the plan in effect pursuant to action taken by the mayor or his/her designee in accordance with the provisions of this Plan.

Sec. 32-141. Authorization

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

Sec. 32-142. Application

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

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

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

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

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

Sec. 32-143.1 Coordination with Regional Planning Groups

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

Sec. 32-143.2 Public Involvement

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

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

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

DIVISION 2 WATER CONSERVATION PLAN PROCEDURES

Sec. 32-144. Year Round Water Use Management

To conserve water supplies available to the City of Abilene, Year Round Water Use Management shall be implemented to restrict certain potable water use activities by all customers of the City of Abilene Water Utility System.

When conditions warrant, pursuant to Sec 32-141, the Water Conservation Plan will be implemented in accordance with the applicable provisions of this Plan.

1. Year-Round Water Use Management. The following year-round provisions shall apply to all potable water customers of the City of Abilene Water Utility System:

- a. Watering Days: Customers are encouraged to conserve water by watering their lawn areas only once every seven (7) days on one of their designated watering days.

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

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is above fifty (50) percent, the following three-day a week watering schedule applies:

Designated Watering Days:

Wednesday, Friday, Sunday	Odd numbered addresses
Tuesday, Thursday, Saturday	Even numbered addresses
Monday, Wednesday, Friday	Industrial, commercial, government customers, public and private schools and universities

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between forty and fifty (40-50) percent, the following two (2) day a week watering schedule applies:

Designated Watering Days:

Thursday, Sunday	Odd numbered addresses
Tuesday, Saturday	Even numbered addresses
Monday, Friday	Industrial, commercial, government customers, public and private schools and universities

- b. Watering Times:

Watering by all commercial, industrial, and residential customers utilizing individual sprinklers, or sprinkler systems, on lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on designated day(s) and then only during the hours of 12:00

midnight to 10:00 am and from 6:00 pm until 12:00 midnight.

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

A Drip Irrigation System shall not be used to irrigate lawns except on designated days and at designated times.
- e. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least fifty (50) percent of an existing yard.
- f. Water Wasting. The following uses of water are defined as “waste of water” and are absolutely prohibited:
 - i. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - ii. Failure to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - iii. Operating a permanently installed irrigation system with a broken sprinkler head; a sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or a sprinkler head that is misting due to high pressure.

- g. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety, and welfare. The Director of Water Utilities will review written requests on a case-by-case basis for the purchase and withdrawal of fire hydrants for land development and building construction processes.
 - h. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - i. Water may be added to swimming pools to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - j. The operation of charity car washes must:
 - i. Not allow water to run-off more than seventy-five (75) feet, and
 - ii. Use hoses with on/off nozzles and buckets.
 - k. Large-scale recreational development, such as, but not limited to, water parks, shall submit a plan to the Director of Water Utilities that detail expected water consumption and maintenance requirements. Any deviation from the requirements of this ordinance will be resolved on a case-by-case method.
2. Administrative Enforcement, Presumption of Ownership & Control; Hearing Officers; Administration of Hearings, Hearings, Appeals, Payment, Subsequent Violations, Fees, and Requests for Variances as pertaining to Year Round Water Use Management are addressed in Sections 32-147 through 32-156.

Sec. 32- 145. Water Conservation Stages

WATERING DAYS

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

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

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

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

7 or 8
5 or 6

Wednesday
Tuesday

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

STAGE 1 WATER ALERT

Implementation Criteria:

Combined treatment plant pumpage in excess of 45.0 MGD for two (2) consecutive days (while in year-round water use management trigger parameters); or, continually falling water storage facility levels which do not refill above fifty (50) percent overnight; or, combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between thirty to forty (30-40) percent, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

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

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

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

- i. A garden hose is used and is held in the hand during the duration of the irrigation event,
or

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

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

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

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

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

2. Vehicle Washing

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

- 3. Water may be added to swimming pools to sustain appropriate maintenance levels only on designated irrigation days.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.

5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health and safety hazards, or to prepare an area for pavement repair or application.
7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall, in addition to complying with other applicable articles in this ordinance, reduce their monthly consumption of water by a minimum of fifteen (15) percent compared to use during the same month of the previous year.
 - b. Industrial users may, in order to justify water use, present a conservation plan for approval by the Director of Water Utilities.
 - c. Golf courses will submit a conservation plan for approval by the Director of Water Utilities if potable irrigation water is to be used.

STAGE 2 WATER WARNING

Implementation Criteria:

Combined treatment plant pumpage in excess of 40.0 MGD for two (2) days (while in Stage 1 Water Alert trigger parameters); or, continually falling water storage facility levels which do not refill above forty (40) percent overnight or, combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between twenty to thirty (20-30) percent or, major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

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

1. Landscape Irrigation

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

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

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

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

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

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

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

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.

If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.

- b. Charity car washes are prohibited.
- 3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation day.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.
- 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
- 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.
- 7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

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

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

STAGE 3 WATER EMERGENCY

Implementation Criteria:

Combined treatment plant pumpage in excess of thirty-six (36) MGD for three (3) days and depletion of the combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill to less than twenty (20) percent or major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

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

1. Landscape Irrigation

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

- a. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- b. A faucet-filled container of five (5) gallons or less is used, or
- c. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.
- d. New lawns may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retiling or any replanting or reseeding of existing lawns shall not qualify for new lawn status in this section.

Watering of existing lawns is prohibited at any time.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station.
 - b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
 - c. Charity car washes are prohibited.
3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation days. New construction of swimming pools is prohibited.
4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day. New construction of ornamental fountains is prohibited.
5. Use of water from fire hydrants shall be limited to fire-fighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
- a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or a parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

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

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

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

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

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

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.
- c. Each golf course using potable water will reduce consumption by fifty (50) percent of contracted amount.

STAGE 4 WATER CRISIS

Implementation Criteria:

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

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

1. All outdoor irrigation of vegetation including lawns, using potable water is prohibited.
2. New lawns may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retiling or any replanting or reseeding of existing lawns shall not qualify for new lawn status in this section.

3. Only washing of mobile equipment in the critical interest of the public health or safety shall be allowed.
4. The filling, refilling or adding of water to swimming and/or wading pools is prohibited. The construction of new swimming pools is prohibited.
5. The operation of any ornamental fountain or similar structure is prohibited. The construction of new ornamental fountains is prohibited.
6. Use of water from fire hydrants shall be limited to fire fighting and related activities or other activities necessary to maintain public health, safety and welfare. Water for domestic use only may be purchased from the bulk loading station.
7. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards.
8. Commercial and Industrial Users
 - a. Commercial and industrial users of water (for other than drinking water and rest rooms) shall continue to maintain at least a 15 percent reduction of water use compared to use during the same month of the previous year.

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

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

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

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

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

Sec. 32-146. Target Water Use Goals

The following target goals for water use are established for use during water conservation stages as contained in Section 32-145:

Stage 1 WATER ALERT

Target Water Use Goal:

Combined treatment plant production less than forty-five (45.0) million gallons per day (MGD) for all Abilene water treatment facilities.

Stage 2 WATER WARNING

Target Water Use Goal:

Combined treatment plant production less than forty (40.0) MGD for all Abilene water treatment facilities.

Stage 3 WATER EMERGENCY

Target Water Use Goal:

Combined treatment plant production less than thirty-six (36.0) MGD for all Abilene water treatment facilities.

Stage 4 WATER CRISIS

Target Water Use Goal:

Combined treatment plant production less than thirty (30.0) MGD for all Abilene water treatment facilities.

DIVISION 3 WATER CONSERVATION PLAN ENFORCEMENT

Sec. 32-147. Administrative Enforcement

Violations of this plan are declared to be civil penalties with remedies being fines paid directly to Municipal Court. Non-payment of fines will result in surcharges assessed to the customer's water utility bill. Each violation of a particular component of this Plan shall constitute a separate violation, and each day a violation continues shall be considered a new violation for purposes of enforcement and enhancement.

The surcharge will be in addition to the regular water utility bill amount. The water utility office may discontinue water service to the premises if the surcharge is not paid as required under the Plan. Any person whose service is discontinued for failure to pay the surcharge shall not be restored until payment of a reconnection charge and any other costs incurred by the City in discontinuing service.

The city's authority to seek injunctive or other civil relief available under the law is not limited by this section.

The following procedures shall apply to anyone contesting the penalties for violating the Plan. The hearing process shall be a two-phase hearing process with the final phase being heard before the municipal clerk/administrator or deputy in charge of hearing appeals.

Sec. 32-148. Presumption of Ownership & Control

Presumption of Ownership/Control. Any person, including a person classified as a water customer of City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation.

All notices shall be issued to the person or entity whose name appears on the water bill.

In any case of a violation of any terms or provisions of this Plan by any corporation, business, partnership, or entity, the officers and/or agents actively in charge of the business or entity shall be subject to the penalty provided herein.

If a customer is irrigating during a time period or on a day when irrigation is not permitted for the street address of that customer and a city worker cannot find any person at that street address to turn off the irrigation system, the city worker may enter the property and turn off the irrigation system and/or the water source.

Sec. 32-149. Hearing Officers

1. There shall be designated a Hearing Officer(s) who shall be appointed by the municipal court clerk/administrator.
2. Hearing Officer(s) shall have the authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.

3. An order compelling the attendance of witnesses or the production of documents may be enforced by the municipal court.

Sec. 32-150. Administration of Hearings

1. The administrative adjudication process for Plan violations shall be initiated by the issuance of a notice which may be issued by a peace officer or other authorized enforcement agent. Authorized enforcement agents shall include any police officer, water utilities worker, city marshal, or other employee of the city designated by the city manager to enforce the provisions of this code in regard to the Plan.
2. The notice may be issued by affixing it to the front door of the property in question, in a conspicuous place.
3. The notice shall provide that the person charged with violation of the Plan shall have the right of hearing to determine the validity for the charged offense. Such right to a hearing shall be exercised by mail or by appearing in person before a hearing officer within ten (10) days from the date of the notice.
4. The original or any copy of the notice or summons is a record kept in the ordinary course of business in the city and is rebuttable proof of the facts it contains.

Sec. 32-151. Hearings

1. At the hearing before the hearing officer, the violator may admit, admit with explanation, or deny the alleged infraction. It is not a defense to the offense that the violator did not intend the alleged infraction, there being no culpable mental state required for the infraction.
2. The issuing officer shall not be required to attend the hearing.
3. It is not required that the city's attorney attend the hearing. Provided, however, that if the defendant is represented by legal counsel at the hearing, the hearing officer shall notify the city attorney who shall have a right to appear on behalf of the city at said hearing.
4. No formal or sworn complaint shall be necessary. The hearing officer shall examine the contents of the notice and the evidence related to ownership of the property in question and shall hear and review the testimony and evidence presented by the violator. If the hearing officer determines by the preponderance of the evidence that the infraction was committed by the violator, he shall find the violator responsible and assess a fine.
5. At the conclusion of the hearing, the hearing officer shall issue an order stating whether or not the person charged is responsible for the violation of the Plan and the amount of the fine assessed against him. The order shall be filed with the clerk of the municipal court. All such orders shall be kept in a separate index or file by the municipal court clerk using appropriate data processing techniques.
6. Failure of a person charged with the offense to appear at a hearing within the aforesaid ten (10) day period shall be considered an admission of liability for the charged offense.

Sec. 32-152. Appeals

A person determined by the hearing officer to be in violation of any provision of the Plan may appeal this determination to the municipal court clerk or a deputy so designated to hear Plan appeals.

The appeal must be instituted by filing a written petition, not later than the tenth day after the filing of the hearing officer's order, with the clerk of the municipal court along with payment of a nonrefundable administrative appeal filing fee in the amount of ten dollars (\$10.00).

After filing a petition for appeal, the municipal clerk shall schedule a hearing and notify all parties of the date, time, and place of the hearing.

The appeal hearing shall be a de novo review. The municipal court clerk shall examine the evidence presented at the appellate hearing and if the court clerk determines by the preponderance of the evidence that the infraction was committed by the violator, the court clerk shall find the violator responsible therefore.

Sec. 32-153. Payment

1. Any person alleged to have violated the Plan who merely desires to make payment shall provide same to the municipal court clerk in charge of water violations within ten (10) days after receiving notice of said violation.
2. Any person alleged to have violated the Plan and who fails to appear within the ten (10) days as reflected in 32.150.3 above shall be assessed a surcharge on their next water bill in the amount of the minimum fine.
3. Any person found to have violated the Plan by the Hearing Officer shall pay the fine within ten (10) days of said hearing or the fee shall be assessed in a surcharge on the violator's next water bill.

Sec. 32-154. Subsequent Violations-Increased Fees-Discontinuation of Service-Injunctive Relief

Subsequent violations of the Plan shall result in increased fine or upon the occurrence of three (3) violations, after notice, the discontinuation of services. Services discontinued under this provision shall be restored only upon payment of a reconnection fee and any other costs incurred by the City in discontinuing service.

Compliance with the Plan may also be sought through injunctive relief in district court.

Sec. 32-155. Fines-Minimum and Maximum

1. Any person, firm, or corporation found to have violated any provision of the Plan, shall be assessed a fine in an amount not to exceed one thousand dollars (\$1,000.00) for each offense, the amount to be determined by the hearing officer in his reasonable discretion, subject to review on appeal to the municipal court clerk.

2. Unless higher amounts are required by state law or a lesser amount is determined by the hearing officer or municipal court clerk or so designated deputy, the minimum fines for violating the Plan shall be as follows:
 - a. Violation of Year Round Water Use Management, first offense ...\$50.00
 - b. Violation of Year Round Water Use Management, second offense ...\$75.00
 - c. Violation of Year Round Water Use Management, subsequent offenses...\$250.00
 - d. Violation of Stage 1, first offense...\$50.00
 - e. Violation of Stage 1, second offense...\$75.00
 - f. Violation Stage 1, subsequent offenses...\$250.00
 - g. Violation of Stage 2, first offense...\$100.00
 - h. Violation of Stage 2, second offense...\$150.00
 - i. Violation of Stage 2, subsequent offenses...\$500.00
 - j. Violation of Stage 3 or 4, first offense...\$250.00
 - k. Violation of Stage 3 or 4, second offense...\$500.00
 - l. Violation of Stage 3 or 4, subsequent offenses...\$1,000.00
 - m. Reconnect Fees for failure to pay the surcharge...\$250.00
 - n. Reconnect Fees for repeated violations of the Plan...\$500.00
3. It is an affirmative defense to any violation of this article if the customer proves that the misused wasted water is from an operable water well serving said property.
4. Fraudulent misrepresentation of well water use will result in a five hundred dollar (\$500) fine.

Sec. 32-156. Requests for Variance

Requests for variance should be made in writing to the Director of Water Utilities. Requests must include name of customer, location, type of variance requested, reason for variance request and duration of deviation from this plan. Upon the Director's written approval acknowledged by the entity in question, these entities may follow the requested variance and will be responsible for all other provisions of this article.

Sec. 32-157. Severability

If any provision or any section of this Plan shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of the Plan, which shall remain in full force and effect.

EXHIBIT C

SUMMARY OF EXISTING DROUGHT CONTINGENCY PLAN ORDINANCE

Requirements for drought contingency planning are found in Texas Administrative Code (TAC) Chapter 288, Subchapter B. These requirements mandate that public water systems implement drought contingency planning, and submit adopted drought contingency plans at least on five-year intervals. Drought planning serves to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire prevention. Drought planning is also intended to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

While no changes have been made to the City's Drought Contingency Plan (DCP) Ordinance, its adoption must be affirmed by Abilene's governing body and subsequently submitted to the TCEQ on or before May 1, 2024 to comply with TAC Chapter 288 requirements.

The DCP ordinance serves to minimize or eliminate water uses that are considered to be non-essential during times of water shortage or other emergency water supply conditions. Defined activities that constitute a waste of water subjects the offender(s) to penalties established in the DCP ordinance. The DCP ordinance applies to persons, customers, and property utilizing the City's Water System wherever situated, including wholesale customers, and others that receive water from the City on a contract basis. The DCP ordinance provides that if a shortage of water in the City's water supply occurs, the water to be distributed will be divided among all users pro rata, according to the amount each may be entitled to, so that preference is given to no one user or user group. The DCP ordinance does not apply to the use of alternate water sources, including non-potable water and private well water.

The DCP ordinance describes four water conservation stages in order of severity including:

- Stage 1 Water Alert,
- Stage 2 Water Warning,
- Stage 3 Water Emergency, and
- Stage 4 Water Crisis.

The DCP ordinance describes drought contingency plan enforcement procedures including assessment of fines, procedures for making payment of assessed fines, penalties for subsequent violations, and procedures for granting variances to the conditions of the DCP ordinance. The DCP ordinance also includes water use goals in each stage of drought contingency response as described in TAC Chapter 288.

Approving the 2024 Water Conservation Plan Update
and Affirming the
Drought Contingency Plan Ordinance as Adopted





2024 Water Conservation Plan Update

- Approving the 2024 Water Conservation Plan Update
- Affirming the Drought Contingency Plan Ordinance without changes, as adopted on July 14, 2022
- Texas Administrative Code (TAC) Chapter 288, “Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements”, requires water systems holding surface water rights in excess of 1,000 acre-feet per year to maintain and submit to the Texas Commission on Environmental Quality (TCEQ) a current Water Conservation Plan (WCP) and a current Drought Contingency Plan (DCP).





2024 Water Conservation Plan Update

The water use and loss goals included in the 2024 WCP update are based on current utility profile data collected and analyzed as a part of the WCP review process. These goals are:

- The 5- and 10-year municipal goals for total per capita water use by City of Abilene users are to maintain per capita water use at or below 147 gpcd by the end of 2029, and 146 gpcd by the end of 2034.
- The 5- and 10-year goals for residential per capita water use by City of Abilene users are to maintain residential per capita water use at or below 74 gpcd by the end of 2029 and 73 by end of 2034.
- The 5- and 10-year per capita water loss goals for Abilene water users are to maintain per capita water loss at less than 8 gpcd by the end of 2029 and 7 gpcd by the end of 2034.





2024 Water Conservation Plan Update

The water use and loss goals included in the 2024 WCP update are based on current utility profile data collected and analyzed as a part of the WCP review process. These goals are: (Cont.)

- The 5- and 10-year goals for wholesale users supplied by the City of Abilene are to maintain per capita use at 76 gpcd by the end of 2029 and 75 gpcd by the end of 2034 with loss rates for wholesale water deliveries to the wholesale users maintained at less than 15%.
- The 5- and 10-year goals for industrial water savings are to maintain source water diversion for processing, wash-down, transport, dust control and sanitary/domestic uses by current industrial users at not more than 500 acre-feet per year through the end of 2029 and 2034.
- The 5-year and 10-year goals for water savings are to maintain the agricultural irrigation requirement at or below the area agronomic standard of 24-inches per acre per year through the end of 2029 and 2034.



Approving the 2024 Water Conservation Plan Update and Affirming the Drought Contingency Plan Ordinance as Adopted

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **16. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving an Economic Development Agreement with Chowning Realty LLC for 1438 N 6th St. (*Tim Littlejohn*)**

GENERAL INFORMATION

Economic Development agreement with Chowning Realty for 1438 N 6th St. to build an affordable new single family residence that is within the guidelines of the RebuildAbi program.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 1438 N 6th Resolution
2. 1438 N 6th Agreement
3. 1438 N 6th Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING
A CHAPTER 380 AGREEMENT BETWEEN THE CITY OF ABILENE AND CHOWNING
REALTY**

This Economic Development Agreement ("Agreement") is effective as of the 9th day of May, 2024 ("Effective Date"), by and between Chowning Realty, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

WHEREAS, the City of Abilene adopted Resolution 192-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City has adopted Resolution No. 192-2023 which created the Rebuild ABI program; and

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 1438 N 6th St., in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City.

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

PART 1: That the City of Abilene approves the Rebuild ABI economic development agreement upon the terms and conditions as set forth in Exhibit A attached hereto.

PART 2: That this Resolution becomes effective immediately upon adoption.

ADOPTED on the 9th day of May, 2024.

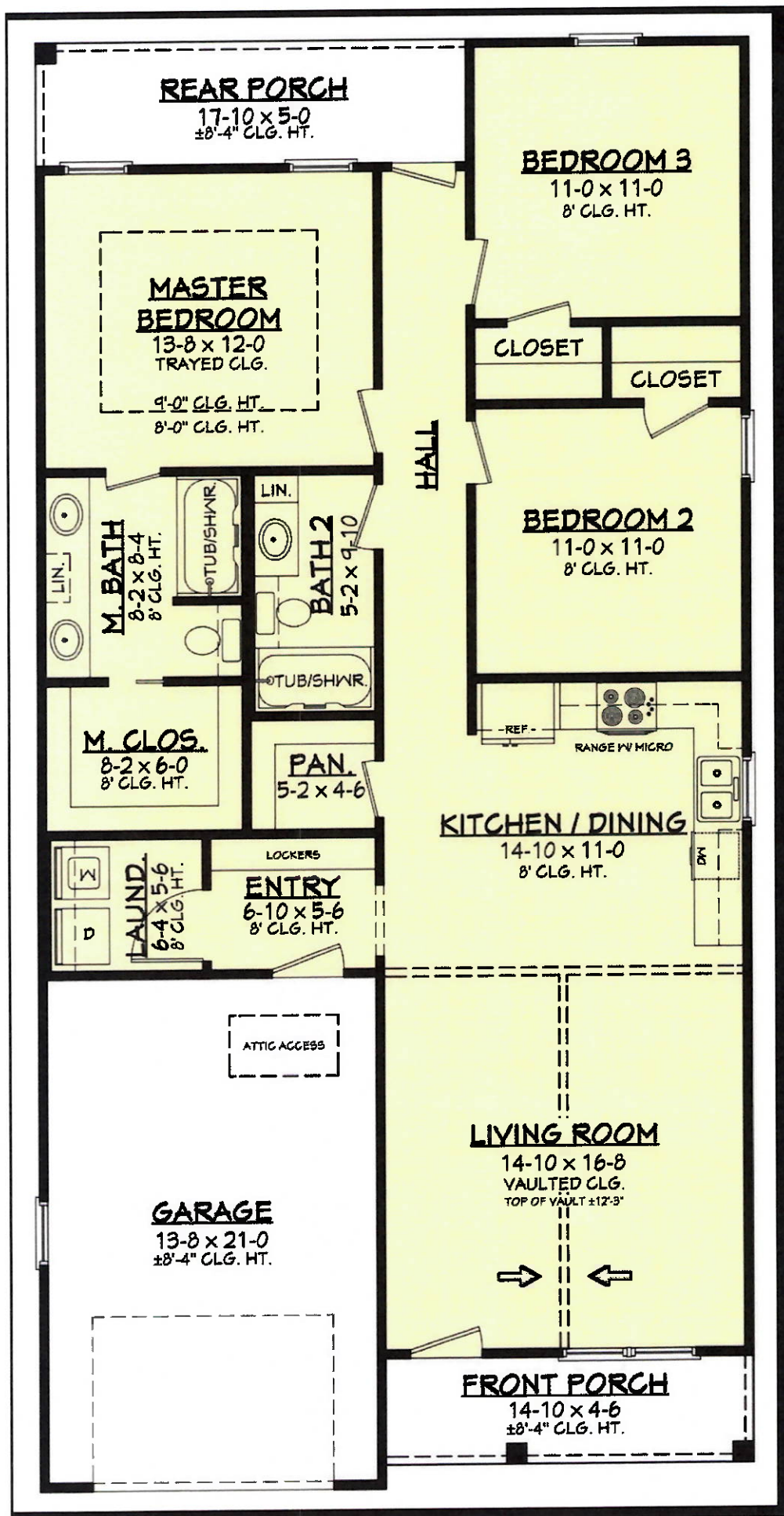
ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



As for the square footage, it is 1254 approx. Please reach out if and when you need something from me.

Sincerely,

Aaron Chowning

[Quoted text hidden]

**NEW CONSTRUCTION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND**

Chowning Realty

This Economic Development Agreement ("Agreement") is effective as of the 9 day of MAY, 2024 ("Effective Date"), by and between Chowning Realty, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 1438 N. 6th, in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited Chapter 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer's execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes, and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Channing Realty, LLC, its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) twelve months from the Effective Date ("Term").

IV. ECONOMIC DEVELOPMENT PROGRAM

- 4.01 Upon Developer's completion of its obligations and duties set forth in this Agreement, the City shall pay the Developer the following incentives:
- a. Payable at the time of closing of the interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.
 - b. Payable at the time of closing of the final buyer, a five (5%) percent completion grant will be paid to the Developer, such grant being equal to five(5%) percent of the amount

of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00.

- c. In addition to the equity contribution and completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more the following: (1) waiver of construction related City permits and fees, (2) utility taps, (3) sidewalks, (4) roll-off containers and two tips, and (4) demolition of existing structures.

- 4.02 In the event the Developer chooses not to use a participating eligible lender, the Developer is eligible to receive a fifteen (15%) percent incentive, payable at the time of closing of the final buyer. Additionally, the Developer is eligible to receive the incentives listed in 4.01(c).

V. DEVELOPER'S OBLIGATIONS AND DUTIES

The Developer shall perform, or cause to be performed, the construction of the improvements set forth in **Exhibit A – "Public and Private Improvements"** on or before the expiration of this agreement. Additionally::

- 5.01 The Developer shall be a member of the Big Country Home Builder's Association as of the effective date of this Agreement, and during the term of this Agreement.
- 5.02 The Developer shall construct, at its expense, the improvements identified on **Exhibit A – "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
- 5.03 The Developer shall purchase all building materials from a business located within the corporate boundaries of the City of Abilene, and pay all applicable local sales and use taxes to the City of Abilene. Upon request of the City, Developer shall promptly provide written documentation of compliance with this requirement, such written documentation being receipts or other documentation as agreed to by the City.
- 5.04 The Developer shall require the final buyer of the residence to sign an affidavit at closing that the buyer intends to occupy the residence as their legal homestead in the State of Texas and that it shall serve as their primary residence for a period of 2 years following closing.

- 5.05 The Developer shall construct the new construction within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to build the home on a specific lot north of South 27th Street.

VI. CITY OBLIGATIONS AND DUTIES

- 6.01 Pay the Economic Incentives to Developer pursuant to the terms and conditions of this Agreement.

VII. DEFAULT

- 7.01 If any party should default upon any terms or obligations with respect to this Agreement (“Defaulting Party”), the other party (“Complaining Party”) shall provide written notice of the default and shall reasonably include the actions required to cure such default. If the Defaulting Party cures the default within thirty (30) days after notice of default is received (“Cure Period”), or commences to cure default within said thirty (30) days and diligently pursues the cure to its conclusion, then this Agreement shall continue as if no default occurred.
- 7.02 In the event that the Defaulting Party fails to cure the default as required by Section 7.01 above, the Complaining Party may, by action or proceeding at law or in equity, be awarded damages and/or specific performance for such default, including reasonable attorney’s fees and costs.

VIII. GENERAL PROVISIONS

- 8.01 **DEVELOPER COVENANTS AND AGREES TO AND DOES HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS. IN ADDITION, DEVELOPER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF INJURIES OR DAMAGES TO PERSONS OR PROPERTY,**

INCLUDING DEATH, RESULTING FROM THE FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.

- 8.02 If any provision of this Agreement, or a portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of any other of said parties.
- 8.06 Except as otherwise expressly provided herein, this Agreement may only be amended, modified or terminated by a declaration in writing, executed and acknowledged by all the parties to this Agreement.
- 8.07 This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and supersedes all prior discussions and agreements between the parties.
- 8.08 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.09 In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS.]

AGREED:

DEVELOPER

Chowning Realty, LLC
3066 Legends Trail (79601)
325-310-4099

By: Aaron Chowning

Name: Aaron Chowning

Its: Principle

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

City Council Meeting

Economic Development Agreement

1438 N 6th St.





- Chowning Realty is proposing to build a newly constructed affordable home located at 1438 N 6th St.
- Home is approximately 1254 sq.ft.
- 3 bedroom, 2 bathroom, and 1 car garage
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **17. Resolution: Receive a Report, Hold a Discussion and Take Action on approving an Economic Development Agreement with Salazar Custom Homes on 766 Jeanette St. *(Tim Littlejohn)***

GENERAL INFORMATION

Economic Development agreement with Salazar Custom Homes for 766 Jeanette St. to build an affordable new single family residence that is within the guidelines of the RebuildAbi program.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 766 Jeanette Resolution
2. 766 Jeanette_New construction Ch 380 agreement application
3. 766 Jeanette Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING
A CHAPTER 380 AGREEMENT BETWEEN THE CITY OF ABILENE AND SALAZAR
CUSTOM HOMES**

This Economic Development Agreement ("Agreement") is effective as of the 9th day of May, 2024 ("Effective Date"), by and between Salazar Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

WHEREAS, the City of Abilene adopted Resolution 192-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City has adopted Resolution No. 192-2023 which created the Rebuild ABI program; and

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 766 Jeanette St., in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City.

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

PART 1: That the City of Abilene approves the Rebuild ABI economic development agreement upon the terms and conditions as set forth in Exhibit A attached hereto.

PART 2: That this Resolution becomes effective immediately upon adoption.

ADOPTED on the 11th day of April, 2024.

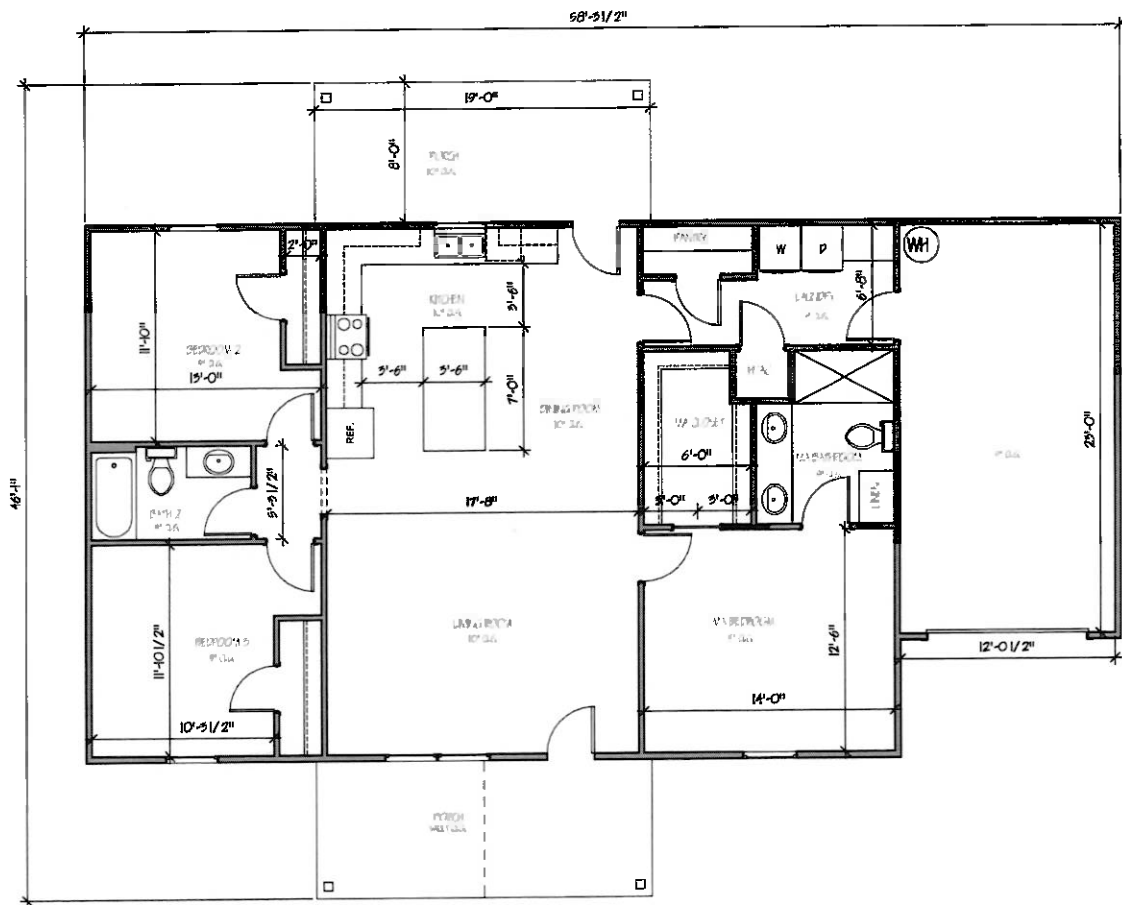
ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

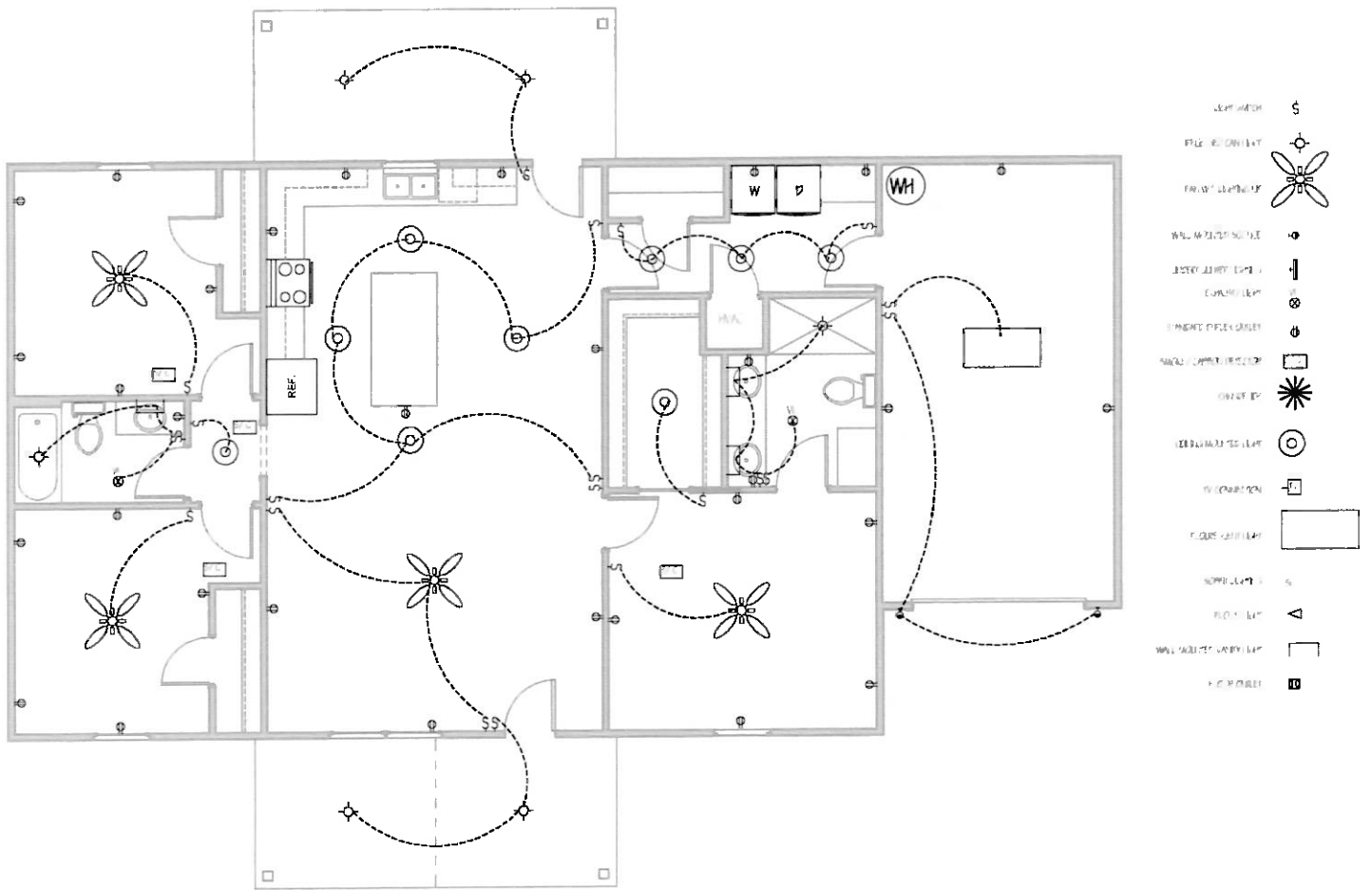
Stanley Smith, City Attorney



SCALE FOOTINGS

LIVING SQ. FT.	1,389 SF.
KITCHEN	269 SF.
PORCHES	900 SF.
TOTAL SLAB	1,958 SF.





**NEW CONSTRUCTION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND
Salazar Custom Homes**

This Economic Development Agreement ("Agreement") is effective as of the 9th day of May, 2024 ("Effective Date"), by and between Salazar Custom Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer intends to acquire, or has acquired, fee simple ownership of 766 Jeanette, in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited Chapter 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer's execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes, and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Salazar Custom Homes, its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) twelve months from the Effective Date ("**Term**").

IV. ECONOMIC DEVELOPMENT PROGRAM

- 4.01 Upon Developer's completion of its obligations and duties set forth in this Agreement, the City shall pay the Developer the following incentives:
 - a. Payable at the time of closing of the interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.
 - b. Payable at the time of closing of the final buyer, a five (5%) percent completion grant will be paid to the Developer, such grant being equal to five(5%) percent of the amount

of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00.

- c. In addition to the equity contribution and completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more the following: (1) waiver of construction related City permits and fees, (2) utility taps, (3) sidewalks, (4) roll-off containers and two tips, and (4) demolition of existing structures.
- 4.02 In the event the Developer chooses not to use a participating eligible lender, the Developer is eligible to receive a fifteen (15%) percent incentive, payable at the time of closing of the final buyer. Additionally, the Developer is eligible to receive the incentives listed in 4.01(c).

V. DEVELOPER'S OBLIGATIONS AND DUTIES

The Developer shall perform, or cause to be performed, the construction of the improvements set forth in **Exhibit A – "Public and Private Improvements"** on or before the expiration of this agreement. Additionally::

- 5.01 The Developer shall be a member of the Big Country Home Builder's Association as of the effective date of this Agreement, and during the term of this Agreement.
- 5.02 The Developer shall construct, at its expense, the improvements identified on **Exhibit A – "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
- 5.03 The Developer shall purchase all building materials from a business located within the corporate boundaries of the City of Abilene, and pay all applicable local sales and use taxes to the City of Abilene. Upon request of the City, Developer shall promptly provide written documentation of compliance with this requirement, such written documentation being receipts or other documentation as agreed to by the City.
- 5.04 The Developer shall require the final buyer of the residence to sign an affidavit at closing that the buyer intends to occupy the residence as their legal homestead in the State of Texas and that it shall serve as their primary residence for a period of 2 years following closing.

- 5.05 The Developer shall construct the new construction within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to build the home on a specific lot north of South 27th Street.

VI. CITY OBLIGATIONS AND DUTIES

- 6.01 Pay the Economic Incentives to Developer pursuant to the terms and conditions of this Agreement.

VII. DEFAULT

- 7.01 If any party should default upon any terms or obligations with respect to this Agreement (“**Defaulting Party**”), the other party (“**Complaining Party**”) shall provide written notice of the default and shall reasonably include the actions required to cure such default. If the Defaulting Party cures the default within thirty (30) days after notice of default is received (“**Cure Period**”), or commences to cure default within said thirty (30) days and diligently pursues the cure to its conclusion, then this Agreement shall continue as if no default occurred.
- 7.02 In the event that the Defaulting Party fails to cure the default as required by Section 7.01 above, the Complaining Party may, by action or proceeding at law or in equity, be awarded damages and/or specific performance for such default, including reasonable attorney’s fees and costs.

VIII. GENERAL PROVISIONS

- 8.01 **DEVELOPER COVENANTS AND AGREES TO AND DOES HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS. IN ADDITION, DEVELOPER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF INJURIES OR DAMAGES TO PERSONS OR PROPERTY,**

INCLUDING DEATH, RESULTING FROM THE FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.

- 8.02 If any provision of this Agreement, or a portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of any other of said parties.
- 8.06 Except as otherwise expressly provided herein, this Agreement may only be amended, modified or terminated by a declaration in writing, executed and acknowledged by all the parties to this Agreement.
- 8.07 This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and supersedes all prior discussions and agreements between the parties.
- 8.08 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.09 In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

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FOLLOWS.]

AGREED:

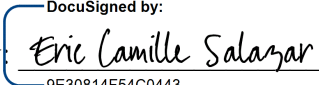
DEVELOPER

Salazar Custom Homes

1902 Collins Ave Abilene, TX 79603

325.660.5803

ersal513@gmail.com

By: 
9E30814F54C0443...

Name: Eric Salazer

Its: Principle

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

City Council Meeting

Economic Development Agreement

766 Jeanette St.





- Salazar Custom Homes is proposing to build a newly constructed affordable home located at 766 Jeanette St.
- Home is approximately 1389 sq.ft.
- 3 bedroom, 2 bathroom, and 1 car garage
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Troy Swanson, IT Director

SUBJECT: **18. Resolution: Receive a Report, Hold a Discussion and Take Action on the Approval to Purchase Various Software and Services from Sigma Surveillance Inc DBA STS360 BuyBoard Contract # 654-21 (Troy Swanson)**

GENERAL INFORMATION

The Information Technology (IT) Department requires the ability to acquire services from Sigma Surveillance Inc dba STS360 through the BuyBoard contract 654-21. To date, in fiscal year 2024 these services have been acquired from STS360 at an expense of \$110,599.74. The IT Department requests the additional acquisition of services through the end of fiscal year 2024, September 30, 2024, from STS360 in the amount of an additional \$150,000 for a total not-to-exceed amount of \$260,599.74. The acquisition of services from STS360 will be conducted following the City's procurement processes within this not-to-exceed amount.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Technology Fund

STAFF RECOMMENDATION

To Approve

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution - STS360 (Sigma Surveillance)
2. STS360 (Sigma Surveillance) Presentation

RESOLUTION NO. 2024-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO
ACQUIRE SERVICES FROM SIGMA SURVEILLANCE INC DBA STS360.**

WHEREAS, the City Council of the City of Abilene recognizes the need for services from Sigma Surveillance Inc. doing business as STS360.; and

WHEREAS, the Information Technology Department will require services to support the implementation of technologies on a reoccurring annual basis known frequently as access control systems and video surveillance systems; and

WHEREAS, these services are for multiple technologies already owned and operated on, and will continue to implement additional systems on the City's behalf by the Information Technology Department; and

WHEREAS, the Information Technology Department has acquired these services from STS360; and

WHEREAS, services have been acquired to-date and invoices paid to STS360 in the amount of \$110599.74 in fiscal year 2024; and

WHEREAS, the Information Technology Department also forecasts an additional requirement of \$150,000 in services to be acquired through the remainder of fiscal year 2024; and

WHEREAS, that total fiscal year 2024 software and service requirement is forecasted to not exceed \$260,599.74 and

WHEREAS, these acquisitions will be from STS360 as the current and past provider of these services through the BuyBoard Contract #: 654-21; and

WHEREAS, it is the staff's recommendation that the City Council endorses the Information Technology Department's acquisition of services from STS360; and

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

Part 1: That the City Council approves the acquisition of software and services from STS360 for a not to exceed amount of \$260,599.74 in fiscal year 2024

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

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

City Council Meeting

May 9, 2024





STS360 – Services

Services Requirement:

- The City requires services provided by STS360
 - Supporting access control systems and video surveillance systems
 - Annual services supporting existing systems as well as implementation of new systems
 - To-date, this expense with SHI has been approximately \$110,599.74 in fiscal year 2024

Forecasted Services:

- Forecasted approximate \$150,000 in additional services through the end of the fiscal year
- \$260,599.74 is proposed as a not-to-exceed amount that provides for sufficient services through the end of FY 2024

IT Department Recommendation

- Endorses the requested services for a not-to-exceed amount of \$260,599.74
 - Approval of services to date, \$110,599.74
 - Approval of forecasted services, \$150,0000





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 19. Resolution: Receive a Report, Hold a Discussion, and Take Action on Awarding Bid# CB-2432 Piping Rock Dr. Alley Rehabilitation to Raydon, Inc. (Max Johnson)

GENERAL INFORMATION

This construction contract involves the reconstruction of the alleys at Piping Rock Dr. including removing the existing pavement and base material, placing 3” of Type B HMA and a one course surface treatment of AC 20-5TR and precoated grade 4 aggregate. This construction contract includes a \$12,000 contingency.

SPECIAL CONSIDERATIONS

This project has a contract completion time of 20 working days (approx. one month, weather permitting)

FUNDING/FISCAL IMPACT

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

STAFF RECOMMENDATION

Staff recommends awarding the bid to the best value bidder, Raydon, Inc. of Abilene, Texas with a base bid of \$206,912.34.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Piping Rock Alley Rehabilitation Project Resolution
2. City of Abilene Piping Rock Drive Alley Rehab Contract
3. CB2432TAB
4. SCOPE OF PROJECT (PIPING ROCK)
5. PROJECT LOCATION MAP
6. Piping Rock Alley Rehabilitation 4-2-2024

RESOLUTION NO. _____

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

WHEREAS, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the Piping Rock Alley Rehabilitation Project. This construction contract involves the reconstruction of the alleys located at Piping Rock Dr.; and

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

WHEREAS, the following bids were received and opened on March 26, 2024:

Raydon, Inc., Abilene, Texas	\$ 206,912.34
J.H. Stain & Sons, Inc., Tye, Texas	\$ 212,467.60

WHEREAS, Raydon, Inc., Abilene, Texas submitted the best value bid in the amount of \$206,912.34 with the bid meeting specifications. Staff recommends awarding the bid to the best value bidder, Raydon, Inc., Abilene, Texas.

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

PART 1: That the City Council approves this bid in the amount of \$206,912.34.

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

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made on the 9th day of May, 2024 is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Raydon, Inc. of the City of Abilene, State of Texas. ("Contractor").

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

THE AGREEMENT

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

PIPING ROCK DR. ALLEY REHABILITATION

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

In consideration of this Work, the City will pay the Contractor the sum of \$206,912.34.

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. **Statutory Verifications.** Unless the Contractor is not subject to a provision below, the signatory executing this Agreement on behalf of the Contractor verifies that the Contractor: (1) does not boycott Israel and will not boycott Israel during the term of this Agreement; (2) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association; (3) does not boycott energy companies, and will not boycott energy companies during the term of this Agreement; and (4) is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

A. Verification Against Boycott of Israel Provision. In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement 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 agreement. The term "company" does not include a sole proprietorship. Chapter 2271 of the Texas Government Code only applies to an agreement that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000.00 or more that is paid wholly or partly from public funds of the governmental entity.

B. Verification Against Discrimination of Firearm or Ammunition Industries Provision. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the company employs at least 10 full-time employees, and this agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company verifies that: (1) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the company will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. The term "company" does not include a sole proprietorship. This provision does not apply to a governmental entity that contracts with a sole-source provider, or does not receive any bids from a company that is able to provide the written verification required.

C. Verification Against Boycott of Energy Companies Provision. Pursuant to Texas Government Code Chapter 2276, unless otherwise exempt, if the company employs at least 10 full-time employees, and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the company represents that: (1) the company does not boycott energy companies; and (2) the company will not boycott energy companies during the term of this Agreement. The term "company"

does not include a sole proprietorship. This provision does not apply to a governmental entity that determines the requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

D. Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the company verifies that company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

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.

Signature

Seth Shortes

Name - Typed or Printed

Vice President

Title - Typed or Printed

Business Address:

1465 Elmdale Rd N

Abilene, TX 79601

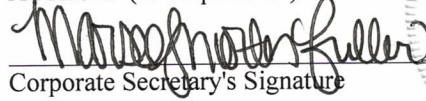
(325) 548-9369

Business Phone No.

75-2235384

Federal Tax I.D.#

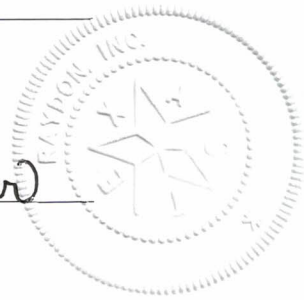
ATTEST: (If Corporation)



Corporate Secretary's Signature

Corporate Seal

(if none, write "None")



CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal:

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

PAGE
1 OF 1

DEPARTMENT: ENGINEERING
BID NO.: CB-2432
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: MARCH 26, 2024

RAYDON, INC.
ABILENE, TX

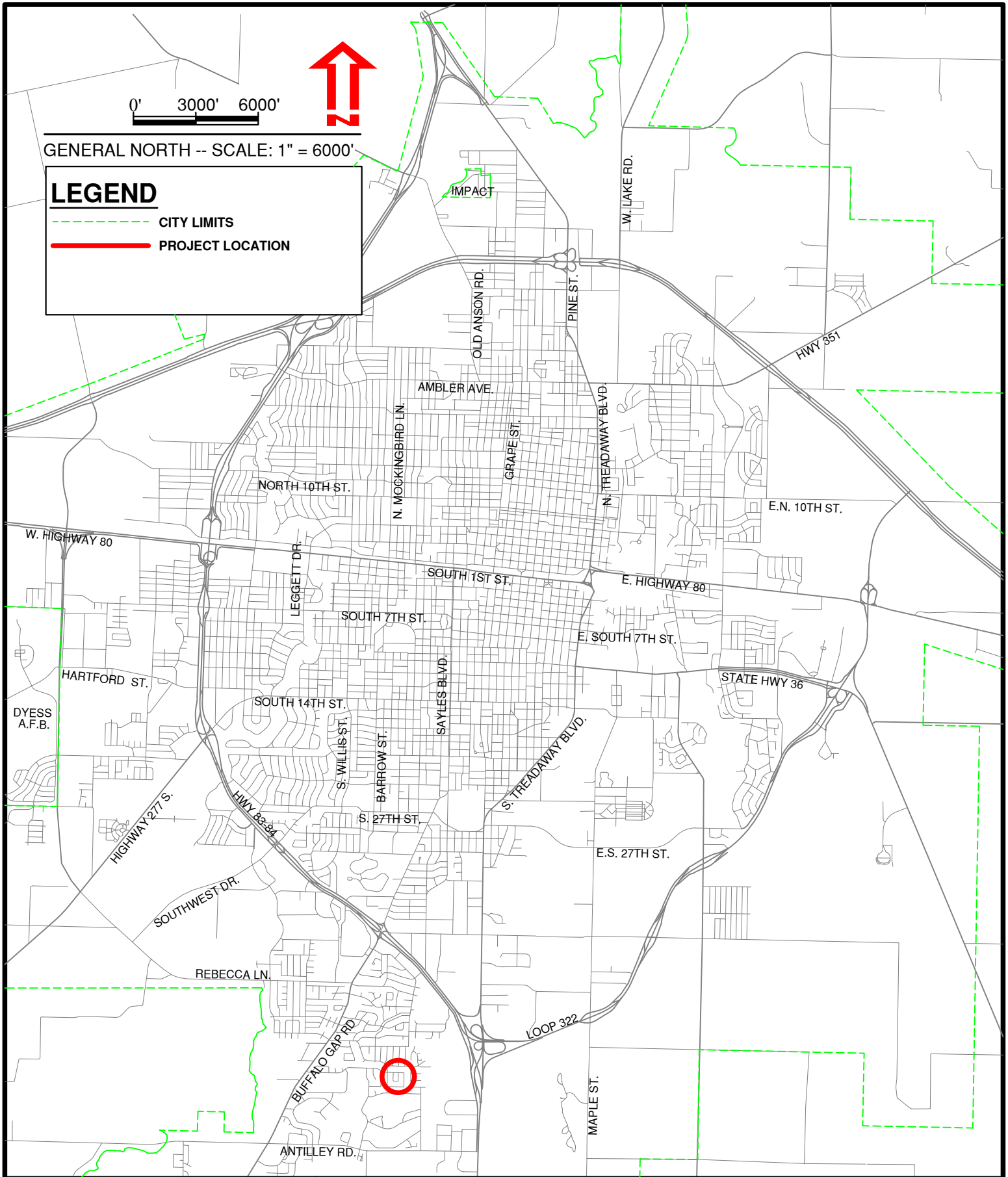
J.H. STRAIN & SONS, INC.
TYE, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	PIPING ROCK DR. ALLEY REHABILITATION				206,912.34		212,467.60								
BASE BID					206,912.34		212,467.60								
DISCOUNT															
TOTAL BID					206,912.34		212,467.60								

*NOTES: INDICATES RECOMMENDED AWARD

SCOPE OF PROJECT

This construction contract involves the reconstruction of the alley at Piping Rock Dr. Including removing the existing pavement and base material, placing 3" of Type B HMA and a one course surface treatment of AC-20-5TR and precoated grade 4 aggregate.



Sheet 1 of 1	CITY OF ABILENE, TEXAS PUBLIC WORKS DEPARTMENT ENGINEERING DIVISION	PIPING ROCK ALLEY REHABILITATION PROJECT	Designed By: S. CHANDLER Drawn By: M. MILLER Checked By: M. JOHNSON	Horizontal Scale: 1"=6000' Vertical Scale: N.T.S.	Computer File Name: Project Location Map Date: APRIL 2024
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Bid Award of CB-2432 Piping Rock Dr. Alley Rehabilitation Project

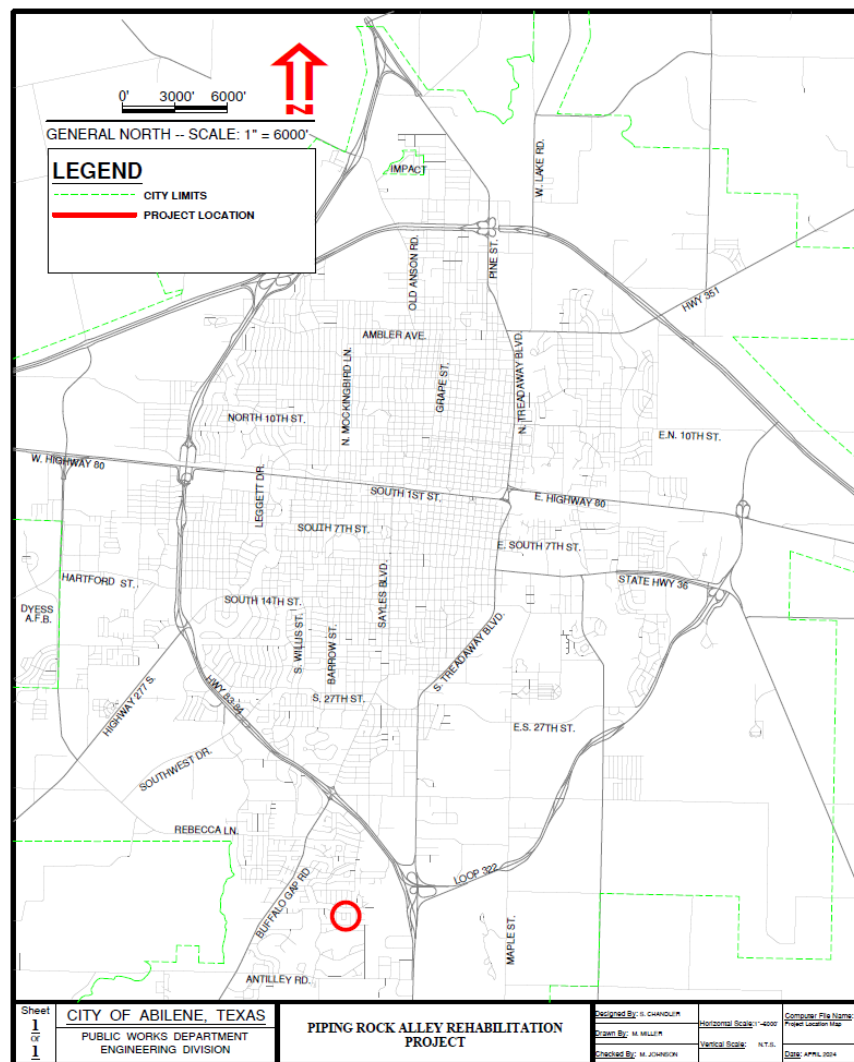
(Max Johnson)





Bid Award of CB-2432

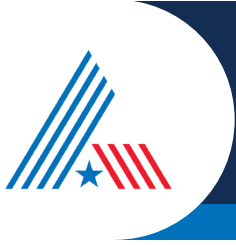
Piping Rock Dr. Alley Rehabilitation Project



Project includes the following location and treatment:

- Alleys at Piping Rock Dr. will include removal of 3" of existing pavement, fixing any base failures, placing 3" of Type B HMAC, and a One Course Surface Treatment.





Bid Award of CB-2432

Piping Rock Dr. Alley Rehabilitation Project

- Project Advertised March 10, 2024, and March 17, 2024; bids opened March 26, 2024; Two (2) bid received
- The project has an allowance of \$12,000.00.
- Staff recommends awarding the bid to the best value bidder, Raydon, Inc with a base bid of \$206,912.34.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: **20. Resolution: Receive a Report, Hold a Discussion and Take Action to Approve an Extended Term Street Use License with Don and Cindy Terhune located at 4002 Forrest Creek Court (*Max Johnson*)**

GENERAL INFORMATION

Don and Cindy Terhune have submitted an application for an Extended Term Street Use License. The applicants desire an allowance of a 2 foot, 2 inch encroachment of a metal shop corner into the City of Abilene alley right-of-way located behind licensee's residence at 4002 Forrest Creek Court

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff has reviewed this request and recommends that the City Council authorize the City Manager to execute the Extended Term Street Use License with Don and Cindy Terhune to allow a 2 foot, 2 inch encroachment of a metal shop corner into City of Abilene alley right-of-way

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Street Use License RESOLUTION
2. Street Use License Extended Term APPLICATION
3. Street Use License Agreement Extended Term
4. SURVEY
5. Photo 1
6. Photo 2
7. Street Use License SLIDE PRESENTATION 05-02-2024

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENDED TERM STREET USE
LICENSE WITH DON AND CINDY TERHUNE**

WHEREAS, the applicant has submitted an Extended Term Street Use License application to allow a 2'2" encroachment of a metal shop corner into the City of Abilene alley right-of-way located behind licensee's residence at 4002 Forrest Creek Court

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

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

PART 1: That the City Manager is hereby authorized to execute the Extended Term Street Use License with Don and Cindy Terhune

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

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

ATTEST:

Robert Hanna, City Manager

APPROVED:

Stanley Smith, City Attorney



STREET USE LICENSE AGREEMENT
EXTENDED TERM

APPLICATION

Applicant: Don Terhune Phone: 432 634 5980
Address: 4002 Forrest Creek Court Email: donterhune23@gmail.com
Agent: _____ Phone: _____

Description of Public Right-of-Way to be used: Paved alley-way behind
4002 Forrest Creek Court, Property ID 996652, Creekside Addition,
Block A, Lot 21. Opposite side of alley-way is unmaintained City Easement.

Owner of adjacent property: City of Abilene

Proposed use of public right-of-way: Alley-way is used for rear access to
garages of houses in neighborhood and for trash pick-up
by city equipment. Property is at back of Cul-de-sac.

Reasons for the request: 2'2" Corner of metal shop building is over
property line encroaching into City of Abilene right-a-way
in alley. Said corner is 7' 10" from pavement, seperated by
wooden picket fence with utility boxes between pavement and
building.

Application is not complete unless all of the following are included:

- Application fee- \$300
- Certificate or other evidence of insurance
- A dimensioned drawing showing existing and proposed features in the public right-of-way and on adjacent property (sidewalks, curbs, fire hydrants, buildings, fences, etc.)

Don Terhune

Signature of Applicant or Agent

4-11-24
Date

Return Application to:
Public Works Dept.
City of Abilene
PO Box 60
Abilene TX 79604

THE STATE OF TEXAS

STREET USE LICENSE AGREEMENT
EXTENDED TERM

COUNTY OF TAYLOR

THIS STREET USE LICENSE AGREEMENT, hereinafter referred to as "License", executed this ____ day of _____, 2024 by and between the CITY OF ABILENE, a municipal corporation situated in Taylor and Jones Counties, Texas, hereinafter referred to as "City", and Don and Cindy Terhune, hereinafter referred to as "Licensee".

WITNESSETH:

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

Allowance of a 2 foot, 2 inch encroachment of a metal shop corner into City of Abilene alley right-of-way located behind licensee's residence at 4002 Forrest Creek Court

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

I. Purpose:

The purpose of this License is to permit Licensee to:

Maintain a 2 foot, 2 inch encroachment of a metal shop corner into City of Abilene alley right-of-way located behind licensee's residence at 4002 Forrest Creek Court (see attached map).

II. Indemnity:

A. **Definitions**

For the purpose of this section the following definitions apply:

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

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

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

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

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

injury or damage to any property or right

injury, damage, or death to any person or entity

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

all other costs and expenses of litigation

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

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

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

B. Indemnity

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

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

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

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

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

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

III. Insurance

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

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

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

All insurance policies or certificates shall contain the following provisions:

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

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

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

IV. License Requirements and Restrictions:

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

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

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

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

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

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

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

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

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

V. Termination

1. This License shall automatically terminate 20 years from the date of execution.

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

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

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

CITY OF ABILENE, TEXAS

City Manager

ATTEST:

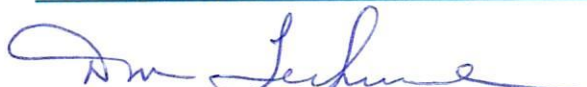
City Secretary

APPROVED:

City Attorney

NAME OF LICENSEE:

DON TERHUNE


Signature

NAME OF LICENSEE:

CINDY TERHUNE


Signature

Address:

4002 FORREST CREEK COURT
ABILENE, TX 79606

EXHIBIT "A"
STREET USE LICENSE AGREEMENT
WITH
DON and CINDY TERHUNE
CONDITIONS AND COVENANTS

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

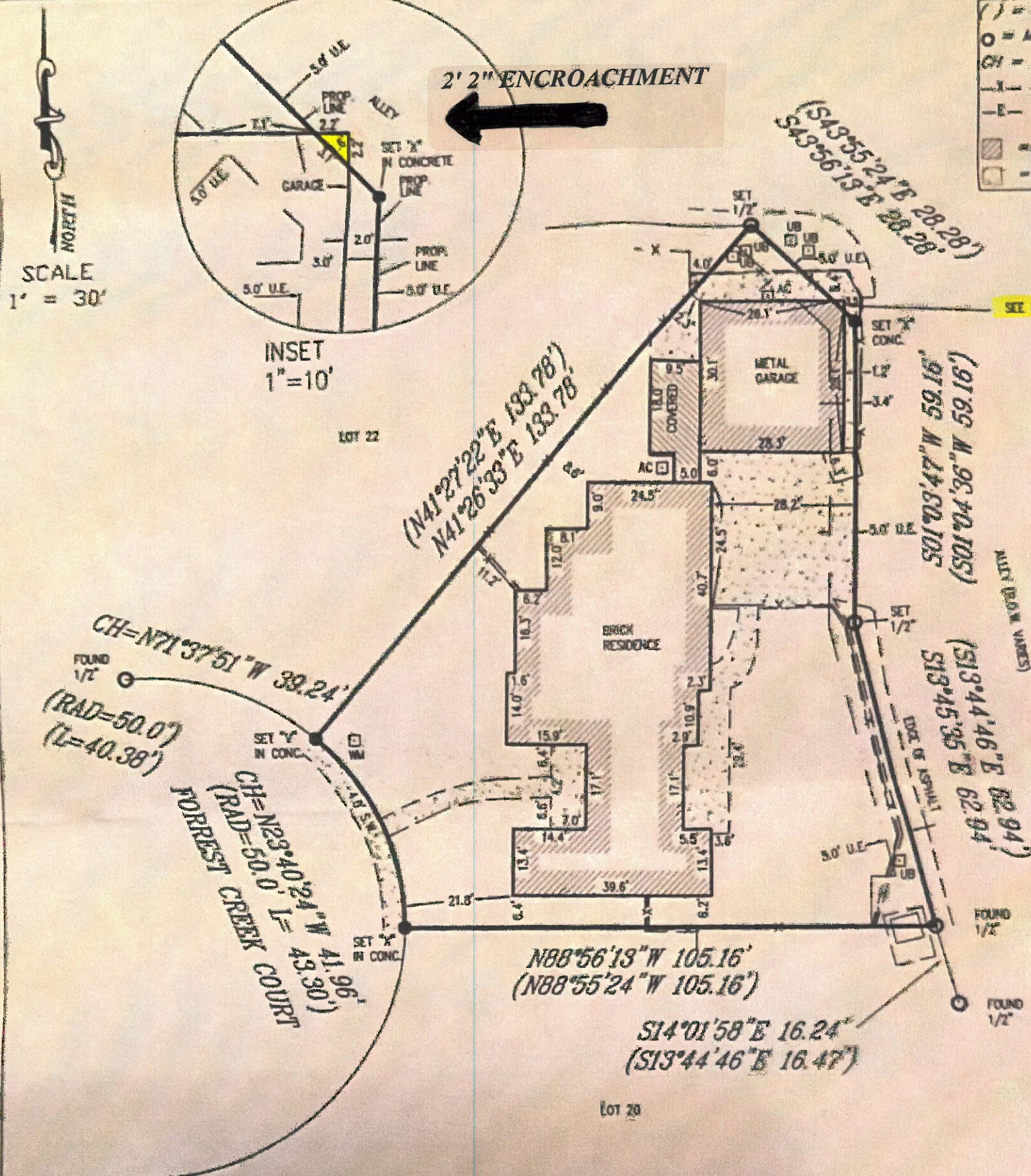
1. The Licensee shall contact the city's Engineering Division (325-676-6281) prior to commencing any work in the right-of-way.
2. If the City determines that the subject right-of-way is needed for purposes that would be adversely impacted by the permitted facility, the Licensee shall remove the permitted facility within sixty (60) days notice of cancellation.

4333 SAYLES BOULEVARD
ABILENE, TEXAS 79605

ADAMS ENGINEERING AND SURVEYING INC.
SURVEY REGISTRATION # 10008300 - ENGINEERING REGISTRATION # F-588

OFF (325)695-2285
FAX (325)695-4183

LEGEND	
()	= RECORD
○	= METAL REBAR
CH	= LONG CHORD
-X-	= FENCE LINE
-E-	= OVERHEAD UTILITY
▨	= STRUCTURE
■	= CONCRETE



THIS SURVEY WAS DONE WITHOUT THE
BENEFIT OF A TITLE COMMITMENT. SOME
EASEMENTS OR ANY OTHER MATTERS
AFFECTING THIS TRACT MAY NOT BE SHOWN.
EASEMENTS SHOWN ARE PER PLAT CABINET
4, SLIDE 165, PLAT RECORDS

4002 FORREST CREEK COURT

I hereby certify this plat shows the correct location of the improvements situated upon Lot 21, Block A, Creekside Addition to the City of Abilene, Taylor County, Texas, according to the map or plat thereof recorded in Cabinet 4, Slide 165, Plat Records, Taylor County, Texas.

There are no visible encroachments upon this property.
Note: Metal garage and concrete over deed line and in
5.0' utility easement at the Northeast corner of the
garage. See above plat and inset detail.

Surveyed on the ground February 6, 2024

BEARING BASIS
TEXAS STATE PLANE, ZONE 2 COORDINATES
NAD 83, TEXAS NORTH CENTRAL ZONE
(ZONE 5301, FIPS 42002)
DETERMINED FROM GPS SURVEY DATA

NOTICE
THIS PLAT IS INVALID WITHOUT AN
ORIGINAL SIGNATURE ACROSS THE SEAL

ADAMS ENGINEERING AND SURVEYING INC.
P.E. No. 40283 R.P.L.S. No. 4130
ALL RIGHTS RESERVED







Approval of Extended Term Street Use License – 4002 Forrest Creek Court Alleyway

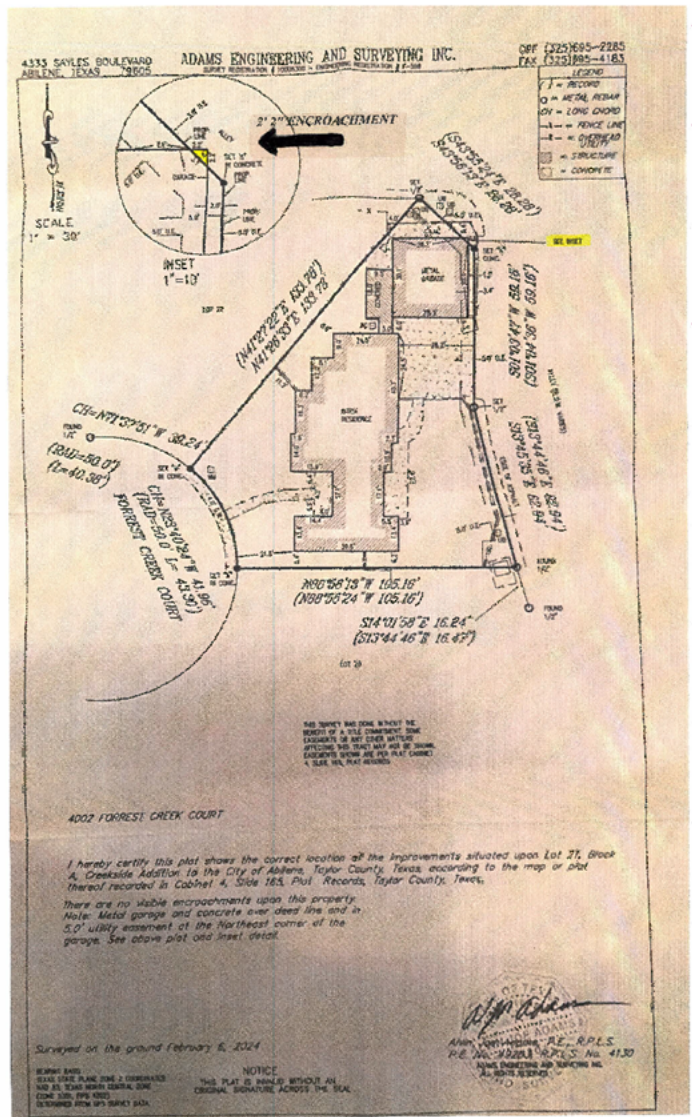
(Max Johnson)





Extended Street Use License – 4002 Forrest Creek Court

Survey / Photos



CITY OF
ABILENE
TEXAS



Extended Street Use License – 4002 Forrest Creek Court

- Don and Cindy Terhune submitted an application for an Extended Term Street Use License for the allowance of a 2 foot, 2 inch encroachment of a metal shop corner into the City of Abilene alley right-of-way located behind licensee's residence at 4002 Forrest Creek Court
- Staff reviewed and found application to be complete
- Staff recommends approval of the Extended Term Street Use License





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: **21. Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE XIII, "SCHEDULES," SECTION 18-289.1, "ONE-WAY STREETS – CERTAIN TIMES," of the Abilene Municipal Code to Change Traffic Restrictions at Bonham Elementary (Max Johnson)

GENERAL INFORMATION

The Ordinance Amendment was requested due to a change of traffic pattern at Bonham Elementary. With completion of the new school facility, student drop off and pick up has been moved from Potomac Ave. Bonham Elementary principal supports this change as the current traffic pattern confuses drivers traversing Potomac Ave. in the morning and afternoons.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

N/A

STAFF RECOMMENDATION

Staff recommends change to City Ordinance and removal of DO NOT ENTER signs at the intersection of Potomac Ave. and Buccaneer Dr.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Redlline_Ord_Amend_Remove One-way Bonham Elementary 4-16-2024
2. Blackline_Ord_Amend_Remove One-way Bonham Elementary 5-2-2024
3. Ordinance Modification for One-Way Signs ppt 4-16-2024

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, “MOTOR VEHICLES AND TRAFFIC,” ARTICLE XIII, “SCHEDULES,” SECTION 18-289.1, “ONE WAY STREETS – DURING CERTAIN TIMES,” OF THE ABILENE MUNICIPAL CODE, BY REMOVING A SECTION AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE;

WHEREAS, the rebuilding and restructuring of traffic design at Bonham Elementary School changed requirements of traffic patterns adjacent to the school; and

WHEREAS, the City Code of Ordinance provides direction for one-way streets during certain hours; and

WHEREAS, there is a need to amend the City Code of Ordinances to remove restriction of one-way street adjacent to Bonham Elementary.

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

PART 1: That Chapter 18, Article XIII, Section 18-289.1 of the Abilene Municipal Code be amended as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force or effect.

PART 3: Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 25th day of April 2024.

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 5th day of May, 2024, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 9th day of May, 2024, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 9th day of May 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Exhibit A

Sec. 18-289.1. – Same [One-way Streets] – During certain hours.

In accordance with the provisions of this chapter, and when properly signposted, traffic shall move only in the direction indicated upon the following streets or portions of streets during the hours specified:

Street	Extent	Direction	Hours
Clinton St.	N. 12th St. to N. 14th St.	North	7:30—8:10 a.m. 2:45—3:30 p.m. (School Days Only)
EN 13th St.	From Judge Ely Blvd. to Avenue F	West	7:40—8:20 a.m. 3:00—3:45 p.m. (School Days Only)
Minter Ln.	From Vogel Ave. to Sherry Ln.	North	7:30—8:10 a.m. 2:45—3:30 p.m. (School Days Only)
Potomac Ave.	From Hawthorne Dr. to Buccaneer Dr.	West	7:40—8:20 a.m. 3:00—3:45 p.m. (School Days Only)
State St.	Victoria St. to Merchant St.	East	7:40—8:20 a.m. 3:00—3:45 p.m. (School Days Only)
Merchant St.	State St. to N. 8th St.	South	7:40—8:20 a.m. 3:00—3:45 p.m. (School Days Only)
N. 8th St.	Merchant St. to Victoria St.	West	7:40—8:20 a.m. 3:00—3:45 p.m. (School Days Only)
Alley East of Victoria St.	N. 8th St. to State St.	North	7:40—8:20 a.m. 3:00—3:45 p.m. (School Days Only)
Peach St.	S. 1st St. to S. 3rd St.	South	7:40—8:20 a.m. 3:15—4:00 p.m. (School Days Only)
N. 17th St.	From Orange St. to Beech St.	West	3:00—3:45 p.m. (School Days Only)

Exhibit A

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N. 17th St.	From Orange St. to Beech St.	West	3:00—3:45 p.m. (School Days Only)

**AMENDING CHAPTER 18, “MOTOR VEHICLES AND
TRAFFIC,” ARTICLE XIII, “SCHEDULES,” SECTION 18-
289.1, “ONE-WAY STREETS – CERTAIN TIMES,” OF THE
ABILENE MUNICIPAL CODE**

(Max Johnson)





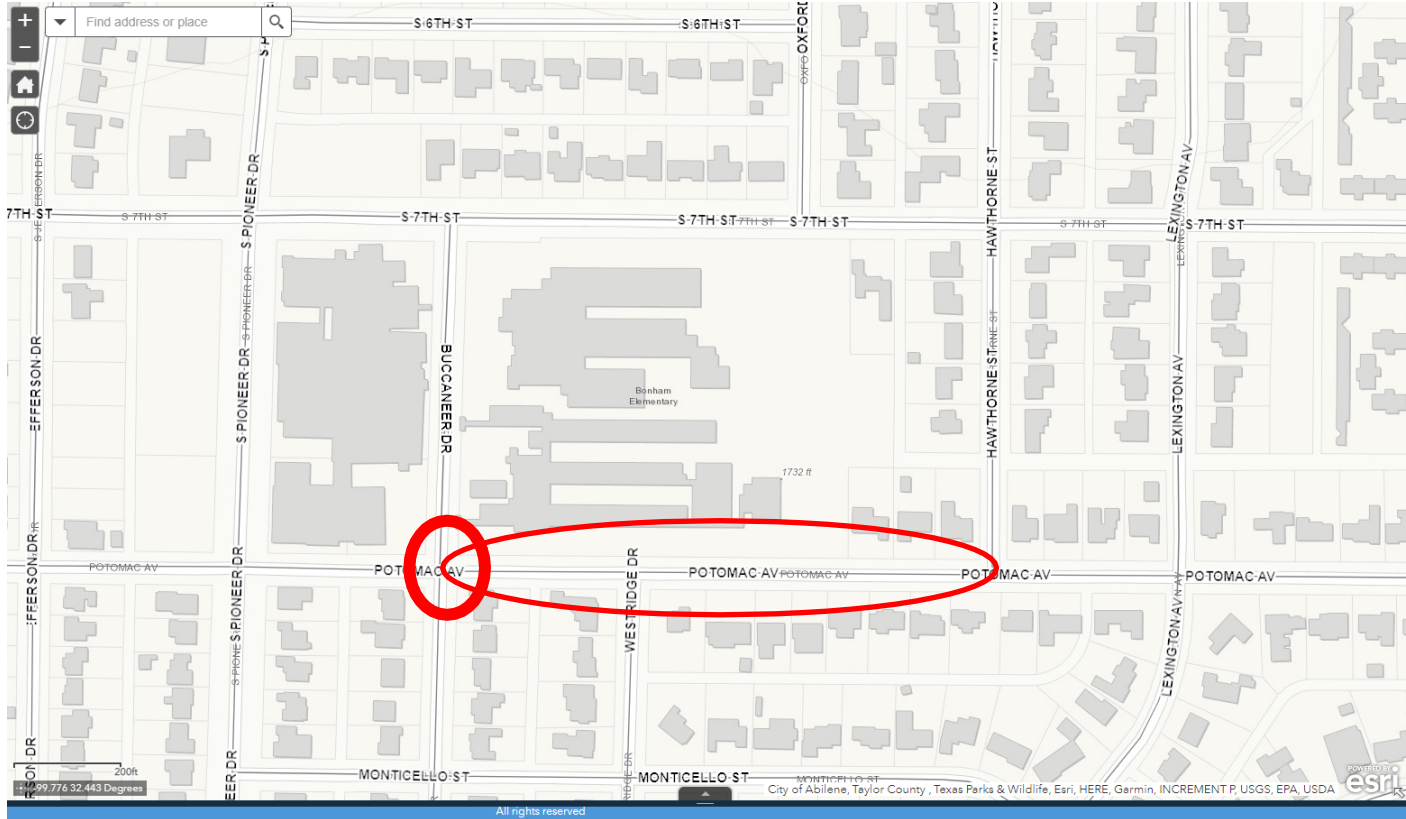
ORDINANCE AMENDMENT SECTION 18-289.1, “ONE-WAY STREETS – CERTAIN TIMES”

- **One-way restriction created before renovations to Bonham Elementary occurred and school drop off and pick up was along Potomac Ave.**
- **With change of traffic pattern for school drop off and pick up now on school property, restriction of one-way street during certain hours no longer required for traffic flow in area.**
- **Request removes the one-way restriction on Potomac Ave during specific hours and returns this roadway to two-way traffic at all times.**
- **Principal at Bonham Elementary supports this requested change.**





Location of requested change for One-way Street – Certain Hours



CITY OF
ABILENE
TEXAS



Current Signage for One-way Street – Certain Hours





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Honorable Mayor Hurt and Members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: **22. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter into a Professional Services Pre-Development Agreement with Garfield Public/Private, LLC for Capital Improvements to the City of Abilene Convention Center Located at 1100 N 6th Street (Robert Hanna)

GENERAL INFORMATION

In the Council Retreat for upcoming Fiscal Year 2025, the City Manager discussed the need to begin the process of updating the Convention Center. One outcome from this discussion was a desire to further explore a pre-development agreement to understand the needs and associated costs of making certain this wonderful building is useful, accessible and relevant for another 50 years. The item before the Council today is to begin this process.

Staff is requesting that the City Council authorize the City Manager to enter into a Professional Services Pre-Development Agreement for services associated with planning capital improvements for the convention center for an amount not to exceed \$490,720.00.

If approved by the City Council, the attached resolution authorizing the agreement would also appropriate the necessary funds from the Convention Center Capital Project Fund which has a balance of approximately \$1,253,448. As you may recall, this fund was established and funded some time ago when we intentionally levied one additional penny of property tax to begin funding capital needs for the Convention Center. This practice was stopped in FY 2024 in order to fund other operational needs. This balance reflects the remaining restricted funds from this revenue source, and is appropriate and suitable for funding this work before you today.

SPECIAL CONSIDERATIONS

The Convention Center has served our community very well. To the best of everyone's knowledge, it is a sound structure and needs substantial cosmetic and infrastructure upgrades to

remain relevant and useful. One of the outcomes of this work will be confirmation of this assumption.

FUNDING/FISCAL IMPACT

Funding is available from a restricted revenue fund established for this very purpose.

STAFF RECOMMENDATION

Staff recommends approval as submitted.

BOARD OR COMMISSION RECOMMENDATION

Not applicable.

ATTACHMENTS:

1. Resolution No XX-2024 - Authorizing Pre-Development Agreement
2. Pre Development Agreement
3. Presentation - Convention Center

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL
SERVICE PRE-DEVELOPMENT AGREEMENT WITH GARFIELD
PUBLIC/PRIVATE, LLC.**

WHEREAS, the Convention Center was originally approved by the voters in 1967 and constructed at a cost of approximately \$3,500,000 in 1970; and

WHEREAS, the Convention Center has served the community well over the last 54 years; and

WHEREAS, the City Council is desirous of ensuring the Convention Center will serve the community well for another 54 years; and

WHEREAS, the City of Abilene has partnered most recently with Garfield Public/Private LLC on the construction of the DoubleTree Hotel by Hilton Abilene Downtown Convention Center Hotel; and

WHEREAS, Garfield Public/Private LLC has assembled a team of architects, engineers, and industry experts to analyze the Convention Center and make recommendations that the City will use to make improvement decisions for the maintenance, upkeep and improvement of the Convention Center.

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

Part 1: That the City Council hereby appropriates available funds in the Convention Center Capital Projects Fund in the amount of \$490,720.00, and directs the City Manager to incorporate said appropriation in the revised budget for fiscal year 2024.

Part 2: That the City Council hereby authorizes the City Manager to enter into an agreement with Garfield Public/Private LLC in an amount not to exceed \$490,720.00.

Part 2. That this Resolution is effective upon the date of its adoption.

ADOPTED this 9th day of May, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**PROFESSIONAL SERVICES PRE-DEVELOPMENT AGREEMENT
ABILENE CONVENTION CENTER
Abilene, Texas**

This Professional Services Pre- Development Agreement ("Agreement") dated as of _____, 2024 ("Effective Date"), is entered into by and between the City of Abilene, Texas ("City") and Garfield Public/ Private LLC, a Texas limited liability company ("GPP"), in connection with the planning, design, potential financing, and renovation of the existing Abilene Convention Center to serve the citizens, businesses, and visitors of the City. Each of City and GPP may be referred to in this agreement as a "Party" or collectively as "Parties."

RECITALS:

WHEREAS, the City is considering the planning, design, and potential financing for renovations to the existing Abilene Convention Center at 1100 N 6th Street, Abilene, Texas, along with the commissioning and ongoing operations of the renovated convention center facilities (the "Project");

WHEREAS, the City desires that GPP produce a development plan for the Project that will include (i) conceptual design, estimated development cost, and development schedule; (ii) potential funding, financing, and ownership alternatives for the Project; and (iii) such other services incidental to the foregoing as the Parties may approve;

WHEREAS, GPP has agreed to perform such services, as more specifically detailed in this Agreement, and is duly qualified and experienced to perform such services subject to Exhibit A;

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Pre-Development Scope of Services and Schedule.

(a) The "Pre-Development Period" is the time from the Effective Date to delivery of the Final Report described in Section 1(i). The City will provide to GPP any currently existing survey, studies, documents and agreements, plans and specifications and other documents pertaining to the Project, within 30 days of the Effective Date.

(b) During the Pre-Development Period, the Parties will negotiate in good faith a Professional Services Agreement ("PSA") on terms and conditions mutually acceptable to the Parties pursuant to which GPP would develop the Project, if, and as approved by the City.

GPP will engage the services of an architect, and other necessary specialty consultants, acceptable to the City ("Architect") to prepare a due-diligence and scope definition package to

include a conceptual masterplan of the Project area, architectural floor plans to describe the scope, interior design plans and sketches to convey proposed concepts and materials, sketches to illustrate proposed interior theatre revisions, and engineering conceptual plans and narratives for the Project ("Scope Definition Report"). The Scope Definition Report will include Conceptual Design and preliminary pricing of recommended options for the City's consideration. The recommended options will be listed in order of the City's preference and grouped to provide optional levels of additive pricing for the Project.

GPP will contractually obligate Architect to indemnify the City and GPP, as joint indemnitees, consistent with the laws of the State of Texas, and to maintain insurance (including errors and omissions coverage) for the benefit of the City and GPP as additional insureds, in each case in form and substance not less than is customary for a City-operated design project with a similar scope.

(c) GPP will engage a general contractor or cost consultant acceptable to the City ("Contractor"), to aid in the preparation of a preliminary estimate of the total construction costs for the Project based on the Scope Definition Report, in sufficient detail to show construction costs, FF&E, OS&E, IT, soft costs and professional fees ("Preliminary Project Pricing"), and a Project development and construction schedule from completion of the pre-development assessment period through Project opening ("Preliminary Project Schedule") with input as appropriate from the City, GPP, and other consultants. The form of construction contract will provide protections to the City that are not substantially less than the protections in the comparable documents typically used by the City for similar projects in terms of size, scope, and cost.

(d) If deemed necessary, and subject to City advanced written approval, GPP will engage specialty third-party consultants, acceptable to the City, (each a "Specialty Consultant") to provide a security report, a geotechnical report, materials and engineering systems testing, and an environmental Phase I report if not available. Any cost associated with engaging a Specialty Consultant is not included under this Agreement, and, if applicable, would be presented to the City for approval on a case-by-case basis.

(e) As appropriate, GPP will use its in-house legal counsel to assist in the drafting, review, and negotiating of applicable agreements and documents.

(f) GPP will prepare public/private financing alternatives for the Project identifying anticipated sources of debt and equity and the anticipated amount and structure of City participation to complete the Project capitalization ("Preliminary Capital Plan of Finance"). Along with work already underway on the hotel project, GPP will coordinate the valuation study of potential naming rights sponsorships and philanthropic donor contributions.

(g) GPP will use its good faith best efforts to deliver its final report on the Project ("Final Report") to the City within one hundred fifty (150) days from the Effective Date. The Final

Report will consist of the Conceptual Design, the Preliminary Project Pricing, the Preliminary Project Schedule, and the Preliminary Capital Plan of Finance. Notwithstanding anything to the contrary in this Section 1(i), in the event that the Draft Report has not been delivered to the City within one hundred eighty (180) days from the Effective Date, the City will have the right to terminate this Agreement and GPP will provide to the City all information it has developed to date in support of the Draft Report.

(h) GPP will update the City on the status of its efforts relating to the Project on a bi-weekly basis, or more often if requested. The meetings may be held by conference call or in person.

Section 2. Development of the Project.

(a) Upon delivery of the Final Report, the Parties will endeavor to conclude the negotiations of the PSA.

(b) If within 180 days after the Effective Date, the Parties are unable to negotiate a satisfactory PSA, then on the 181st day after the Effective Date, this Agreement will automatically terminate and be of no further force and effect, and the City may formally end all negotiations with GPP.

(c) Prior to the execution of the PSA, the relationship between GPP and the City will be governed solely by the terms of this Agreement.

Section 3. Fees and Costs.

(a) GPP will be paid a fee for its services under this Agreement as set forth in Exhibit B attached hereto and made a part hereof. The fee will be paid monthly in accordance with the City's normal contract payment procedures.

(b) The City acknowledges that GPP will incur costs, as approved by the City, in connection with the services of GPP and the pre-development service providers as listed in Exhibit B ("Consultant Costs"). The City will pay such Consultant Costs in accordance with the City's normal contract payment procedures. In the event the Scope Definition Report were to be delivered prior to the end of the first three months of the Agreement, the unpaid balance of the GPP services fee will become due and payable upon delivery of the Scope Definition Report.

(c) The City will have the right to access and copy any documents supporting the services provided by GPP, Architect, Contractor, and third-party consultants pursuant to this Agreement. GPP will retain for review by the City, for a period of twenty-four (24) months following the termination of this Agreement, the financial records and reports regarding the work performed by GPP and the Architect, Contractor, and third-party consultants under this Agreement. All the aforesaid costs and fees will be included in the final budget for the Project, subject to approval by the City.

(d) In addition to the costs and fee billings described in Section 3(a) and 3(b) above, GPP will invoice City monthly at a multiplier of 1.10 times cost for all reimbursable expenses GPP incurs in connection with its services, including third-party reproduction, data purchase, delivery services, and travel (if any) outside of the DFW Metroplex ("Expenses"), such Expenses to be supported by appropriate documentation. Travel expenses, if any, other than the monthly trips to the City as noted in Exhibit B, will be subject to advance written approval of the City. Consultant Costs described in Section 3(b) shall not be considered Expenses and are not subject to the 1.10 multiplier, but shall be submitted to the City for payment at actual cost.

Section 4. Term; Termination.

(a) This Agreement will be effective as of the Effective Date and expire upon the earlier of the execution of the PSA or 180 days from the Effective Date. This Agreement may be terminated by the City in its sole discretion and without cause, provided that GPP is given not less than ten (10) calendar days' written notice of intent to terminate. In the event of a termination under this Section 4(a) by City, City will pay GPP fee compensation owed, if any, through the end of the month in which termination occurs plus Consultant Costs and Expenses incurred, but not yet paid, through the date of such termination.

(b) The City may temporarily suspend this Agreement, at no additional cost to City, provided that GPP is given advance written notice of such temporary suspension. If City gives such notice of temporary suspension, GPP will immediately suspend its activities under this Agreement. Compensation owed by City to GPP will be based upon the actual service time expended by GPP, plus Consultant Costs and Expenses incurred, but not yet paid, through the date the work is temporarily suspended.

(c) Notwithstanding any provisions of this Agreement to the contrary, GPP will not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by GPP, and the City may withhold any payments due to GPP until such time as the exact amount of damages, if any, due the City from GPP is determined.

(d) In the event of termination, GPP will be compensated as provided for in this Agreement. Upon termination, the City will be entitled to all work product and all other such materials as may have been prepared or accumulated by GPP in performing this Agreement, which are not GPP's privileged information, performed up to the date of termination.

Section 5. Amendments, Changes, or Modifications.

Amendments, changes or modifications in the terms of this Agreement may be made at any time but only by mutual written agreement between the Parties and will be signed by individuals authorized to bind the Parties.

Section 6. Extensions of Time.

GPP may, for good cause, request extensions of time to perform the services required under this Agreement. Such extensions are subject to advance authorization by the City in its sole discretion in writing and will be incorporated in written amendments to this Agreement, in the manner provided in Section 5.

Section 7. Property of City.

It is agreed that the Parties intend this to be an Agreement for services and each considers the products and results of the services included in the work to be rendered by GPP under this Agreement to be a work made for hire. It is further mutually agreed that such products and results will become the property of the City once full payment for services is received by GPP, as provided in this Agreement. Immediately upon termination and receipt of all amounts due and payable, the City will be entitled to, and the GPP will deliver to the City, the work product and all other such materials as may have been prepared or accumulated to date by GPP in performing this Agreement, which are not GPP's privileged information, as defined by law, along with any other property belonging exclusively to the City which may be in GPP's possession.

Section 8. Compliance with Public Information Act.

GPP acknowledges that City is a governmental entity subject to the Public Information Act, Chapter 552, Texas Government Code (the "Act"). The City will process all open records requests in accordance with the Act. GPP understands that the City may require GPP's full cooperation in its response to any open records request.

Section 9. Warranties and Responsibilities – GPP.

(a) GPP agrees and represents that it is qualified to provide the services set forth herein in a manner which is consistent with the generally accepted standards of GPP's profession.

(b) GPP agrees and represents that the work performed under this Agreement will be in accordance with applicable federal, state and local law in accordance with Section 14(a) of this Agreement.

(c) GPP will designate a project manager who at all times will represent GPP before the City on all matters relating to this Agreement. The project manager will continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by GPP, or is replaced with the written approval of the City, which approval will not be unreasonably withheld.

Section 10. Assignability.

GPP will not assign or transfer any interest in this Agreement whether by assignment or novation, without the prior written consent of the City.

Section 11. Liability.

GPP will be responsible for performing the services under this Agreement in a manner consistent with the generally accepted standards of GPP's profession and will be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City will not be charged with the responsibility of preventing risk to GPP or its employees, agents, contractors, or subcontractors. Approval by City of any service performed or product supplied by GPP hereunder shall not in any way relieve GPP of responsibility for any technical accuracy or quality of GPP's work. The City's review, approval, acceptance of, or payment for any of GPP's goods or services shall not be construed to operate as a waiver of any of City's rights under this Agreement or of any cause of action by City against GPP arising from or related to GPP's performance or lack of performance under this Agreement.

Section 12. INDEMNIFICATION OF THE CITY.

GPP SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS CITY, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, BOARDS AND COMMISSIONS WITH RESPECT TO ANY CLAIMS OR DEMANDS, ACTIONS, DAMAGES, COSTS AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND COSTS OF LITIGATION, ARISING FROM THE DEATH OR INJURY OF ANY PERSON WHOMSOEVER, RESULTING DIRECTLY OR INDIRECTLY FROM ANY INTENTIONAL, NEGLIGENT OR GROSSLY NEGLIGENT ACT, ERROR OR OMISSION OF GPP, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHER PERSONS ACTING ON GPP'S BEHALF AND ARISING FROM OR RELATED TO GPP'S PERFORMANCE UNDER THIS AGREEMENT.

Section 13. Insurance.

GPP will at all times maintain or cause to be maintained such insurance as will protect GPP from any of the risks of liability imposed on it by this Agreement.

Section 14. Additional Provisions.

(a) GPP will keep itself fully informed of, will observe and comply with, and will cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, city and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Agreement or the materials used or which in any way affect the conduct of the work.

(b) GPP will not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.

(c) GPP represents and warrants that neither it nor any of its members, managers, employees or officers has: (1) provided an illegal gift or payoff to the City or any current or former officer, official, director, member, agent, representative or employee of the City, or his or her relative or business entity; or (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; (3) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer, official, director, member, agent, representative or employee or any former City officer, official, director, member, agent, representative or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance.

(d) This Agreement constitutes the entire agreement between the Parties relative to the services specified in this Agreement and no modification of this Agreement will be effective unless and until such modification is evidenced by a writing signed by both Parties to this Agreement. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this Agreement, except those contained in or referred to in this Agreement.

(e) All notices that are required to be given by one Party to the other under this Agreement will be in writing and will be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the Parties at the following addresses:

City: City of Abilene
Attn: City Manager Robert Hanna
555 Walnut Street
Abilene, Texas 79601

Copy to: City of Abilene
Attn: City Attorney Stanley Smith
555 Walnut Street
Abilene, Texas 79601

GPP: Garfield Public/Private LLC
Attn: Steve Galbreath
14911 Quorum Drive, Suite 380
Dallas, Texas 75254

Copy to: Garfield Public/Private LLC
Attn: Daniel K. Hennessy, Esq.
14911 Quorum Drive, Suite 380
Dallas, Texas 75254

(f) Limited Waiver of Immunity. Notwithstanding anything to the contrary herein, the City and GPP hereby acknowledge and agree that to the extent this Agreement is subject to the provisions of Subchapter I of Chapter 271, Texas Local Government Code, as amended, the City's immunity from suit is waived only as set forth in Subchapter I of Chapter 271, Texas Local Government Code. The City expressly authorizes the prevailing Party in any adjudication involving the City to recover its reasonable and necessary attorney's fees as referenced in Section 271.159 of the Texas Local Government Code.

(g) Amendment and Waiver. A provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is approved by GPP and the City. No course of dealing on the part of GPP or the City, nor any failure or delay by GPP or the City with respect to exercising any right, power or privilege pursuant to this Agreement, will operate as a waiver thereof, except as otherwise provided herein.

(h) Independent Parties. GPP enters into this Agreement as an independent contractor and not as an employee of the City. GPP will have no power or authority by this Agreement to bind the City in any respect. Nothing in this Agreement will be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by GPP are employees, agents, contractors, or subcontractors of GPP and not of the City. The City will not be obligated in any way to pay any wage claims or other claims made against GPP by any such employees, agents, contractors, or subcontractors, or any other person resulting from performance of this Agreement.

(i) Severability. The provisions of this Agreement are severable. Should any provision of this Agreement be held unenforceable, inoperable or invalid for any reason, said provision will be deemed to be modified to conform to applicable law and this Agreement, and, as so modified, will continue to be in full force and effect and will be binding on the Parties to this Agreement.

(j) Interpretation. This Agreement has been negotiated jointly by the Parties and will not be construed against a Party because that Party may have assumed primary responsibility for the drafting of this Agreement.

(k) Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Texas. Any action arising out of this Agreement will be brought in Taylor County, Texas.

(l) No Waiver. No failure or delay by City in exercising any right, power or privilege under this Agreement will operate as a waiver of this Agreement, nor will any single or partial exercise of any such right, power or privilege preclude any other or further exercise of this Agreement.

(m) Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will constitute one and the same instrument. Such executed counterparts may be delivered by facsimile which, upon transmission to the other Parties, will have the same force and effect as delivery of the original signed counterpart.

(n) Entire Agreement. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and all prior agreements, whether written or oral, are deemed to be merged herein.

(o) Verification Against Discrimination of Firearm or Ammunition Industries. Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if GPP employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, GPP represents that: (1) GPP does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association: and (2) GPP will not discriminate during the Term of this Agreement against a firearm entity or firearm trade association.

(p) Verification Against Discrimination GPP Does Not Boycott Energy Companies. Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if GPP employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, GPP represents that: (1) GPP does not boycott energy companies: and (2) GPP will not boycott energy companies during the Term of this Agreement.

(q) Verification Against Boycott of Israel Provision. GPP verifies that it (1) does not boycott Israel; and (2) will not boycott Israel during the Term of this Agreement.

(r) Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, GPP verifies that it is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

[Signature Pages Begin on the Following Page]

Signature Page

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF ABILENE

By: _____

Title: _____

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Signature Page (Continued)

PROFESSIONAL SERVICES PROVIDER

GARFIELD PUBLIC/PRIVATE LLC,
a Texas limited liability company

By: _____

Name: Stephen L. Galbreath

Title: Chief Development Officer

EXHIBIT A
EXEMPTION DISCLOSURE

WHEREAS, the City of Abilene, Texas ("City") has contracted with GARFIELD PUBLIC/PRIVATE LLC ("GPP"), a Texas limited liability company, for professional services, including but not limited to, possible financial structures for a public/private development within the City; and

WHEREAS, GPP is not an independent registered municipal advisor as described in SEC Rule 15 Bal - 1(d)(3)(vi) (the "Rule"), and

NOW, THEREFORE, City and GPP agree and disclose to each other as follows:

1. GPP acknowledges that any municipal entity that contemplates issuing any municipal financial securities as discussed in GPP's work must employ the services of an independent registered municipal advisor, as described in the Rule, to advise it with respect to any aspects of the municipal financial product or issuance of municipal securities.

2. GPP hereby discloses in writing to City that GPP is not a municipal advisor and is not subject to the fiduciary duty set forth in section 15B(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(1)) with respect to the municipal financial product or issuance of municipal securities as discussed in GPP's Work.

3. City is strongly encouraged to assess the material incentives and conflicts of interest as discussed in the Rule.

4. GPP will provide a copy of this disclosure to any independent registered municipal advisor, if applicable.

Executed the _____ day of _____, 2024.

GARFIELD PUBLIC/PRIVATE LLC,
a Texas limited liability company

Acknowledged and Agreed,
City of Abilene, Texas

By: _____



Title: Chief Development Officer

By: _____

Title: _____

EXHIBIT B
SCOPE OF SERVICES

Task 1 - Due Diligence and Scope Definition			Duration: 4 Months
Service	Vendor	Fees	
Development Manager	Garfield	\$150,000	
Legal	Garfield	\$25,000	
Architect	Parkhill	\$67,745	
Interior Designer	Looney	\$30,000	
Theatre Consultant	Schuler Shook	\$45,000	
MEPF Engineer	Blum	\$25,000	
Kitchen Designer	Worrell	\$47,000	
Cost/Construction Pricing Consultant	TBD	\$30,000	estimate
Plumbing & Material Testing	TBD	\$10,000	
			\$ 429,745
Task 2 - Design Period			Duration: TBD Months
Service	Vendor	Fees	
			\$ -
Task 3 - Construction Period			Duration: TBD Months
Service	Vendor	Fees	
			\$ -
Task 4 - Opening			Duration: TBD Months
Service	Vendor	Fees	
			\$ -
Task 5 - Closeout Period			Duration: TBD Months
Service	Vendor	Fees	
			\$ -
Task 1 Subtotal			\$ 429,745
Other Services (GPP will work with City of Abilene to determine additional consultants as necessary)			
Service	Vendor	Fees	
Civil/Geotech/ Environmental Eng.	TBD	TBD	
Security	TBD	TBD	
Marketing / Public Relations	TBD	TBD	
FF&E / OSE Purchasing Agent	TBD	TBD	
Owner's Contingency	--	\$ 42,975	
Misc. Reimbursable Expenses	Team	\$ 18,000	
			\$ 60,975
Total Contract Not To Exceed - Pre-Development Period for GPP			\$ 490,720

Authorize the City Manager to enter into a Professional Services Pre-Development Agreement with Garfield Public/Private

May 9, 2024





Authorize the City Manager to enter into a Professional Services Pre-Development Agreement with Garfield Public/Private

Snipped Ribbon to Herald Opening of Civic Center

A snipped ribbon and at least one brass band will herald the grand opening of Abilene's new \$3.5 million Civic Center Saturday afternoon.

All West Texans are invited to the opening of the structure, which is downtown at Cypress and 7th.

Opening ceremonies will be at 1:30 p.m. on the north side of the building adjacent to the parking lot, Center Director Carl Gandy has announced.

AN OPEN HOUSE will last until 5 p.m., he said.

The McMurry College Band

formation about all aspects of the huge center.

During the afternoon, various combos and bands will play in the 2,200-seat auditorium which has already held Abilene Christian College's production of "Sound of Music" and a "George M!"

THE STRUCTURE, with about 95,000 square feet of floor space, has three main parts. In the center is the 9,000-square foot foyer. With glass from floor to ceiling, it imparts a feeling of space and may be used for such

GANDY SAID the building will be turned over to the city officially "within a week."

He said that the only things remaining to be done are hooking up some kitchen equipment and several minor cleanup items.

Work has begun, also, on the automatic sprinkler system, which will water during late night hours in order not to interfere with events at the center.

The only part of the center work which may be delayed is the landscaping, due to the budget for the sprinkler system.

Originally opened in 1970 (54 years ago), the Civic Center boasted 95,000 square feet of floor space and a 2,200 seat auditorium.

At a \$3,500,000 construction price, the citizens paid \$36.84 per square foot for the facility.

On the same page there was an advertisement for Grissom's. Men's suites were on sale from \$39.95 to \$69.95.



CITY OF
ABILENE
TEXAS



Authorize the City Manager to enter into a Professional Services Pre-Development Agreement with Garfield Public/Private

- The Convention Center is a structurally sound facility that is 54 years old.
- In 2017, staff approached the Council with a list of items needed to bring the facility into the current era. That project amount totaled approximately \$15,787,100.
- It was clear based on the Council discussion at the time that there was not an appetite to consider any additional improvements other than those approved by the voters in the 2015 bond election.





Authorize the City Manager to enter into a Professional Services Pre-Development Agreement with Garfield Public/Private

- With the completion of the DoubleTree Hotel by Hilton, the Abilene Convention Center is truly showing it's age.
- The item before Council today, is to authorize the City Manager to enter into a Professional Service Pre-Development Agreement with Garfield Public/Private to begin the process of thoroughly and completely analyzing the building systems, functional and cosmetic needs of the facility and to develop a preliminary cost analysis of replacing and improving the same.





Authorize the City Manager to enter into a Professional Services Pre-Development Agreement with Garfield Public/Private

- The not to exceed amount for these services is \$490,720.
- If approved by the City Council, the attached resolution authorizing the agreement would also appropriate the necessary funds from the Convention Center Capital Project Fund which has a balance of approximately \$1,253,448.





Authorize the City Manager to enter into a Professional Services Pre-Development Agreement with Garfield Public/Private

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **23. Ordinance (Final Reading) CUP-2024-03: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Owner, To Apply A Conditional Use Permit To Approximately .16 Acres Zoned Residential Single Family (RS-6) To Allow For A Counseling Ministry, Located At 526 Highland Ave. *(Tim Littlejohn)***

GENERAL INFORMATION

The subject property is 0.16 acres out of the Highland Addition, Lot 4 of Block 10. The property is zoned RS-6 and was previously used as a residential single-family home.

SPECIAL CONSIDERATIONS

The surrounding properties are zoned RS-6, and are used as single-family residences.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends **approval** subject to the following condition:

1. The use of the property as a ministry shall be subject to compliance with the Plan of Operation dated March 12, 2024.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. Ordinance
2. Staff Report
3. Plan of Operation
4. cup 2024-03 waiver
5. 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 A 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 23 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 Two Thousand Dollars (\$2,000.00). 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 25th day of April, 2024.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 15th day of March, 2024, 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 May, 2024, 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 May, 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Approve a Conditional Use Permit (CUP) on a site zoned RS-6 to allow for a counseling ministry on 0.16 acres in accordance with the Plan of Operation attached here to as EXHIBIT B.

Legal description as follows: Lot 4 of Block 10 of the Highland Addition

Located at 526 Highland Avenue, Abilene Texas 79605



ORDINANCE NO. _____

EXHIBIT B

March 12, 2024

Planning & Development Services
C/O: Kiley Hannah
City of Abilene
555 Walnut Street
Office: 325.676.6493

Subject: Conditional Use Permit for 526 Highland Avenue, Abilene

Highland Church of Christ would like to apply for a Conditional Use Permit (CUP) to use the property located at 526 Highland Ave, Abilene, TX 79605 as an overflow location for our Counseling Ministry. The main location of the counseling ministry is located at 238 Sayles Boulevard, Abilene, TX 79605. Please review the following information for details about our request for use of the property:

- Highland Counseling Center will continue to be the main office at 238 Sayles Boulevard. Highland Counseling Center has peacefully served and been a good neighbor on Sayles Blvd since 2016.
- We lease our main location on Sayles Blvd from Larry Tarver. You may contact him at 325-829-6068 for further information about our physical impact on the neighborhood.
- The proposed use of the building is to use two former bedrooms in the home as offices for Marriage & Family Therapy/counseling (mental, emotional, and relational health). Bedroom furniture will be replaced with couches and chairs for therapy with individuals, couples, and families. Therapy is talk therapy done in one to two hour blocks of time in an office. Providing confidentiality and a safe, welcoming space is integral to what we do.
- Typically, there may be 2-4 clients on the property at a time. Maximum occupancy (including therapists and clients) on the property is 12. However, typical occupancy will be 2-6 people at a time.
- The counseling ministry will use this location five days a week on weekdays, Monday-Friday between the hours of 7:30am-9:00pm. Occupancy after 6:30pm will be rare.
- These are not exact open and close times because therapists will only be there when they have clients. For example, if a therapist does not need an office on a Monday, then no one will be at 526 Highland Ave on that day. If a therapist needs a room on Tuesday for appointments between 10am-2pm, that is the only time people will be there that day. The times from 7:30 am – 9:00 pm represent when therapists and clients may be in the building. There will not be activity on the property before 7:30 am or after 9 pm.
- The building will not be used for on call or after-hours crisis management.

-Clients will only be on the property when a therapist/counselor of the counseling ministry is on site.

-Clients of Highland Counseling Center may be experiencing anxiety, depression, grief, relationship problems, parenting issues or recovering from trauma. They may also be preparing for marriage or going through a life transition.

-The counseling center refers inquiries with untreated or complicated psychological/mental health issues to psychiatrists or psychologists as that is not the scope of practice of HCC therapists.

-There is room for one client to park in the driveway of the property and two spots directly in front of the building on the street. Once those spots are filled, we will have clients park directly across the street in Highland Church of Christ's parking lot. This is a parking lot commonly used during church services and Highland events. Therapists will park across the street in this church parking lot.

-Clients will arrive and head straight inside the building and leave within 1-2 hours.

- There may be times that a client and therapist may move to the fenced back yard of the property. If this is done, the activity would not exceed the sound of the typical local resident.

- Counseling sessions are by appointment only. There will not be walk-in appointments or anything about the location that resembles a "walk up" place of business. The property will continue to look like a residential home.

-The counseling ministry is a quiet and peaceful entity that will bring life and safe movement to the street.

Thank you for considering our request. We look forward to partnering together to promote healthy relationships and individual wellness in the Abilene community.

Sincerely,

Gretchen Etheredge, LMFT-S
Director, Highland Counseling Center

END

ZONING CASE CUP-2024-03

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: April 2, 2024
City Council 1st Reading: April 25, 2024
City Council 2nd Reading: May 9, 2024

Applicant

Owner: Highland Church of Christ
Agent: Gretchen Etheredge and Nathan Sanders

Case Manager

Kiley Hannah – Planner

Request

A Conditional Use Permit to allow a Counseling Ministry in RS-6 Zoning.

Location

526 Highland Avenue Abilene Texas

Background

The subject property is 0.16 acres out of the Highland Addition, Lot 4 of Block 10. The property is zoned RS-6 and was previously used as a residential single-family home.

Existing Uses/Zoning

The surrounding properties are zoned RS-6, and are used as single-family residences.

Criteria Assessment

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

- 1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.**
The Future Land Use Map recommends Single Family Residential.
- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations**
The applicant submitted a Plan of Operation describing the manner in which the proposed use would operate. The Plan indicates that the proposed counseling ministry will operate by appointment only limiting the number of staff and clients to fewer than six persons in the home at any given time on a daily basis. On that basis, the proposed use should not disrupt the neighborhood, the proposed low-intensity use is consistent with the general purposes of the LDC and zoning district regulations.
- 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.

The low-intensity nature of the proposed use should not negatively affect the surrounding uses.

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

The amount of additional traffic generated by the proposed, if operated as represented in the Plan of Operation, should be minimal.

- 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.**

The proposed use of this site as a counseling ministry will not generate a level of traffic that would adversely affects the existing road network in the vicinity of the subject site.

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

The use does generate visual impacts for the surrounding areas.

- 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.**

The use will comply with all applicable LDC requirements.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval** subject to the following condition:

1. The use of the property as a ministry shall be subject to compliance with the Plan of Operation dated March 12, 2024.

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

OWNER	PROP_ID	SITUS	RESPONSE
FLORES RAMIRO ANTONIO	26225	2241 S 6TH ST	
WAGNER ANN AREY	25216	525 SANTOS ST	
ABBOTT KAREN ANN	24974	542 HIGHLAND AV	
ABBOTT KAREN ANN	24974	542 HIGHLAND AV APT B	
HIGHLAND CHURCH OF CHRIST	24852	526 HIGHLAND AV	
MILLER BONNIE H LF EST	25612	2205 S 6TH ST	
TUTT CUSTOM HOMES LLC	25857	2217 S 6TH ST	
GARCIA JUAN ANTONIO & KELLY	25333	519 SANTOS ST	
SNOW JOSEPH H III &	23687	601 HIGHLAND AV	
HUNT PATSY A	23963	535 HIGHLAND AV	
HUNT PATSY A	23963	535 1/2 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24334	2143 S 5TH ST	
DAVIS JOHN SANFORD III LF EST	26108	2235 S 6TH ST	
DAVID SARI	25742	2209 S 6TH ST	
HIGHLAND CHURCH OF CHRIST	24594	510 HIGHLAND AV	
RILEY AMY & KELLY	25985	2225 S 6TH ST	
HIGHLAND CHURCH OF CHRIST	25472	501 SANTOS ST	
HIGHLAND CHURCH OF CHRIST	24083	523 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24465	502 HIGHLAND AV	
BROOKS BARBARA DON BUSH	24726	518 HIGHLAND AV	
KEY CITY MANAGEMENT LLC	23826	543 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24206	2133 S 5TH ST	
CORTINAZ ESTHER D &	25100	533 SANTOS ST	

OWNER	PROP_ID	SITUS	RESPONSE
SNOW JOSEPH H III &	23687	601 HIGHLAND AV	
KEY CITY MANAGEMENT LLC	23826	543 HIGHLAND AV	
HUNT PATSY A	23963	535 HIGHLAND AV	
HUNT PATSY A	23963	535 1/2 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24083	523 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24206	2133 S 5TH ST	
HIGHLAND CHURCH OF CHRIST	24334	2143 S 5TH ST	
HIGHLAND CHURCH OF CHRIST	24465	502 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24594	510 HIGHLAND AV	
BROOKS BARBARA DON BUSH	24726	518 HIGHLAND AV	
HIGHLAND CHURCH OF CHRIST	24852	526 HIGHLAND AV	
ABBOTT KAREN ANN	24974	542 HIGHLAND AV	
ABBOTT KAREN ANN	24974	542 HIGHLAND AV APT B	
CORTINAZ ESTHER D &	25100	533 SANTOS ST	
WAGNER ANN AREY	25216	525 SANTOS ST	
GARCIA JUAN ANTONIO & KELLY	25333	519 SANTOS ST	
HIGHLAND CHURCH OF CHRIST	25472	501 SANTOS ST	
MILLER BONNIE H LF EST	25612	2205 S 6TH ST	
DAVID SARI	25742	2209 S 6TH ST	
TUTT CUSTOM HOMES LLC	25857	2217 S 6TH ST	
RILEY AMY & KELLY	25985	2225 S 6TH ST	
DAVIS JOHN SANFORD III LF EST	26108	2235 S 6TH ST	
FLORES RAMIRO ANTONIO	26225	2241 S 6TH ST	

LOCATION MAP



ZONING MAP





March 12, 2024

Planning & Development Services

C/O: Kiley Hannah

City of Abilene

555 Walnut Street

Office: 325.676.6493

Subject: Conditional Use Permit for 526 Highland Avenue, Abilene

Highland Church of Christ would like to apply for a Conditional Use Permit (CUP) to use the property located at 526 Highland Ave, Abilene, TX 79605 as an overflow location for our Counseling Ministry. The main location of the counseling ministry is located at 238 Sayles Boulevard, Abilene, TX 79605. Please review the following information for details about our request for use of the property:

- Highland Counseling Center will continue to be the main office at 238 Sayles Boulevard. Highland Counseling Center has peacefully served and been a good neighbor on Sayles Blvd since 2016.

- We lease our main location on Sayles Blvd from Larry Tarver. You may contact him at 325-829-6068 for further information about our physical impact on the neighborhood.

- The proposed use of the building is to use two former bedrooms in the home as offices for Marriage & Family Therapy/counseling (mental, emotional, and relational health). Bedroom furniture will be replaced with couches and chairs for therapy with individuals, couples, and families. Therapy is talk therapy done in one to two hour blocks of time in an office. Providing confidentiality and a safe, welcoming space is integral to what we do.

- Typically, there may be 2-4 clients on the property at a time. Maximum occupancy (including therapists and clients) on the property is 12. However, typical occupancy will be 2-6 people at a time.

- The counseling ministry will use this location five days a week on weekdays, Monday-Friday between the hours of 7:30am-9:00pm. Occupancy after 6:30pm will be rare.

- These are not exact open and close times because therapists will only be there when they have clients. For example, if a therapist does not need an office on a Monday, then no one will be at 526 Highland Ave on that day. If a therapist needs a room on Tuesday for appointments between 10a-2p, that is the only time people will be there that day. The times from 7:30am-9pm represent when therapists and clients may be in the building. There will not be activity on the property before 7:30am or after 9pm.

- The building will not be used for on call or after-hours crisis management.

- Clients will only be on the property when a therapist/counselor of the counseling ministry is on site.

-Clients of Highland Counseling Center may be experiencing anxiety, depression, grief, relationship problems, parenting issues or recovering from trauma. They may also be preparing for marriage or going through a life transition.

-The counseling center refers inquiries with untreated or complicated psychological/mental health issues to psychiatrists or psychologists as that is not the scope of practice of HCC therapists.

-There is room for one client to park in the driveway of the property and two spots directly in front of the building on the street. Once those spots are filled, we will have clients park directly across the street in Highland Church of Christ's parking lot. This is a parking lot commonly used during church services and Highland events. Therapists will park across the street in this church parking lot.

-Clients will arrive and head straight inside the building and leave within 1-2 hours.

- There may be times that a client and therapist may move to the fenced back yard of the property. If this is done, the activity would not exceed the sound of the typical local resident.

- Counseling sessions are by appointment only. There will not be walk-in appointments or anything about the location that resembles a "walk up" place of business. The property will continue to look like a residential home.

-The counseling ministry is a quiet and peaceful entity that will bring life and safe movement to the street.

Thank you for considering our request. We look forward to partnering together to promote healthy relationships and individual wellness in the Abilene community.

Sincerely,

Gretchen Etheredge, LMFT-S
Director, Highland Counseling Center



To Highland Church,

The Director of Planning and Development Services has waived the requirement for a concept plan that is typically required for this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy A. Littlejohn", is written over the printed name.

Timothy A Littlejohn
Director of Planning
And Development

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT





CONDITIONAL USE PERMIT

Case: CUP-2024-03

Agent: Nathan Sanders

Request: A Conditional Use Permit to allow a Counseling Ministry in RS-6

Location: 526 Highland Av.

Notification: 0 in Favor, 0 Opposed

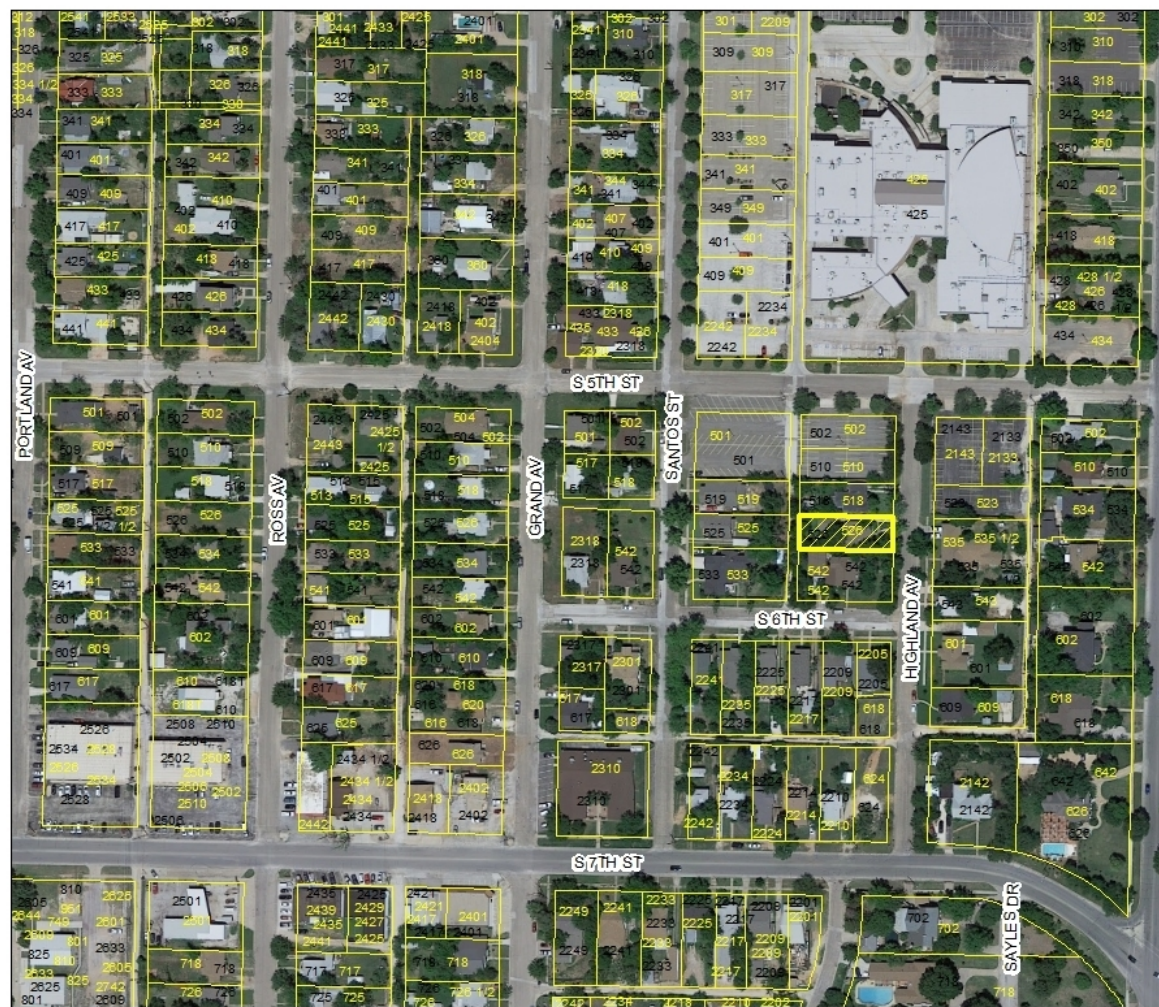
Planning & Zoning: April 2, 2024

Council Hearing: April 25, 2024
May 9, 2024





AERIAL LOCATION MAP

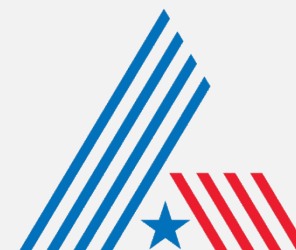


Aerial Map



Legend

- CUP-2024-...
- CourierPar...



CITY OF
ABILENE
TEXAS



ZONING MAP

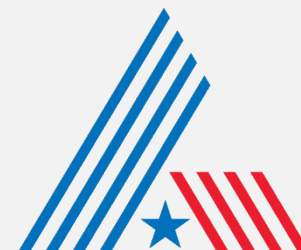


Zoning Map



Legend

- CUP-2024-03
- Arterial
- Minor Arterial
- RS-6: Residential Single-Family
- RS-12: Residential Single-Family
- MD: Medium Density Residential
- GC: General Commercial



CITY OF
ABILENE
TEXAS



PERMITTED USES IN RS-6

RESIDENTIAL USES:

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

ACCESSORY AND INCIDENTAL USES:

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

CULTURAL AND RECREATIONAL USES:

- C Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

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

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden





VIEWS OF SUBJECT PROPERTY

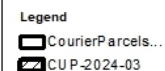


Neighboring Property

North Neighboring Property

Neighboring Property







FINDINGS AND RECOMMENDATION

The request is consistent with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning;
- The density of the surrounding neighborhood;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: Approval subject to the Plan of Operation dated March 12, 2024.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **24. Ordinance (Final Reading) CUP-2024-04: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Owner, To Apply A Conditional Use Permit To Approximately .19 Acres Zoned Residential Single Family (RS-6) To Allow For A Duplex, Located At 1902 Bridge Avenue (*Tim Littlejohn*)**

GENERAL INFORMATION

The subject property is 0.19 acres out of the Green Acres Subdivision Section 2, Block 26, Lot 36. The applicant is proposing a duplex with each unit being approximately 1300 square feet. Staff was able to locate a demolition permit for the previous building in 2003. The property has been vacant since then.

SPECIAL CONSIDERATIONS

All the surrounding properties are zoned Single Family Residential (RS-6). Duplexes are not located in the immediate vicinity of this property.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. Ordinance
2. Staff Report
3. application
4. owner authorization
5. plan of operation - site layout
6. Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING A 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 23 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 Two Thousand Dollars (\$2,000.00). 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 25th day of April, 2024.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 15th day of March, 2024, 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 May, 2024, 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 May, 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Apply a Conditional Use Permit to approximately .19 acres zoned Residential Single Family (RS-6) to allow for a duplex.

Legal description being the Green Acres Subdivision, Section 2, Block 26, Lot 36, Abilene, Taylor County, Texas.

Located at 1902 Bridge Avenue, Abilene, Taylor County, Texas.



ZONING CASE CUP-2024-04

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: April 2, 2024
City Council 1st Reading: April 25, 2024
City Council 2nd Reading: May 9, 2024

Applicant

Owner: Abilene Sunrise Properties
Agent: Johnny Bevills

Case Manager

Mason Teegardin – Planner

Request

Apply a Conditional Use Permit to approximately 0.19 acres zoned Residential Single Family (RS-6) to allow a duplex.

Location

1902 Bridge Avenue, Abilene, Taylor County, Texas.

Background

The subject property is 0.19 acres out of the Green Acres Subdivision Section 2, Block 26, Lot 36. The applicant is proposing a duplex with each unit being approximately 1300 square feet. Staff was able to locate a demolition permit for the previous building in 2003. The property has been vacant since then.

Existing Uses/Zoning

All the surrounding properties are zoned Single Family Residential (RS-6). Duplexes are not located in the immediate vicinity of this property.

Criteria Assessment

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

- 1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.**
The Future Land Use Map recommends Low Density Residential. The RS-6 district falls within this category. The RS-6 district allows a duplex by the granting of a CUP if that use will not adversely affect the adjoining properties and neighborhood.
- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations**
The proposed use, as detailed, is consistent with the surrounding uses and zoning district regulations. The maximum lot coverage for RS-6 zoning is 50%. The lot is approximately 8,580 square feet, which allows for 4,290 square feet of coverage. The applicant proposes less than 3,000 square feet of surface coverage.

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.**

The proposed duplex should be compatible with the surrounding neighborhood and not diminish the character of the neighborhood. The duplex would not result in any impacts that require mitigation.

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

The proposed use will generate slightly more traffic because the lot is vacant, but it should not result in congestion or unsafe driving conditions in this area.

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.**

The proposed use does not generate a level of traffic that would adversely affect the existing road network in the vicinity of the subject site.

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

The use does generate visual impacts for the surrounding areas, but should not negatively impact the adjacent properties.

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.**

The use would comply with all applicable LDC requirements.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

Attachments

- Site Layout

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
ABILENE SUNRISE PROPERTIES	65098	1902 BRIDGE AV	
BAYVIEW FINANCIAL PROPERTY TR	64719	1956 BRIDGE AV	
BROWN ADRIAN	60709	1819 BRIARWOOD ST	
BURKELL ASHLEY	65849	1855 BRIDGE AV	
CALVIN MARTIN L &	61348	1937 BRIARWOOD ST	
COMPTON ETHAN &	64592	1964 BRIDGE AV	
CRESCENT HEIGHTS	65722	3018 N 18TH ST	
DAVISTA LLC SERIES Y	60557	1801 BRIARWOOD ST	
DEVORA CARMEN CERVANTES	64978	1920 BRIDGE AV	
DEVORA MAYRA G	66338	1955 BRIDGE AV	
DICKINSON CLIFFARD DAWSON	61626	1963 BRIARWOOD ST	
FONTENOT AFALTON JOSEPH &	65598	1802 BRIDGE AV	
GUERRERO BLAS J ET AL	65345	1838 BRIDGE AV	
HERNANDEZ MARIQUA	64848	1938 BRIDGE AV	
KEY CITY HOMES LLC	65474	1820 BRIDGE AV	
LARA ELIZABETH	66090	1919 BRIDGE AV	
LINN RENTAL & REAL ESTATE LLC	60842	1837 BRIARWOOD ST	
MORA JOSE & ANNABEL ARGUIJO MORA NAJERA	66212	1937 BRIDGE AV	
MUNNERLYN JAMES MICHAEL &	61099	1901 BRIARWOOD ST	
PLK INVESTMENTS LLC	60968	1855 BRIARWOOD ST	
ROSETE NORMA L	65222	1856 BRIDGE AV	
SECA JOSE A JR & JESSICA G	61481	1955 BRIARWOOD ST	
TYTAN HEATING & COOLING	65969	1901 BRIDGE AV	
WHITE BOK NAM AKA WHITE KIM	61224	1919 BRIARWOOD ST	F

PROPERTY ID

Legend:
O- Opposed
F- In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
DAVISTA LLC SERIES Y	60557	1801 BRIARWOOD ST	
BROWN ADRIAN	60709	1819 BRIARWOOD ST	
LINN RENTAL & REAL ESTATE LLC	60842	1837 BRIARWOOD ST	
PLK INVESTMENTS LLC	60968	1855 BRIARWOOD ST	
MUNNERLYN JAMES MICHAEL &	61099	1901 BRIARWOOD ST	
WHITE BOK NAM AKA WHITE KIM	61224	1919 BRIARWOOD ST	F
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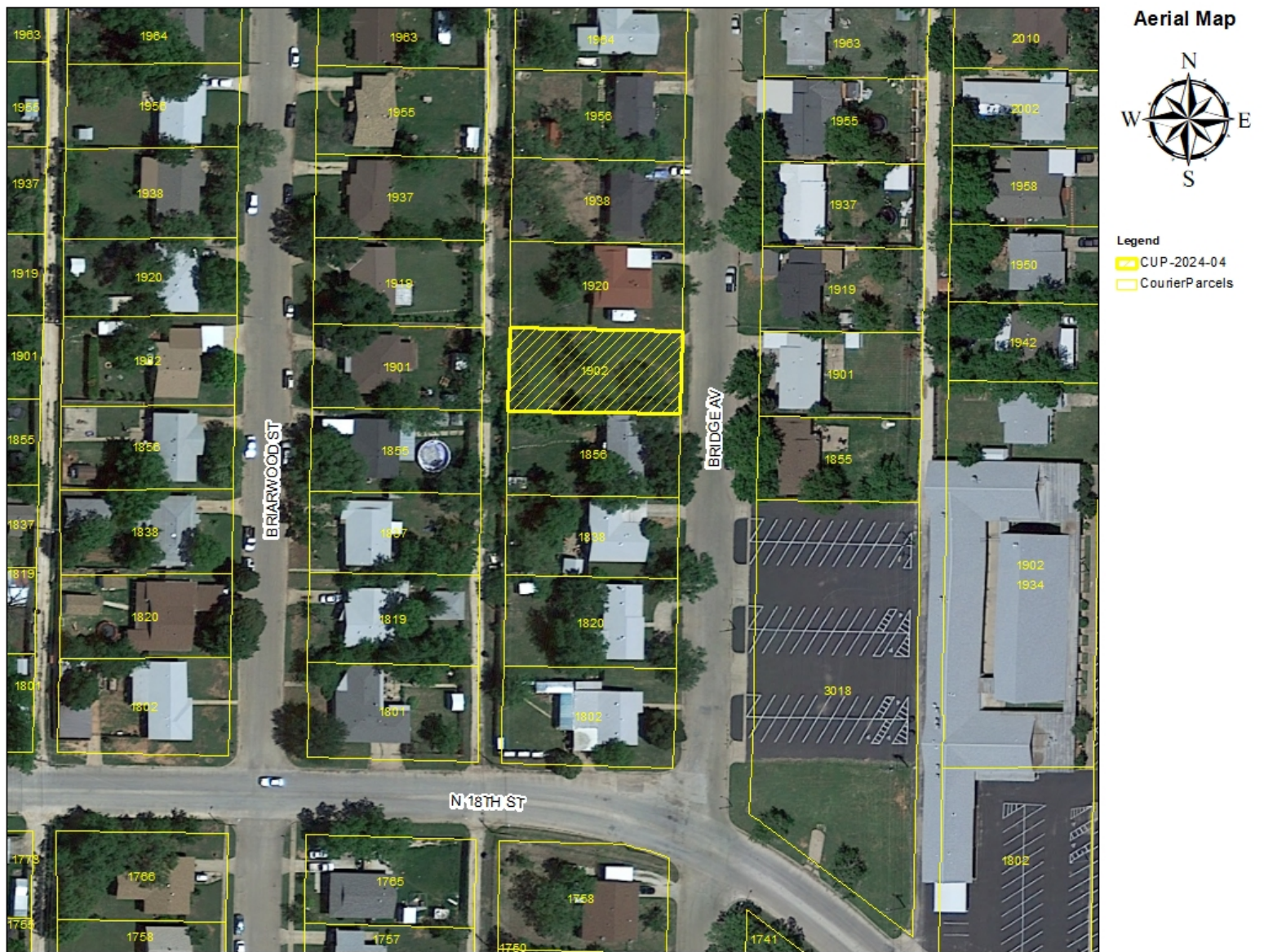
Notification Map



- Legend**
-  CUP-2024-04
 -  Notification

NOTIFICATION MAP

LOCATION MAP





Zoning Map



- Legend
- CUP-2024-04
 - Collector
 - RS-6: Residential Single-Family

ZONING MAP



Flood Map



- Legend**
- CUP-2024-04
 - Collector
 - RS-6: Residential Single-Family
 - Flood Way
 - 100-Year Flood Zone

FLOODWAY MAP



2023 Development Application

Zoning Application Page 1 of 3

Planning

- ☒ Conditional Use ☐ Special Exceptions ☐ Rezoning ☐ Variance
☐ PDD Amendment ☐ Street Name Change ☐ Thoroughfare Abandonment
☐ Easement Release

Relief Procedures

- ☐ Petition for Relief ☐ Proportionality Appeal ☐ Vested Rights Petition ☐ Appeal
Other: _____

Project Name: Duplex A4 1902 Bridge
Address: 1902 Bridge Number of Lots: 1 Acreage: _____
Legal Description: Lot 36, Block 26, Section 2 Green Acres Addition City of Abilene
Subdivision Name: Green Acres Sec. 2 Block: 26 Lot: 36
Current Zoning: R56 Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: Johnny Berills / Abilene Sunrise Properties, LP
Address: 678 Bell Plains Rd
City, State, Zip: Tuscola TX 79562 Fax: _____
Phone: 325 668-7558 Email: Johnnyberills@gmail.com
Agent Name: Johnny Berills
Address: 678 Bell Plains Road
City, State, Zip: Tuscola TX 79562 Fax: _____
Phone: 325 668-7558 Email: Johnnyberills@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 of Owner: Johnny Berills Date: 2-13-24

FOR OFFICE USE ONLY

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



2023 Development Application

Zoning Application Page 2 of 3

Existing Zoning

- | | | | |
|--------------------------------|--|-----------------------------|------------------------------|
| ☐ AO | Agricultural Open Space | ☐ GR | General Retail |
| ☐ RR | Rural Residential RR-5 & RR-1 | ☐ MU | Medical Use |
| ☐ RS-12 | Residential Single-Family – 12,000 sq. ft lots | ☐ CB | Central Business |
| ☐ RS-8 | Residential Single-Family – 8,000 sq. ft lots | ☐ MX | Mixed Use |
| ☐ RS-6 | Residential Single-Family – 6,000 sq. ft lots | ☐ GC | General Commercial |
| ☐ PH | Single-Family Residential Patio Home | ☐ HC | Heavy Commercial |
| ☐ TH | Residential Townhouse | ☐ LI | Light Industrial |
| ☐ MD | Residential Medium Density | ☐ HI | Heavy Industrial |
| ☐ MH | Manufactured/Mobile Home | ☐ PD | Planned Development District |
| ☐ CU | College & University | ☐ | Empowerment Overlay |
| ☐ NO | Neighborhood Office | | |
| ☐ O | Office | | |
| ☐ NR | Neighborhood Retail | | |

Reason for Zoning Change

Fees

FOR DEVELOPMENT FEES CTRL & CLICK LINK BELOW AND CHOOSE "Z"

<https://abilenetx.gov/563/Fee-Schedule>

Fees can be paid online with credit card.



2023 Development Application

Zoning Application Page 3 of 3

Zoning Impact Analysis

Please answer these questions in order to assist staff with the processing of your zoning request.

1. Does the proposed zoning map amendment implement the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use Map?

yes

2. Is the use permitted by the proposed change in the zoning district's classification? Are the standards applicable to such uses appropriate in the immediate area of the land to be reclassified?

yes

3. Are the proposed changes in agreement with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area?

yes

4. Are there other factors that will substantially affect the public health, safety, morals, or general welfare?

no

Other Required Forms - Disclosure of Interest (See Attached)



2023 Development Application

Disclosure of Interest

Disclosure Questions

Every question must be answered. If the question is not applicable, answer with "N/A".

NOTE: If the Project Representative is not the Property Owner, this form must be filled out by both the Property Owner and the Project Representative.

- A. Do you believe that a City official* or City employee** may have a conflict of interest in the property or application referenced on the reverse side? ☐ Yes ☒ No
- B. If so, state the name of each City official or employee of the City of Abilene known by you that may have a conflict of interest in the property or application referenced on reverse side.
- C. State all information upon which you base the belief (use additional paper, if necessary).

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Abilene, Texas, as changes occur.

Name of Certifying Person (print): Johnny Bevills

Property Owner ☒ Project Representative ☐

Signature of Certifying Person: Johnny Bevills

*Mayor, City Council members, Planning and Zoning Commission members, and Zoning Board of Adjustment members

**City Manager, City Secretary, City Attorney, and all department heads



2023 Development Application

Special Exception & Variance

Please answer these questions in order to assist Staff with the processing of your Special Exception or Variance request. Please use additional sheet(s), if necessary.

1. Fully describe the unique circumstances or peculiarities of the land or improvements in question that do not allow the desired use to conform to the provisions in the Ordinance and the intent.

There are only single family homes zoned RS6.
I am Asking for Conditional use to build A
duplex on the property. There are other
duplexes built in the Area.

2. Are there other locations on the property that could accommodate the use while still complying with the Ordinance and, if so, why have you chosen the proposed location?

NO



2023 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 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: Johnny Benitez
DATE: 2-13-24



2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: Green Acres Addition Total Number of Acres: _____
 Zoning Classification(s): R56 Total Number of Lots: 1
 Location: 1902 Bridge

Property Owner Information & Authorization

Name/Company: Johnny Beville's Abilene Sunrise Properties LP
 Address: 1834 West Overland Trail
 City: Abilene State: TX Zip Code: 79603
 Phone: 325-668-7558 Email: Johnny Beville@gmail.com

Project Representation (check one):

- ☒ I will represent the application myself; OR
☐ I hereby designate _____ (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. 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 request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

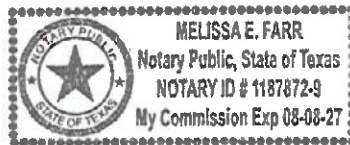
Property Owner's Signature: Johnny Beville Date: 2-13-2024

STATE OF: Texas

COUNTY OF: Taylor

BEFORE ME, a Notary Public, on this day personally appeared Johnny Beville (printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 13th day of February, 2024



NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

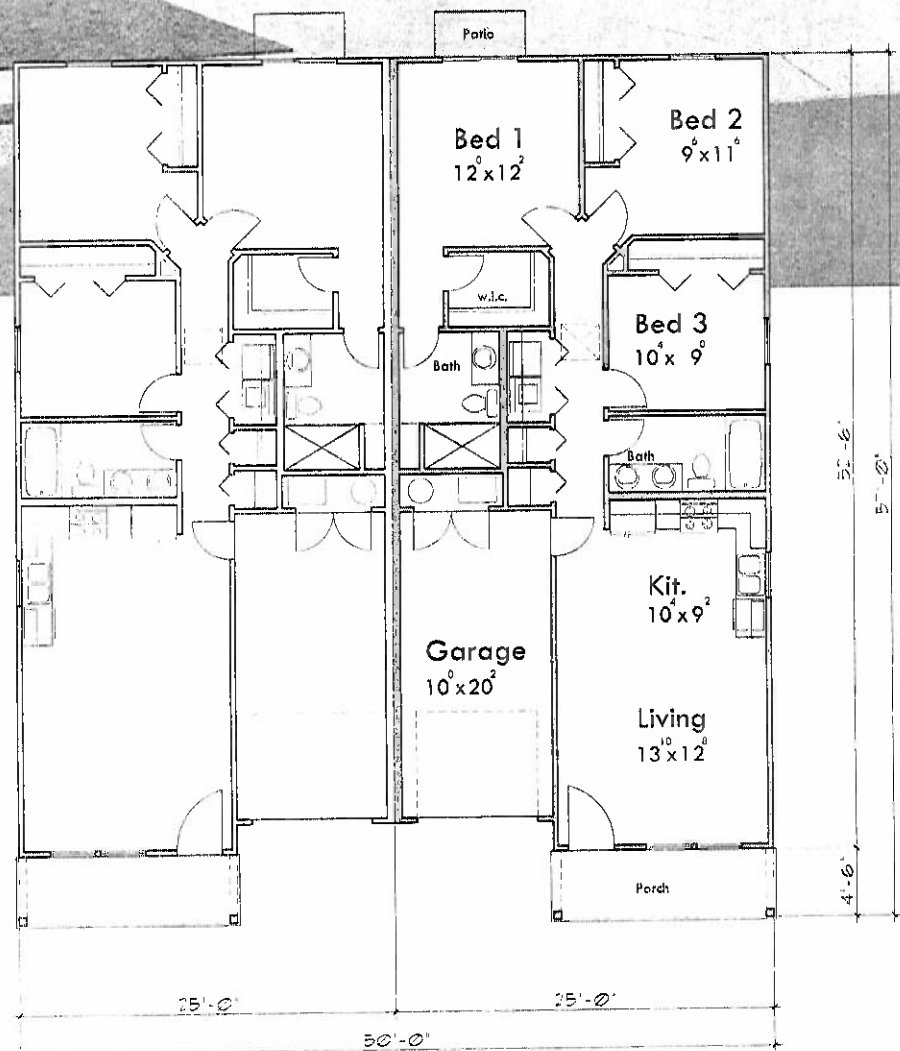
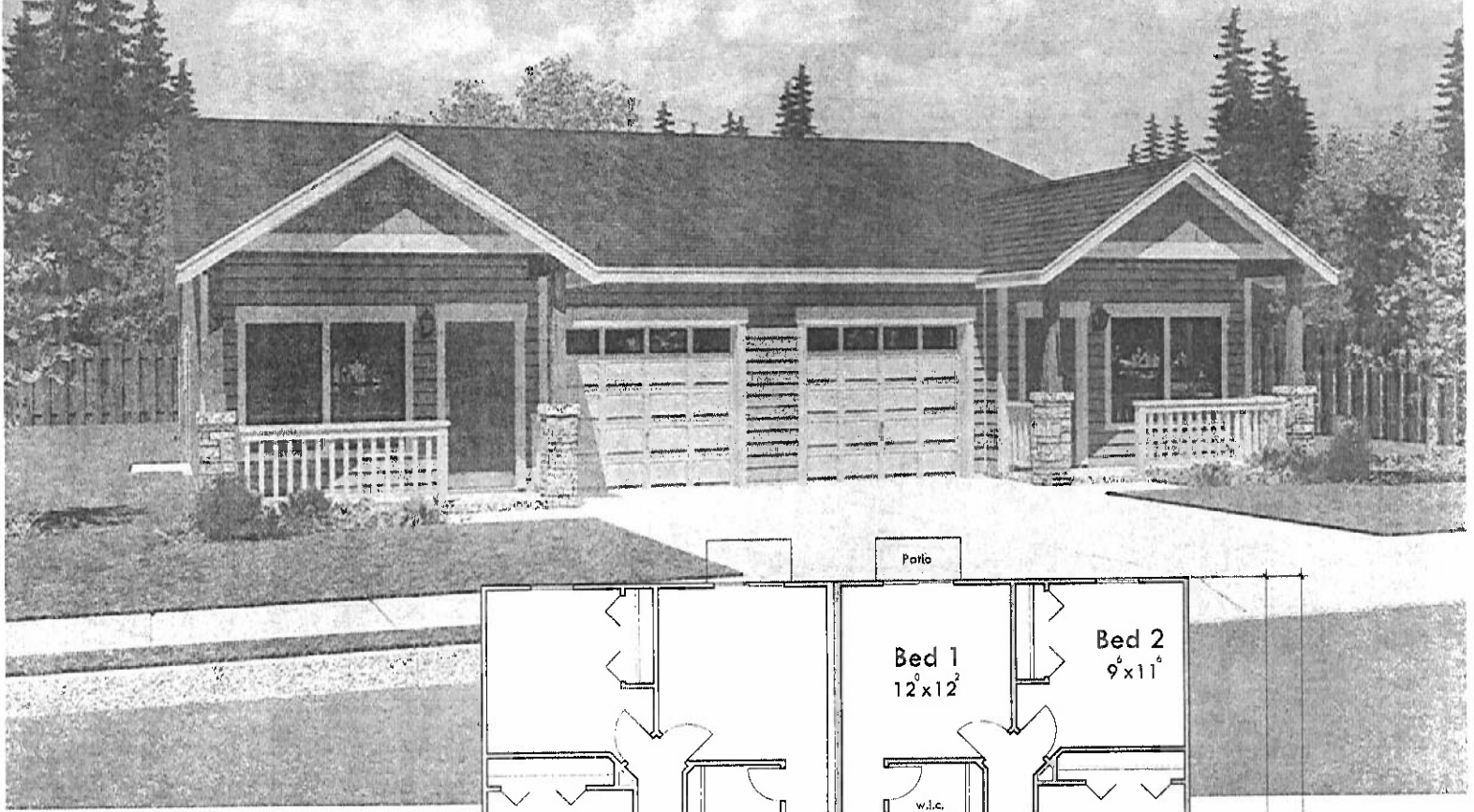
☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☐ Other(specify): _____

Name: _____ Company: _____
 Address: _____ City: _____ State: _____
 Zip Code: _____ Number: _____ Email: _____

PLAN #D-678

MAIN FLR. 1058 SQ. FT.

GARAGE 233 SQ. FT.





CONDITIONAL USE PERMIT

Case:	CUP-2024-04
Agent:	Johnny Bevills
Request:	Apply a Conditional Use Permit to approximately 0.19 acres zoned Residential Single Family (RS-6) to allow a duplex.
Location:	1902 Bridge Avenue
Notification:	1 in Favor, 0 Opposed
Planning & Zoning:	April 2, 2024
Council Hearing:	April 25, 2024 May 9, 2024







ZONING MAP



Zoning Map

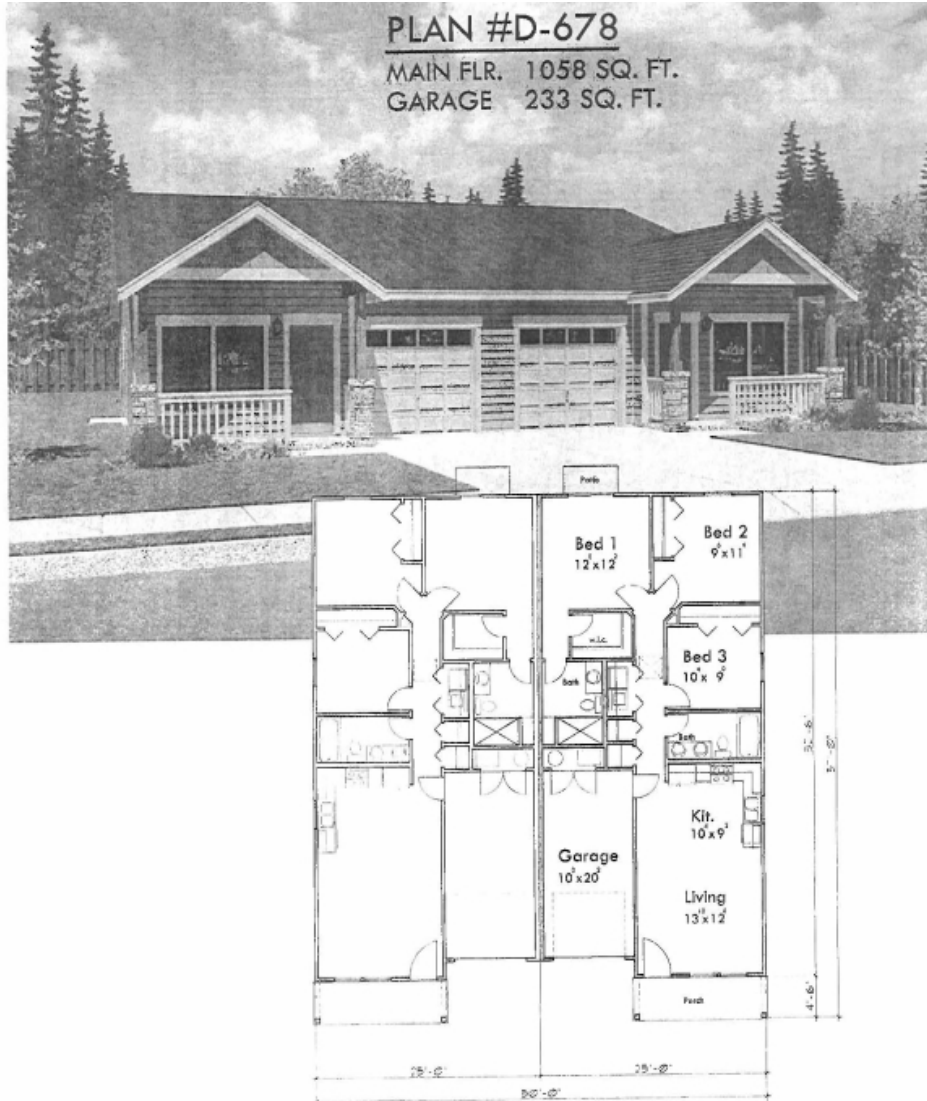


- Legend
- CUP-2024-04
 - Collector
 - RS-6: Residential Single-Family





SITE LAYOUT





PERMITTED USES IN RESIDENTIAL ZONING

RESIDENTIAL USES:

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

ACCESSORY AND INCIDENTAL USES:

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

CULTURAL AND RECREATIONAL USES:

- C Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

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

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

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





VIEWS OF SUBJECT PROPERTY





NOTIFICATION AREA MAP



Notification Map



Legend

- CUP-2024-04
- Notification

- 1- In Favor- ●
- 0- Opposed- ●



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FINDINGS AND RECOMMENDATION

The request is consistent with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: Approval





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **25. Ordinance (Final Reading) TC-2024-01: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Owner, Represented By Gospel Restoration Church, To Abandon The Entire Length Of An “L” Shaped Alley Located Between Oakland Drive And Forrest Avenue, Adjacent To 2317 Forrest Avenue (*Tim Littlejohn*)**

GENERAL INFORMATION

The applicant proposes to combine the two lots served by the subject alley. The property south of the alley has access to Forrest Avenue and does not utilize the subject alley.

SPECIAL CONSIDERATIONS

The Development Review Committee reviewed this request and had the following comments:

Water

- There will need to be an easement dedicated for the existing 6” wastewater line running through the alley on the south side of the site.

Planning

- All public utilities must be located in a dedicated easement.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff would not object to this request subject to the following conditions:

1. The subject right-of-way, and all adjoining properties, shall be platted within one year of the effective date of the abandonment ordinance.
2. If a replat is not approved and recorded within one year, the granting of the abandonment of the subject right-of-way shall be void.
3. Any utilities that may be located in the subject right-of-way shall be covered by an easement or relocated at the owners' expense.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 7-0.

ATTACHMENTS:

1. TC-2024-01 Ordinance
2. TC-2024-01 Staff Report
3. TC-2024-01 Presentation

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR ABANDONMENT OF A CERTAIN PORTION OF PUBLIC RIGHT-OF-WAY FOR THAT PORTION OF AN L-SHAPED ALLEY EXTENDING WEST FROM FORREST AVENUE AND NORTH TOWARD OAKLAND DRIVE; PROVIDING FOR TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

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

PART 1: That the following described portions of public right-of-way for the subject alley, as described on Exhibit "A" attached hereto and made part of this ordinance for all purposes, be and the same are hereby abandoned, vacated and closed insofar as the right, title or easement of the City of Abilene is concerned, subject to conditions expressed also in attached Exhibit "A".

PART 2: That said portion of public right-of-way is not needed for public purposes, and it is in the public interest to abandon the above described portion of public right-of-way.

PART 3: That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tract of land specifically described in Part 1 of this ordinance, and shall be construed only to that interest the governing body of the City of Abilene may legally and lawfully abandon.

PASSED ON FIRST READING THE 25th day of April, 2024.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 15th day of March, 2024, the same being more than fifteen (15) days prior to a public hearing to be held at the Council Chambers in City Hall at 555 Walnut St. Abilene, Texas, at 8:30 a.m. on the 25th day of April, 2024, to permit the public to be heard prior to final consideration of this ordinance.

PASSED ON FINAL READING THIS 9th day of May, 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

The City of Abilene hereby abandons the following portion of right-of-way:

The portion of an L-shaped alley extending west from Forrest Avenue, and north to Oakland Drive Abilene, Texas; subject to the following conditions:

1. The subject right-of-way, and all adjoining properties, shall be platted within one year of the effective date of the abandonment ordinance.
2. If a replat is not approved and recorded within one year, the granting of the abandonment of the subject right-of-way shall be void.
3. The owners shall grant easements for any existing utilities or relocate them at the owners' expense.



-END-

THOROUGHFARE CLOSURE TC-2024-01

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: April 2, 2024
City Council 1st Reading: April 25, 2024
City Council 2nd Reading: May 9, 2024

Applicant

Gospel Restoration Church

Case Manager

Adam Holland

Request

Abandonment of an “L” shaped alley between Oakland Drive and Forrest Avenue.

Background

The applicant proposes to combine the two lots served by the subject alley. The property south of the alley has access to Forrest Avenue and does not utilize the subject alley.

Assessment

The Development Review Committee reviewed this request and had the following comments:

Water

- There will need to be an easement dedicated for the existing 6” wastewater line running through the alley on the south side of the site.

Planning

- All public utilities must be located in a dedicated easement.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval** subject to the following conditions:

1. The subject right-of-way, and all adjoining properties, shall be platted within one year of the effective date of the abandonment ordinance.
2. If a replat is not approved and recorded within one year, the granting of the abandonment of the subject right-of-way shall be void.
3. The property owners shall grant easements for all existing utilities or relocate them at the owners’ expense.

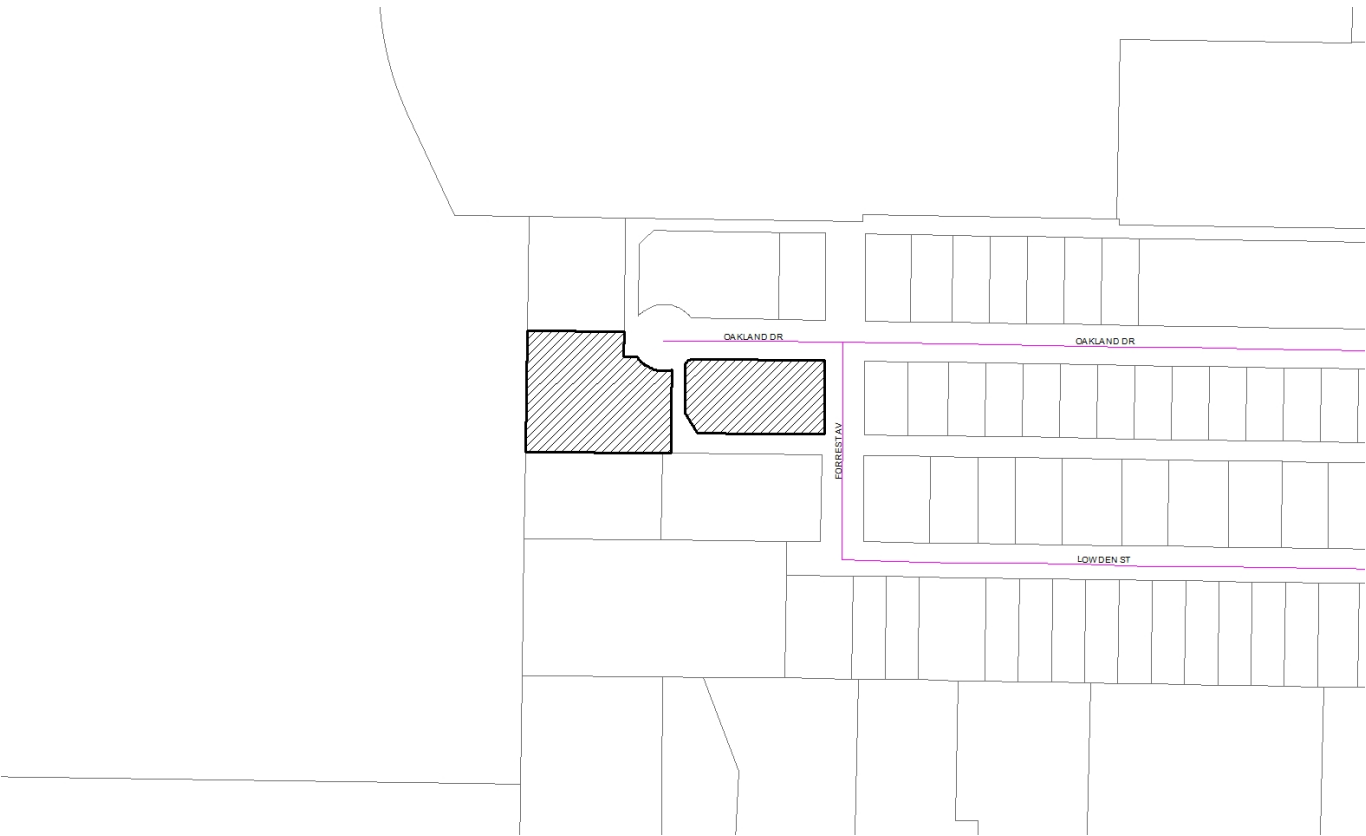
Notification

F- Favor

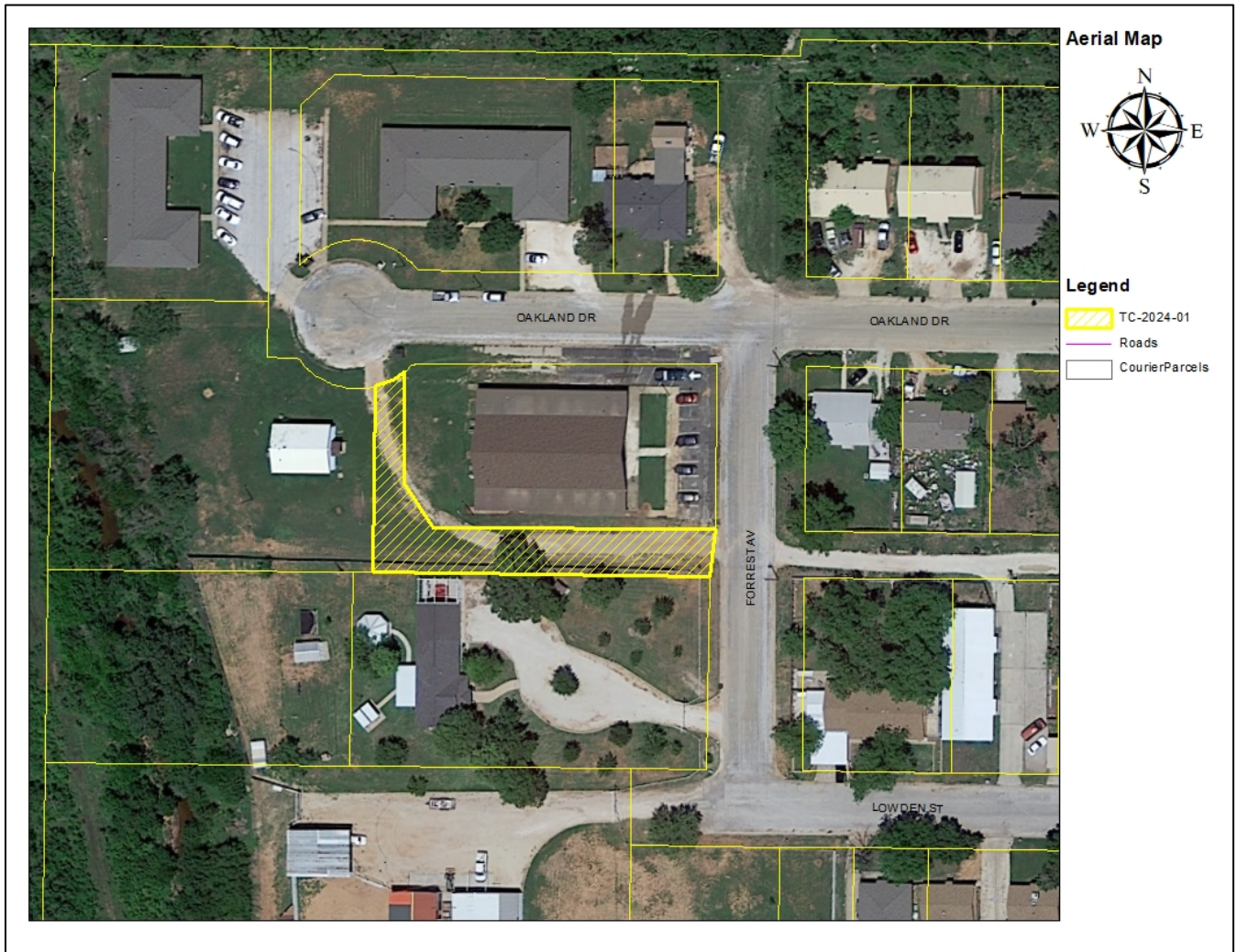
O- Opposed

Owner	Property ID	Situs	Response
263 HOLDINGS LLC	33754	2284 OAKLAND DR	
BAYVIEW FINANCIAL PROPERTY TRUST	36351	2300 OAKLAND DR	
CLAYTON KEVIN & RACHEL	14122	2232 LOWDEN ST	
DE LEON STEVEN & MECHELLE	41915		
GOSPEL RESTORATION CHURCH	36879	2317 FORREST AV	
GRAY DOUGLAS WAYNE &	36111	2273 OAKLAND DR	
MALDONADO EDUARDO & LINDA	42651	2242 LOWDEN ST	
SIMS DAVID	35982	2261 OAKLAND DR	
SOUTHWEST C & R LLC	37018	2330 OAKLAND DR	F
VENUGOPALA SOWMYA	43529		
WEBB MARK &	36233	2285 OAKLAND DR	F

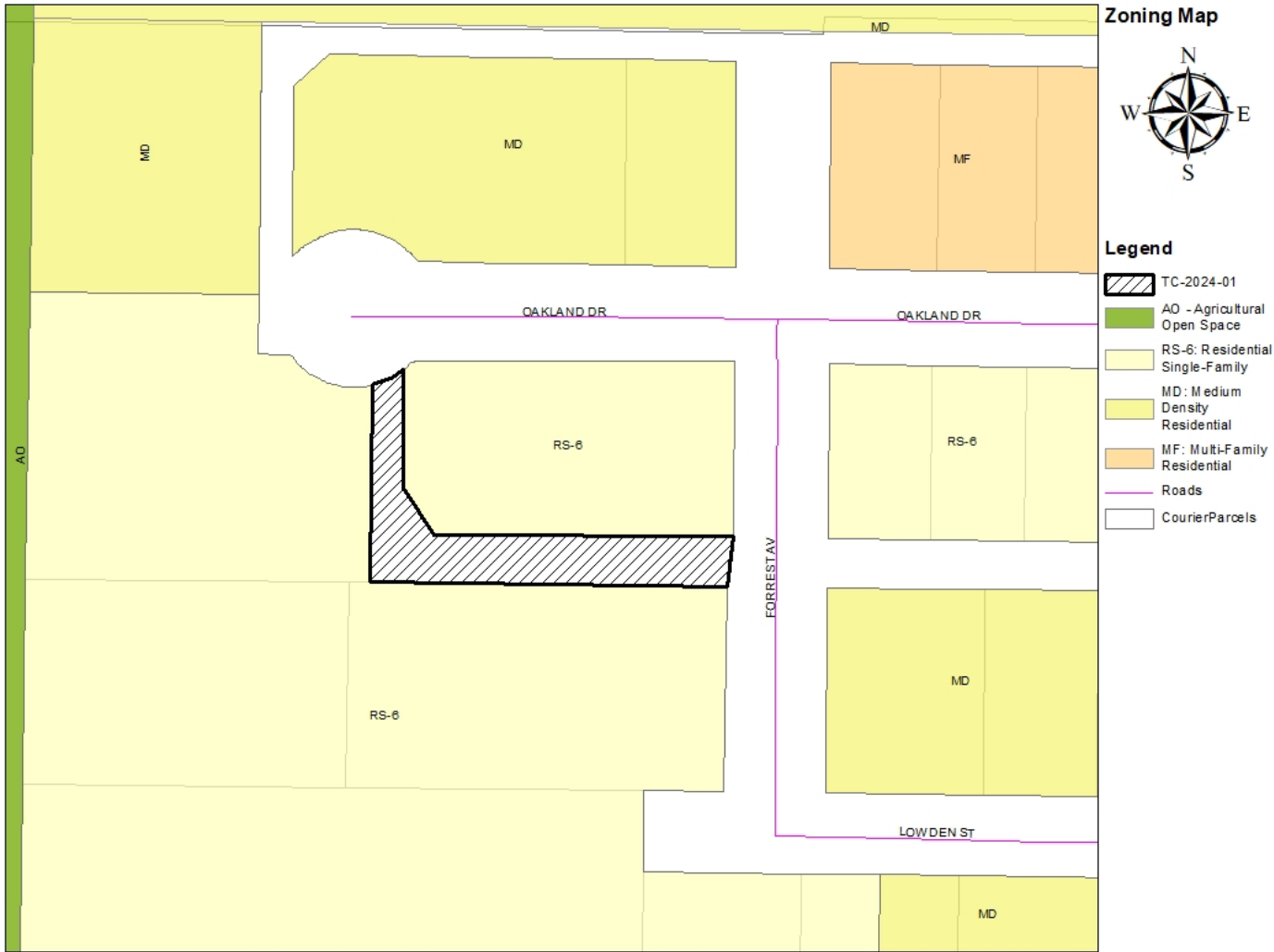
Applicant's Property



LOCATION MAP



ZONING MAP





THOROUGHFARE ABANDONMENT REQUEST

Case: TC-2024-01

Owner: Gospel Restoration Church

Request: Abandon an L-shaped alley near 2317 Forrest Ave.

Notification: 2 in Favor, 0 Opposed

Planning & Zoning: April 2, 2024

City Council Hearing: April 25, 2024
May 9, 2024





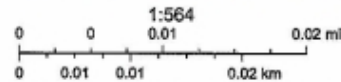
ABANDONMENT EXHIBIT

ArcGIS Web Map



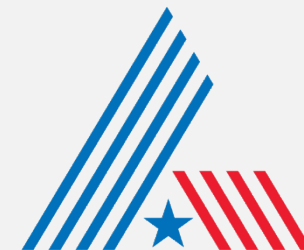
2/15/2024, 12:14:07 PM

- | | | |
|--------------------|-----------------------|-------------------------------------|
| — Road Centerlines | □ Courier Parcels | ZoningSetbacks |
| • Address Points | □ Zoning Districts | □ RS (Residential - Single Family) |
| • Current | □ Right of Way Buffer | □ MD (Residential - Medium Density) |



City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA

ArcGIS Web AppBuilder
City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA



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APPLICANT'S PROPERTY



CITY OF
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TEXAS



AERIAL LOCATION MAP



Aerial Map



Legend

-  TC-2024-01
-  Roads
-  CourierParcels





ZONING MAP



Zoning Map



Legend

- Arterial
- AO - Agricultural Open Space
- RS-6: Residential Single-Family
- MD: Medium Density Residential
- MF: Multi-Family Residential
- Roads
- CourierParcels



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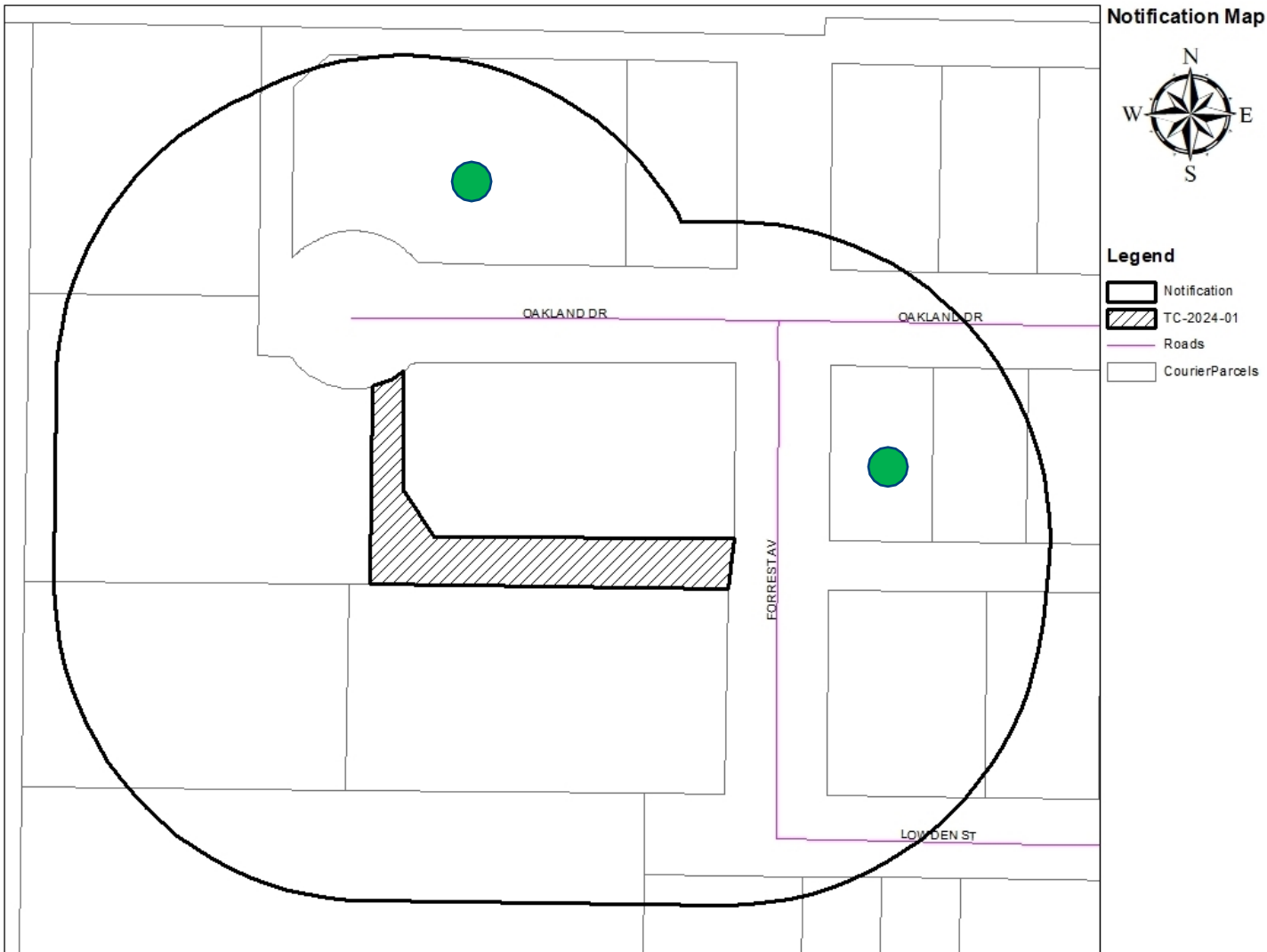


VIEWS OF SUBJECT PROPERTY





NOTIFICATION AREA MAP



2- In Favor- ●
0- Opposed- ●
0% Opposed





RECOMMENDATION

P&Z Recommendation: **Approval** subject to the following conditions:

1. The subject right-of-way, and all adjoining properties, shall be platted within one year of the effective date of the abandonment ordinance.
2. If a replat is not approved and recorded within one year, the granting of the abandonment of the subject right-of-way shall be void.
3. The property owners shall grant easements for all existing utilities or relocate them at the owners' expense.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 5/9/2024

TO: Honorable Mayor & Members of City Council

FROM: Stanley Smith, City Attorney

SUBJECT: 26. 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 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
2. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
3. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
4. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
6. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023
7. The Woodlands Pride, Inc., et al. v. Ken Paxton, Attorney General of Texas, et al., Case No. 4:23-cv-02847, In the United States District Court, Southern District of Texas, Houston Division, filed August 2, 2023
8. PFAS Litigation
9. Ginger Robertson v. City of Abilene and Abilene Zoological Society; Cause No. 13179-D, In the 350th Judicial District Court, Taylor County, Texas; filed December 5, 2023
10. City of Dallas, et al, v. Disney DTC, LLC, et al., Cause No. DC-22-09128, In the 14th Judicial District Court, Dallas County, Texas, filed August 3, 2022
11. Patricia Anderson v. City of Abilene; Cause No. 51867-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 1, 2024
12. Mary Lou Gonzales v. City of Abilene, Board of Building Standards; Cause No. 29156-B; In the District

Court, 104th Judicial District, Taylor County, Texas; filed April 10, 2024

B. 551.072 (Deliberations about Real Property)

1. Maxwell Golf Course

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. Project Prism

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None