



City of Abilene City Council Agenda

Kyle McAlister, Mayor Pro-tem
Travis Craver, Deputy Mayor Pro-tem
Shane Price, Council Member
Lynn Beard, Council Member
Robert Hanna, City Manager

Weldon Hurt, Mayor

Blaise Regan, Council Member
Brian Yates, 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 December 5, 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. Deputy Mayor Pro-tem Travis Craver

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. Service Awards:

- Loren Adlesperger - 25 Years - Police Department
- Bobby Woodward - 30 Years - Transportation Services
- Zachrey Brown - 20 Years - Fire Department
- Justin Tiemann - 20 Years - Fire Department
- William McBride - 20 Years - Fire Department

3. Recognition:

- Veteran's Cemetery Customer Service Award

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.

4. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 21, 2024 **(Shawna Atkinson)**
5. **Resolution:** Receive a Report, Hold a Discussion, and Take Action Approving a Professional Services Contract with Parkhill for Engineering Services for the Old Anson Rd. Walkability Project **(Max Johnson)**
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Contract with Newman Regency Group for the Replacement of Chlorine Scrubber Media at the Grimes Water Treatment Plant **(Rodney Taylor)**
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering Into an Economic Development Agreement with Pierson Properties for 5233 Questa Dr, 5333 Laguna Dr, and 5334 Laguna Dr. **(Tim Littlejohn)**
8. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering Into an Economic Development Agreement with Chowning Realty for 5242 N 9th St and 550 Sammons St. **(Tim Littlejohn)**
9. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering Into an Economic Development Agreement with Brick and Mortar Properties for 5318 S 7th St. **(Tim Littlejohn)**
10. **Resolution:** Receive a Report, Hold a Discussion, and Take Action to Approve and Adopt the Title VI Plan and Community Participation Plan for Abilene Regional Airport **(Don Green)**
11. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Purchase of Implementation and Annual Subscription Support Services for the Zendesk Service System from Satrde Using the Texas DIR-CPO-5337 Contract **(Troy Swanson)**

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

12. **Ordinance (Final Reading) OAM-2024-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the City of Abilene to Amend the Land Development Code to Adopt a New Airport Zoning Ordinance (AZO) **(Don Green)**
13. **Ordinance (Final Reading) CUP-2024-10:** 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 0.32 Acres Zoned General Retail (GR) to Allow for a Freight Container, Located at 1350 Grape Street **(Tim Littlejohn)**
14. **Ordinance (Final Reading) Z-2024-31:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, to Change the Zoning of Approximately 0.44 Acres from Heavy Commercial (HC) to Office (O), Located at 1234, 1232,

1226 & 1218 N Treadaway Blvd. (Tim Littlejohn)

15. **Ordinance (Final Reading) Z-2024-33:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, Amend the Terms and Conditions of Planned Development District (PDD-181) Specifically to Add Approximately 5.9 Acres of Land Zoned Agricultural Open (AO) to be Added to Lot One to Allow Heavy Industrial Uses and Light Industrial Uses as Specified in the PDD, Located At 617 F.M. 2404 (Tim Littlejohn)
16. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Condemnation for Access & Drainage Easement Being 0.011 Acres Located in the Southwest Corner of Lot 19, Block B, Wychwood Plaza Addition, Abilene, Taylor County, Texas, 3472 Santa Monica Drive (Stanley Smith)

EXECUTIVE SESSION

17. **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
13. Regional Water & City of Clyde

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

1. Storybook Gardens 2

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

RECONVENE

REGULAR AGENDA

18.

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

- Abilene-Taylor County Public Health District Board

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 27th day of November, 2024, at 1:00 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 21, 2024
(*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on November 21, 2024

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 11-21-2024 Minutes - Regular - Morning

CITY COUNCIL MEETING
November 21, 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 November 21, 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 Kyle McAlister, Deputy Mayor Pro-tem Travis Craver, and Councilmembers Shane Price, Lynn Beard, and Brian Yates. Councilmember Blaise Regan was absent. Also present were Deputy City Manager Mindy Patterson, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Councilmember Shane Price delivered the invocation.

Isadora Kugle, fourth grader from Martinez Elementary, led the Pledge of Allegiance to the Flag of the United States of America and the State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

- Proclamation & Presentation:
 - Designating the City of Abilene a Purple Heart City

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 3-23. No items were pulled for individual consideration.

PUBLIC COMMENTS

Mayor Hurt opened the public comment period. The following addressed the City Council:

- Tammy Fogle

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

CONSENT AGENDA

Councilmember Price moved to approve the consent agenda consisting of 3-23. Deputy Mayor Pro-tem Craver seconded the motion. Motion carried.

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

NAYS (0): None

ABSENT (1): Councilmember Regan

Mayor Pro-tem McAlister had a conflict of interest on item 4 and abstained from voting on that item. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office. The vote for item 4 alone was:

AYES (5): Mayor Hurt, Deputy Mayor Pro-tem Craver, and Councilmembers Price, Beard and Yates

NAYS (0): None

ABSTAIN (1): Mayor Pro-tem McAlister

ABSENT (1): Councilmember Regan

Councilmember Yates had a conflict of interest on item 5 and abstained from voting on that item. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office. The vote for item 5 alone was:

AYES (5): Mayor Hurt, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver, and Councilmembers Price and Beard
NAYS (0): None
ABSTAIN (1): Councilmember Yates
ABSENT (1): Councilmember Regan

Councilmember Beard had a conflict of interest on items 9, 10 and 12 and abstained from voting on those items. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office. The vote for items 9, 10 and 12 alone was:

AYES (5): Mayor Hurt, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver, and Councilmembers Price and Yates
NAYS (0): None
ABSTAIN (1): Councilmember Beard
ABSENT (1): Councilmember Regan

3. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 7, 2024
4. Resolution: Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter
[ASSIGNED RESOLUTION NO. 258-2024]

Board	Term End Date
<i>Abilene-Taylor County Child Advocacy Center Board</i>	
Aubri Ward [Reappointment]	December 2027
Keri Barber [New]	December 2025
Alanna Brennan [New]	December 2025
Heather Hadlock [New]	December 2026
<i>Abilene Housing Authority</i>	
Celestine Daugherty [Reappointment]	November 2026
Macy McMillian [Reappointment]	November 2026
Matthew Dodd [New]	November 2026
<i>Board of Adjustment</i>	
Laura Donaway [Alternate] [New]	November 2026
<i>Board of Building Standards</i>	
Jesse Wyatt [Reappointment]	November 2026
Sean McNell [Reappointment]	November 2026
<i>Neighborhood Services Advisory Board</i>	
Laura Donaway [New]	November 2026
Terry Cagle [Reappointment]	November 2026
Julie Wilson [Reappointment]	November 2026
<i>Planning and Zoning Commission</i>	
Gary House [New]	November 2026

5. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Professional Services Contract with Enprotec/Hibbs & Todd, Inc. for the Possum Kingdom Raw Water Roughing Facility Commissioning and Start Up
[ASSIGNED RESOLUTION NO. 259-2024]

6. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Professional Services Contract With Jacob & Martin, LLC. for the Interstate Highway 20 Utility Relocates – Phase 1 Preliminary Engineering
[ASSIGNED RESOLUTION NO. 260-2024]
7. Resolution: Receive a Report, Hold a Discussion and Take Action Authorizing the Purchase of 21 L3Harris Mobile, XL-85M Radios through Daily & Wells' HGAC Buy Contract
[ASSIGNED RESOLUTION NO. 261-2024]
8. Resolution: Receive a Report, Hold a Discussion, and Take Action on the purchase of one (1) 2024 Komatsu WA200-8 Wheel Loader with Rake Grapple and Standard Bucket through Kirby Smith Machinery of Abilene Texas Using Buy Board Cooperative Contract # 685-22 for Solid Waste Services
[ASSIGNED RESOLUTION NO. 262-2024]
9. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve the Lease with Abilene Aero for Hangar One
[ASSIGNED RESOLUTION NO. 263-2024]
10. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve the Reassignment of Various Leases with Abilene Aero to Freeman Holdings, Inc.
[ASSIGNED RESOLUTION NO. 264-2024]
11. Resolution: Receive a Report, Hold a Discussion, and Take Action on the Purchase of One (1) Caterpillar 120 JY Motor Grader for Street Services, through Sourcewell Contract # 011723-CAT from Warren Cat of Abilene
[ASSIGNED RESOLUTION NO. 265-2024]
12. Ordinance (First Reading) OAM-2024-01: Receive a Report, Hold a Discussion and Take Action on a Request from the City of Abilene to Amend the Land Development Code to Adopt a New Airport Zoning Ordinance (AZO)
13. Resolution: Receive a Report, Hold a Discussion and Take Action on Amending Resolution 192-2023 to Clarify Home Builder Association Membership Minimum Requirement
[ASSIGNED RESOLUTION NO. 266-2024]
14. Ordinance (First Reading) CUP-2024-10: Receive a Report, Hold a Discussion and Take Action on A Request from the Owner, to Apply a Conditional Use Permit to Approximately 0.32 Acres Zoned General Retail (GR) to Allow for a Freight Container. Located at 1350 Grape Street
15. Ordinance (First Reading) Z-2024-31: Receive a Report, Hold a Discussion and Take Action on a Request from the Owner, to Change the Zoning of Approximately 0.44 Acres from Heavy Commercial (HC) to Office (O). Located at 1234, 1232, 1226 & 1218 N Treadaway Blvd.
16. Ordinance (First Reading) Z-2024-33: Receive a Report, Hold a Discussion and Take Action on a Request from the Owner, Amend the Terms and Conditions of Planned Development District (PDD-181) Specifically to Add Approximately 5.9 Acres of Land Zoned Agricultural Open (AO) to be Added to Lot One to Allow Heavy Industrial Uses and Light Industrial Uses as Specified in the PDD. Located At 617 F.M. 2404

17. Resolution: Receive a Report, Hold a Discussion and Take Action on entering into an economic development agreement with Thornton Homes for 5533, 5525, 5517, 5509, 5501, 5547, 5549 N 10th St and 2725 Roberts St.
[ASSIGNED RESOLUTION NO. 267-2024]
18. Resolution: Receive a Report, Hold a Discussion and Take Action on entering into an economic development agreement with Sanford Construction LLC for 894, 898, 902, 906, 910, 914, 918, 922, 926, and 930 Minda St
[ASSIGNED RESOLUTION NO. 268-2024]
19. Resolution: Receive a Report, Hold a Discussion and Take Action on entering into an economic development agreement with Abilene Custom Homes for 2569, 2565, 2563, 2571, 2561, 2557, 2573, 2553, 2577 Bel Air Dr
[ASSIGNED RESOLUTION NO. 269-2024]
20. Resolution Receive a Report, Hold a Discussion and Take Action on entering into an economic development agreement with Mayhem Solutions for 2733 and 2741 Orange St.
[ASSIGNED RESOLUTION NO. 270-2024]
21. Resolution: Receive a Report, Hold a Discussion and Take Action on entering into an economic development agreement with Kris Gay Homes for 1349 Peach St
[ASSIGNED RESOLUTION NO. 271-2024]
22. Resolution: Receive a Report, Hold a Discussion and Take Action to Approve the Abilene-Taylor County Public Health District's Charity Care Program
[ASSIGNED RESOLUTION NO. 272-2024]
23. Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding a Contract to Daiken Applied America's, Inc. using TIPS Contract #T22010601 for Chiller Repairs at Abilene Convention Center
[ASSIGNED RESOLUTION NO. 273-2024]

REGULAR AGENDA

24. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing The Issuance Of City Of Abilene, Texas, Combination Tax And Limited Surplus Revenue Certificates Of Obligation; Establishing Procedures And Delegating Authority For The Sale And Delivery Of The Certificates; Providing An Effective Date; And Enacting Other Provisions Relating To The Subject
[ASSIGNED ORDINANCE NO. 55-2024]

Councilmember Beard had a conflict of interest on this item and left the room during deliberation and abstained from voting on the item. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office.

Marjorie Knight, Director of Finance, and George Williford with Hilltop Securities, presented the item. Adoption of the item would authorize the issuance of certificates of obligation up to \$8,300,000 for public safety and airport projects.

Mayor Hurt opened the public comment period. The following spoke in support of the item:

- Doug Williamson
- Phil Crowley
- Pearl Merritt
- Brad Birchum
- Cameron Wiley
- Ricky Bishop

The following spoke in opposition to the item:

- Tammy Fogle

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

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

AYES (5): Mayor Hurt, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver, and Councilmembers Price and Yates

NAYS (0): None

ABSTAIN (1): Councilmember Beard

ABSENT (1): Councilmember Regan

25. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Approve a Contract with Webber Construction to Build the Air Tanker Ramp at Abilene Regional Airport
[ASSIGNED RESOLUTION NO. 274-2024]

Councilmember Beard had a conflict of interest on this item and left the room during deliberation and abstained from voting on the item. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office.

Don Green, Director of Transportation, presented the item. Adoption of the item would approve a contract with Webber Construction to build an air tanker ramp for the Texas A&M Forest Service at the Abilene Regional Airport, in order to support wildland fire fighting operations around the state.

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

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

AYES (5): Mayor Hurt, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver, and Councilmembers Price and Yates

NAYS (0): None

ABSTAIN (1): Councilmember Beard

ABSENT (1): Councilmember Regan

26. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action to Approve a Task Order with Garver to Perform Construction Phase Services for the Air Tanker Ramp
[ASSIGNED RESOLUTION NO. 275-2024]

Councilmember Beard had a conflict of interest on this item and left the room during deliberation and abstained from voting on the item. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office.

Don Green, Director of Transportation, presented the item. Adoption of the item would approve a task order with Garver to perform construction phase services for the air tanker ramp at the Abilene Regional Airport.

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

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

AYES (5): Mayor Hurt, Mayor Pro-tem McAlister, Deputy Mayor Pro-tem Craver, and Councilmembers Price and Yates

NAYS (0): None

ABSTAIN (1): Councilmember Beard

ABSENT (1): Councilmember Regan

27. 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 Crockett Early Head Start Facility
[ASSIGNED ORDINANCE NO. 56-2024]

Max Johnson, Director of Public Works, presented the item. Adoption of the item would enforce a one-way-only street during certain times of the day on S. 13th in front of Crockett Early HeadStart, in order to support safe traffic and pedestrian movement.

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Regan

28. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance of the City of Abilene, Texas, and Providing for the Extension of the Boundary Limits of the City of Abilene, Texas, and for the Annexation of Certain Territory - 7.8 acres - Lying Adjacent and Contiguous to the Present Boundary Limits of the City of Abilene, and Granting to All the Inhabitants of Territory, all the Rights and Privileges of other Citizens and Binding the Inhabitants by All of the Acts, Ordinances, Resolutions and Regulations of the City of Abilene; and Adopting a Service Plan Agreement
[ASSIGNED ORDINANCE NO. 57-2024]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would annex the above referenced property into the City limits of Abilene.

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

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

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

29. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance of the City of Abilene, Texas, and Providing for the Extension of the Boundary Limits of the City of Abilene, Texas, and for the Annexation of Certain Territory - 1.777 acres - Lying Adjacent and Contiguous to the Present Boundary Limits of the City of Abilene, and Granting to All the Inhabitants of Territory, all the Rights and Privileges of other Citizens and Binding the Inhabitants by All of the Acts, Ordinances, Resolutions and Regulations of the City of Abilene; and Adopting a Service Plan Agreement
[ASSIGNED ORDINANCE NO. 58-2024]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would annex the above referenced property into the City limits of Abilene.

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

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

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

30. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance of the City of Abilene, Texas, and Providing for the Extension of the Boundary Limits of the City of Abilene, Texas, and for the Annexation of Certain Territory - 1802.91 acres - Lying Adjacent and Contiguous to the Present Boundary Limits of the City of Abilene, and Granting to All the Inhabitants of Territory, all the Rights and Privileges of other Citizens and Binding the Inhabitants by All of the Acts, Ordinances, Resolutions and Regulations of the City of Abilene; and Adopting a Service Plan Agreement
[ASSIGNED ORDINANCE NO. 59-2024]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would annex the above referenced property into the City limits of Abilene.

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Regan

31. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance of the City of Abilene, Texas, and Providing for the Extension of the Boundary Limits of the City of Abilene, Texas, and for the Annexation of Certain Territory - 5.9 acres - Lying Adjacent and Contiguous to the Present Boundary Limits of the City of Abilene, and Granting to All the Inhabitants of Territory, all the Rights and Privileges of other Citizens and Binding the Inhabitants by All of the Acts, Ordinances, Resolutions and Regulations of the City of Abilene; and Adopting a Service Plan Agreement
[ASSIGNED ORDINANCE NO. 60-2024]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would annex the above referenced property into the City limits of Abilene.

Mayor Hurt opened the public comment period. The following spoke in opposition to the item:

- Tammy Fogle

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

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

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

NAYS (0): None

ABSENT (1): Councilmember Regan

EXECUTIVE SESSION

Mayor Hurt recessed into Executive Session at 9:29 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:

- 32.A.551.071 (Consultation with Attorney)
 - 1. PFAS Litigation
 - 2. Landfill Disposal Agreements
- 32.B.551.072 (Deliberations about Real Property)
 - 1. Eminent Domain, Alley & Drainage Easement, 3472 Santa Monica
- 32.C.551.073 (Deliberations about Gifts and Donations)
 - 1. Consideration of Gifts and Donations for Storybook Garden 2
- 32.D.551.074 (Personnel Matters)
 - 1. City Boards & Commissions (re)Appointments

The Executive Session ended at 9:59 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 9:59 a.m.

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion, and Take Action Approving a Professional Services Contract with Parkhill for Engineering Services for the Old Anson Rd. Walkability Project (*Max Johnson*)

GENERAL INFORMATION

The scope of this project includes but is not limited to: completing a topographic and boundary survey of the project area; design of pedestrian facilities such as sidewalks, curb ramps, and driveway aprons along the west side of Old Anson Road from Ambler Avenue to I-20; and design of signal upgrades at the intersection of Ambler Avenue and Old Anson Road.

SPECIAL CONSIDERATIONS

This project is the design portion of a previously approved Advanced Funding Agreement with TxDOT for a Transportation Alternatives Set-Aside (TASA) Program approved by City Council on March 28, 2024.

FUNDING/FISCAL IMPACT

This project is funded through Federal Highway Administration TASA Grant and the City of Abilene Streets Maintenance Fee funds (80/20 Match).

STAFF RECOMMENDATION

Staff recommends approval of the design contract with Parkhill for a fixed fee amount of \$213,000.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Old Anson Rd. Design Contract Resolution
2. Old Anson Rd Contract (Signed)
3. Scope of Services (Old Anson Rd.)
4. PROJECT LOCATION MAP
5. Old Anson Rd. Pedestrian Improvements Design

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PARKHILL.**

WHEREAS, The City of Abilene has received a grant and desires to install pedestrian improvements along Old Anson Rd. from Ambler Ave. to Old Anson Rd.; and

WHEREAS, the project includes federal funding via the Federal Highway Administration (FHWA) which is being directed through Texas Department of Transportation (TxDOT). Therefore, project execution is contingent upon concurrence with TxDOT; and,

WHEREAS, the City of Abilene has utilized the “Request for Qualifications” selection method in determining the award of the contract; and,

WHEREAS, the following firms submitted Statements of Qualification:

Parkhill
Jacob and Martin
Enprotec/Hibbs & Todd
Centurion

which were received on August 23, 2024; and,

WHEREAS, The City of Abilene has selected Parkhill for the schematic design, technical specifications and coordination with the City and TxDOT for said project; and,

WHEREAS, The City Council authorizes the City Manager to execute an agreement with Parkhill in the amount of \$213,000.00 for engineering services associated with the pedestrian improvements and the traffic signal modifications along Old Anson Road from Ambler Avenue to Interstate 20.

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

- PART 1: The City Council authorizes the City Manager to execute an agreement with Parkhill.
- PART 2: That the agreement is in the amount of \$213,000.00 for the design of the public improvements.
- PART 3: That this resolution will take effect immediately from and after passage.

ADOPTED this 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT

Engineers & Architects

This Contract, dated the 5th day of December, 2024, is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and Parkhill, a Corporation organized under the laws of the State of Texas. (“Professional”).

The City is engaged in developing signal and sidewalk plans along Old Anson Rd. and desires to engage the services of Professional, as an independent contractor and not as an employee, to assist in the project and to render his or her or its services on the terms and conditions provided in this Contract.

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

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

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

I. TERMS

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

II. FEE

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

III. FACILITIES

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

IV. ASSIGNMENT

The Professional may not assign, in whole or in part, any rights, duties, obligations, or interest arising from this Contract without the City's prior written consent. In the event of an assignment by the Professional 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 Professional's successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF PROFESSIONAL

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

VI. AMENDMENT OR MODIFICATION

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

VII. OWNERSHIP OF DOCUMENTS AND MATERIALS

Ownership of Documents and Materials is according to Attachment C.

VIII. NONDISCLOSURE

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

IX. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

B. Indemnity

The Professional shall indemnify, hold harmless and defend (except for claims filed under professional liability insurance) the City against liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Professional or the Professional’s employees, or another entity over which the Professional exercises control.

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

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

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

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

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

X. INSURANCE

A. GENERAL REQUIREMENTS

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

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

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

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

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

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

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

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured with respect to operations for which this Contract is made.
2. Provide for thirty (30) days advance written notice of cancellation for all policies, and non-renewal for Professional Liability and Worker's Compensation, and 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>X</u> 4. Professional Liability	\$500,000 combined single limit (per occurrence)
<u> </u> 5. See Addendum for Special Coverages and/or revisions	

___ 6. No Insurance Required

XI. VENUE, CHOICE OF LAW, AND INTERPRETATION

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

XII. TERMINATION

This Contract may be terminated at any time upon thirty (30) days written notice by City to Professional. In the event of termination, Professional will be compensated for work satisfactorily performed before the termination date. For any funding beyond the current fiscal year, the City reserves the right to immediately terminate this Contract by giving written notice, without liability to the City, in the event that funding for this Contract is discontinued or is no longer available. The City's fiscal year runs from October 1st to September 30th.

If, through any cause, the Professional fails to fulfill its obligations under this Contract, or if the Professional violates any of the agreements of this Contract, the City has the right to terminate the Contract by giving five (5) days written notice to the Professional. The Professional will be compensated for work satisfactorily performed before the termination date.

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

XIII. PROJECT REPRESENTATION

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

XIV. NOTICE

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

City – ATTN:
Max E. Johnson
Director of Public Works
City of Abilene
555 Walnut St.
Abilene, TX 79601

Professional – ATTN:
Kyle Jackson, P.E.
Principal-in-Charge
Parkhill
4222 85th St.
Lubbock, TX 79423

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

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

XVI. NO INDEBTEDNESS

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

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

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

XVII. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of 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. There is a 0% DBE goal that has been assigned to this contract, the Professional will provide reporting on any DBE participation when or if it occurs.

XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

XIX. MINORITY AND WOMEN BUSINESS ENTERPRISES

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

Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XX. SALES TAX

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

XXI. LEGAL CONSTRUCTION

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

XXII. 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 Professional is not subject to a provision above, the signatory executing this Agreement on behalf of the Professional verifies that the Professional: (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.

XXIII. SECTIONS AND OTHER HEADINGS

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

XIV. COUNTERPARTS

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

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

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

CITY OF ABILENE

By:

Name: Robert Hanna

Title: City Manager

ATTEST:

City Secretary

APPROVED:

By: _____

City Attorney

PROFESSIONAL

By: 

Name: Kyle Jackson, PE

Title: Director of Transportation | Principal

Address: 4222 85th Street
Lubbock, TX

Phone Number: 806.473.2200

Federal Tax ID#: 75-1156936

ATTEST: (if corporation)



Corporation's Secretary

Corporate Seal (if available)



November 19, 2024

Max Johnson
Director of Public Works
City of Abilene
555 Walnut Street
Abilene, TX 79601

RE: Proposal for Professional Services
Abilene – Old Anson Rd Walkability Project

Dear Mr. Johnson:

Parkhill is pleased to have been selected on our qualifications and to have the opportunity to provide this proposal for Engineering and Surveying services to City of Abilene for the referenced Project.

SCOPE OF SERVICES

The work includes the construction pedestrian elements from just south of the IH 20 South Frontage Road to Ambler Ave., and a traffic signal upgrade at Ambler and Old Anson Road, project length is approximately 1.10 miles.

The estimated time to complete the roadway design will be six months.

The Engineer will perform the described project development for the following major tasks:

- Project Management
- Data Gathering
- Topographic and Boundary Surveys
- Utilities Coordination and conflict matrix
- Roadway and Pedestrian Element Design
- ROW mapping and legal instruments (if required)
- Bid Phase Services

Tasks to be Performed:

- Survey Task (PSRV):
 - Topographic and improvement survey including benchmarks for the west half of Old Anson Rd. between I-20 South Frontage Road and Ambler Ave. Limits will be from centerline of Old Anson to up to 20-ft west of the right-of-way line. (See Attachment 1)
 - Existing Right-of-Way property boundary identification
 - Two chamfer descriptions and exhibits
- Project Administration Task:
 - Coordinate with City of Abilene and TxDOT Staff
 - Interim/final review Submittals
 - Monthly Invoice submittals
 - Coordinate Kick off meeting
 - Weekly design team meetings
 - Monthly client meetings
- Data Gathering:
 - Site Visits (anticipating one visit)
 - Other Data
 - Video/photograph corridor

- Design Criteria- TxDOT Roadway Design Manual/ADA 1990(amended 2012)/TDLR/PROAWG/City of Abilene Standards
 - As-Built Plans
- Utilities Coordination:
 - Prepare and send project description and layout to City staff for their coordination with Utility Owners
- Traffic Signal Upgrade:
 - Field review and Assessment of existing Traffic Signal
 - Design proposed upgrades to traffic signal controller
 - Design new pedestrian poles/heads/buttons
 - Propose wheelchair and crossing locations
- Roadway/Pedestrian/ Design Task:
 - Design the roadway/Pedestrian elements to include sidewalks, driveways, and pavement repair
 - Manhole/valve Box adjustment details
 - Address ROW encroachments
 - Traffic phasing/sequencing
 - QC reviews & Review meeting with City Staff approximately one week after plans are transmitted – 60 and 90%
 - Create project manual
 - Provide opinions of probable construction costs for 60, 90 & 100% packages
- Bidding Phase Services Task:
 - Advertisement for Bid
 - Respond to and post prospective bidder questions
 - Addendums
 - Schedule & Attend Pre-Bid Meeting
 - Attend scheduled Bid Opening
 - Validate bids
 - Written/sealed recommendation of award for the Project
 - Creation of a bid tabulation from the bids received
- Construction Administration Support Tasks:
 - Schedule, attend, and manage Pre-Construction Meeting
 - Respond to RFI's
 - Review Shop Drawings/Submittals
 - Prepare Change Order(s)

Services specifically excluded from our Scope of Services include, but are not limited to, the following:

- New utilities design
- Sub Surface Utility Engineering
- Construction Phase Services – Construction Phase Services does not include daily project visits, diary entries, or reports

DELIVERABLES

- Digital CAD Files
- Utilities Tracking Matrix
- 100% Construction plans:
 - General notes
 - Horizontal & Vertical Control sheets
 - Removal Plans
 - Typical Sections
 - Project summary(s)
 - Traffic Control Phasing plans
 - Roadway Plans

ATTACHMENT B

Max Johnson
City of Abilene

November 19, 2024

- Intersection Layouts
- Signing and Pavement Markings Plans
- Existing Utility Schematic
- SWPPP plans
- Standards & Details
- Project Manual
- Opinions of Probable Construction costs

SCHEDULE

A tentative schedule for submitting our work is as follows: We anticipate completion of sealed Plans by the second week of April based on Notice to Proceed being received on or before December 10th.

COMPENSATION

Our fee for the Scope of Services described above and in Attachment 1 will be based on a lump sum amount of \$213,000.00 and will be billed on a percentage complete method. Additional services needed can be performed on an hourly rate basis per the Hourly Rate Schedule shown in Attachment 2.

- Task 1: PSRV Parkhill Survey\$80,000.00
- Task 2: 1BSC Basic Services\$133,000.00
- **Total Fee\$213,000.00**

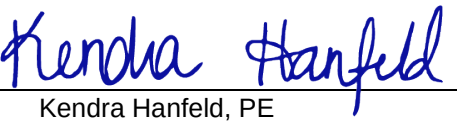
Reimbursable expenses will be billed at invoice cost plus a 15% markup for handling costs and include, but are not limited to, travel, postage/shipping, reproductions/copies, color plots/prints, accessibility review and inspection fees, reproduction of Contract Documents, and reports. We estimate these expenses to be approximately \$8,000.00.

If this proposal meets your expectations, please incorporate this document and its attachments into the comprehensive Contract document. Signatures on the contract will show acceptance of this Proposal and provide authorization to proceed.

Sincerely,

PARKHILL

CITY OF ABILENE

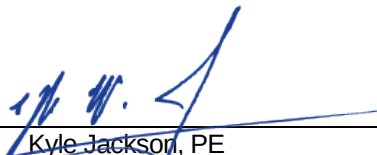
By 
Kendra Hanfeld, PE
Civil Engineer

Signature: _____

Name: _____

Title: _____

Date: _____

By 
Kyle Jackson, PE
Director of Transportation | Principal

KMH/jy

Enclosures: Attachment 1 – Old Anson Rd. Survey Scope
Attachment 2 – Hourly Rate Schedule

Old Anson Rd. Scope

Legend

 Old Anson Scope



ATTACHMENT 2**Parkhill****Hourly Rate Schedule**

January 1, 2025 through December 31, 2025

Client: City of AbileneProject: Abilene - Old Anson Rd. Walkability

Agreement Date: _____

Location: Abilene, TX

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$67.00	PROFESSIONAL LEVEL III		PROFESSIONAL LEVEL VI	
SUPPORT STAFF II	\$78.00	Architect	\$166.00	Architect	\$259.00
SUPPORT STAFF III	\$108.00	Civil Engineer	\$203.00	Civil Engineer	\$282.00
SUPPORT STAFF IV	\$115.00	Electrical Engineer	\$198.00	Electrical Engineer	\$281.00
SUPPORT STAFF V	\$127.00	Interior Designer	\$148.00	Interior Designer	\$211.00
SUPPORT STAFF VI	\$138.00	Landscape Architect	\$160.00	Landscape Architect	\$226.00
PROFESSIONAL LEVEL I		Mechanical Engineer	\$189.00	Mechanical Engineer	\$268.00
Architect	\$135.00	Structural Engineer	\$196.00	Structural Engineer	\$252.00
Civil Engineer	\$147.00	Survey Tech	\$152.00	Professional Land Surveyor	\$202.00
Electrical Engineer	\$150.00	Other Professional	\$146.00	Other Professional	\$219.00
Interior Designer	\$128.00	PROFESSIONAL LEVEL IV		PROFESSIONAL LEVEL VII	
Landscape Architect	\$128.00	Architect	\$202.00	Architect	\$330.00
Mechanical Engineer	\$141.00	Civil Engineer	\$237.00	Civil Engineer	\$340.00
Structural Engineer	\$141.00	Electrical Engineer	\$232.00	Electrical Engineer	\$334.00
Survey Tech	\$120.00	Interior Designer	\$162.00	Interior Designer	\$241.00
Other Professional	\$126.00	Landscape Architect	\$173.00	Landscape Architect	\$290.00
PROFESSIONAL LEVEL II		Mechanical Engineer	\$222.00	Mechanical Engineer	\$317.00
Architect	\$146.00	Structural Engineer	\$226.00	Structural Engineer	\$334.00
Civil Engineer	\$165.00	Survey Tech	\$185.00	Professional Land Surveyor	\$202.00
Electrical Engineer	\$170.00	Other Professional	\$172.00	Other Professional	\$277.00
Interior Designer	\$135.00	PROFESSIONAL LEVEL V			
Landscape Architect	\$135.00	Architect	\$246.00		
Mechanical Engineer	\$162.00	Civil Engineer	\$281.00		
Structural Engineer	\$160.00	Electrical Engineer	\$279.00		
Survey Tech	\$130.00	Interior Designer	\$195.00		
Other Professional	\$133.00	Landscape Architect	\$211.00		
		Mechanical Engineer	\$266.00		
		Structural Engineer	\$250.00		
		Professional Land Surveyor	\$198.00		
		Other Professional	\$192.00		

ATTACHMENT C

OWNERSHIP OF DOCUMENTS AND MATERIALS

Parties to initial option chosen

(Option 1) X

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

(Option 2)

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

ATTACHMENT D

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

Persons providing services on the project ("subcontractors" in 406.096) - includes all persons or entities performing all or part of the services the Professional has undertaken to perform on the project, regardless of whether that person contracted directly with the Professional and regardless of whether that person has employees. This includes, without limitation, independent contractors, subprofessionals, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitations, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service(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 Professional shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Professional providing services on the project, for the duration of the project.
- c. The Professional must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Professional's current certificate of coverage ends during the duration of the project, the Professional must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- e. Professional shall obtain from each person providing services on a project and provide to City:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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

- f. The Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Professional shall post on each project site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Professional shall contractually require each person with whom it contracts to provide services on a project to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the Professional, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
 - (3) provide the Professional, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the Professional:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 - (6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

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

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

November 13, 2024

Max Johnson
Director of Public Works
City of Abilene
555 Walnut Street
Abilene, TX 79601

RE: Proposal for Professional Services
Abilene – Old Anson Rd Walkability Project

Dear Mr. Johnson:

Parkhill is pleased to have been selected on our qualifications and to have the opportunity to provide this proposal for Engineering and Surveying services to City of Abilene for the referenced Project.

SCOPE OF SERVICES

The work includes the construction pedestrian elements from just south of the IH 20 South Frontage Road to Ambler Ave., and a traffic signal upgrade at Ambler and Old Anson Road, project length is approximately 1.10 miles.

The estimated time to complete the roadway design will be six months.

The Engineer will perform the described project development for the following major tasks:

- Project Management
- Data Gathering
- Topographic and Boundary Surveys
- Utilities Coordination and conflict matrix
- Roadway and Pedestrian Element Design
- ROW mapping and legal instruments (if required)
- Bid Phase Services

Tasks to be Performed:

- Survey Task (PSRV):
 - Topographic and improvement survey including benchmarks for the west half of Old Anson Rd. between I-20 South Frontage Road and Ambler Ave. Limits will be from centerline of Old Anson to up to 20-ft west of the right-of-way line. (See Attachment 1)
 - Existing Right-of-Way property boundary identification
 - Two chamfer descriptions and exhibits
- Project Administration Task:
 - Coordinate with City of Abilene and TxDOT Staff
 - Interim/final review Submittals
 - Monthly Invoice submittals
 - Coordinate Kick off meeting
 - Weekly design team meetings
 - Monthly client meetings
- Data Gathering:
 - Site Visits (anticipating one visit)
 - Other Data

- Video/photograph corridor
 - Design Criteria- TxDOT Roadway Design Manual/ADA 1990(amended 2012)/TDLR/PROAWG/City of Abilene Standards
 - As-Built Plans
- Utilities Coordination:
 - Prepare and send project description and layout to City staff for their coordination with Utility Owners
- Traffic Signal Upgrade:
 - Field review and Assessment of existing Traffic Signal
 - Design proposed upgrades to traffic signal controller
 - Design new pedestrian poles/heads/buttons
 - Propose wheelchair and crossing locations.
- Roadway/Pedestrian/ Design Task:
 - Design the roadway/Pedestrian elements to include sidewalks, driveways, and pavement repair
 - Manhole/valve Box adjustment details
 - Address ROW encroachments
 - Traffic phasing/sequencing
 - QC reviews & Review meeting with City Staff – 30, 60 and 90%
 - Create project manual
 - Provide opinions of probable construction costs for 60, 90 & 100% packages
- Bidding Phase Services Task:
 - Advertisement for Bid
 - Respond to and post prospective bidder questions
 - Addendums
 - Schedule & Attend Pre-Bid Meeting
 - Attend scheduled Bid Opening
 - Validate bids
- Construction Administration Support Tasks:
 - Schedule, attend, and manage Pre-Construction Meeting
 - Respond to RFI's
 - Review Shop Drawings/Submittals
 - Prepare Change Order(s)

Services specifically excluded from our Scope of Services include, but are not limited to, the following:

- New utilities design
- Sub Surface Utility Engineering
- Construction Phase Services – Construction Phase Services does not include daily project visits, diary entries, or reports

DELIVERABLES

- Digital CAD Files
- Utilities Tracking Matrix
- 100% Construction plans:
 - General notes
 - Horizontal & Vertical Control sheets
 - Removal Plans
 - Typical Sections
 - Project summary(s)
 - Traffic Control Phasing plans
 - Roadway Plans
 - Intersection Layouts
 - Signing and Pavement Markings Plans

- Existing Utility Schematic
- SWPPP plans
- Standards & Details
- Project Manual
- Opinions of Probable Construction costs

SCHEDULE

A tentative schedule for submitting our work is as follows: Six months from the Notice to Proceed after receipt of a fully executed agreement.

COMPENSATION

Our fee for the Scope of Services described above and in Attachment 1 will be based on a lump sum amount of \$213,000.00 and will be billed on a percentage complete method. Additional services needed can be performed on an hourly rate basis per the Hourly Rate Schedule shown in Attachment 2.

- Task 1: PSRV Parkhill Survey\$80,000.00
- Task 2: 1BSC Basic Services\$133,000.00
- **Total Fee\$213,000.00**

Reimbursable expenses will be billed at invoice cost plus a 15% markup for handling costs and include, but are not limited to, travel, postage/shipping, reproductions/copies, color plots/prints, accessibility review and inspection fees, reproduction of Contract Documents, and reports. We estimate these expenses to be approximately \$8,000.00.

If this proposal meets your expectations, please incorporate this document and its attachments into the comprehensive Contract document. Signatures on the contract will show acceptance of this Proposal and provide authorization to proceed.

Sincerely,

PARKHILL

CITY OF ABILENE

By 

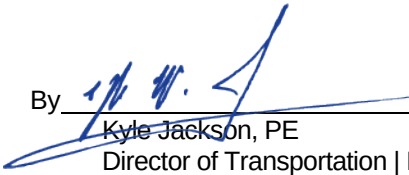
Kendra Hanfeld, PE
Civil Engineer

Signature: _____

Name: _____

Title: _____

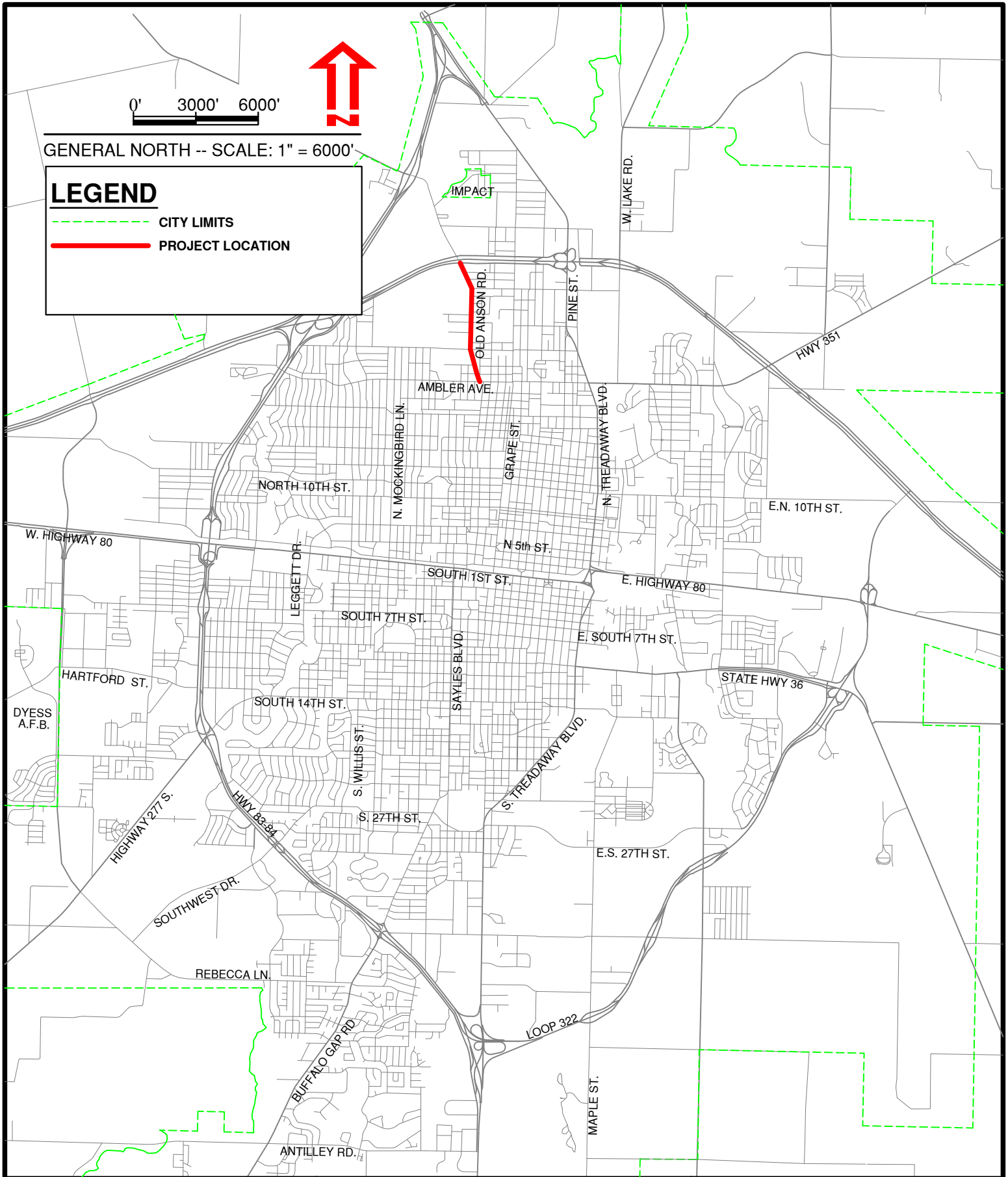
Date: _____

By 

Kyle Jackson, PE
Director of Transportation | Principal

MWM/jy

Enclosures: Attachment 1 – Old Anson Rd. Survey Scope
Attachment 2 – Hourly Rate Schedule



Sheet
1
of
1

CITY OF ABILENE, TEXAS
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

**OLD ANSON RD. WALKABILITY
(I-20 TO AMBLER AVE.)
PROFESSIONAL SERVICES CONTRACT**

Designed By: M. JOHNSON

Drawn By: M. MILLER

Checked By: M. JOHNSON

Horizontal Scale: 1"=6000'

Vertical Scale: N.T.S.

Computer File Name:
Project Location Map

Date: NOV 2024

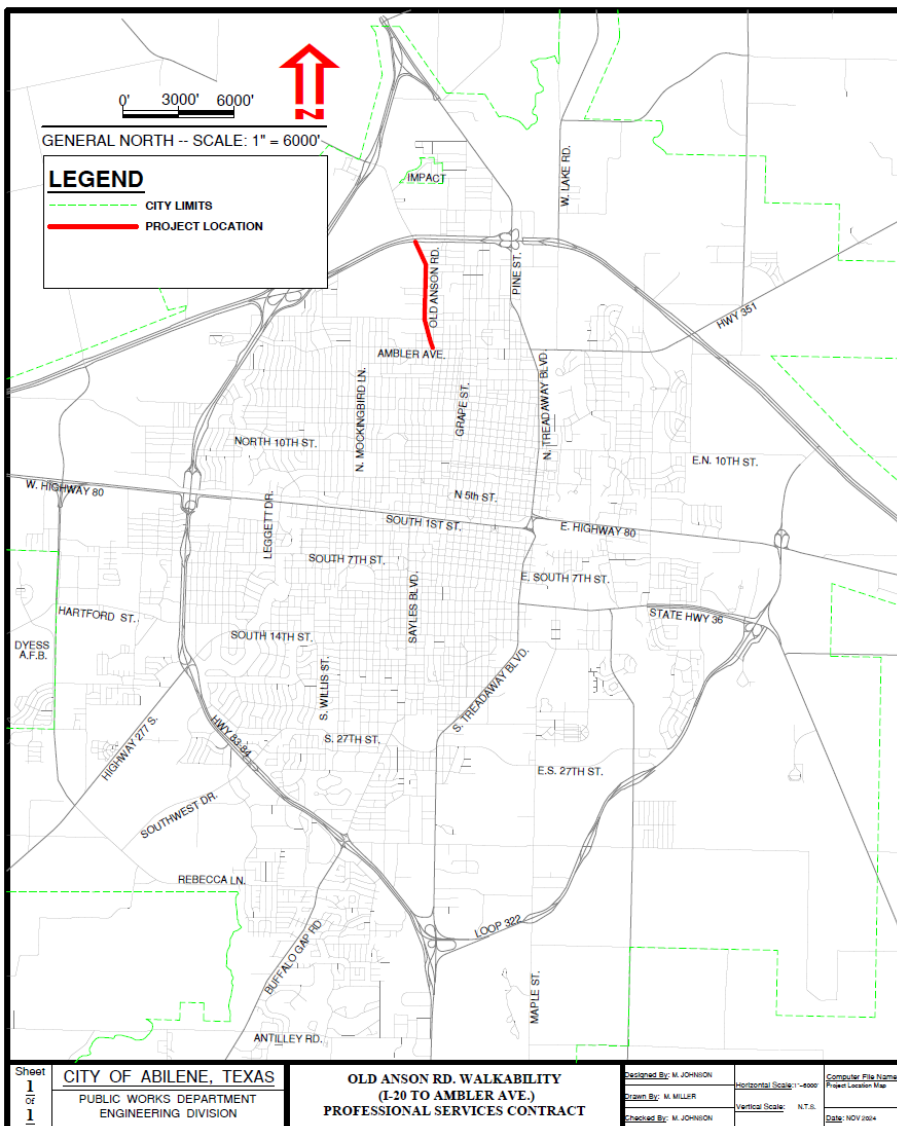
**Professional Services Contract for the
Old Anson Rd. Walkability Project
(Ambler Ave. to I-20)
CSJ# 0908-33-112**

(Max Johnson)





Professional Services Contract for the Old Anson Rd. Walkability Project (Ambler Ave. to I-20) CSJ# 0908-33-112



Streets

Old Anson Rd.

Limits

Ambler Ave. to I-20



CITY OF
ABILENE
TEXAS



Professional Services Contract for the Old Anson Rd. Walkability Project (Ambler Ave. to I-20) CSJ# 0908-33-112

- Project includes:
 - Professional services contract for design of a pedestrian walkway along west side of Old Anson Road from Ambler Avenue to Interstate 20.
 - Pedestrian facilities include 5' wide pedestrian sidewalk, curb ramps, commercial and residential approach replacements, drainage feature crossing upgrades, and signal upgrades at Ambler Avenue.
- Request for Qualifications advertised August 4, August 11, and August 18, 2024.
- TxDOT has concurred with award of this professional services contract.
- 4 submittals received.
- Project funded through FHWA TA Grant, and City of Abilene Streets Maintenance Funds (80/20 Match).
- Staff recommends awarding the professional services contract to Parkhill, with a contract amount of \$213,000.00.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Contract with Newman Regency Group for the Replacement of Chlorine Scrubber Media at the Grimes Water Treatment Plant (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council approve the contract with Newman Regency Group for the replacement of Chlorine Scrubber Media at the Grimes Water Treatment Plant for the amount of \$255,000.00. The Purafil Chlorine Scrubber system is a patented and proprietary system. The Newman Regency Group is the exclusive-authorized representative to market, distribute, service, and support Purafil installations in Texas. The replacement media must be provided by Newman Regency Group in order for it to certify the effectiveness of the system. Therefore, competitive bidding is not required. The Chlorine Scrubber Unit is an essential safety feature to protect plant employees and the surrounding public should a significant release of chlorine occur from the chlorine feed system or connected chlorine cylinders.

SPECIAL CONSIDERATIONS

The Grimes Water Treatment Plant utilizes chlorine gas in the treatment process to disinfect the treated water prior to being pumped into the distribution system. Exposure to chlorine gas can be toxic at higher concentrations, and it is known to cause health effects at lower concentrations that vary depending on the concentration and duration of the exposure. The chlorine gas is stored in steel cylinders. The Chlorine feed system and the connected chlorine cylinders are housed in a sealed room that is equipped with a Purafil emergency gas scrubber which will automatically start up when chlorine gas is detected in the room. The emergency gas scrubber provides protection from a catastrophic release of chlorine gas from the feed system or connected storage by directing the air in the room through the Purafil adsorption media designed

to strip the chlorine out of the air before releasing the scrubbed air into the atmosphere. The adsorption media is checked annually for its viability, and once it is determined to no longer be effective (spent) it must be replaced. In June 2024, PuraFil performed testing on the adsorption media and reported that the scrubber's media had reached a level where chlorine adsorption potential was below the designed parameters. The contract covers the removal and disposal of existing spent media, the installation of new media, and scrubber start up and testing for a price of \$255,000.00.

FUNDING/FISCAL IMPACT

The contract will be funded from the Water Utilities FY25 Annual Operating Budget.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve the contract with Newman Regency Group for the replacement of Chlorine Scrubber Media at the Grimes Water Treatment Plant for the amount not to exceed \$255,000.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2 - Written Resolution-NRG - Grimes WTP Chlorine Scrubbers Media Replacement
2. Signed contract (2)
3. 3 - Presentation-NRG - Grimes WTP Chlorine Scrubbers Media Replacement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
APPROVING THE CONTRACT WITH NEWMAN REGENCY GROUP FOR THE
REPLACEMENT OF CHLORINE SCRUBBER MEDIA AT THE GRIMES WATER
TREATMENT PLANT.**

WHEREAS, the City of Abilene (City) owns and operates the Grimes Water Treatment Plant (GWTP); and

WHEREAS, the GWTP utilizes chlorine gas in the treatment process to disinfect the treated water prior to being pumped into the distribution system; and

WHEREAS, GWTP is equipped with a Purafil brand emergency gas scrubber which utilizes chlorine adsorption media to provide protection from a catastrophic release of chlorine gas; and

WHEREAS, the adsorption media is checked annually for its viability, and in June, 2024, Purafil performed testing on the adsorption media and reported that the scrubber's media had reached a level where chlorine adsorption potential was below the designed parameters; and

WHEREAS, the contract covers the removal and disposal of existing spent media, the installation of new media, and scrubber start up and testing; and

WHEREAS, the emergency gas scrubber and the adsorption media are proprietary to Purafil, and the Newman Regency Group is the exclusive-authorized representative to market, distribute, service, and support Purafil's current and future installations in Texas; and

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

That the City Manager is authorized to execute the contract with Newman Regency Group for the replacement of the Chlorine Scrubber Media at the Grimes Water Treatment Plant for the price of \$255,000.00

ADOPTED this 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney



SERVICES CONTRACT

This Contract, dated the 5th day of December 2024, is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and Newman Regency Group a Company organized under the laws of the State of Texas. (“Contractor”).

The purpose of this services contract is to state the terms and conditions under which Contractor will provide Grimes WTP Chlorine Scrubbers Media Replacement services to the City during the term stated herein.

In consideration of the mutual promises contained in this contract, City and Contractor agree as follows:

I. TERMS

Contractor must provide all services as described in Attachment A, which is incorporated by reference for all purposes within a mutually agreed upon calendar days after the effective date of this Contract.

II. PAYMENT

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

III. MATERIALS AND SUPPLIES

The Contractor will furnish all materials and equipment necessary to perform the services agreed to under this Contract, which are to be supplied by the Contractor.

IV. TERMINATION

This Contract may be canceled or terminated by either party for (1) the other party's violation or failure to comply with any terms or conditions contained herein, or (2) upon the giving of sixty (60) days written notice by either party of the desire to terminate the same. Upon the termination of this Contract as provided herein, an accounting shall be made between the parties and payments made to the parties as provided for herein to the day of termination. For any funding beyond the current fiscal year, the City reserves the right to immediately terminate this Contract by giving written notice, without liability to the City, in the event that funding for this Contract is

discontinued or is no longer available. The City's fiscal year runs from October 1st to September 30th.

V. ASSIGNMENT

The Contractor may not assign, in whole or in part, any rights, duties, obligations, or interest arising from 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 Contractor's successors and assigns and may be enforced by the City against such successors and assigns.

VI. STATUS OF CONTRACTOR

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

VII. AMENDMENT OR MODIFICATION

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

VIII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

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

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

"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, licensees, 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.

IX. 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 shall:

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

C. TYPES AND AMOUNT OF INSURANCE

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

<u>Type</u>	<u>Amount</u>
☒ _X_1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
☒ _X_2. Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (Insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☒ _X_3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
☐ ___4. Professional Liability	\$500,000 combined single limit (per occurrence)
☐ ___5. See Addendum for Special Coverages and/or revisions	
☐ ___6. No Insurance Required	

X. VENUE, CHOICE OF LAW, AND INTERPRETATION

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

XI. NOTICE

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

City - ATTN: Rodney Taylor, Director of Water Utilities
P.O. Box 60
Abilene, TX 79604-0060

Contractor - ATTN: Cory Flindt, Newman Regency Group
1701 N. Collins Blvd, Suite 100
Richardson, TX 75080

XII. 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 required in completing the work contracted for in this agreement.

XIII. NO INDEBTEDNESS

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.

XIV. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of 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.

XV. 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. Service Contractor-- not City -- must verify eligibility for employment as required by IRCA.

XVI. 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.

XVII. 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.

XVIII. LEGAL CONSTRUCTION

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

XIX. 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 Contract on behalf of the Contractor verifies that the Contractor: (1) does not boycott Israel and will not boycott Israel during the term of this Contract; (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 Contract 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 Contract; 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.

XX. 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.

XXI. COUNTERPARTS

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

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

IN WITNESS HEREOF the parties have entered into this agreement as of the date written above.

CITY OF ABILENE

By:

Title:

CONTRACTOR

By: *Edward Keenan*

Title: **President**

Address: **1701 N. Collins Blvd. Suite 100
Richardson, TX 75080**

Phone Number: **281.980.7448**

Federal Tax ID #: **75-1915038**

ATTEST:

City Secretary

APPROVED:

City Attorney

ATTEST: (If Corporation)

Corporation's Secretary

Corporate Seal (If available):

ATTACHMENT A

SCOPE OF SERVICES

Purafil Chlorosorb is proprietary to the chlorine scrubbers we have at the Hargesheimer and Grimes Water Treatment Plants. The chlorine scrubbers are capable of absorbing up to 1 ton of chlorine gas should there ever be a catastrophic release. The filtering media is checked annually for its viability, once it is determined to be no longer effective (spent) in its purpose of absorbing chlorine gas, it must be replaced. It serves to protect the Public Health and / or safety of the municipality's residents.

Newman Regency Group will conduct the following:

1. Remove and dispose of existing spent Purafil Chlorosorb Media
2. Install new Purafil Chlorosorb Media
3. Start up unit and commissioning Media to verify the unit's functionality

Quote #118222, provided by Newman Regency Group, is incorporated into this contact and attached hereto. To the extent that any provisions of the Quote conflict with the terms and conditions of this Service Contract, the terms of this Service Contract control.

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 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.

OPTION 2 _X_

Payment is in a lump sum amount of \$255,000.00 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, if required 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 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, if required 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 Contract 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)

11/7/2024

Purafil Sole Source Letter Texas - Chlorosorb Ultra Media

Newman Regency Group (NRG) is Purafil's Water and Wastewater exclusive authorized representative for chemical filtration, media, and environmental monitoring products. NRG is the ONLY company in Texas which is authorized and technically supported by Purafil of Doraville, GA, to market, distribute, service, and support Purafil current and future installations in the wastewater market. NRG is authorized, and factory trained by Purafil as a Purafil authorized service provider for Purafil, Inc. technologies.

Purafil is the only company who manufactures Chlorosorb Ultra Media. This media is produced and shipped from Doraville, GA based in the United States of America

Please let us know if you require additional information.

Thank you,

Kymberly McCarty
Regional Sales Manager – Central and West



1701 N. Collins Blvd., Suite 100 • Richardson, Texas 75080
Office: (281) 980-7448 Fax: (281) 980-7447

QUOTATION

Page 1 of 3

TO:	Abilene, City of PO Box 60 Abilene, TX 79607	DATE:	11-15-2024
		QUOTE #:	118222
		DESC:	Media Replacement
		JOB:	Abilene Purafil Media Replacement
		LOCATION:	
ATTN:	Kenny Hutchins	PHONE:	(325) 676-6404
		EMAIL:	kenny.hutchins@abilenetx.gov
WE ARE PLEASED TO QUOTE ON THE FOLLOWING EQUIPMENT SUBJECT TO CONDITIONS PRINTED ON LAST PAGE HEREOF, THESE CONDITIONS MAY BE CHANGED ONLY BY A WRITTEN STATEMENT SIGNED BY AN OFFICER OF NEWMAN REGENCY GROUP.		☒ F.O.B. FACTORY ☐ F.F.A. TO FIRST DESTINATION	

Media Replacement for Purafil Units Abilene, TX			
Line #	Qty	Item	Price
01	1	Chlorosorb Ultra Sling Bag 18,000lbs	
02	1	1. Removal and disposal of existing media 2. Installation of media. 3. Start up and commissioning of units.	
03	1	Freight	
Total for Above Equipment:			\$255,000.00
Notes and Clarifications: Quotes valid for 60 days Includes removal and disposal, and installation of new media Cancellation of PO will result in restocking fee			

(Tax Rate 0.000%) Total Tax:	\$0.00
Grand Total:	\$255,000.00

Notes:

Newman Regency Group
Uwe Rabler - uwe@newmanregency.com

Cory Flindt - cflindt@newmanregency.com

QUOTATION DOES NOT INCLUDE ANY SALES OR USE TAX PAYABLE UNDER ANY STATE OR FEDERAL STATUTE, THIS QUOTATION PRICE IS FOR MATERIAL LISTED ABOVE, ANY ADDITIONS OR MODIFICATIONS THAT BECOME NECESSARY FOR APPROVED SUBMITTALS, UPON AWARDING OF THIS CONTRACT, MAY RESULT IN NECESSARY PRICE CHANGES.

NOTE: ITEMS NOT SPECIFIED ON THIS QUOTATION ARE NOT INCLUDED IN OUR PRICE AND ARE TO BE SUPPLIED BY OTHERS, PRICES ARE FOR IMMEDIATE ACCEPTANCE AND SUBJECT TO CHANGE WITHOUT NOTICE. SALE SUBJECT TO MANUFACTURERS STANDARD TERMS AND CONDITIONS. 30% RE-STOCKING FEE.

ACCEPTANCE

The following Terms and Conditions are an integral part of the offer to sell the equipment and/or services offered in this proposal. When the BUYER signifies acceptance of this quotation by submission of a Purchase Order or signed SELLER Quotation, it shall become a binding contract when accepted and signed by an authorized signer of the SELLER. Any changes or amendments to this proposal made by the BUYER must have SELLER's approval in writing to become a part of this contract. These Terms and Conditions and the accompanying Purchase Order or signed SELLER Quotation shall comprise the entire agreement between the parties and no course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any terms used in this contract. Unless stated otherwise, the terms and conditions of the manufacturers listed herein will apply to this quotation. Any attachments or listed documents are considered a part of this quotation and are made part of the agreement. **Quote is firm for thirty (30) days unless otherwise stated on the face of the attached quotation.**

APPROVAL DRAWINGS

All items listed are based on SELLER'S interpretation of the requirements in accordance with the plans and specifications. Any preliminary drawings or literature attached to our quotation are for illustration purposes only to show approximate arrangements. Specific drawings and submittal data will be furnished for approval as required after receipt and acceptance of the BUYER'S order. Any submittal or manuals when provided by SELLER will be in the form of a PDF electronic file only. Any form of media beyond the electronic file would be the responsibility of BUYER. Fabrication of products or equipment ordered will not begin until approval and direction to proceed is received in writing. No warranty is made regarding quantities, materials of construction or type of materials quoted. Operation, installation, and maintenance of materials quoted are the responsibility of the OWNER or CONTRACTOR.

DELIVERY

Any shipment or delivery date recited represents our best estimate, but no liability, direct or indirect, is assumed by SELLER for failure to ship or deliver on such dates. Unless otherwise directed, SELLER shall have the right to make early or partial shipments and invoices covering the same to BUYER shall be due and payable in accordance with payment terms hereof. FOB shall be origin unless stated otherwise on the front of these Terms and Conditions. Delivery schedule(s) will be contingent on supply-chain availability and variability for material components, therefore, lead-times are subject to change without notice. Published weights are careful estimates but are not guaranteed. SELLER will endeavor, insofar, as it is possible, to comply with shipping instructions specified by the Purchaser. However, SELLER reserves the right to ship merchandise by such means of transportation as it may select. The manufacturer will ship the equipment via best way. Demurrage shall be billed to the account of the Purchaser. **DAMAGE CLAIMS:** Care is taken in packaging all shipments. After BUYER has been given the receipt by the transportation company, all claims for breakage or shortages, whether concealed or obvious, must be made in writing by the BUYER to the carrier and SELLER within seven (7) days after receipt of shipment. When damage or shortages are obvious, written comments on the bill of lading are required within two (2) days. **RETURNED PRODUCTS:** In no instance is equipment to be returned without first obtaining SELLER'S written approval and returned materials authorization. If shipment is postponed at the request of the purchaser after manufacturing has been commenced, payment will be due on notice from us that the equipment is ready for shipment. Pro rata payments shall be made for partial shipments.

STORAGE

Any item of the product on which shipment is delayed by BUYER may be placed in storage by SELLER at BUYER'S expense and risk. If a delay in shipment is requested by BUYER after an order has been entered and accepted:

- a. No charge will be made if the request for delay is made more than six (6) weeks before acknowledged shipping date and the requested delay is for a period not in excess of thirty (30) days.
- b. A charge will be made if the requested delay exceeds a period of thirty (30) days or if the request is made within six (6) weeks of the acknowledged shipping date. SELLER will advise BUYER of the charge within ten (10) days of receiving BUYER'S request for delay.
- c. If the product is within six (6) weeks of the acknowledged shipping date, then SELLER has the option of completing, invoicing and storing the product and charging one and one-half percent (1.5%) per month, or the maximum percentage permitted by law, whichever is lesser, of the established price for such product, plus storage cost.

PAYMENT

Payment terms, upon credit approval, are of net thirty (30) days from the date of each invoice for material shipped (or when ready for shipment if shipment is deferred by BUYER) **unless stated otherwise on the face of the attached quotation.** Flow down provisions are not accepted and shall not be enforceable against SELLER. Retention is not allowed. In the event any payment becomes past due, a charge of one-half percent (1.5%) will be assessed monthly. These terms are completely independent from, and not contingent upon, when BUYER receives payment from the OWNER. A processing fee of up to four percent (4%) will be added for credit card payments. All merchandise sold is subject to lien laws. Partial or final payment shall constitute acceptance of delivered materials, products, or equipment.

FORCE MAJEURE

Neither Party will be liable for any failure or delay in performing an obligation under these Terms and Conditions that is due to any of the following causes, to the extent beyond its reasonable control: acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, breakdown of communication facilities, breakdown of web host, breakdown of internet service provider, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, generalized lack of availability of raw materials or energy. For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder.

TAXES AND BONDS

Taxes and bonds are **NOT** included in our pricing. Any applicable taxes or bonds will be added to the price and shown separately on each invoice. All prices exclude sales, use, duties, excise, and other taxes in respect to manufacture, sale, or delivery, all of which are to be paid by the buyer unless a proper exemption certificate is furnished. BUYER agrees to reimburse our company for taxes SELLER must pay on BUYER'S behalf.

CLAIMS AND BACKCHARGES

BUYER agrees to examine all materials immediately upon delivery and report to SELLER in writing any defects or shortages noted no later than ten (10) days following the date of receipt. The parties agree that if no such claim is made within said time, it shall be considered acceptable and in good order with respect to any defect or shortage which would have been revealed by such an inspection. In no event will SELLER be responsible for any charge for modification, servicing, adjustment or for any other expense without written authorization from SELLER prior to the performance of any such work. **IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, DAMAGES ARISING OUT OF A DELAY IN OR FAILURE OF DELIVERY, DEFECTS IN MATERIAL AND WORKMANSHIP AND/OR FAILURE OF GOODS TO PERFORM TO APPLICABLE SPECIFICATIONS, DRAWINGS, BLUEPRINTS OR SAMPLES AS SET FORTH OR DESCRIBED HEREIN, IF ANY, OF A BREACH BY SELLER OF ANY OTHER TERM OR OBLIGATION OF SELLER UNDER THE CONTRACT.** No penalty clauses of any description will be effective unless approved in writing over the signature of a principal of SELLER. Under no circumstances shall SELLER be liable for any consequential, special or incidental damages, including liquidated damages, arising from any breach by it in this transaction, **AND ALL SUCH CONSEQUENTIAL, SPECIAL AND INCIDENTAL DAMAGES, INCLUDING LIQUIDATED DAMAGES, ARE EXCLUDED FROM ANY REMEDIES AVAILABLE TO THE BUYER.**

SECURITY INTEREST & TITLE

Until all amounts due SELLER have been paid in full, SELLER shall retain a security interest in the product and have all rights of a secured party under the Uniform Commercial Code and applicable law, including the right to repossess the product or equipment without legal process and the right to require the BUYER to assemble the equipment and make it available to SELLER at a place reasonably convenient to both parties.

WARRANTY

Equipment and parts not manufactured by the SELLER carry only the warranty of the manufacturer of said parts. SELLER does not make any express or implied warranty for equipment and/or parts it did not manufacture. Credits for defective material and workmanship in said equipment and/or parts are only in accordance with the underlying company policy of the manufacturer. SELLER makes no warranty whatsoever with respect to any equipment and/or parts as to their merchantability or fitness for a particular purpose. It is further agreed that the SELLER assumes no liability whatsoever for failure of equipment due to normal usage and wear.

INDEMNIFICATION

To the fullest extent permitted by the law in which the project is located, BUYER and SELLER shall indemnify and hold one another and their respective employees and agents harmless from and against all claims, damages, losses, liabilities, actions, causes of action, demands, fines, penalties, judgments, costs, and expenses, including but not limited to attorneys' fees, court costs, expert fees and costs, arising out of or resulting from BUYER's or SELLER's own negligent acts, omissions or misconduct, to the extent such negligence is covered by BUYER's and SELLER's respective insurance policies. In the event any third party asserts against SELLER a claim for patent infringement, royalties or licensing fees with respect to BUYER's use of the products, materials, or equipment provided hereunder, BUYER agrees to indemnify SELLER for all liability damages, costs and expenses in connection therewith.

CANCELLATION

Buyer may cancel this contract only in writing signed by BUYER's duly authorized agent and acknowledged in writing by SELLER's duly authorized agent. Should this order be cancelled, BUYER shall be obligated to pay for the level of work performed and products shipped. Work performed includes any engineering, calculations, preparation of submittals, drawings, and/or travel to job site in relation to this order. In addition to any other remedies provided under these Terms and Conditions, SELLER may terminate this contract with immediate effect by providing signed, written notice to BUYER, if BUYER: (i) fails to pay any amount when due under the contract and such failure continues for 30 days after BUYER's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms and Conditions; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings in bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

FIELD WORK

Unless specifically stated on our quotation, installation, start-up service, field testing, supervision, operation, and training are not included in our pricing of product. In the event that SELLER or any of its employees or agents do perform work or services on-site at the project's location, BUYER agrees to hold SELLER and its employees or agents harmless for any injuries or damage to property caused by their acts or omission, except to the extent said injuries or property damage arise from gross negligence or intentional misconduct.

MODIFICATIONS

This contract can be modified only in writing which specifically states that it amends these Terms and Conditions and is signed by both parties and their duly authorized agents. It is further agreed that this contract shall not be modified in any respect except in writing signed by the party and their duly authorized agent against whom the modification is sought to be enforced.

AUTHORITY OF SELLER'S AGENTS

No agent, employee or representative of the SELLER has any authority to bind the SELLER to any affirmation, representation or warranty concerning the goods sold under this Contract, and unless an affirmation, representation or warranty made by an agent, employee, or representative is specifically included within this written contract, it shall not be enforceable by the BUYER.

NO THIRD-PARTY BENEFICIARIES

This contract is for the sole benefit of BUYER and SELLER and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms and Conditions.

GOVERNING LAW

All matters arising of or relating to the contract or the Terms and Conditions shall be governed by and construed in accordance with the laws of the state in which the project is located.

DISPUTE RESOLUTION

In the event of any dispute between BUYER and SELLER arising out of the terms of the contract and these Terms and Conditions, such dispute shall be decided by arbitration administered by the American Arbitration Association in accordance with the then-prevailing Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association. BUYER and SELLER mutually agree that any dispute involving claims valued at or above \$1,000,000.00 shall be heard by a panel of three (3) arbitrators. The venue for all arbitration proceedings shall be the State of California. The foregoing agreement to arbitrate shall be specifically enforceable in any court of competent jurisdiction. The award rendered by the arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court of competent jurisdiction.

SEVERABILITY

The partial or complete invalidity of any one or more provisions of these Terms and Conditions shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the provision shall be considered reformed to reflect the intent thereof to the greatest extent possible consistent with applicable law.

ASSIGNMENT – DELEGATION

No right or interest in this Contract shall be assigned by the BUYER without the written permission of the SELLER, and no delegation of any obligation owed, or of the performance of any obligation by the BUYER shall be made without the written permission of the SELLER. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

Edward Keenan 11/21/24

Authorized Signature/Date

Authorized Signature/Date

Edward Keenan

Printed Name/Company

Printed Name/Newman Regency Group

**Approve the Contract with Newman Regency Group
for the
Replacement of the Chlorine Scrubber Media at the Grimes Water Treatment Plant**





Replacement of the Chlorine Scrubber Media

- Approve the Contract with Newman Regency Group for the Replacement of the Chlorine Scrubber Media at the Grimes Water Treatment Plant (GWTP) for \$255,000.00.
- Purafil is the sole manufacturer of the proprietary chlorine scrubber and the adsorption media system.
- Newman Regency Group (NRG) is Purafil's exclusive-authorized representative to market, distribute, service, and support Purafil's current and future installations in Texas.





Replacement of the Chlorine Scrubber Media

- The GWTP utilizes chlorine gas in the treatment process to provide disinfection.
- The chlorine gas is stored in steel cylinders, and the chlorine feed equipment and the connected chlorine cylinders are housed in a sealed room.
- Exposure to chlorine gas can be toxic, and it is known to cause health effects that vary depending on the concentration and duration of the exposure.
- GWTP is equipped with a Purafil emergency gas scrubber which utilizes chlorine adsorption media to provide protection from a catastrophic release of chlorine gas.





Replacement of the Chlorine Scrubber Media

- In June of 2024, Purafil performed testing on the existing adsorption media and reported that the Grimes WTP scrubber's media had reached a level where chlorine adsorption potential was below the designed parameters.
- The contract covers the removal and disposal of existing spent media, the installation of new media, and scrubber start up and testing for a price of \$255,000.00



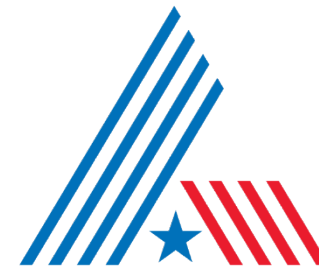


Replacement of the Chlorine Scrubber Media



Purafil Chlorosorb Gas Scrubber System

Purafil Chlorosorb
Ultra Media



CITY OF
ABILENE
TEXAS

**Approve the Contract with Newman Regency Group
for the
Replacement of the Chlorine Scrubber Media at the Grimes Water Treatment Plant.**

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering Into an Economic Development Agreement with Pierson Properties for 5233 Questa Dr, 5333 Laguna Dr, and 5334 Laguna Dr. *(Tim Littlejohn)*

GENERAL INFORMATION

Entering into an economic development agreement with Pierson Properties for 5233 Questa Dr, 5333 Laguna Dr, and 5334 Laguna Dr as part of the RebuildAbi program for Major Renovations.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Pierson Properties RESOLUTION

2. Exhibit A 5233 Questa_Pierson Properties_Major Renovation Ch 380 agreement
3. 5233 Questa_Major reno Criteria sig page
4. Exhibit A 5333 Laguna_Pierson Properties_Major Renovation Ch 380 agreement
5. 5333 Laguna_Major reno Criteria sig page
6. Exhibit A 5334 Laguna_Pierson Properties_Major Renovation Ch 380 agreement
7. 5334 Laguna_Major reno Criteria sig page
8. Major Reno 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 PIERSON
PROPERTIES**

This Economic Development Agreement (“Agreement”) is effective as of the 5th day of December, 2024 (“Effective Date”), by and between Pierson Properties, ("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 5233 Questa Dr, 5333 Laguna Dr, and 5334 Laguna Dr, 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 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**MAJOR RENOVATION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND
Pierson Properties, LLC**

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RECITALS

WHEREAS, the Developer has acquired, fee simple Ownership of 5233 Questa 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 major renovation to an existing home 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 redevelopment 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 ____ Pierson Properties, 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) eighteen 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 final buyer, a \$20,000.00 completion grant will be paid to the Developer, and the home sales shall price not exceed a maximum price of \$203,000.00.
 - b. In addition to the completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more of 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.

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 Buildetr 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 reconstruct, 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 two years following closing.
- 5.05 The Developer shall reconstruct the home within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to reconstruct 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.
- &.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.
- 8.01 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.02 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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AGREED AND EXECUTED:

DEVELOPER

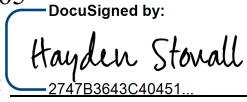
Pierson Properties, LLC

2425 Plymouth Rock Rd

Abilene, TX 79601

info@piersonprop.com

325-513-3165

By (signature):  2747B3643C40451...

Name (printed): Hayden Stovall

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit "A" - Public and Private Improvements

Project:

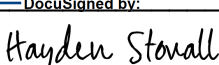
See attachment - building plans and building permit submittal requirements.



By signing below, you acknowledge and agree to adhere to the Rebuild ABI Infill Development Program Major Renovation criteria outlined below.

1. Replacement of all major mechanical, electrical, and plumbing systems two years or older or as may be required by the City
2. Replacement of the roof coverings with a medium grade/architectural asphalt shingle on the house and any accessory building(s)
3. Replacement of all windows
4. Brick or fiber cement siding
5. 4' wood privacy fence or 4' chain-link fence with metal posts.
6. Front and rear lawn sodded (alternative landscaping designs may be considered)
7. Concrete driveway
8. Meet or exceed current residential building and energy code requirements

Your signature confirms that you have reviewed and understood these requirements and will ensure they are followed throughout the renovation.

Address: 5233 Questa Abilene, TX
By (signature): 
Name (printed): Hayden Stovall
Title: Principal

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



**MAJOR RENOVATION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND**

Pierson Properties, LLC

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RECITALS

WHEREAS, the Developer has acquired, fee simple Ownership of 5333 Laguna 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 major renovation to an existing home 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 redevelopment of the Project Area will have a direct and positive economic benefit to the City; and

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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:

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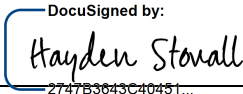
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AGREED AND EXECUTED:

DEVELOPER

Pierson Properties, LLC
2425 Plymouth Rock Rd
Abilene, TX 79601
info@piersonprop.com
325-513-3165

By (signature):  2747B3643C40451...

Name (printed): Hayden Stovall

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit "A" - Public and Private Improvements

Project:

See attachment - building plans and building permit submittal requirements.

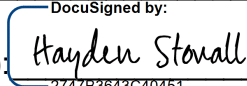


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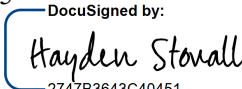
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- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the 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.
- &.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.
- 8.01 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.02 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 AND EXECUTED:

DEVELOPER

Pierson Properties, LLC
2425 Plymouth Rock Rd
Abilene, TX 79601
info@piersonprop.com
325-513-3165

By (signature):  2747B3643C40451...

Name (printed): Hayden Stovall

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit "A" - Public and Private Improvements

Project:

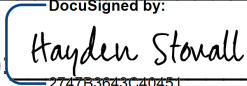
See attachment - building plans and building permit submittal requirements.



By signing below, you acknowledge and agree to adhere to the Rebuild ABI Infill Development Program Major Renovation criteria outlined below.

1. Replacement of all major mechanical, electrical, and plumbing systems two years or older or as may be required by the City
2. Replacement of the roof coverings with a medium grade/architectural asphalt shingle on the house and any accessory building(s)
3. Replacement of all windows
4. Brick or fiber cement siding
5. 4' wood privacy fence or 4' chain-link fence with metal posts.
6. Front and rear lawn sodded (alternative landscaping designs may be considered)
7. Concrete driveway
8. Meet or exceed current residential building and energy code requirements

Your signature confirms that you have reviewed and understood these requirements and will ensure they are followed throughout the renovation.

5334 Laguna Abilene, TX
Address: _____
By (signature)  _____
Name (printed): Hayden Stovall _____
Title: _____ Principal _____

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



Economic Development Agreements

Pierson Properties





- Pierson Properties is proposing to Major Renovate 5233 Questa Dr, 5333 Laguna Dr, and 5334 Laguna Dr.
- All renovation requirements will be met as part of the adopted program
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 8. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering Into an Economic Development Agreement with Chowning Realty for 5242 N 9th St and 550 Sammons St. *(Tim Littlejohn)*

GENERAL INFORMATION

Entering into an economic development agreement with Chowning Realty for 5242 N 9th St and 550 Sammons St for Major Renovation portion of the adopted RebuildAbi program

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Chowning RESOLUTION
2. Exhibit A 550 Sammons St_Chowning Realty_Major Renovation Ch 380 agreement

3. 550 Sammons St_Major reno Criteria sig page
4. Exhibit A 5242 N 9th_Chowning Realty_Major Renovation Ch 380 agreement_Nov 2024
5. 5242 N 9th_Major reno Criteria sig page
6. Major Reno 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 5th day of December, 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 5242 N 9th St and 550 Sammons 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 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**MAJOR RENOVATION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND**

Chowning Realty, LLC

This Economic Development Agreement ("Agreement") is effective as of the 5th day of December, 2024 ("Effective Date"), by and between Chowning Realty, LLC, ("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 has acquired, fee simple Ownership of 550 Sammons 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 major renovation to an existing home 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 redevelopment 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 ____ Chowning 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) eighteen 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 final buyer, a \$20,000.00 completion grant will be paid to the Developer, and the home sales shall price not exceed a maximum price of \$203,000.00.
 - b. In addition to the completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more of 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.

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 Builder 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 reconstruct, 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 two years following closing.
- 5.05 The Developer shall reconstruct the home within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to reconstruct 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.

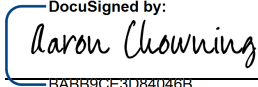
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement 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.
- &.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.
- 8.01 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.02 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 AND EXECUTED:

DEVELOPER

Chowning Realty, LLC
3066 Legends Trail
Abilene, TX 79601
aaronchowning@gmail.com
325.301-4099

By (signature):  BAB89CE3D84046B...

Name (printed): Aaron Chowning

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit "A" - Public and Private Improvements

Project:

See attachment - building plans and building permit submittal requirements.



By signing below, you acknowledge and agree to adhere to the Rebuild ABI Infill Development Program Major Renovation criteria outlined below.

1. Replacement of all major mechanical, electrical, and plumbing systems two years or older or as may be required by the City
2. Replacement of the roof coverings with a medium grade/architectural asphalt shingle on the house and any accessory building(s)
3. Replacement of all windows
4. Brick or fiber cement siding
5. 4' wood privacy fence or 4' chain-link fence with metal posts.
6. Front and rear lawn sodded (alternative landscaping designs may be considered)
7. Concrete driveway
8. Meet or exceed current residential building and energy code requirements

Your signature confirms that you have reviewed and understood these requirements and will ensure they are followed throughout the renovation.

550 Sammons Abilene, TX

Address: _____

By (signature): _____
DocuSigned by:
Aaron Chowning
BABB9CE3D84046B...

Name (printed): _____
Aaron Chowning

Title: _____Principal_____

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



**MAJOR RENOVATION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND**

Chowning Realty, LLC

This Economic Development Agreement ("Agreement") is effective as of the 5th day of December, 2024 ("Effective Date"), by and between Chowning Realty, LLC, ("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 has acquired, fee simple Ownership of 5242 N. 9th 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 major renovation to an existing home 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 redevelopment 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 ____ Chowning 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) eighteen 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 final buyer, a \$20,000.00 completion grant will be paid to the Developer, and the home sales shall price not exceed a maximum price of \$203,000.00.
 - b. In addition to the completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more of 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.

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 Builder 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 reconstruct, 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 two years following closing.
- 5.05 The Developer shall reconstruct the home within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to reconstruct 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.
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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.

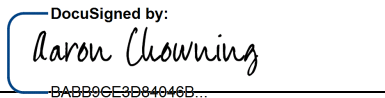
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement 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.
- &.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.
- 8.01 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.02 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 AND EXECUTED:

DEVELOPER

Chowning Realty, LLC
3066 Legends Trail
Abilene, TX 79601
aaronchowning@gmail.com
325.301-4099

By (signature):  BAB9CE3D64046B...

Name (printed): Aaron Chowning

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit "A" - Public and Private Improvements

Project:

See attachment - building plans and building permit submittal requirements.

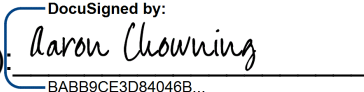


By signing below, you acknowledge and agree to adhere to the Rebuild ABI Infill Development Program Major Renovation criteria outlined below.

1. Replacement of all major mechanical, electrical, and plumbing systems two years or older or as may be required by the City
2. Replacement of the roof coverings with a medium grade/architectural asphalt shingle on the house and any accessory building(s)
3. Replacement of all windows
4. Brick or fiber cement siding
5. 4' wood privacy fence or 4' chain-link fence with metal posts.
6. Front and rear lawn sodded (alternative landscaping designs may be considered)
7. Concrete driveway
8. Meet or exceed current residential building and energy code requirements

Your signature confirms that you have reviewed and understood these requirements and will ensure they are followed throughout the renovation.

Address: 5242 N 9th St Abilene Tx

By (signature): 
BABB9CE3D84046B...
Aaron Chowning

Name (printed):

Title: Principal

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



Economic Development Agreements

Chowning Realty





- Chowning Realty is proposing to Major Renovate 5242 N 9th St and 550 Sammons St,
- All renovation requirements will be met as part of the adopted program
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action on Entering Into an Economic Development Agreement with Brick and Mortar Properties for 5318 S 7th St. (Tim Littlejohn)

GENERAL INFORMATION

Entering into an economic development agreement with Brick and Mortar Properties for 5318 S 7th St for a major renovation as part of the RebuildAbi program.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Brick and Mortar RESOLUTION
2. Exhibit A 5318 S. 7th_ BrickandMortar_Major Renovation Ch 380 agreement

3. 5318 S. 7th_Major reno Criteria sig page
4. Brick and Mortar Major Reno 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 BRICK AND
MORTAR PROPERTIES**

This Economic Development Agreement (“Agreement”) is effective as of the 5th day of December 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 5318 S 7th 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 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**MAJOR RENOVATION ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF ABILENE AND
Brick and Mortar Properties**

This Economic Development Agreement ("Agreement") is effective as of the 5th day of December, 2024 ("Effective Date"), by and between Brick and Mortar Properties, ("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 has acquired, fee simple Ownership of 5318 S 7th 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 major renovation to an existing home 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 redevelopment 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 ____ Brick and Mortar Properties ____, 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) eighteen 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 final buyer, a \$20,000.00 completion grant will be paid to the Developer, and the home sales shall price not exceed a maximum price of \$203,000.00.
 - b. In addition to the completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more of 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.

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 Builder 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 reconstruct, 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 two years following closing.
- 5.05 The Developer shall reconstruct the home within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to reconstruct 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.
- &.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.
- 8.01 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.02 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 AND EXECUTED:

DEVELOPER

Brick and Mortar Properties

Address: _____

Address: _____

brian.bedingfield@yahoo.com

325.518.4433

By (signature):  _____
773E036B74584F0...

Name (printed): Brian Bedingfield

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit "A" - Public and Private Improvements

Project:

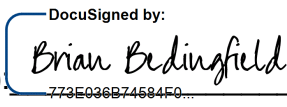
See attachment - building plans and building permit submittal requirements.



By signing below, you acknowledge and agree to adhere to the Rebuild ABI Infill Development Program Major Renovation criteria outlined below.

1. Replacement of all major mechanical, electrical, and plumbing systems two years or older or as may be required by the City
2. Replacement of the roof coverings with a medium grade/architectural asphalt shingle on the house and any accessory building(s)
3. Replacement of all windows
4. Brick or fiber cement siding
5. 4' wood privacy fence or 4' chain-link fence with metal posts.
6. Front and rear lawn sodded (alternative landscaping designs may be considered)
7. Concrete driveway
8. Meet or exceed current residential building and energy code requirements

Your signature confirms that you have reviewed and understood these requirements and will ensure they are followed throughout the renovation.

By (signature) 
Name (printed): Brian Bedingfield
Title: Principal

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



Economic Development Agreement

Brick and Mortar Properties





- Brick and Mortar Properties is proposing to Major Renovate 5318 S 7th St.
- All renovation requirements will be met as part of the adopted program
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve and Adopt the Title VI Plan and Community Participation Plan for Abilene Regional Airport (Don Green)

GENERAL INFORMATION

As a recipient of grants from the Federal Aviation Administration (FAA), the city of Abilene and Abilene Regional Airport (ABI) must adopt a plan to comply with Title VI of the Civil Rights Act. ABI staff has developed its Title VI Plan, including the Community Participation Plan (CPP), and received approval from the FAA. Many of the procedures and steps outlined in these programs are already being performed.

Under the Plan, the city/Abilene Regional Airport assures that no person shall on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex (including sexual orientation and gender identity), creed, or age, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 (PL 100.259), Section 520 of the Airport and Airway Improvement Act of 1982, and related authorities (hereafter, "Title VI and related requirements"), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives U.S. Department of Transportation (DOT) funding. Title VI also prohibits retaliation for asserting or otherwise participating in claims of discrimination.

The city/Abilene Regional Airport further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs are federally funded or not. The Airport Sponsor agrees, among other things, to understand the communities surrounding or in the flight path, as well as customers that use the airport. Anytime communities may be impacted by programs or activities, Abilene Regional Airport will take action to involve them and the general public in the decision making process.

The city/Abilene Regional Airport requires nondiscrimination assurances, as prescribed by

FAA, from each tenant, contractor, and concessionaire providing an activity, service, or facility at the airport. Assurances must be included in any related lease, contract, or franchise agreement between Abilene Regional Airport and each tenant, contractor, and concessionaire, as well as in any similar agreements with their own sub-tenants and sub-contractors.

The Airport's Title VI Plan and CPP will be administered by ABI staff.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Airport Development Board approved its recommendation to approve the Title VI Plan and CPP at its November 13, 2024 meeting.

ATTACHMENTS:

1. Airport Title VI and CPP Adoption Resolution (12-5-24)
2. Title VI and CPP Presentation (12-5-24)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TO ADOPT THE TITLE VI PLAN AND COMMUNITY PARTICIPATION PLAN FOR ABILENE REGIONAL AIRPORT

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

WHEREAS, as a recipient of grants from the Federal Aviation Administration (FAA), the city of Abilene and Abilene Regional Airport (ABI) must adopt a plan to comply with Title VI of the Civil Rights Act. ABI staff has developed its Title VI Plan, including the Community Participation Plan (CPP), and received approval from the FAA; and

WHEREAS, under the Plan, the city/Abilene Regional Airport assures that no person shall on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex (including sexual orientation and gender identity), creed, or age, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 (PL 100.259), Section 520 of the Airport and Airway Improvement Act of 1982, and related authorities (hereafter, "Title VI and related requirements"), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives U.S. Department of Transportation (DOT) funding. Title VI also prohibits retaliation for asserting or otherwise participating in claims of discrimination; and

WHEREAS, the city/Abilene Regional Airport further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs are federally funded or not. The Airport Sponsor agrees, among other things, to understand the communities surrounding or in the flight path, as well as customers that use the airport. Anytime communities may be impacted by programs or activities, Abilene Regional Airport will take action to involve them and the general public in the decision making process; and

WHEREAS, the city/Abilene Regional Airport requires nondiscrimination assurances, as prescribed by FAA, from each tenant, contractor, and concessionaire providing an activity, service, or facility at the airport. Assurances must be included in any related lease, contract, or franchise agreement between Abilene Regional Airport and each tenant, contractor, and concessionaire, as well as in any similar agreements with their own sub-tenants and sub-contractors; and

WHEREAS, the Airport Development Board approved its recommendation for this task order at its November 11, 2024 meeting.

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

1. That the Title VI Plan and Community Participation Plan are hereby adopted by the City of Abilene for application at Abilene Regional Airport.
2. That this Resolution takes effect immediately upon Council approval.

ADOPTED this 5th day of December 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

Adoption of ABI Title VI Plan and Community Participation Plan





Adoption of ABI Title VI Plan and Community Participation Plan

- As a recipient of grants from the Federal Aviation Administration (FAA), the city of Abilene and Abilene Regional Airport (ABI) must adopt a plan to comply with Title VI of the Civil Rights Act. ABI staff has developed its Title VI Plan, including the Community Participation Plan (CPP), and received approval from the FAA. Many of the procedures and steps outlined in these programs are already being performed.



- Under the Plan, the city/Abilene Regional Airport assures that no person shall on the grounds of race, color, national origin (including limited English proficiency (LEP)), sex (including sexual orientation and gender identity), creed, or age, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 (PL 100.259), Section 520 of the Airport and Airway Improvement Act of 1982, and related authorities (hereafter, “Title VI and related requirements”), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives U.S. Department of Transportation (DOT) funding. Title VI also prohibits retaliation for asserting or otherwise participating in claims of discrimination.



- The city/Abilene Regional Airport further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs are federally funded or not. The Airport Sponsor agrees, among other things, to understand the communities surrounding or in the flight path, as well as customers that use the airport. Anytime communities may be impacted by programs or activities the Abilene Regional Airport will take action to involve them and the general public in the decision making process.



- The city/Abilene Regional Airport requires nondiscrimination assurances, as prescribed by FAA, from each tenant, contractor, and concessionaire providing an activity, service, or facility at the airport. Assurances must be included in any related lease, contract, or franchise agreement between Abilene Regional Airport and each tenant, contractor, and concessionaire, as well as in any similar agreements with their own sub-tenants and sub-contractors.
- The Airport's Title VI Plan and CPP will be administered by ABI staff.





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Troy Swanson, IT Director

SUBJECT: 11. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Purchase of Implementation and Annual Subscription Support Services for the Zendesk Service System from Satrde Using the Texas DIR-CPO-5337 Contract (*Troy Swanson*)

GENERAL INFORMATION

The Information Technology (IT) Department requires purchase of implementation and annual subscription support services from Zendesk via Satrde. These services will be required for the Water Department and Communications & Marketing Department. The IT Department requests these implementation and annual subscription support services December 6, 2024 through December 5, 2027 for the amount of \$148,892. Year two and three, fiscal year 2026 and 2027, will be subject to appropriation and available funding, while the Water Department and Communications & Marketing Department funding for these services is budgeted and available in fiscal year 2025. The acquisition of Zendesk services from Satrde through the Texas DIR-CPO-5337 contract, will be conducted following the City's procurement processes within this not-to-exceed amount for each of the three fiscal years 2025, 2026, and 2027.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. CoA Council - Resolution - Satrde-Zendesk
2. SATRDÉ LLC Quote No. 26154 - SIGNED
3. 20241205 - City Council - Presentation - Satrde-Zendesk

RESOLUTION NO. 2024-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO
ACQUIRE THE IMPLEMENTATION AND ANNUAL SUBSCRIPTION SUPPORT SERVICES
FROM SATRDE FOR THE ZENDESK SERVICE SYSTEM**

WHEREAS, the City Council of the City of Abilene recognizes the need for services from Satrde as implementation and subscription support services for Zendesk service system, a proprietary product of Zendesk, are required for the term from December 6, 2024 through December 5, 2027; and

WHEREAS, these subscription services support the Water Department and Communications & Marketing Department and available from Satdre through the Texas DIR-CPO-5337 contract; and

WHEREAS, these support services are subscription services only available directly from Zendesk as a proprietary solution meeting these City Departments' current needs; and

WHEREAS, the proposed services for 24 users of the Water Department has an implementation fee of \$7,125, subscription services of \$28,152, and one time discount of \$4,830 in fiscal year 2025, while the subscription services in fiscal years 2026 and 2027 will be \$28,152 annually thereafter; and

WHEREAS, the proposed services for 16 users of the Communications & Marketing Department has an implementation fee of \$7,125, subscription services of \$18,768, and one time discount of \$1,288 in fiscal year 2025, while the subscription services in fiscal years 2026 and 2027 will be \$18,768 annually thereafter; and

WHEREAS, these subscriptions are available as a three-year contract with a annual services discount of 15% off the list price with a total value of \$148,892.00 with year two and three, fiscal year 2026 and 2027, subject to appropriation and available funding, and the Water Department and Communications & Marketing Department funding for these subscription support services is budgeted and available in fiscal year 2025; and

WHEREAS, it is the staff's recommendation that the City Council endorses the Information Technology Department's acquisition of services from Zendesk through Satrde; 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 the three-year subscription support services from Zendesk via Satrde through the Texas DIR-CPO-5337 Contract for a not to exceed amount of \$148,892.00 with fiscal year 2026 and 2027 subject to appropriate and available funds.

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

ADOPTED this 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

SATRDÉ
CX|EX Solutions

Product name and additional info	Quantity	Price	Disc.	Price after discount	Sum
Product Start Date: 12/06/2024					
Product End Date: 12/05/2025					
Zendesk TALK Usage Credits	1,000	0.01	-100%	0.00	0.00
Zendesk TALK Usage Credits					
Product Start Date: 12/06/2024					
Product End Date: 12/05/2025					
Zendesk Launch - Gold Timeline: Up to 4 Weeks (Recommended)	1	7,500.00	-5%	7,125.00	7,125.00
People: Solution Architect, Solution Consultant and Success Manager For: Small to medium teams new to Zendesk (~10-15 Agents) Customers who purchase Growth or Professional Zendesk Suite plans 1 - 2 channel launches Teams needing expert guidance with configuring Zendesk					
Product Start Date: 12/06/2024					
Product End Date: 01/31/2025					
Communications			-15%		18,768.00
Year 2					
Zendesk Product - Zendesk Suite Professional (per agent) + Omnichannel support (email, voice, chat, messaging, self-service, agent workspace, basic reporting); + Self-service and automation (light agents, advanced Guide services); and + Deeper collaboration, routing, and analytics (community forums, IVR routing, side conversations, customizable dashboards, HIPAA, data center locality).	16	115.00	-15%	97.75	18,768.00
# licenses for 12 months = quantity					
Product Start Date: 12/06/2025					
Product End Date: 12/05/2026					

SATRDÉ
 174 Saundersville Road | Suite 202
 Hendersonville Tennessee 37075 United States of America

Phone: (615) 585-4469
E-mail: support@satrde.com
satrde.com

JPMorgan Chase Bank NA
Routing: 065400137
Account #: 901185667

Product name and additional info	Quantity	Price	Disc.	Price after discount	Sum
Communications Year 3			-15%		18,768.00
Zendesk Product - Zendesk Suite Professional (per agent) + Omnichannel support (email, voice, chat, messaging, self-service, agent workspace, basic reporting); + Self-service and automation (light agents, advanced Guide services); and + Deeper collaboration, routing, and analytics (community forums, IVR routing, side conversations, customizable dashboards, HIPAA, data center locality).	16	115.00	-15%	97.75	18,768.00
# licenses for 12 months = quantity					
Product Start Date:	12/06/2026				
Product End Date:	12/05/2027				
Utilities Year 1			-14.95%		30,447.00
Zendesk Product - Zendesk Suite Professional (per agent) + Omnichannel support (email, voice, chat, messaging, self-service, agent workspace, basic reporting); + Self-service and automation (light agents, advanced Guide services); and + Deeper collaboration, routing, and analytics (community forums, IVR routing, side conversations, customizable dashboards, HIPAA, data center locality).	24	115.00	-15%	97.75	28,152.00
# licenses for 12 months = quantity					
Product Start Date:	12/06/2024				
Product End Date:	12/05/2025				
One Time Discount First Invoice Only	1	-4,830.00		-4,830.00	-4,830.00
Product Start Date:	12/06/2024				
Product End Date:	12/05/2025				
Zendesk TALK Usage Credits Zendesk TALK Usage Credits	1,000	0.01	-100%	0.00	0.00

SATRDÉ

174 Saundersville Road | Suite 202
Hendersonville Tennessee 37075 United States of America

Phone: (615) 585-4469

E-mail: support@satrde.com
satrde.com

JPMorgan Chase Bank NA

Routing: 065400137
Account #: 901185667

Product name and additional info	Quantity	Price	Disc.	Price after discount	Sum
Product Start Date: 12/06/2024 Product End Date: 12/05/2025					
Zendesk Launch - Gold Timeline: Up to 4 Weeks (Recommended)	1	7,500.00	-5%	7,125.00	7,125.00
People: Solution Architect, Solution Consultant and Success Manager For: Small to medium teams new to Zendesk (~10-15 Agents) Customers who purchase Growth or Professional Zendesk Suite plans 1 - 2 channel launches Teams needing expert guidance with configuring Zendesk					
Product Start Date: 12/06/2024 Product End Date: 01/31/2025					
Utilities Year 2			-15%		28,152.00
Zendesk Product - Zendesk Suite Professional (per agent) + Omnichannel support (email, voice, chat, messaging, self- service, agent workspace, basic reporting); + Self-service and automation (light agents, advanced Guide services); and + Deeper collaboration, routing, and analytics (community forums, IVR routing, side conversations, customizable dashboards, HIPAA, data center locality). # licenses for 12 months = quantity	24	115.00	-15%	97.75	28,152.00
Product Start Date: 12/06/2025 Product End Date: 12/05/2026					
Utilities Year 3			-15%		28,152.00
Zendesk Product - Zendesk Suite Professional (per agent) + Omnichannel support (email,	24	115.00	-15%	97.75	28,152.00

SATRDE
 174 Saundersville Road | Suite 202
 Hendersonville Tennessee 37075 United States of
 America

Phone: (615) 585-4469
E-mail: support@satrde.com
satrde.com

JPMorgan Chase Bank NA
Routing: 065400137
Account #: 901185667

Product name and additional info	Quantity	Price	Disc.	Price after discount	Sum
voice, chat, messaging, self-service, agent workspace, basic reporting); + Self-service and automation (light agents, advanced Guide services); and + Deeper collaboration, routing, and analytics (community forums, IVR routing, side conversations, customizable dashboards, HIPAA, data center locality).					
# licenses for 12 months = quantity					
Product Start Date:	12/06/2026				
Product End Date:	12/05/2027				
Subtotal:					148,892.00
Tax:					0.00
Total (USD):					148,892.00

Comment: DIR CPO 5337 Contract

Notwithstanding anything to the contrary in the Agreement, Subscriber's Subscription Term shall not renew automatically.

Notwithstanding any other term in the Reseller Subscription Services Agreement between Zendesk and Subscriber, the Reseller Subscription Services Agreement shall be governed by the laws of the state in which Subscriber is located.

Notwithstanding any other term in the Reseller Subscription Services Agreement between Zendesk and Subscriber, Subscriber's indemnification obligations are only applicable to the extent permitted by law.

In the event the Reseller Subscription Services Agreement between Zendesk and Subscriber or any information provided by Zendesk becomes subject to an open records request, such as a Freedom of Information Act or equivalent request (a "Request"), Subscriber will contest such Request and notify Zendesk immediately so We can seek protection from disclosure. Subscriber acknowledges and agrees that it will seek to obtain any available statutory exemption to the Request, including any exemptions for confidential or security information. Subscriber acknowledges and agrees that Zendesk's security information, including its independent third party audit reports (e.g. SOC 2 Type II), constitutes Zendesk's Confidential Business Information (as defined in the Reseller Subscription Services Agreement) which is highly sensitive and which would cause irreparable harm to Zendesk if disclosed.

Notwithstanding anything to the contrary in the Reseller Subscription Services Agreement between Zendesk and Subscriber and the Data Protection Agreement between Zendesk and Subscriber (if applicable), Applicable Data Protection Law means any state privacy law in a state where Zendesk Processes personal information on behalf of Subscriber.

Subscriber grants Zendesk the right to use Subscriber's name, logo, and a description of Subscriber's use case to refer to Subscriber on Zendesk's website, earnings releases and calls, or marketing or promotional materials, subject to any standard usage guidelines that Subscriber's marketing team expressly provides to Zendesk at logos@zendesk.com.

Subscriber's Service Plan includes optional functionality to automate End-User resolutions without human Agent involvement ("Automated Resolutions"). Subscriber may receive an allowance of Automated Resolutions as part of a Service Plan, and/or purchase Automated Resolutions on a standalone basis (collectively, "Automated Resolution

SATRDÉ

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Routing: 065400137

Account #: 901185667

Allowance"). If Subscriber elects to use Automated Resolutions, and exceeds the Automated Resolution Allowance in a given month, Subscriber will be subject to and agrees to pay for the additional Automated Resolution usage monthly in arrears ("Pay-as-you-go Fees"). If your Subscription is purchased via an Authorized Reseller, Pay-as-you-go Fees shall be invoiced to you by the Authorized Reseller.

Please see here for more information on determining your Automated Resolution Allowance, measuring and monitoring your use of Automated Resolutions, Pay-as-you-go Fees, and when your allotments expire: About automated resolutions for AI agents <https://support.zendesk.com/hc/en-us/articles/5352026794010-About-automated-resolutions-for-AI-agents>

SIGNATURES

By signing this Form the Subscriber authorizes that it has read it and agrees to its terms. Alternatively, Subscriber's submission of a signed purchase order to SATRDÉ in accordance with the specifications provided herein shall be considered acceptance of this Form. In the event of any inconsistency or conflict between the terms of this Order Form and the terms of any signed purchase order, the terms of this Order Form shall control.

Client Signature:



Print Name:

Troy W. Swanson

Title:

IT DEPT. DIR. / CIO

Date:

11/25/24

SATRDÉ

174 Saundersville Road | Suite 202

Hendersonville Tennessee 37075 United States of America

Phone: (615) 585-4469

E-mail: support@satrde.com

satrde.com

JPMorgan Chase Bank NA

Routing: 065400137

Account #: 901185667

Statement of Work

This Statement of Work (SOW) is between City of Abilene, Texas ("Client") and SATRDÉ ("Consultant"), effective Date (the "Agreement").

This SOW # 001 (hereinafter called the "SOW"), effective as of 12/06/2024, is entered into by and between Consultant and Client, and is subject to the terms and conditions specified below. The Exhibit(s) to this SOW, if any, shall be deemed to be a part hereof. In the event of any inconsistencies between the terms of the body of this SOW and the terms of the Exhibit(s) hereto, the terms of the body of this SOW shall prevail.

Period of Performance

The Services shall commence on 12/06/2024 and shall continue through 12/05/2027.

Engagement Resources

If the identified Resources are not available to complete the project, Consultant will submit names and resumes to Client for replacement recommendation. Client shall have final approval for replacements and if no replacement is acceptable to Client, this SOW may be delayed or terminated at Client's choice.

Dustin Swayne – Principal with SATRDÉ – Project Manager and Solutions Consultant – Certified Zendesk Support Administrator, Implementer, and Solution Consultant. 7+ years of experience with Zendesk Suite products.

Clay Phillips – Principal with SATRDÉ – Soft Skills Training Manager and Consultant – 20+ yrs. experience in training over 6,500 professionals.

Lisa Howard - Solution Consultant with SATRDÉ - Certified Zendesk Support Administrator and Solution Consultant - 35+ years of IT and project management experience in the public sector.

Learn and Create Phase:

We'll work to understand your audience and current experience. Through our use-case focused sessions, we'll align your business objectives to a design.

Key activities:

- Project kick off
- Identify project and enablement team
- Training (on-demand)
- Learn workshops
- Functional design
 - Includes Configuration of Zendesk products for Support, Guide, Chat, Talk, Collaboration and Explore.
- **Support**
 - Users (add groups, define custom roles, set business schedules, customize user fields, create organization fields, create organizations)
 - Brands (add brands, add support addresses, create custom ticket fields, create ticket form(s))
 - Settings (configure security settings and end-user settings)
 - Extensions (add marketplace apps, 3rd party integrations, setup targets for external teams)
 - Workflows (Create skills for routing, triggers, automations, SLA policies, views, macros)
 - Access (Configure single sign-on, add agents, assign agents to skills, train agents, import end-users)
- **Guide**
 - Users (Set Guide roles for agents, create user segments, create management permissions)
 - Design (Branding for helpcenter, customizations for helpcenter)
 - KB and community (Add categories, sections, and KB content, set team publishing workflows, configure answer bot, create a community, setup google analytics, configure content moderation)
- **Chat**

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- Users (Define custom chat roles, add chat agents, create departments)
- Workflows (Create schedules, configure chat routing, configure offline form settings, create triggers, create shortcuts)
- **Talk**
 - Preparation (Prepare your network, talk number availability, add talk numbers, add address)
 - Global Settings (Configure general settings, create talk greetings, configure IVR)
 - Number Settings (Configure individual number settings, configure overflow number, configure voicemail options, enable callback, set up a failover number, enable text for SMS support)
- **Explore**
 - Configuring reports/visualizations for management
- Strategic Client Discovery Discussions
 - Will include calls to consult and inform client of options when configuring Zendesk products that will best fit their strategic plan.
- Implementation Activities
- Agent and Admin Testing Activities

Launch Phase:

Focus is organizational readiness. We'll work with you to ensure you are ready for go live and know how to get support if you need it.

Key activities:

- Agent and Admin Training via Zoom Interactive Calls
- Launch
- Go-Live Assistance

Manage Phase:

Our Project Manager will partner with your project lead to keep our engagement on track and help you to anticipate and manage change within your organization.

Key recurring activities:

- Project plan
- Project status
- Change and risk management
- Optimization Calls

Deliverable Materials

Materials to be delivered will include any documentation necessary to empower client teams to effectively and efficiently conduct business within their Zendesk instance.

Consultant Responsibilities

The Consultant shall assign qualified personnel to perform professional Services concerning the Project. In the performance of professional Services, Consultant will use that level of care and skill ordinarily exercised by reputable members of Consultant's profession currently practicing in the same locality under similar conditions. Except for the warranties provided in the Agreement, no other representation, guarantee or warranty, express or implied, is included or intended in this agreement or in any communication (oral or written) report, opinion, document or instrument of service. The Consultant is an independent Consultant and as such is not an employee of the Client.

Client Responsibilities

Client acknowledges that the successful and timely rendering of the Services will require the good faith cooperation of Client. Client shall fully cooperate with Consultant, including without limitation, by: (a) providing Consultant with all information as may be reasonably required by Consultant; and (b) making available to Consultant at least one employee, consultant or director of Client, reasonably acceptable to Consultant, who shall have substantial relevant knowledge and experience to act as a Project Manager in connection with the rendering of the Services. The name of Client's Project Manager should be set forth in the applicable Statement of Work. All estimated dates specified in a Statement of Work shall be extended by delays caused by Client, including without limitation, Client's submission of Change Requests which

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impact Consultant's normal schedule.

Fee Schedule

This SOW will be conducted on a fixed fee basis. The total value for the Services pursuant to this SOW shall not exceed 148,892.00 unless otherwise agreed to by both parties via the project change control procedure, as outlined within. A PCR will be issued specifying the amended value.

Consultant will provide up to 3 resources to complete this statement of work and activities outlined in the Scope of Work section above.

Invoice Procedures

Client will be invoiced for the consulting services and T&L expenses. Standard Consultant invoicing is assumed to be acceptable. Invoices are due upon receipt.

Invoices shall be submitted in arrears, referencing this Client's SOW Number to the address indicated above. The invoice will reflect charges for the time period being billed. Terms of payment for invoice are due upon receipt by Client of a proper invoice. Consultant shall provide Client with sufficient details to support its invoices, including expense receipts and justifications for authorized expenses, unless otherwise agreed to by the parties. Payments for undisputed services invoiced that are not received within 30-days from date of invoice will be subject to a 1.5% penalty per calendar month or the maximum allowed by law, whichever is less.

Completion Criteria

Consultant shall have fulfilled its obligations when any one of the following first occurs:

- Consultant accomplishes the Consultant activities described within this SOW, including delivery to Client of the materials listed in the Section entitled "Deliverable Materials," and Client accepts such activities and materials without unreasonable objections. No response from Client within 2-business days of deliverables being delivered by Consultant is deemed acceptance.
- Consultant and/or Client has the right to cancel services or deliverables not yet provided with 20 business days advance written notice to the other party.

Project Change Control Procedure

The following process will be followed if a change to this SOW is required:

- A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change, the rationale for the change, and the effect the change will have on the project.
- The designated Project Manager of the requesting party (Consultant or Client) will review the proposed change and determine whether to submit the request to the other party.
- Both Project Managers will review the proposed change and approve it for further investigation or reject it. Consultant and Client will mutually agree upon any charges for such investigation, if any. If the investigation is authorized, the Client Project Managers will sign the PCR, which will constitute approval for the investigation charges. Consultant will invoice Client for any such charges. The investigation will determine the effect that the implementation of the PCR will have on SOW price, schedule and other terms and conditions of the Agreement.
- Upon completion of the investigation, both parties will review the impact of the proposed change and, if mutually agreed, a Change Authorization will be executed.
- A written Change Authorization and/or PCR must be signed by both parties to authorize implementation of the investigated changes.

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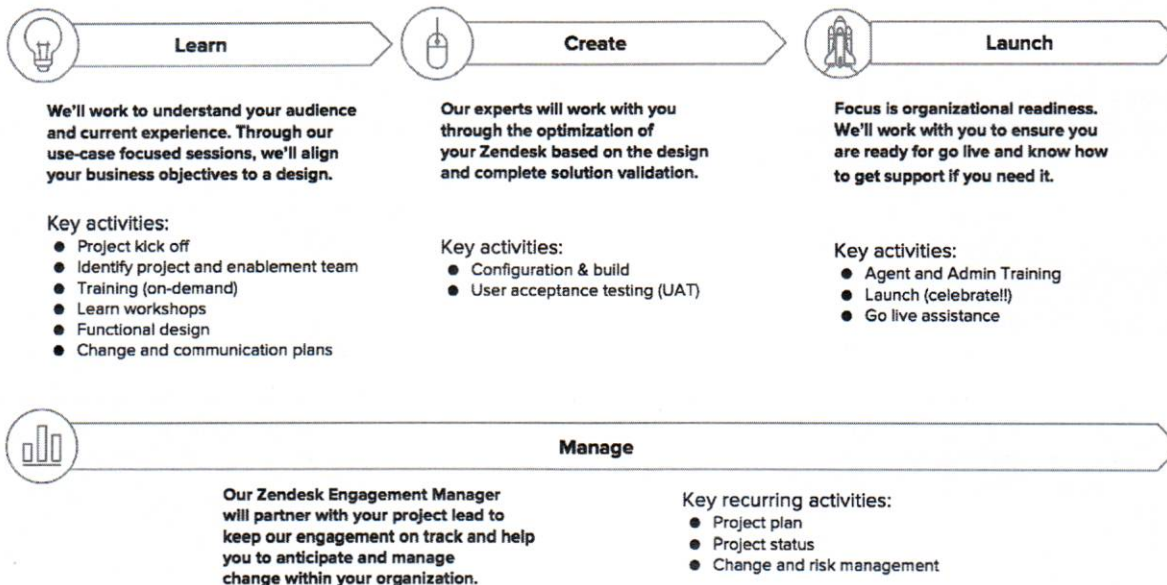
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Launch framework



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Zendesk – Service System





Zendesk – Service System

Implementation and Subscription Support Services Requirement:

- The City requires implementation and subscription support services of the Zendesk Service system for the Water and Communications & Marketing Departments

Annual Services – for Three Years:

- This three-year term will be from December 6, 2024, through December 5, 2027
- The proposed fiscal year 2025 expense is \$55,052
for fiscal year 2026 is \$46,920
for fiscal year 2027 is \$46,920
- This includes a 15% discount off annual subscription services as well as a one time first year discount

IT Department Recommendation

- Endorses the requested Zendesk Service system for a not-to-exceed amount of \$148,892 via the Texas DIR-CPO-5337 Contract



City Council Meeting

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **12. Ordinance (Final Reading) OAM-2024-01:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the City of Abilene to Amend the Land Development Code to Adopt a New Airport Zoning Ordinance (AZO) (*Don Green*)

GENERAL INFORMATION

An amendment to the Land Development Code (LDC) to repeal Section 2.3.5.1 “Airport Zoning” and replace it with Section 2.3.5.1 “Airport Zoning,” as revised.

SPECIAL CONSIDERATIONS

The attached ordinance, if approved, would repeal and replace the existing Airport Zoning regulations and implement the development-related recommendations of the JLUS report.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission approved the request on November 5, 2024.

ATTACHMENTS:

1. Ordinance - AZO
2. FINAL - Abilene_Airport_Zoning_draft 7 amendments_CLEAN 2024 03 15 BAC
3. OAM-2024-01 Staff Report
4. AZO Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 2 (ZONING REGULATIONS) OF THE LAND DEVELOPMENT CODE (LDC) SPECIFICALLY TO REPEAL SECTION 2.3.5.1, "AIRPORT ZONING" AND TO REPLACE SAID SECTION WITH SECTION 2.3.5.1 "AIRPORT ZONING", AS REVISED, TO IMPLEMENT LAND DEVELOPMENT RECOMMENDATIONS OF THE JOINT LAND USE STUDY (JLUS); CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

WHEREAS, the City Council desires to continue to protect health, safety, and general welfare of the public, where it is recognized that obstructions, aircraft accidents, and excessive noise have the potential for endangering or harming the lives and/or property of users or occupants of land in the vicinity of Abilene Regional Airport and Dyess Air Force Base (AFB); and

WHEREAS, the City Council desires to continue to regulate airport zoning hazard areas and compatible land uses surrounding Dyess AFB and Abilene Regional Airport pursuant to Chapter 241 of the Texas Local Government Code, as amended; and

WHEREAS, the City Council desires to ensure that new residential development will not be located in areas that could diminish the ability of Dyess AFB and Abilene Regional Airport from accomplishing their respective purposes and place residences in proximity to "Accident Potential Zones" and "Noise Zones"; and

WHEREAS, the City Council desires to protect the property rights of owners surrounding Dyess AFB or Abilene Regional Airport; and

WHEREAS, the City Council sponsored the Joint Land Use Study (JLUS) to assess the relationship between the development of vacant properties surrounding Dyess AFB and Abilene Regional Airport with ability of each to accomplish their purposes and missions; and

WHEREAS, the City Council recognizes that the JLUS report was completed in a cooperative and inclusive manner with the stakeholders of the City of Abilene, City of Tye, Taylor County, representatives from the View and Caps communities, and area land owners and that the final JLUS report was unanimously approved by the stakeholders; and

WHEREAS, the City Council wishes to implement those recommendations of the JLUS report that pertain to the development of property by revising Section 2.3.5.1 of the Land Development Code.

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

PART 1: That Chapter 2 (Zoning Regulations), Section 2.3.5.1 "Airport Zoning", is hereby repealed and replaced by Section 2.3.5.1 "Airport Zoning", 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: Each provision of the ordinance shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of the ordinance shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of the ordinance or the remaining.

PASSED ON FIRST READING the 21st day of November, 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 18th day of October 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 5th day of December 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 5th day of December 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

-END-

City of Abilene
Division 5 - Airport Zoning

Section 2.3.5.1 Airport Zoning

- (a) Purpose. It is the purpose of this Section to protect health, safety, and general welfare of the public, where it is recognized that obstructions, aircraft accidents, and excessive noise have the potential for endangering or harming the lives and/or property of users or occupants of land in the vicinity of Abilene Regional Airport and Dyess Air Force Base (Dyess AFB). It is further the purpose of this Section to regulate airport zoning hazard areas and compatible land uses surrounding airports in the City of Abilene, pursuant to Chapter 241 of the Texas Local [Government] Code, as amended, and to preserve and maintain existing and future operational capabilities of Abilene Regional Airport and Dyess AFB.
- (b) Applicability. This Section establishes regulations applicable to all land located within the boundary of the Airport Zoning for operational areas around Abilene Regional Airport and Dyess AFB, as adopted and depicted on the official Zoning Map for the City of Abilene. All airport zoning regulations shall be in accordance with Local Government Code § 241.001, et seq., as amended, and shall apply within the corporate limits and unincorporated areas within the extraterritorial jurisdiction of the City of Abilene, as well as the Airport Hazard Areas in and surrounding Abilene Regional Airport and Dyess AFB. The use of all land and any natural growth, structures, or any other obstructions upon the land, and the height, construction, reconstruction, alteration, expansion, or relocation of any natural growth, structures, or any other obstructions upon the land, shall conform to all regulations contained in and applicable to this Section. No land, natural growth, structure, or other obstruction shall be erected, constructed, used, replaced, altered, and/or maintained for any purpose or in any manner other than permitted by this section.
- (c) Background. The Dyess AFB Joint Land Use Study (JLUS) was completed in January 2018. The JLUS was developed through a collaborative process among the City of Abilene, the City of Tye, Taylor County, property owners and residents including within the View/Caps Community, the Abilene Chamber of Commerce, and Dyess AFB. Through the JLUS process, stakeholders collaborated to identify and assess existing, perceived, and potential compatible and incompatible/not recommended activities between Dyess AFB and the surrounding communities. The outcome of the JLUS was a series of recommendations to assist in promoting and guiding sustainable growth for Dyess AFB and the surrounding community. Among the recommendations were several to amend the existing Abilene Airport Zoning regulations, without limiting property owner and development rights related to safety concerns and noise generated by activities at Dyess AFB.

It is important to note that throughout the Dyess AFB JLUS process, property owners in the unincorporated View/Caps Community to the south and west of Dyess AFB were very involved and invested in the JLUS process and development of the study. As property owners in the areas affected by safety (clear zones and accident potential zones) and noise generated by aircraft operating at Dyess AFB, these citizens were influential in the assessment of the JLUS compatibility issues, particularly regarding safety and noise. While it is part of the JLUS process to identify and assess existing conditions (e.g., safety and noise zones from aircraft operations that goes outside of the boundaries of Dyess AFB), many of the current View/Caps property owners have publicly stated that they do not have any concerns with safety or noise, and they accept the levels of safety concerns and noise generated by aircraft at Dyess AFB. These property owners are proud to have Dyess AFB as their neighbor and have voiced their continued support for Dyess AFB's missions.

The development and establishment of the Airport Zoning ordinance was a collaborative process involving the City of Abilene, City of Tye, Taylor County, Dyess AFB, and property owners within the affected area. While the Dyess AFB Air Installation Compatible Use Zone Study (AICUZ) Study recommendations were used as a starting point in the process, the ultimate decisions made by the City of Abilene took some of the AICUZ recommendations into consideration, but intentionally does not contain all of them. These decisions were made to accommodate local preferences, quality of life, and desired lifestyle of the community. Land use regulations are also established by the ordinance, which are similar to the recommendations outlined in the AICUZ; however, there are some differences which were agreed upon by all parties that participated in the development of the ordinance. Noise regulations within the Dyess AFB noise contours were considered for inclusion in the Airport Zoning ordinance, but were omitted through a public process in which many of the property owners within the noise contours publicly stated that they accept the risks and potential impacts associated with noise generated by Dyess AFB aircraft operations and requested that noise regulations be removed from the ordinance, which it was.

In lieu of regulating land use and development within the Dyess AFB noise contours through this Airport Zoning ordinance, the City of Abilene and other JLUS stakeholders agreed to utilize educational materials such as brochures and maps to inform existing and future property owners about the boundaries of the noise contours and potential implications of developing within them.

(d) Definitions. The following words and phrases, whenever used in this Section, shall be defined as follows:

- (1) "Accident Potential Zone" ("APZ") means a land use control area beyond the clear zones of a military runway that possesses a significant potential for accidents;
- (2) "Air Installation Compatible Use Zone (AICUZ) Study" means a study developed by Dyess AFB to provide information about aircraft operations at Dyess AFB that cause noise and safety hazards and to provide recommendations for local communities to inform land use planning around Dyess AFB;
- (3) "Air Operations Area" means any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An air operations area includes such paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiways, or apron;
- (4) "Airport" means the Abilene Regional Airport and/or Dyess AFB;
- (5) "Airport Elevation" means the established elevation of the highest point on the usable landing area;
- (6) "Airport Hazard" means any natural growth, structure, any other potential obstruction, or use of land which obstructs the airspace required for, or is otherwise potentially hazardous to, the flight of aircraft in landing or taking off at an airport or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft;
- (7) "Airport Hazard Area" means an area of land or water on which an airport hazard could exist;
- (8) "Bird / Wildlife Aircraft Strike Hazard (BASH)" means the likely occurrence for a collision between an airborne animal or an animal on the ground and an aircraft on or near a runway. The BASH Relevancy Area is a five-statute mile area around Airports where risk is highly associated with BASH;
- (9) "Board of Adjustment" means the City of Abilene Board of Adjustment, as created by the City's Charter and defined in this Code of the City of Abilene and by State law;

- (10) "Centerline" means a line extending through the midpoint of each end of a runway;
- (11) "Compatible Land Use" means a use of land adjacent to or in the vicinity of an airport that does not have the potential to endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport including the taking off and landing of aircraft;
- (12) "Day Night Average Noise Level" ("DNL") means a 24-hour time-averaged sound exposure level, adjusted for average-day sound source operations. In the case of aircraft noise, a single operation is equivalent to a single aircraft departure, approach;
- (13) "Decibel (dB)" means a unit of measure based on a logarithmic scale. A 10 dB increase in noise level corresponds to a 100 percent increase (doubling) in perceived loudness;
- (14) "FAA" means the Federal Aviation Administration;
- (15) "Hazard to Air Navigation" means an obstruction determined to have an adverse effect on the safe and efficient utilization of the navigable airspace;
- (16) "Height" is determined by mean sea level elevation, unless otherwise specified;
- (17) "Imaginary Surfaces Map" refers to the current map for the Abilene Regional Airport, as amended, created pursuant to 14 Code of Federal Regulations (C.F.R) Part 77, a true and correct copy of which is maintained at the Abilene Regional Airport Administrative Office and the City of Abilene Planning Department;
- (18) "Instrument Runway" means a runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions. It also means a runway for which a precision approach system is planned, as so indicated on an approved airport layout plan or any other airport planning document or map;
- (19) "Joint Land Use Study (JLUS)" means a planning tool developed through the collaborative efforts of a comprehensive set of stakeholders in a defined study area in order to identify compatibility / recommended land use guidelines within, and adjacent to, active military installations.
- (20) "Landing Area" means the area of the airport used for the landing, take off, or taxiing of aircraft;
- (21) "Landing Zone" ("LZ") means a landing zone consisting of a runway, a runway and taxiway, or other aircraft operational surfaces (e.g., aprons, turnarounds). An LZ is a prepared or semi-prepared (unpaved) airfield used to conduct military operations in an airfield environment similar to forward operating locations. LZ runways are typically shorter and narrower than standard runways;
- (22) "Larger than Utility Runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
- (23) "Mean Sea Level (MSL)" means the average height of water in the sea used as the datum plane to measure land elevation;
- (24) "Military Imaginary Surfaces Map" refers to the most recent map indicating zones in and surrounding Dyess AFB, a true and correct copy of which is maintained in the City of Abilene Planning Department;
- (25) "Natural Growth" means any tree, shrub, grass, or other item found in nature that is flora;

- (26) "Noise Contour" means a geographical representation of DNL noise levels;
- (27) "Noise Contours Map" refers to the most recent map and attachments, as amended, developed by Abilene Regional Airport and Dyess AFB, respectively, pursuant to 14 C.F.R. Part 150, indicating estimated noise levels and compatible land uses for zones surrounding the Abilene Regional Airport and Dyess AFB, a true and correct copy of which is maintained at the Abilene Regional Airport Administrative Office and the City of Abilene Planning Department, and Dyess, respectively, as well as online at www.abilenetx.gov (full link is here - <https://storymaps.arcgis.com/stories/83da8ff08d4c4528ab046cb50368cf2c>);
- (28) "Noise Level Reduction" means the voluntary incorporation of sound attenuation measures (outdoor to indoor) into the design and construction of a Structure;
- (29) "Nonconforming/Not recommended Structure" means any Structure, existing on land which does not conform to the regulations, relative to its size, height, or location, within the district in which it is located. Nonconforming/Not recommended Structures may not be improved or enlarged, except as provided for in this Section, or pursuant to a Variance or Special Exception granted by the Board of Adjustment;
- (30) "Nonconforming/Not recommended Use" means any activity or use of land which was approved prior to the enactment of this Section, but does not conform to the regulations of the district in which it is located pursuant to this Section or is not recommended for use. Any nonconforming/not recommended use existing at the time of the enactment of this Section may be continued, except as provided in this Section;
- (31) "Obstruction" means any structure, tree, plant, or other object of natural growth that penetrates an imaginary surface or is determined by the Federal Aviation Administration to interfere with the established aviation traffic pattern;
- (32) "Planning Department" means the City of Abilene department responsible for the City's planning and zoning activities, currently referred to as the Planning and Development Services Department.
- (33) "Planning Director" means the City of Abilene Director of Planning and Development Services or designee;
- (34) "Precision Instrument Runway" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document;
- (35) "Primary Surface" means a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specifically prepared hard surface, the primary surface ends at each end of that runway. The width of the primary surfaces for Abilene Regional Airport and Dyess AFB are more particularly described in subsection (e);
- (36) "Runway" means a defined area on an airport prepared for landing and take-off of aircraft along its length;
- (37) "Structure" means any object, including a mobile object, constructed or installed by man, including without limitation, any building, physical improvement, tower, smokestack, earth formation, and overhead transmission lines;
- (38) "Utility Runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less;

(39) “Visual Runway” means a runway intended solely for the operation of aircraft using visual approach procedures;

(e) Surfaces; Zones; Height Limitations; and Noise Zones.

(1) Abilene Regional Airport.

a. Imaginary Surfaces. There are hereby established and designated certain surfaces, as shown on the Imaginary Surfaces Map for Abilene Regional Airport. The surfaces are more particularly described and defined as follows:

1. “Approach Surface” means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope, as described in this Section. The perimeter of the approach surface coincides with the perimeter of the approach zone;
2. “Conical Surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet;
3. “Horizontal Surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of the airport and connecting the adjacent arcs by lines tangent to those arcs. For all visual runways designated as utility or visual, the radius of each arc is 5,000 feet; for all other runways, the radius of each arc is 10,000 feet. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
4. “Transitional Surfaces” means the surfaces extending outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces, for those portions of the precision approach surfaces which project through and beyond the limits of the conical surfaces, extend a distance of 5,000 feet, measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

b. Height Limitations; Zones. There are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Abilene Regional Airport. Such zones are shown on the Imaginary Surfaces Map, and more particularly described as follows. Except as otherwise provided in this Section, no structure, natural growth, or other obstruction shall be erected, altered, allowed to grow, or maintained in any zone contained in this Section to a height level above the applicable surfaces on the outer or upper edge of the below-described zones. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

1. Utility Runway Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Runway Larger than Utility With a Visibility Minimum as Low as 3/4 Mile Non-Precision Instrument Approach Zone: the inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
 3. Precision Instrument Runway Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the runway.
 4. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
 5. Horizontal Zone: A horizontal zone is hereby established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
 6. Conical Zone: A Conical Zone is hereby established as the area that commences at the periphery of the Horizontal Zone and extends outward there from a horizontal distance of 4,000 feet. The Conical Zone does not include the Approach Zones and Horizontal Zones.
- c. Noise Zones. For the purpose of regulating the development areas which possess a noise hazard for certain land uses, so as to promote compatibility between the airport and the surrounding land uses, protect the airport from incompatible/not recommended use encroachment, and promote and protect the health, safety, and general welfare of property users, noise zones are hereby established within and surrounding the areas of the Abilene Regional Airport, as follows:
1. Zone Boundaries. The boundaries of said zones are established as shown on the most recent Noise Contours Map, as amended.
 2. Compatible Land Uses. Compatible land uses within the noise zones are established as shown on the most recent Noise Contours Map, as amended.
 3. A copy of the most recent Noise Contours Map, as amended, is on file in the Administrative Office of the Abilene Regional Airport and the City of Abilene Planning Department.

(2) Dyess Air Force Base.

- a. Imaginary Surfaces. There are hereby established and designated certain surfaces, as shown on the Military Imaginary Surfaces Map. The surfaces are described as follows:
 1. "Approach Clearance Surface" means an inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the Approach Clearance Surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation, which is 1789 feet above mean sea level for Dyess AFB. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width

at 50,000 feet is 16,000 feet.

2. "Conical Surface" means a surface extending outward and upward from the periphery of the inner horizontal surface at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.
 3. "Inner Horizontal Surface" means a plane that is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.
 4. "LZ Approach-Departure Clearance Surface" means an imaginary surface that is an inclined plane arranged symmetrically about the runway centerline extended, beginning at the end of the clear zone, 500 feet beyond each end of the runway threshold, and extending 10,500 feet. The slope of the surface is 35 to 1 along the runway centerline extended until it reaches an elevation of 300 feet above the runway end elevation. The width of this surface at the clear zone end is 500 feet flaring uniformly until it reaches a width of 2,500 feet at 10,500 feet.
 5. "Outer Horizontal Surface" means a plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.
 6. "Primary Surface" means a surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet.
 7. "Transitional Surfaces" means the surfaces that connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.
- b. Height Limitations: Zones. There are hereby created and established certain zones which include all of the land beneath the Approach Clearance Surface, Conical Surface, Inner Horizontal Surface, LZ Approach-Departure Clearance Surface, Outer Horizontal Surface, Primary Surface, and Transitional Surface as they apply to Dyess AFB. Such zones are shown on the Military Imaginary Surfaces Map, and more particularly described in subsection a above. Except as otherwise provided in this Section, no structure, natural growth, or other obstruction shall be erected, altered, allowed to grow, or maintained in any zone contained in this Section to a height level above the surfaces established and described in subsection (2) above. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation. A property owner wishing to erect or maintain a structure or natural growth that exceeds the height limitations of this subsection may apply for a variance, as described in Section 2.3.5.1 (j) (7).
- c. Clear Zones. Clear Zones are areas on the ground, located at the end of each runway. They possess a high potential for accidents and their use is restricted to be compatible with aircraft operations in accordance with Table 1 below. Clear Zones are 3,000 feet long measured along the extended runway centerline beginning at the runway end. They are 3,000 feet wide centered on and measured at right angles to the extended runway centerline.
- d. Accident Potential Zones (APZs). APZs are areas on the ground located beyond the Clear

Zone of each runway. They possess a potential for accidents and their use is restricted in accordance with Table 1.

1. APZ I. APZ I begins at the end of the Clear Zone, and is centered and measured on the extended centerline. It is 3,000 feet wide and 5,000 feet long.
2. APZ II. APZ II begins at the end of APZ I, and is centered and measured on the extended runway centerline. It is 3,000 feet wide and 7,000 feet long.
3. LZ APZs. LZ APZs begin at the end of the LZ Clear Zone, and are centered and measured on the extended runway centerline. They are 500 feet wide and 2,500 feet long.

e. Land Use Restrictions.

1. An individual single-family residential structure, including manufactured housing, shall be permitted on a lot of 1 acre or larger, except within the Clear Zone associated with Dyess AFB. This does not eliminate the need for an Airport Zone Development Permit.
2. An individual single-family residential structure, including manufactured housing or allowable accessory structure, meaning any object, including a mobile object, constructed or installed by man, including without limitation, any building or structure, physical improvement, tower, smokestack, earth formation, overhead transmission lines, garages, carports, shops, barns, storage buildings, etc. or similar uses used in conjunction or not in conjunction with residential or similar uses, shall be permitted on an existing legally platted lot, or a lot subdivided prior to 1984, even if the area of the lot is less than 1 acre, except within the Clear Zone associated with Dyess AFB. This does not preclude the acceptance of utility services water, electrical, sewer, or any other utility.
3. An individual single-family residential structure, including manufactured housing and any other type of building/structure, shall not exceed a height greater than thirty-five (35) feet if the structure penetrates an established Military Imaginary Surface.
4. Future development within the APZ I and APZ II shall conform to Table 1 Dyess Air Force Base Land Use Restrictions. A property owner wishing to erect a structure in APZs I or II that is not allowed in Table 1 may apply for a Special Exception as described in Section 2.3.5.1 (j) (8).
5. Except as otherwise stated in this ordinance, previously approved nonconforming/not recommended uses in the APZs I and II that do not conform to Table 1 Dyess Air Force Base Land Use Restrictions may be replaced, but not expanded in square footage unless a Special Exception is approved. Such replacement may not expand square footage or increase the density and intensity of the original nonconforming/not recommended use unless a Special Exception is approved.

Table 1
Dyess Air Force Base
Land Use Restrictions

Land Use	APZ I	APZ II
RESIDENTIAL USES¹		
Bed & Breakfast	No	Yes ²
Dwelling - Duplex	No	Yes ²
Dwelling - Industrialized Housing	Yes ²	Yes ²
Dwelling - Institutional	No	No
Dwelling - Manufactured Home (HUD-Code)	No	Yes ²
Dwelling - Mobile Home	No ¹	Yes ^{1, 2}
Dwelling - Multiple-Family	No	No
Dwelling - Patio Home	Yes ^{1, 2}	Yes ^{1, 2}
Dwelling - Single Family Detached	Yes ^{1, 2}	Yes ^{1, 2}
Dwelling - Townhome	No	No
Group Home	No	No
Hotel/Motel	No	No
Travel Trailer/ Recreational Vehicle	No ¹	Yes ^{1, 2}
Vacation Travel Trailer Park	No	No
ACCESSORY & INCIDENTAL USE		
Accessory Structure	Yes ¹	Yes ¹
Animal Lot	Yes ³	Yes ³
Antenna, Non-Commercial/ Amateur	Yes	Yes
ATMs, Self-Serve Kiosks, and Similar Facilities	Yes	Yes
Day Care Operation - Home-Based	No	No
Dwelling - Accessory	Yes ^{1, 2}	Yes ^{1, 2}
Drive-Thru Facility	No	Yes
Field Office or Construction Office (temporary)	Yes	Yes
Freight Container	Yes	Yes
Fuel Sales	No	No
Garage Sale	Yes	Yes
Home Occupation	Yes ^{1, 2}	Yes ^{1, 2}
Itinerant Business	No	Yes
Manufacturing	SE ⁴	SE ⁴
Mobile Home (permanent security residence)	No	Yes
Mobile Home (temporary security residence)	No	Yes
Mobile Home or Temporary Building (office for sales and service)	No	Yes
Recreation Building, Multipurpose	Yes ⁵	Yes ⁵
Recycling Collection Point	Yes	Yes
Subdivision Sales Office (temporary)	No	Yes
Swimming Pool, Private (accessory to residential use)	Yes	Yes
Tennis Court, Private (accessory to residential use)	Yes	Yes
Travel Trailers (accessory to hospitals)	No	Yes
CULTURAL & RECREATION USE		
Adult Entertainment Enterprise	No	No
Civic, Social, and Fraternal Organization	No	No
Cultural Facilities	No	No
Drive-in Theater	No	No
Fairgrounds/Rodeo	No	No
Motorized Racing	No	No
Recreation - Outdoors (active and passive)	Yes ⁵	Yes ⁵
Recreation and Commercial Entertainment	No	No

Zoo	No	No
GOVERNMENT, HEALTH, SAFETY, AND WELFARE USES		
Ambulance Service	No	SE
Community Home	No	No
Correction, Detention, or Penal Facilities	No	No
Fire/Police Station	No	SE
Homeless/Emergency Shelter	No	No
Hospital	No	No
Medical/Dental Laboratory	No	No
Military and Armed Forces Reserve Center	No	No
Military Base and Reservation	No	No
Personal Care Facility	No	No
Post Office	No	SE
Rehabilitation Facility	No	No
Sanitary Landfill	No	No
Social Service Facility	No	No
EDUCATIONAL & RELIGIOUS USES		
Arts School	No	No
Cemetery, Crematorium, and Mausoleum	Yes ⁶	Yes ⁶
Church or Place of Worship	No	No
Day-Care Operation - Center-Based	No	No
Educational and Scientific Research	No	No
School: Public/Private	No	No
Trade/Business School	No	No
University/College	No	No
SERVICE		
Automobile Wash	Yes	Yes
Cabinet Making; Carpentry and Wood Flooring Services	SE ⁴	Yes ⁴
Contractor Services	Yes	Yes
Delivery Services	SE	Yes
Drilling-Rig Repair (sand and water blasting)	SE ⁴	Yes ⁴
Electrical Motor Repair	SE	Yes
Equipment Repair, Services, and Sales	SE	Yes
Exterminating and Fumigating Services	SE ⁴	Yes ⁴
Farm Equipment Repair, Services, and Sales	SE	Yes
Funeral Home/Mortuary/Morgue	No	No
Heating, Ventilation, Air-Conditioning Services	SE ⁴	Yes ⁴
House Wrecking and Demolition	SE ⁴	Yes ⁴
Kennel (With Outdoor Pens)	Yes	Yes
Kennel (Without Outdoor Pens)	Yes	Yes
Landscaping Services	SE	Yes
Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)	No	Yes
Laundry/Dry Cleaning Services & Facilities	No	Yes
Machine Shops	SE ⁴	Yes ⁴
Masonry, Concrete, Stonework, Tile Setting, and Plastering Services	SE ⁴	Yes ⁴
Office (general, professional, financial)	No	Yes
Oilfield Service	SE ⁴	Yes ⁴
Oil Well Drilling Contractors	SE ⁴	Yes ⁴
Paint and Body Repairs, Services, and Sales	SE	Yes
Personal Services	No	Yes
Pet Services and Sales	SE	Yes
Pipe Cleaning and Testing (sand and water blasting)	SE ⁴	Yes ⁴
Plumbing Services	SE	Yes
Printing, Copying, Reproduction, Publishing	No	Yes
Recycling Collection and Processing Center	Yes	Yes
Refrigerated Warehousing	SE ⁴	Yes ⁴
Repair and Maintenance Services - Automobile/Small Truck (major)	Yes	Yes
Repair and Maintenance Services - Automobile/Small Truck (minor)	Yes	Yes

Repair and Maintenance Services (indoor)	Yes	Yes
Repair and Maintenance Services (outdoors)	Yes	Yes
Repair and Maintenance Services (truck and other large vehicles)	Yes	Yes
Roofing and Sheet Metal Services	SE	Yes
Scales (public)	Yes	Yes
Storage - Self-Service Units	Yes	Yes
Storage and Warehousing (general)	SE ⁴	Yes ⁴
Tattoo Parlor	No	Yes
Taxidermist	No	Yes
Veterinary Service (all size animals)	No	No
Veterinary Service (small animals)	No	No
Water Well Drilling Services	SE ⁴	Yes ⁴
Welding and Cutting Services and Sales	SE ⁴	Yes ⁴
Wrecker/Towing	Yes	Yes
TRADE - RETAIL USES		
Aircraft and Accessories	Yes	Yes
ATMs, Self-Serve Kiosks, and Similar Facilities	Yes	Yes
Convenience Store	No	Yes
Fuel Sales	No	No
Liquor Store (Off Premises Consumption)	No	Yes
Liquor Store (On Premises Consumption)	No	No
Restaurant, Fast Food	No	No
Restaurant, Standard	No	No
Retail Sales/Rental (automobile/small truck)	Yes	Yes
Retail Sales/Rental (indoor)	No	Yes
Retail Sales/Rental (outdoors, non-vehicle)	No	Yes
Retail Sales/Rental (trucks and other large vehicles and equipment)	Yes	Yes
Scrap and Waste Material	Yes	Yes
TRADE - WHOLESALE USES		
Liquor, Wholesale/Distribution	Yes	Yes
Livestock - Wholesale only (no auction)	Yes ³	Yes ³
Wholesaling and Storage (indoor) ⁷	Yes	Yes
Wholesaling and Storage (outdoors) ⁷	Yes	Yes
TRANSPORTATION, COMMUNICATION, & UTILITIES		
Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)	No	No
Antenna Tower - Commercial	Yes ⁸	Yes
Automobile Parking Lot or Structure - Commercial	Yes ⁸	Yes
Broadcast Studio	No	No
Passenger Ground Transportation Terminal	No	Yes
Pressure Control Station	Yes ⁸	Yes
Public Utility Facility	Yes ⁸	Yes
Railroad Switching and Marshalling Yard	Yes ⁸	Yes
Utility Generation, Production, Treatment	Yes ⁸	Yes
RESOURCE PRODUCTION & EXTRACTION		
Farming, Ranching & Livestock, Hatchery	Yes ³	Yes ³
Feedlot, Commercial	Yes ³	Yes ³
Mining	Yes ⁹	Yes ⁹
Petroleum or Gas Well	No	No
Liquor	Yes	Yes
Manufacturing (light)	SE ⁴	SE ⁴
Manufacturing (heavy)	SE ⁴	SE ⁴

Notes:

- Any nonconforming/not recommended use approved prior to or at the time of the enactment of this Airport Zoning regulation may be continued.
- Any land use not listed in Table 1 will be evaluated based on a similar use from the table. If such similar use is allowed within APZ I or APZ II, the not-listed use will be allowed without the need for a Special Exception approved by the Board of Adjustment.
- Yes = The use is allowed.

- Yes (with superscript number) = The use is allowed, but may have stipulations.
 - No = The use is not allowed; however, any proposed use identified as "No" may be submitted through a Special Exception process for consideration for approval by the Board of Adjustment after being reviewed by Dyess AFB.
 - SE = A Special Exception approved by the Board of Adjustment after being reviewed by Dyess AFB is required.
- ¹ - Existing lots of less than 1 acre that were legally platted, or that were subdivided prior to 1984, are allowed one residence.
 - ² - The maximum density is one (1) dwelling unit per acre.
 - ³ - Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
 - ⁴ - Except for chemicals and allied products; precision equipment; apparel and other finished products; products made from fabrics, leather and similar materials; petroleum refining and related industries; Rubber and miscellaneous plastic products; professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks; or other hazardous or noise/vibration-sensitive uses. No activity which produces smoke, glare, or involves explosives.
 - ⁵ - Facilities such as playgrounds, club houses, meeting places, auditoriums, large classes, etc., are not permitted.
 - ⁶ - No chapels or houses of worship are allowed within APZ I or APZ II.
 - ⁷ - Big box home improvement stores are not included as part of this category.
 - ⁸ - No above ground passenger terminals and no above ground power transmission or distribution lines at a height greater than 50 feet above Dyess AFB airport elevation. Prohibited power lines include high-voltage transmission lines and distribution lines that provide power to cities, towns, or regional power for unincorporated areas.
 - ⁹ - Surface mining operations that could create retention ponds that may attract waterfowl and present bird/wildlife aircraft strike hazards (BASH), or operations that produce dust or light emissions that could affect pilot vision are not compatible. No activity which produces smoke, glare, or involves explosives.

In addition to the above listed restrictions, no use shall have hazardous materials stored on-site other than minimal, incidental storage of small quantities[.]

f. Noise Zones.

Residential developments and other land uses within Noise Zones may be recommended to consider sound attenuation measures to reduce potential interior noise impacts and achieve a maximum interior noise level of 45 dB DNL. While regulated sound attenuation measures may not be necessary in the Noise Zones due to personal preferences of property owners, the City of Abilene maintains educational materials for interested property owners or developers who want to learn more information about how to reduce interior noise levels inside their residential or other structure. This will alert buyers on the potential for noise impacts in areas close to Dyess AFB. The materials would be educational and not mandatory requirements.

For the purpose of guiding the development of areas which possess a noise hazard to certain land uses, so as to promote compatibility between Dyess AFB and the surrounding land uses and protect the airport from incompatible/not recommended encroachment, noise zones are hereby established within and surrounding the areas of Dyess AFB as follows.

1. Noise Zone Boundaries. The boundaries of said noise zones are established as shown on the most recent Dyess AFB Noise Contours Map, as amended.
2. A copy of the most recent Noise Contours Map, as amended, is on file in the Administrative Office of the Abilene Regional Airport and the City of Abilene Planning Department and online at www.abilenetx.gov ~~(full link is here-~~ <https://storymaps.arcgis.com/stories/83da8ff08d4c4528ab046cb50368cf2c>).
3. New development within the Noise Zones is subject to the following regulations.
 - i. No new mobile and/or manufactured home parks or zones shall be established within any Noise Zone.

(f) Bird /Wildlife Aircraft Strike Hazard (BASH).

All development within a five (5) statute mile radius of the Air Operations Area at Abilene Regional Airport or Dyess AFB shall adhere to the following use standards.

- (1) Solid Waste Landfills. New solid waste landfills are prohibited. Solid waste landfills are defined as any discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile.
- (2) Solid Waste Landfill Transfer Stations. All new landfill transfer stations shall meet the following criteria.
 - a. Shall be fully-enclosed and receive garbage behind closed doors;
 - b. Process received garbage via compaction, incineration, or similar manner; and
 - c. Remove all residue by enclosed vehicles.
 - d. Solid Waste Landfill Transfer Stations are prohibited if they:
 1. Handle or store putrescible waste outside or in a partially enclosed structure accessible to wildlife.
 2. Are open on one or more sides.
 3. Store uncovered quantities of municipal solid waste outside, even if only for a short time.
 4. Use semi-trailers that leak or have trash clinging to the outside.
 5. Do not control odors by ventilation and filtration systems (odor masking is not acceptable).
- (3) Water Management Facilities. Water management facilities include drinking water intake and treatment facilities, storm water and wastewater treatment facilities, associated retention and settling ponds, and ponds that result from mining activities. For the purpose of this section, ponds refer to stagnant bodies of water that may be natural or constructed and exclude residential and public swimming pools and other constructed facilities where water is circulated for filtration and chemical treatment. All new water management facilities shall meet the following criteria.
 - a. Designed and operated so as not to create above-ground standing water.
 - b. Stormwater detention ponds shall be designed, engineered, constructed, and maintained for a maximum 48-hour detention period after the design storm and remain completely dry between storms. To facilitate the control of hazardous wildlife, steep-sided, rip-rap lined, narrow, linearly shaped water detention basins shall be used.
 - c. The following Water Management Facilities are prohibited:
 1. New wastewater management facilities or associated settling ponds.
 2. Artificial marshes.
- (4) Aquaculture. All new aquaculture activities shall be within fully enclosed buildings. Aquaculture activities outside fully enclosed buildings are prohibited.

(g) Solar Energy Development and Solar Panels.

The requirements of this Section shall apply to any application for municipal approval for the erection and maintenance of solar energy development or solar panels within five statute miles around Abilene Regional Airport or Dyess AFB, or as otherwise described below, excluding solar panels for use on a private residence or business to be used exclusively for that residence or

business.

- (1) Applications for solar energy development projects within five miles of Dyess AFB only shall include a mission compatibility evaluation from the DoD Military Aviation and Installation Assurance Siting Clearinghouse, if deemed necessary by consultation with Dyess AFB.
- (2) Applications for solar energy development projects shall include details related to the siting of facilities and distance from Abilene Regional Airport or Dyess AFB, energy capacity output, height of structures and facilities, and construction technology.
- (3) Applications for solar energy development projects shall include a glare analysis that satisfies the requirements of the 2013 FAA Interim Policy 78 FR 63276 regarding yellow glare, glare at Air Traffic Control Towers and analysis and observer characteristics.

(h) Use Restrictions; Interference.

- (1) Notwithstanding any other provision of this Section, no use may be made of land within any zone established by this Section in such manner as to create electrical interference with navigational signals or radio communication between the airports and aircraft, and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of pilots or air traffic controllers using the airport, impair visibility in the vicinity of the airports, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport.
- (2) No structure, natural growth, or other obstruction, except for those allowed as identified in Section 2.3.5.1 (e) (2) e., shall be placed, erected, or allowed to grow to a height that would penetrate a 100-to-one slope from any point on a runway to the outer limits of the extraterritorial jurisdiction and/or Airport Hazard Area, without a determination as to the impact of such use. The City, and Dyess AFB shall be responsible for evaluating the impacts of the structure, natural growth or other obstruction, and findings shall be reported to the Planning Director for evaluation and determination of the potential impact. The Board of Adjustment shall be responsible for approving, conditionally approving, or denying the placement of a structure, natural growth, or other obstruction exceeding this slope, except as stated in Section 2.3.5.1 (j) (1) a.

(i) Nonconforming/Not Recommended Uses and Structures; Abandonment; Replacement.

- (1) Regulation not retroactive. The regulations prescribed in this Section shall not be construed to require the removal, lowering, or other changes or alteration of any structure, natural growth, or other obstruction not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of any nonconforming/not recommended use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any Structure, if the construction, alteration, or use began prior to the effective date of this Section and is diligently prosecuted or completed.
- (2) Nonconforming/Not Recommended Use. Any nonconforming/not recommended use under this Section is subject to the conditions and procedures set forth in this Code.
- (3) Replacement of Nonconforming/Not Recommended Objects of natural growth. A person may not replace a nonconforming/not recommended object of natural growth that has been removed or destroyed.
- (4) A person may renovate a nonconforming/not recommended Structure. The portion of a structure that is renovated must comply with the regulations contained herein, where

applicable.

- (5) Replacement/Expansion of Nonconforming/Not Recommended Single-Family Residential Structure. An existing nonconforming/not recommended single-family residential structure, including manufactured housing, may be replaced and/or enlarged even if not otherwise allowed. There shall be no size restrictions other than required by zoning, where applicable.
- (6) Replacement of a Structure on the Site of a Nonconforming/Not Recommended Nonresidential Use. An existing structure on the site of a nonconforming/not recommended nonresidential use that has been damaged or destroyed may be replaced or restored even if not otherwise allowed. However, the replaced or restored structure shall not exceed the size of the damaged or destroyed structure and shall not exceed any height limitations imposed by this ordinance. A property owner replacing a damaged or destroyed nonconforming/not recommended structure who wishes to exceed the size of the damaged or destroyed structure or exceed height limitations imposed by this ordinance may submit a request for a Special Exception. In addition, no such structure shall be permitted if deemed a hazard by the FAA. This provision does not waive the requirement for obtaining an Airport Zone Development Permit, where applicable.
- (7) Any legal, nonconforming/not recommended industrial uses in the APZ I or APZ II area of Dyess AFB may be expanded to the limits of their property as of the effective date of this ordinance, with no limitation on number of employees, but maintaining restrictions on manufacturing or storage of chemical and hazardous materials.
- (8) Marking and Lighting. Notwithstanding the preceding provisions in this Section, the owner of any existing nonconforming/not recommended structure, natural growth, or other obstruction is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Planning Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Abilene.

(j) Permits.

(1) In General.

- a. Airport Zone Development Permit. Any development, construction, modification, remodeling, or change in use within an area regulated by this Section shall require an Airport Zone Development Permit, with the following exception associated with Dyess AFB.

Any allowable home or other primary structure, addition to an existing home or other primary structure, allowable accessory structure, natural growth, or other object less than 50 feet in height in the APZ I and less than 150 feet in height in the APZ II and beyond shall be exempt from obtaining an Airport Zone Development Permit. This exception does not apply within the Clear Zone associated with Dyess AFB.

- b. This section shall not be interpreted to allow any permit that would:
 1. establish an airport hazard, except as otherwise stated in this ordinance as allowed;
 2. establish a nonconforming/not recommended use, except as otherwise stated in this ordinance as allowed;
 3. allow a nonconforming/not recommended structure, object of natural growth, or other obstruction to become higher than it was on the date this Section was adopted, except as otherwise stated in this ordinance as allowed;

4. allow a nonconforming/not recommended structure, object of natural growth, other obstruction, or use to become a greater hazard to air navigation than it was on the date this Section was adopted, except as otherwise stated in this ordinance as allowed.
 - c. No permit shall be granted to construct, modify, reconstruct, or remodel any Structure or other obstruction to a height of 150 feet or greater, unless an FAA Determination of No Hazard to Air Navigation has been obtained and provided to the Planning Director. Construction must comply with all applicable limitations and/or requirements contained herein and FAA guidelines.
 - d. A permit issued for a particular land use on a site is intended to allow multiple and recurring activities identified in the permit without the need for a separate permit for each.
 - e. There shall be no separate permit fee for an Airport Zone Development Permit.
- (2) Except as provided in subsection (j)(1)b. above, an application for permit shall be granted.
 - (3) New Construction. No material change shall be made in the use of land and no structure, natural growth, or other obstruction, unless exempted above, shall be erected, altered, planted, or otherwise established in any zone hereby created, unless an Airport Zone Development Permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particularity to permit a determination as to whether the resulting use, structure, natural growth, or other obstruction, would conform to the regulations herein prescribed.
 - (4) New Use. No material change shall be made in the use of a structure or property, unless an Airport Zone Development Permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particularity to permit a determination as to whether the resulting use would conform to the regulations herein prescribed.
 - (5) Noise. Noise regulations are hereby established for new construction and rehabilitation, rebuilding, or remodeling, of existing construction within Abilene Regional Airport Noise Zones, as follows:
 - a. Abilene Regional Airport. In the area within 65 DNL or greater noise contour, as shown in the latest Noise Contours Map for the Abilene Regional Airport, as amended, a permit shall be required for any use or structure as identified by the FAA as requiring Noise Level Reduction (NLR). Such permits shall be issued when the Planning Director has approved noise attenuation measures consistent with FAA requirements and approval is obtained from the FAA.
 - b. Certificate of Occupancy or Final Building Approval. For those properties identified by the Noise Contours Map as requiring NLR measures within the incorporated city limits of the City of Abilene, no Certificate of Occupancy or Final Building Approval shall be issued, until the appropriate general contractor or subcontractor of a property provides a copy of the FAA requirements for NLR and verifies that such noise attenuation measures have been properly taken with regard to the property.
 - c. Airport Zone Development Permit. For those properties identified by the Noise Contours Map, as amended, as requiring NLR measures within the extraterritorial jurisdiction of the City of Abilene, an Airport Zone Development Permit is required prior to the construction of a structure. No Airport Zone Development Permit shall be issued until the appropriate general [contractor] or subcontractor of a property provides a copy of the FAA requirements for NLR and verifies that such noise attenuation measures will be taken with regard to the

property.

d. Routine maintenance of a nonconforming/not recommended structure does not invoke the requirements of this subsection.

- (6) Nonconforming/Not Recommended Uses Abandoned or Destroyed. Whenever the Planning Director determines that a nonconforming/not recommended structure or natural growth has been abandoned or more than 50 percent torn down, damaged, destroyed, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or natural growth to exceed the height limit for that zone or otherwise deviate from the regulations contained in this Section or this Chapter.
- (7) Variances. Any person desiring to erect or increase the height of any structure or permit the growth of any natural growth or use his/her property in any manner inconsistent with the regulations prescribed in this Section may apply to the Board of Adjustment for a variance from such regulation(s). Procedural rules regarding variances contained in Code of the City of Abilene apply to this Section.

For all zones established in this Section, the application for variance may be required to be accompanied by a determination from the Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed. In reaching its decision to grant a variance, the Board of Adjustment shall determine that all of the following conditions are present: a literal application or enforcement of the regulations in this Section will result in unnecessary hardship, and relief, if granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section.

In addition, no application for a variance to the requirements of this Section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Development Board (regarding Abilene Regional Airport Zones) or the Dyess AFB Base Civil Engineer (regarding Dyess AFB Zones) for a recommendation as to the aeronautical effects of the requested variance, as more particularly set forth in subsection (I).

- (8) Special Exceptions. Any person desiring to erect, rebuild, or remodel any structure within an Abilene Regional Airport noise zone may apply to the Board of Adjustment for a Special Exception, for a determination as to what noise abatement measures must be included in such construction or remodeling. Procedural rules and standards for granting or denying Special Exceptions contained in this Code of the City of Abilene apply to this Section. In addition, no application for a Special Exception to the requirements of this Section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Development Board (regarding Abilene Regional Airport Zones) for a recommendation as to the aeronautical or sound effects of the requested variance.

Unless otherwise exempted within this ordinance, any person desiring to erect, rebuild, or remodel any structure, or change land use in a non-recommended manner within a Dyess AFB accident potential zone, as defined in this ordinance, may apply to the Board of Adjustment for a Special Exception of density or intensity stipulations. Procedural rules and standards for granting or denying Special Exceptions contained in this Code of the City of Abilene apply to this Section. In addition, no application for a Special Exception to the requirements of this Section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Dyess AFB Base Civil Engineer for review of density/intensity.

- (9) Hazard marking and lighting. Any permit or variance granted may, if such action is deemed

advisable to effectuate the purpose of this Section and be reasonable under the circumstances, be so conditioned as to require the owner of the structure, natural growth, or other obstruction in question, at his/her own expense, to install, operate, and maintain thereon, such markers and lights as may be necessary to indicate to flyers the presence of a potential airport hazard.

(10) Subdivision Plat Acknowledgement of Abilene Regional Airport or Dyess AFB Operations. Applicants for plat approval of land subject to regulations within this Section shall be required to sign an acknowledgement statement and include a note on the plat documentation indicating they understand that the land subject of the plat is within an area that may experience potential impacts or effects associated with aircraft operations at Abilene Regional Airport or military operations at Dyess AFB.

(11) Other Conditions. The Board of Adjustment may place reasonable conditions upon the granting of any variance or special exception.

(k) Enforcement. It shall be the duty of the Planning Director to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Planning Director upon a form furnished by the Planning Department. Applications required by this Section to be submitted to the Planning Director shall be promptly considered and granted or denied by said Planning Director. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Planning Director.

(l) Board of Adjustment.

(1) The Board of Adjustment is hereby granted the authority, in addition to its other duties and powers, to have and exercise the following powers:

- a. to hear and decide appeals from any order, requirement, decision, or determination made by the Planning Director, in the enforcement of this Section;
- b. to hear and decide special exceptions to the terms of this Section;
- c. to hear and decide requests for variances of the requirements of this Section.

(2) Decisions made by the Board of Adjustment, appeals, and judicial review related to this Section shall be in accordance with this Code.

(3) Recommendation to the Board.

- a. Abilene Regional Airport.

The Abilene Regional Airport Development Board may make a recommendation, in writing or by representative, to the Board of Adjustment, regarding any matter before the Board that may have an effect on the Abilene Regional Airport. The Planning Director shall promptly forward any application for a variance or special exception, including any relevant material, to the Airport Development Board for consideration at its next available regular meeting. The Airport Development Board shall thereafter notify the Planning Director of its determination regarding the matter, at any time after the regular meeting, and no later than the date necessary to include the matter on the agenda for the next available regular Board of Adjustment meeting.

- b. Dyess Air Force Base.

The Dyess AFB Base Civil Engineer may make a recommendation, in writing or by representative, to the Board of Adjustment, regarding any matter before the Board that

may have an effect on Dyess AFB. The Planning Director shall promptly forward any application for a variance or special exception, including any relevant material, to the Dyess AFB Base Civil Engineer for consideration. A representative of the Dyess AFB Base Civil Engineer shall thereafter promptly notify the Planning Director of its determination regarding the matter, at any time after receiving the application from the City of Abilene, and not later than 15 days after receipt. Promptly and within a reasonable time after the 15 days has elapsed or a response has been received from the Dyess AFB Base Civil Engineer (whichever is earlier), the Planning Director shall include the matter on the agenda for the next available regular Board of Adjustment meeting.

(m) Violations and Penalties.

- (1) It shall be unlawful for any person to violate any regulation, order, or ruling promulgated under this Section.
- (2) Each day a violation occurs shall constitute a separate offense. The daily Penalties will be suspended upon application for Special Exception or request for Variance.
- (3) Any person who violates any provision of this Section shall be guilty of a misdemeanor, punishable by a fine as set forth in Chapter 1, Sec. 1-9 of the Code of the City of Abilene.

(n) Civil Remedies.

- (1) The City Attorney may enforce this Section by injunction, declaratory relief, or other action at law or in equity.
- (2) Any structure erected or used, or any work done, contrary to any of the provisions of this Section or to any of the details contained in the final site plan or Airport Zone Development Permit approved by the City is hereby declared to be unlawful and shall constitute a violation of this Section. The Council may direct the City Attorney to initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, correct or remove the unlawful structure, use or work.
- (3) In addition to any other remedies which may be available at law or in equity, the City may sue in the appropriate district court for an injunction to prohibit the violation of, or to enforce compliance with, any regulation contained in this Section.

(o) Amendments.

- (1) As part of the development of an amendment to this Section, a committee shall be appointed to participate in the development of the amendment language. This committee shall include the County Commissioner whose precinct is within the affected area around Dyess AFB and at least three (3) property owners whose property is located within an area affected by the Section, to include the current Dyess AFB accident potential zones or noise contours, who shall be appointed by said County Commissioner.
- (2) Prior to approval of an amendment to this Section, this committee shall have a minimum of 60 days to review and comment on any proposed amendment.

(p) Exemptions.

The following uses are exempt from the Airport Zoning regulations, unless otherwise regulated through other sections:

- (1) Agricultural Use. This regulation shall not be used to regulate any operational aspect of an existing agricultural use, including the cultivation and harvesting of crops, land management

activities (prescribed burning, clearing, spraying and trimming), livestock management, hunting, use and application of water, or ponds/tanks used for watering of livestock or recreational use. Expansion of existing structures and construction of new structures that are accessory for agricultural uses are subject to these regulations to the extent permitted by state law.

- (2) Existing Structures. This regulation shall not restrict or limit the use of legally established, existing land uses and structures as of the effective date of these regulations.

(Ord. No. 8-2010, pt. 1 (Exh. A), 4-22-10; Ord. No. 12-2010, pt. A (Exh. A), 6-10-10)

ZONING CASE OAM-2024-01

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 5, 2024
City Council 1st Reading: November 21, 2024
City Council 2nd Reading: December 5, 2024

Applicant

City of Abilene

Case Manager

Don Green – Transportation Services Director

Request

An amendment to the Land Development Code (LDC) to repeal Section 2.3.5.1, “*Airport Zoning*”, and replace it Section 2.3.5.1 “*Airport Zoning*”, as revised.

Airport Zoning Ordinance Purposes

1. Protect health, safety, and general welfare of the public, where it is recognized that obstructions, aircraft accidents, and excessive noise have the potential for endangering or harming the lives and/or property of users or occupants of land in the vicinity of Abilene Regional Airport and Dyess Air Force Base.
2. Regulate airport zoning hazard areas and compatible land uses surrounding airports in the City of Abilene, pursuant to Chapter 241 of the Texas Local Government Code, as amended.

Background

The City of Abilene was the sponsor of the Joint Land Use Study (JLUS) which considered the impact of development around Dyess Air Force Base (DAFB) and how certain surrounding development could affect the ability of DAFB to complete its mission and purpose in the future.

The City of Abilene worked with stakeholders from Taylor County, DAFB, the City of Tye, representatives from View and Caps communities, and interested property owners. The final JLUS report that was unanimously adopted includes recommendations intended to allow DAFB to satisfy its purposes and mission, protect public health and safety, and to not unnecessarily dilute the property rights of area property owners. Several of the JLUS recommendations pertain to land development and require an amendment to the Airport Zoning regulations of the Land Development Code to implement.

Proposed Amendment

The attached ordinance, if approved, would repeal and replace the existing Airport Zoning regulations and implement the development-related recommendations of the JLUS report.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

Attachment

Proposed Airport Zoning regulations

City of Abilene
Division 5 - Airport Zoning

Section 2.3.5.1 Airport Zoning

- (a) Purpose. It is the purpose of this Section to protect health, safety, and general welfare of the public, where it is recognized that obstructions, aircraft accidents, and excessive noise have the potential for endangering or harming the lives and/or property of users or occupants of land in the vicinity of Abilene Regional Airport and Dyess Air Force Base (Dyess AFB). It is further the purpose of this Section to regulate airport zoning hazard areas and compatible land uses surrounding airports in the City of Abilene, pursuant to Chapter 241 of the Texas Local [Government] Code, as amended, and to preserve and maintain existing and future operational capabilities of Abilene Regional Airport and Dyess AFB.
- (b) Applicability. This Section establishes regulations applicable to all land located within the boundary of the Airport Zoning for operational areas around Abilene Regional Airport and Dyess AFB, as adopted and depicted on the official Zoning Map for the City of Abilene. All airport zoning regulations shall be in accordance with Local Government Code § 241.001, et seq., as amended, and shall apply within the corporate limits and unincorporated areas within the extraterritorial jurisdiction of the City of Abilene, as well as the Airport Hazard Areas in and surrounding Abilene Regional Airport and Dyess AFB. The use of all land and any natural growth, structures, or any other obstructions upon the land, and the height, construction, reconstruction, alteration, expansion, or relocation of any natural growth, structures, or any other obstructions upon the land, shall conform to all regulations contained in and applicable to this Section. No land, natural growth, structure, or other obstruction shall be erected, constructed, used, replaced, altered, and/or maintained for any purpose or in any manner other than permitted by this section.
- (c) Background. The Dyess AFB Joint Land Use Study (JLUS) was completed in January 2018. The JLUS was developed through a collaborative process among the City of Abilene, the City of Tye, Taylor County, property owners and residents including within the View/Caps Community, the Abilene Chamber of Commerce, and Dyess AFB. Through the JLUS process, stakeholders collaborated to identify and assess existing, perceived, and potential compatible and incompatible/not recommended activities between Dyess AFB and the surrounding communities. The outcome of the JLUS was a series of recommendations to assist in promoting and guiding sustainable growth for Dyess AFB and the surrounding community. Among the recommendations were several to amend the existing Abilene Airport Zoning regulations, without limiting property owner and development rights related to safety concerns and noise generated by activities at Dyess AFB.

It is important to note that throughout the Dyess AFB JLUS process, property owners in the unincorporated View/Caps Community to the south and west of Dyess AFB were very involved and invested in the JLUS process and development of the study. As property owners in the areas affected by safety (clear zones and accident potential zones) and noise generated by aircraft operating at Dyess AFB, these citizens were influential in the assessment of the JLUS compatibility issues, particularly regarding safety and noise. While it is part of the JLUS process to identify and assess existing conditions (e.g., safety and noise zones from aircraft operations that goes outside of the boundaries of Dyess AFB), many of the current View/Caps property owners have publicly stated that they do not have any concerns with safety or noise, and they accept the levels of safety concerns and noise generated by aircraft at Dyess AFB. These property owners are proud to have Dyess AFB as their neighbor and have voiced their continued support for Dyess AFB's missions.

The development and establishment of the Airport Zoning ordinance was a collaborative process involving the City of Abilene, City of Tye, Taylor County, Dyess AFB, and property owners within the affected area. While the Dyess AFB Air Installation Compatible Use Zone Study (AICUZ) Study recommendations were used as a starting point in the process, the ultimate decisions made by the City of Abilene took some of the AICUZ recommendations into consideration, but intentionally does not contain all of them. These decisions were made to accommodate local preferences, quality of life, and desired lifestyle of the community. Land use regulations are also established by the ordinance, which are similar to the recommendations outlined in the AICUZ; however, there are some differences which were agreed upon by all parties that participated in the development of the ordinance. Noise regulations within the Dyess AFB noise contours were considered for inclusion in the Airport Zoning ordinance, but were omitted through a public process in which many of the property owners within the noise contours publicly stated that they accept the risks and potential impacts associated with noise generated by Dyess AFB aircraft operations and requested that noise regulations be removed from the ordinance, which it was.

In lieu of regulating land use and development within the Dyess AFB noise contours through this Airport Zoning ordinance, the City of Abilene and other JLUS stakeholders agreed to utilize educational materials such as brochures and maps to inform existing and future property owners about the boundaries of the noise contours and potential implications of developing within them.

- (d) Definitions. The following words and phrases, whenever used in this Section, shall be defined as follows:
- (1) “Accident Potential Zone” (“APZ”) means a land use control area beyond the clear zones of a military runway that possesses a significant potential for accidents;
 - (2) “Air Installation Compatible Use Zone (AICUZ) Study” means a study developed by Dyess AFB to provide information about aircraft operations at Dyess AFB that cause noise and safety hazards and to provide recommendations for local communities to inform land use planning around Dyess AFB;
 - (3) “Air Operations Area” means any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An air operations area includes such paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiways, or apron;
 - (4) “Airport” means the Abilene Regional Airport and/or Dyess AFB;
 - (5) “Airport Elevation” means the established elevation of the highest point on the usable landing area;
 - (6) “Airport Hazard” means any natural growth, structure, any other potential obstruction, or use of land which obstructs the airspace required for, or is otherwise potentially hazardous to, the flight of aircraft in landing or taking off at an airport or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft;
 - (7) “Airport Hazard Area” means an area of land or water on which an airport hazard could exist;
 - (8) “Bird / Wildlife Aircraft Strike Hazard (BASH)” means the likely occurrence for a collision between an airborne animal or an animal on the ground and an aircraft on or near a runway. The BASH Relevancy Area is a five-statute mile area around Airports where risk is highly associated with BASH;
 - (9) “Board of Adjustment” means the City of Abilene Board of Adjustment, as created by the City’s Charter and defined in this Code of the City of Abilene and by State law;

- (10) “Centerline” means a line extending through the midpoint of each end of a runway;
- (11) “Compatible Land Use” means a use of land adjacent to or in the vicinity of an airport that does not have the potential to endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport including the taking off and landing of aircraft;
- (12) “Day Night Average Noise Level” (“DNL”) means a 24-hour time-averaged sound exposure level, adjusted for average-day sound source operations. In the case of aircraft noise, a single operation is equivalent to a single aircraft departure, approach;
- (13) “Decibel (dB)” means a unit of measure based on a logarithmic scale. A 10 dB increase in noise level corresponds to a 100 percent increase (doubling) in perceived loudness;
- (14) “FAA” means the Federal Aviation Administration;
- (15) “Hazard to Air Navigation” means an obstruction determined to have an adverse effect on the safe and efficient utilization of the navigable airspace;
- (16) “Height” is determined by mean sea level elevation, unless otherwise specified;
- (17) “Imaginary Surfaces Map” refers to the current map for the Abilene Regional Airport, as amended, created pursuant to 14 Code of Federal Regulations (C.F.R) Part 77, a true and correct copy of which is maintained at the Abilene Regional Airport Administrative Office and the City of Abilene Planning Department;
- (18) “Instrument Runway” means a runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions. It also means a runway for which a precision approach system is planned, as so indicated on an approved airport layout plan or any other airport planning document or map;
- (19) “Joint Land Use Study (JLUS)” means a planning tool developed through the collaborative efforts of a comprehensive set of stakeholders in a defined study area in order to identify compatibility / recommended land use guidelines within, and adjacent to, active military installations.
- (20) “Landing Area” means the area of the airport used for the landing, take off, or taxiing of aircraft;
- (21) “Landing Zone” (“LZ”) means a landing zone consisting of a runway, a runway and taxiway, or other aircraft operational surfaces (e.g., aprons, turnarounds). An LZ is a prepared or semi-prepared (unpaved) airfield used to conduct military operations in an airfield environment similar to forward operating locations. LZ runways are typically shorter and narrower than standard runways;
- (22) “Larger than Utility Runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
- (23) “Mean Sea Level (MSL)” means the average height of water in the sea used as the datum plane to measure land elevation;
- (24) “Military Imaginary Surfaces Map” refers to the most recent map indicating zones in and surrounding Dyess AFB, a true and correct copy of which is maintained in the City of Abilene Planning Department;
- (25) “Natural Growth” means any tree, shrub, grass, or other item found in nature that is flora;

- (26) “Noise Contour” means a geographical representation of DNL noise levels;
- (27) “Noise Contours Map” refers to the most recent map and attachments, as amended, developed by Abilene Regional Airport and Dyess AFB, respectively, pursuant to 14 C.F.R. Part 150, indicating estimated noise levels and compatible land uses for zones surrounding the Abilene Regional Airport and Dyess AFB, a true and correct copy of which is maintained at the Abilene Regional Airport Administrative Office and the City of Abilene Planning Department, and Dyess, respectively, as well as online at www.abilenetx.gov and at <https://storymaps.arcgis.com/stories/83da8ff08d4c4528ab046cb50368cf2c>;
- (28) “Noise Level Reduction” means the voluntary incorporation of sound attenuation measures (outdoor to indoor) into the design and construction of a Structure;
- (29) “Nonconforming/Not recommended Structure” means any Structure, existing on land which does not conform to the regulations, relative to its size, height, or location, within the district in which it is located. Nonconforming/Not recommended Structures may not be improved or enlarged, except as provided for in this Section, or pursuant to a Variance or Special Exception granted by the Board of Adjustment;
- (30) “Nonconforming/Not recommended Use” means any activity or use of land which was approved prior to the enactment of this Section, but does not conform to the regulations of the district in which it is located pursuant to this Section or is not recommended for use. Any nonconforming/not recommended use existing at the time of the enactment of this Section may be continued, except as provided in this Section;
- (31) “Obstruction” means any structure, tree, plant, or other object of natural growth that penetrates an imaginary surface or is determined by the Federal Aviation Administration to interfere with the established aviation traffic pattern;
- (32) “Planning Department” means the City of Abilene department responsible for the City’s planning and zoning activities, currently referred to as the Planning and Development Services Department.
- (33) “Planning Director” means the City of Abilene Director of Planning and Development Services or designee;
- (34) “Precision Instrument Runway” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document;
- (35) “Primary Surface” means a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specifically prepared hard surface, the primary surface ends at each end of that runway. The width of the primary surfaces for Abilene Regional Airport and Dyess AFB are more particularly described in subsection (e);
- (36) “Runway” means a defined area on an airport prepared for landing and take-off of aircraft along its length;
- (37) “Structure” means any object, including a mobile object, constructed or installed by man, including without limitation, any building, physical improvement, tower, smokestack, earth formation, and overhead transmission lines;
- (38) “Utility Runway” means a runway that is constructed for and intended to be used by propeller-

driven aircraft of 12,500 pounds maximum gross weight and less;

(39) “Visual Runway” means a runway intended solely for the operation of aircraft using visual approach procedures;

(e) Surfaces; Zones; Height Limitations; and Noise Zones.

(1) Abilene Regional Airport.

a. Imaginary Surfaces. There are hereby established and designated certain surfaces, as shown on the Imaginary Surfaces Map for Abilene Regional Airport. The surfaces are more particularly described and defined as follows:

1. “Approach Surface” means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope, as described in this Section. The perimeter of the approach surface coincides with the perimeter of the approach zone;
2. “Conical Surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet;
3. “Horizontal Surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of the airport and connecting the adjacent arcs by lines tangent to those arcs. For all visual runways designated as utility or visual, the radius of each arc is 5,000 feet; for all other runways, the radius of each arc is 10,000 feet. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
4. “Transitional Surfaces” means the surfaces extending outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces, for those portions of the precision approach surfaces which project through and beyond the limits of the conical surfaces, extend a distance of 5,000 feet, measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

b. Height Limitations; Zones. There are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Abilene Regional Airport. Such zones are shown on the Imaginary Surfaces Map, and more particularly described as follows. Except as otherwise provided in this Section, no structure, natural growth, or other obstruction shall be erected, altered, allowed to grow, or maintained in any zone contained in this Section to a height level above the applicable surfaces on the outer or upper edge of the below-described zones. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

1. Utility Runway Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the

primary surface. Its centerline is the continuation of the centerline of the runway.

2. Runway Larger than Utility With a Visibility Minimum as Low as 3/4 Mile Non-Precision Instrument Approach Zone: the inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
 3. Precision Instrument Runway Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the runway.
 4. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
 5. Horizontal Zone: A horizontal zone is hereby established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
 6. Conical Zone: A Conical Zone is hereby established as the area that commences at the periphery of the Horizontal Zone and extends outward there from a horizontal distance of 4,000 feet. The Conical Zone does not include the Approach Zones and Horizontal Zones.
- c. Noise Zones. For the purpose of regulating the development areas which possess a noise hazard for certain land uses, so as to promote compatibility between the airport and the surrounding land uses, protect the airport from incompatible/not recommended use encroachment, and promote and protect the health, safety, and general welfare of property users, noise zones are hereby established within and surrounding the areas of the Abilene Regional Airport, as follows:
1. Zone Boundaries. The boundaries of said zones are established as shown on the most recent Noise Contours Map, as amended.
 2. Compatible Land Uses. Compatible land uses within the noise zones are established as shown on the most recent Noise Contours Map, as amended.
 3. A copy of the most recent Noise Contours Map, as amended, is on file in the Administrative Office of the Abilene Regional Airport and the City of Abilene Planning Department.

(2) Dyess Air Force Base.

- a. Imaginary Surfaces. There are hereby established and designated certain surfaces, as shown on the Military Imaginary Surfaces Map. The surfaces are described as follows:
 1. "Approach Clearance Surface" means an inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the Approach Clearance Surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation, which is 1789 feet above mean sea level for Dyess AFB. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end

is the same as the primary surface, it flares uniformly, and the width at 50,000 feet is 16,000 feet.

2. “Conical Surface” means a surface extending outward and upward from the periphery of the inner horizontal surface at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.
 3. “Inner Horizontal Surface” means a plane that is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.
 4. “LZ Approach-Departure Clearance Surface” means an imaginary surface that is an inclined plane arranged symmetrically about the runway centerline extended, beginning at the end of the clear zone, 500 feet beyond each end of the runway threshold, and extending 10,500 feet. The slope of the surface is 35 to 1 along the runway centerline extended until it reaches an elevation of 300 feet above the runway end elevation. The width of this surface at the clear zone end is 500 feet flaring uniformly until it reaches a width of 2,500 feet at 10,500 feet.
 5. “Outer Horizontal Surface” means a plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.
 6. “Primary Surface” means a surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet.
 7. “Transitional Surfaces” means the surfaces that connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.
- b. Height Limitations: Zones. There are hereby created and established certain zones which include all of the land beneath the Approach Clearance Surface, Conical Surface, Inner Horizontal Surface, LZ Approach-Departure Clearance Surface, Outer Horizontal Surface, Primary Surface, and Transitional Surface as they apply to Dyess AFB. Such zones are shown on the Military Imaginary Surfaces Map, and more particularly described in subsection a above. Except as otherwise provided in this Section, no structure, natural growth, or other obstruction shall be erected, altered, allowed to grow, or maintained in any zone contained in this Section to a height level above the surfaces established and described in subsection (2) above. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation. A property owner wishing to erect or maintain a structure or natural growth that exceeds the height limitations of this subsection may apply for a variance, as described in Section 2.3.5.1 (j) (7).
- c. Clear Zones. Clear Zones are areas on the ground, located at the end of each runway. They possess a high potential for accidents and their use is restricted to be compatible with aircraft operations in accordance with Table 1 below. Clear Zones are 3,000 feet long measured along the extended runway centerline beginning at the runway end. They are 3,000 feet wide centered on and measured at right angles to the extended runway centerline.

- d. Accident Potential Zones (APZs). APZs are areas on the ground located beyond the Clear Zone of each runway. They possess a potential for accidents and their use is restricted in accordance with Table 1.
1. APZ I. APZ I begins at the end of the Clear Zone, and is centered and measured on the extended centerline. It is 3,000 feet wide and 5,000 feet long.
 2. APZ II. APZ II begins at the end of APZ I, and is centered and measured on the extended runway centerline. It is 3,000 feet wide and 7,000 feet long.
 3. LZ APZs. LZ APZs begin at the end of the LZ Clear Zone, and are centered and measured on the extended runway centerline. They are 500 feet wide and 2,500 feet long.
- e. Land Use Restrictions.
1. An individual single-family residential structure, including manufactured housing, shall be permitted on a lot of 1 acre or larger, except within the Clear Zone associated with Dyess AFB. This does not eliminate the need for an Airport Zone Development Permit.
 2. An individual single-family residential structure, including manufactured housing or allowable accessory structure, meaning any object, including a mobile object, constructed or installed by man, including without limitation, any building or structure, physical improvement, tower, smokestack, earth formation, overhead transmission lines, garages, carports, shops, barns, storage buildings, etc. or similar uses used in conjunction or not in conjunction with residential or similar uses, shall be permitted on an existing legally platted lot, or a lot subdivided prior to 1984, even if the area of the lot is less than 1 acre, except within the Clear Zone associated with Dyess AFB. This does not preclude the acceptance of utility services water, electrical, sewer, or any other utility.
 3. An individual single-family residential structure, including manufactured housing and any other type of building/structure, shall not exceed a height greater than thirty-five (35) feet if the structure penetrates an established Military Imaginary Surface.
 4. Future development within the APZ I and APZ II shall conform to Table 1 Dyess Air Force Base Land Use Restrictions. A property owner wishing to erect a structure in APZs I or II that is not allowed in Table 1 may apply for a Special Exception as described in Section 2.3.5.1 (j) (8).
 5. Except as otherwise stated in this ordinance, previously approved nonconforming/not recommended uses in the APZs I and II that do not conform to Table 1 Dyess Air Force Base Land Use Restrictions may be replaced, but not expanded in square footage unless a Special Exception is approved. Such replacement may not expand square footage or increase the density and intensity of the original nonconforming/not recommended use unless a Special Exception is approved.

Table 1
Dyess Air Force Base
Land Use Restrictions

Land Use	APZ I	APZ II
RESIDENTIAL USES¹		
Bed & Breakfast	No	Yes ²
Dwelling - Duplex	No	Yes ²
Dwelling - Industrialized Housing	Yes ²	Yes ²
Dwelling - Institutional	No	No
Dwelling - Manufactured Home (HUD-Code)	No	Yes ²
Dwelling - Mobile Home	No ¹	Yes ^{1, 2}
Dwelling - Multiple-Family	No	No
Dwelling - Patio Home	Yes ^{1, 2}	Yes ^{1, 2}
Dwelling - Single Family Detached	Yes ^{1, 2}	Yes ^{1, 2}
Dwelling - Townhome	No	No
Group Home	No	No
Hotel/Motel	No	No
Travel Trailer/ Recreational Vehicle	No ¹	Yes ^{1, 2}
Vacation Travel Trailer Park	No	No
ACCESSORY & INCIDENTAL USE		
Accessory Structure	Yes ¹	Yes ¹
Animal Lot	Yes ³	Yes ³
Antenna, Non-Commercial/ Amateur	Yes	Yes
ATMs, Self-Serve Kiosks, and Similar Facilities	Yes	Yes
Day Care Operation - Home-Based	No	No
Dwelling - Accessory	Yes ^{1, 2}	Yes ^{1, 2}

Drive-Thru Facility	No	Yes
Field Office or Construction Office (temporary)	Yes	Yes
Freight Container	Yes	Yes
Fuel Sales	No	No
Garage Sale	Yes	Yes
Home Occupation	Yes ^{1, 2}	Yes ^{1, 2}
Itinerant Business	No	Yes
Manufacturing	SE ⁴	SE ⁴
Mobile Home (permanent security residence)	No	Yes
Mobile Home (temporary security residence)	No	Yes
Mobile Home or Temporary Building (office for sales and service)	No	Yes
Recreation Building, Multipurpose	Yes ⁵	Yes ⁵
Recycling Collection Point	Yes	Yes
Subdivision Sales Office (temporary)	No	Yes
Swimming Pool, Private (accessory to residential use)	Yes	Yes
Tennis Court, Private (accessory to residential use)	Yes	Yes
Travel Trailers (accessory to hospitals)	No	Yes
CULTURAL & RECREATION USE		
Adult Entertainment Enterprise	No	No
Civic, Social, and Fraternal Organization	No	No
Cultural Facilities	No	No
Drive-in Theater	No	No
Fairgrounds/Rodeo	No	No
Motorized Racing	No	No
Recreation - Outdoors (active and passive)	Yes ⁵	Yes ⁵
Recreation and Commercial Entertainment	No	No

Zoo	No	No
GOVERNMENT, HEALTH, SAFETY, AND WELFARE USES		
Ambulance Service	No	SE
Community Home	No	No
Correction, Detention, or Penal Facilities	No	No
Fire/Police Station	No	SE
Homeless/Emergency Shelter	No	No
Hospital	No	No
Medical/Dental Laboratory	No	No
Military and Armed Forces Reserve Center	No	No
Military Base and Reservation	No	No
Personal Care Facility	No	No
Post Office	No	SE
Rehabilitation Facility	No	No
Sanitary Landfill	No	No
Social Service Facility	No	No
EDUCATIONAL & RELIGIOUS USES		
Arts School	No	No
Cemetery, Crematorium, and Mausoleum	Yes ⁶	Yes ⁶
Church or Place of Worship	No	No
Day-Care Operation - Center-Based	No	No
Educational and Scientific Research	No	No
School: Public/Private	No	No
Trade/Business School	No	No
University/College	No	No
SERVICE		

Automobile Wash	Yes	Yes
Cabinet Making; Carpentry and Wood Flooring Services	SE ⁴	Yes ⁴
Contractor Services	Yes	Yes
Delivery Services	SE	Yes
Drilling-Rig Repair (sand and water blasting)	SE ⁴	Yes ⁴
Electrical Motor Repair	SE	Yes
Equipment Repair, Services, and Sales	SE	Yes
Exterminating and Fumigating Services	SE ⁴	Yes ⁴
Farm Equipment Repair, Services, and Sales	SE	Yes
Funeral Home/Mortuary/Morgue	No	No
Heating, Ventilation, Air-Conditioning Services	SE ⁴	Yes ⁴
House Wrecking and Demolition	SE ⁴	Yes ⁴
Kennel (With Outdoor Pens)	Yes	Yes
Kennel (Without Outdoor Pens)	Yes	Yes
Landscaping Services	SE	Yes
Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)	No	Yes
Laundry/Dry Cleaning Services & Facilities	No	Yes
Machine Shops	SE ⁴	Yes ⁴
Masonry, Concrete, Stonework, Tile Setting, and Plastering Services	SE ⁴	Yes ⁴
Office (general, professional, financial)	No	Yes
Oilfield Service	SE ⁴	Yes ⁴
Oil Well Drilling Contractors	SE ⁴	Yes ⁴
Paint and Body Repairs, Services, and Sales	SE	Yes
Personal Services	No	Yes
Pet Services and Sales	SE	Yes
Pipe Cleaning and Testing (sand and water blasting)	SE ⁴	Yes ⁴

Plumbing Services	SE	Yes
Printing, Copying, Reproduction, Publishing	No	Yes
Recycling Collection and Processing Center	Yes	Yes
Refrigerated Warehousing	SE ⁴	Yes ⁴
Repair and Maintenance Services - Automobile/Small Truck (major)	Yes	Yes
Repair and Maintenance Services - Automobile/Small Truck (minor)	Yes	Yes
Repair and Maintenance Services (indoor)	Yes	Yes
Repair and Maintenance Services (outdoors)	Yes	Yes
Repair and Maintenance Services (truck and other large vehicles)	Yes	Yes
Roofing and Sheet Metal Services	SE	Yes
Scales (public)	Yes	Yes
Storage - Self-Service Units	Yes	Yes
Storage and Warehousing (general)	SE ⁴	Yes ⁴
Tattoo Parlor	No	Yes
Taxidermist	No	Yes
Veterinary Service (all size animals)	No	No
Veterinary Service (small animals)	No	No
Water Well Drilling Services	SE ⁴	Yes ⁴
Welding and Cutting Services and Sales	SE ⁴	Yes ⁴
Wrecker/Towing	Yes	Yes
TRADE - RETAIL USES		
Aircraft and Accessories	Yes	Yes
ATMs, Self-Serve Kiosks, and Similar Facilities	Yes	Yes
Convenience Store	No	Yes
Fuel Sales	No	No
Liquor Store (Off Premises Consumption)	No	Yes

Liquor Store (On Premises Consumption)	No	No
Restaurant, Fast Food	No	No
Restaurant, Standard	No	No
Retail Sales/Rental (automobile/small truck)	Yes	Yes
Retail Sales/Rental (indoor)	No	Yes
Retail Sales/Rental (outdoors, non-vehicle)	No	Yes
Retail Sales/Rental (trucks and other large vehicles and equipment)	Yes	Yes
Scrap and Waste Material	Yes	Yes
TRADE - WHOLESALE USES		
Liquor, Wholesale/Distribution	Yes	Yes
Livestock - Wholesale only (no auction)	Yes ³	Yes ³
Wholesaling and Storage (indoor) ⁷	Yes	Yes
Wholesaling and Storage (outdoors) ⁷	Yes	Yes
TRANSPORTATION, COMMUNICATION, & UTILITIES		
Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)	No	No
Antenna Tower - Commercial	Yes ⁸	Yes
Automobile Parking Lot or Structure - Commercial	Yes ⁸	Yes
Broadcast Studio	No	No
Passenger Ground Transportation Terminal	No	Yes
Pressure Control Station	Yes ⁸	Yes
Public Utility Facility	Yes ⁸	Yes
Railroad Switching and Marshalling Yard	Yes ⁸	Yes
Utility Generation, Production, Treatment	Yes ⁸	Yes
RESOURCE PRODUCTION & EXTRACTION		
Farming, Ranching & Livestock, Hatchery	Yes ³	Yes ³
Feedlot, Commercial	Yes ³	Yes ³

Mining	Yes ⁹	Yes ⁹
Petroleum or Gas Well	No	No
Liquor	Yes	Yes
Manufacturing (light)	SE ⁴	SE ⁴
Manufacturing (heavy)	SE ⁴	SE ⁴

Notes:

- Any nonconforming/not recommended use approved prior to or at the time of the enactment of this Airport Zoning regulation may be continued.
- Any land use not listed in Table 1 will be evaluated based on a similar use from the table. If such similar use is allowed within APZ I or APZ II, the not-listed use will be allowed without the need for a Special Exception approved by the Board of Adjustment.
- Yes = The use is allowed.
- Yes (with superscript number) = The use is allowed, but may have stipulations.
- No = The use is not allowed; however, any proposed use identified as “No” may be submitted through a Special Exception process for consideration for approval by the Board of Adjustment after being reviewed by Dyess AFB.
- SE = A Special Exception approved by the Board of Adjustment after being reviewed by Dyess AFB is required.

¹ - Existing lots of less than 1 acre that were legally platted, or that were subdivided prior to 1984, are allowed one residence.

² - The maximum density is one (1) dwelling unit per acre.

³ - Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.

⁴ - Except for chemicals and allied products; precision equipment; apparel and other finished products; products made from fabrics, leather and similar materials; petroleum refining and related industries; Rubber and miscellaneous plastic products; professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks; or other hazardous or noise/vibration-sensitive uses. No activity which produces smoke, glare, or involves explosives.

⁵ - Facilities such as playgrounds, club houses, meeting places, auditoriums, large classes, etc., are not permitted.

⁶ - No chapels or houses of worship are allowed within APZ I or APZ II.

⁷ - Big box home improvement stores are not included as part of this category.

⁸ - No above ground passenger terminals and no above ground power transmission or distribution lines at a height greater than 50 feet above Dyess AFB airport elevation. Prohibited power lines include high-voltage transmission lines and distribution lines that provide power to cities, towns, or regional power for unincorporated areas.

⁹ - Surface mining operations that could create retention ponds that may attract waterfowl and present bird/wildlife aircraft strike hazards (BASH), or operations that produce dust or light emissions that could affect pilot vision are not compatible. No activity which produces smoke, glare, or involves explosives.

In addition to the above listed restrictions, no use shall have hazardous materials stored on-site other than minimal, incidental storage of small quantities[.]

f. Noise Zones.

Residential developments and other land uses within Noise Zones may be recommended to consider sound attenuation measures to reduce potential interior noise impacts and achieve a maximum interior noise level of 45 dB DNL. While regulated sound attenuation measures may not be necessary in the Noise Zones due to personal preferences of property owners, the City of Abilene maintains educational materials for interested property owners or developers who want to learn more information about how to reduce interior noise levels inside their residential or other structure. This will alert buyers on the potential for noise impacts in areas close to Dyess AFB. The materials would be educational and not mandatory requirements.

For the purpose of guiding the development of areas which possess a noise hazard to certain land uses, so as to promote compatibility between Dyess AFB and the surrounding land uses and protect the airport from incompatible/not recommended encroachment, noise zones are hereby established within and surrounding the areas of Dyess AFB as follows.

1. Noise Zone Boundaries. The boundaries of said noise zones are established as shown on the most recent Dyess AFB Noise Contours Map, as amended.
2. A copy of the most recent Noise Contours Map, as amended, is on file in the Administrative Office of the Abilene Regional Airport and the City of Abilene Planning Department and online at www.abilenetx.gov
<https://storymaps.arcgis.com/stories/83da8ff08d4c4528ab046cb50368cf2c>.
3. New development within the Noise Zones is subject to the following regulations.
 - i. No new mobile and/or manufactured home parks or zones shall be established within any Noise Zone.

(f) Bird /Wildlife Aircraft Strike Hazard (BASH).

All development within a five (5) statute mile radius of the Air Operations Area at Abilene Regional Airport or Dyess AFB shall adhere to the following use standards.

- (1) Solid Waste Landfills. New solid waste landfills are prohibited. Solid waste landfills are defined as any discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile.
- (2) Solid Waste Landfill Transfer Stations. All new landfill transfer stations shall meet the following criteria.
 - a. Shall be fully-enclosed and receive garbage behind closed doors;
 - b. Process received garbage via compaction, incineration, or similar manner; and
 - c. Remove all residue by enclosed vehicles.
 - d. Solid Waste Landfill Transfer Stations are prohibited if they:
 1. Handle or store putrescible waste outside or in a partially enclosed structure accessible to wildlife.

2. Are open on one or more sides.
 3. Store uncovered quantities of municipal solid waste outside, even if only for a short time.
 4. Use semi-trailers that leak or have trash clinging to the outside.
 5. Do not control odors by ventilation and filtration systems (odor masking is not acceptable).
- (3) **Water Management Facilities.** Water management facilities include drinking water intake and treatment facilities, storm water and wastewater treatment facilities, associated retention and settling ponds, and ponds that result from mining activities. For the purpose of this section, ponds refer to stagnant bodies of water that may be natural or constructed and exclude residential and public swimming pools and other constructed facilities where water is circulated for filtration and chemical treatment. All new water management facilities shall meet the following criteria.
- a. Designed and operated so as not to create above-ground standing water.
 - b. Stormwater detention ponds shall be designed, engineered, constructed, and maintained for a maximum 48-hour detention period after the design storm and remain completely dry between storms. To facilitate the control of hazardous wildlife, steep-sided, rip-rap lined, narrow, linearly shaped water detention basins shall be used.
 - c. The following Water Management Facilities are prohibited:
 1. New wastewater management facilities or associated settling ponds.
 2. Artificial marshes.
- (4) **Aquaculture.** All new aquaculture activities shall be within fully enclosed buildings. Aquaculture activities outside fully enclosed buildings are prohibited.

(g) Solar Energy Development and Solar Panels.

The requirements of this Section shall apply to any application for municipal approval for the erection and maintenance of solar energy development or solar panels within five statute miles around Abilene Regional Airport or Dyess AFB, or as otherwise described below, excluding solar panels for use on a private residence or business to be used exclusively for that residence or business.

- (1) Applications for solar energy development projects within five miles of Dyess AFB only shall include a mission compatibility evaluation from the DoD Military Aviation and Installation Assurance Siting Clearinghouse, if deemed necessary by consultation with Dyess AFB.
- (2) Applications for solar energy development projects shall include details related to the siting of facilities and distance from Abilene Regional Airport or Dyess AFB, energy capacity output, height of structures and facilities, and construction technology.
- (3) Applications for solar energy development projects shall include a glare analysis that satisfies the requirements of the 2013 FAA Interim Policy 78 FR 63276 regarding yellow glare, glare at Air Traffic Control Towers and analysis and observer characteristics.

(h) Use Restrictions; Interference.

- (1) Notwithstanding any other provision of this Section, no use may be made of land within any zone

established by this Section in such manner as to create electrical interference with navigational signals or radio communication between the airports and aircraft, and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of pilots or air traffic controllers using the airport, impair visibility in the vicinity of the airports, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport.

- (2) No structure, natural growth, or other obstruction, except for those allowed as identified in Section 2.3.5.1 (e) (2) e., shall be placed, erected, or allowed to grow to a height that would penetrate a 100-to-one slope from any point on a runway to the outer limits of the extraterritorial jurisdiction and/or Airport Hazard Area, without a determination as to the impact of such use. The City, and Dyess AFB shall be responsible for evaluating the impacts of the structure, natural growth or other obstruction, and findings shall be reported to the Planning Director for evaluation and determination of the potential impact. The Board of Adjustment shall be responsible for approving, conditionally approving, or denying the placement of a structure, natural growth, or other obstruction exceeding this slope, except as stated in Section 2.3.5.1 (j) (1) a.

(i) Nonconforming/Not Recommended Uses and Structures; Abandonment; Replacement.

- (1) Regulation not retroactive. The regulations prescribed in this Section shall not be construed to require the removal, lowering, or other changes or alteration of any structure, natural growth, or other obstruction not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of any nonconforming/not recommended use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any Structure, if the construction, alteration, or use began prior to the effective date of this Section and is diligently prosecuted or completed.
- (2) Nonconforming/Not Recommended Use. Any nonconforming/not recommended use under this Section is subject to the conditions and procedures set forth in this Code.
- (3) Replacement of Nonconforming/Not Recommended Objects of natural growth. A person may not replace a nonconforming/not recommended object of natural growth that has been removed or destroyed.
- (4) A person may renovate a nonconforming/not recommended Structure. The portion of a structure that is renovated must comply with the regulations contained herein, where applicable.
- (5) Replacement/Expansion of Nonconforming/Not Recommended Single-Family Residential Structure. An existing nonconforming/not recommended single-family residential structure, including manufactured housing, may be replaced and/or enlarged even if not otherwise allowed. There shall be no size restrictions other than required by zoning, where applicable.
- (6) Replacement of a Structure on the Site of a Nonconforming/Not Recommended Nonresidential Use. An existing structure on the site of a nonconforming/not recommended nonresidential use that has been damaged or destroyed may be replaced or restored even if not otherwise allowed. However, the replaced or restored structure shall not exceed the size of the damaged or destroyed structure and shall not exceed any height limitations imposed by this ordinance. A property owner replacing a damaged or destroyed nonconforming/not recommended structure who wishes to exceed the size of the damaged or destroyed structure or exceed height limitations imposed by this ordinance may submit a request for a Special Exception. In addition, no such structure shall be permitted if deemed a hazard by the FAA. This provision does not waive the requirement for obtaining an Airport Zone Development Permit, where applicable.

- (7) Any legal, nonconforming/not recommended industrial uses in the APZ I or APZ II area of Dyess AFB may be expanded to the limits of their property as of the effective date of this ordinance, with no limitation on number of employees, but maintaining restrictions on manufacturing or storage of chemical and hazardous materials.
- (8) Marking and Lighting. Notwithstanding the preceding provisions in this Section, the owner of any existing nonconforming/not recommended structure, natural growth, or other obstruction is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Planning Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Abilene.

(j) Permits.

(1) In General.

- a. Airport Zone Development Permit. Any development, construction, modification, remodeling, or change in use within an area regulated by this Section shall require an Airport Zone Development Permit, with the following exception associated with Dyess AFB.

Any allowable home or other primary structure, addition to an existing home or other primary structure, allowable accessory structure, natural growth, or other object less than 50 feet in height in the APZ I and less than 150 feet in height in the APZ II and beyond shall be exempt from obtaining an Airport Zone Development Permit. This exception does not apply within the Clear Zone associated with Dyess AFB.

- b. This section shall not be interpreted to allow any permit that would:
1. establish an airport hazard, except as otherwise stated in this ordinance as allowed;
 2. establish a nonconforming/not recommended use, except as otherwise stated in this ordinance as allowed;
 3. allow a nonconforming/not recommended structure, object of natural growth, or other obstruction to become higher than it was on the date this Section was adopted, except as otherwise stated in this ordinance as allowed;
 4. allow a nonconforming/not recommended structure, object of natural growth, other obstruction, or use to become a greater hazard to air navigation than it was on the date this Section was adopted, except as otherwise stated in this ordinance as allowed.
- c. No permit shall be granted to construct, modify, reconstruct, or remodel any Structure or other obstruction to a height of 150 feet or greater, unless an FAA Determination of No Hazard to Air Navigation has been obtained and provided to the Planning Director. Construction must comply with all applicable limitations and/or requirements contained herein and FAA guidelines.
- d. A permit issued for a particular land use on a site is intended to allow multiple and recurring activities identified in the permit without the need for a separate permit for each.
- e. There shall be no separate permit fee for an Airport Zone Development Permit.

- (2) Except as provided in subsection (j)(1)b. above, an application for permit shall be granted.

- (3) New Construction. No material change shall be made in the use of land and no structure, natural growth, or other obstruction, unless exempted above, shall be erected, altered, planted, or otherwise established in any zone hereby created, unless an Airport Zone Development Permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particularity to permit a determination as to whether the resulting use, structure, natural growth, or other obstruction, would conform to the regulations herein prescribed.
- (4) New Use. No material change shall be made in the use of a structure or property, unless an Airport Zone Development Permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particularity to permit a determination as to whether the resulting use would conform to the regulations herein prescribed.
- (5) Noise. Noise regulations are hereby established for new construction and rehabilitation, rebuilding, or remodeling, of existing construction within Abilene Regional Airport Noise Zones, as follows:
- a. Abilene Regional Airport. In the area within 65 DNL or greater noise contour, as shown in the latest Noise Contours Map for the Abilene Regional Airport, as amended, a permit shall be required for any use or structure as identified by the FAA as requiring Noise Level Reduction (NLR). Such permits shall be issued when the Planning Director has approved noise attenuation measures consistent with FAA requirements and approval is obtained from the FAA.
 - b. Certificate of Occupancy or Final Building Approval. For those properties identified by the Noise Contours Map as requiring NLR measures within the incorporated city limits of the City of Abilene, no Certificate of Occupancy or Final Building Approval shall be issued, until the appropriate general contractor or subcontractor of a property provides a copy of the FAA requirements for NLR and verifies that such noise attenuation measures have been properly taken with regard to the property.
 - c. Airport Zone Development Permit. For those properties identified by the Noise Contours Map, as amended, as requiring NLR measures within the extraterritorial jurisdiction of the City of Abilene, an Airport Zone Development Permit is required prior to the construction of a structure. No Airport Zone Development Permit shall be issued until the appropriate general [contractor] or subcontractor of a property provides a copy of the FAA requirements for NLR and verifies that such noise attenuation measures will be taken with regard to the property.
 - d. Routine maintenance of a nonconforming/not recommended structure does not invoke the requirements of this subsection.
- (6) Nonconforming/Not Recommended Uses Abandoned or Destroyed. Whenever the Planning Director determines that a nonconforming/not recommended structure or natural growth has been abandoned or more than 50 percent torn down, damaged, destroyed, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or natural growth to exceed the height limit for that zone or otherwise deviate from the regulations contained in this Section or this Chapter.
- (7) Variances. Any person desiring to erect or increase the height of any structure or permit the growth of any natural growth or use his/her property in any manner inconsistent with the regulations prescribed in this Section may apply to the Board of Adjustment for a variance from such regulation(s). Procedural rules regarding variances contained in Code of the City of Abilene apply to this Section.

For all zones established in this Section, the application for variance may be required to be accompanied by a determination from the Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed. In reaching its decision to grant a variance, the Board of Adjustment shall determine that all of the following conditions are present: a literal application or enforcement of the regulations in this Section will result in unnecessary hardship, and relief, if granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section.

In addition, no application for a variance to the requirements of this Section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Development Board (regarding Abilene Regional Airport Zones) or the Dyess AFB Base Civil Engineer (regarding Dyess AFB Zones) for a recommendation as to the aeronautical effects of the requested variance, as more particularly set forth in subsection (l).

- (8) Special Exceptions. Any person desiring to erect, rebuild, or remodel any structure within an Abilene Regional Airport noise zone may apply to the Board of Adjustment for a Special Exception, for a determination as to what noise abatement measures must be included in such construction or remodeling. Procedural rules and standards for granting or denying Special Exceptions contained in this Code of the City of Abilene apply to this Section. In addition, no application for a Special Exception to the requirements of this Section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Development Board (regarding Abilene Regional Airport Zones) for a recommendation as to the aeronautical or sound effects of the requested variance.

Unless otherwise exempted within this ordinance, any person desiring to erect, rebuild, or remodel any structure, or change land use in a non-recommended manner within a Dyess AFB accident potential zone, as defined in this ordinance, may apply to the Board of Adjustment for a Special Exception of density or intensity stipulations. Procedural rules and standards for granting or denying Special Exceptions contained in this Code of the City of Abilene apply to this Section. In addition, no application for a Special Exception to the requirements of this Section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Dyess AFB Base Civil Engineer for review of density/intensity.

- (9) Hazard marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable under the circumstances, be so conditioned as to require the owner of the structure, natural growth, or other obstruction in question, at his/her own expense, to install, operate, and maintain thereon, such markers and lights as may be necessary to indicate to flyers the presence of a potential airport hazard.

- (10) Subdivision Plat Acknowledgement of Abilene Regional Airport or Dyess AFB Operations. Applicants for plat approval of land subject to regulations within this Section shall be required to sign an acknowledgement statement and include a note on the plat documentation indicating they understand that the land subject of the plat is within an area that may experience potential impacts or effects associated with aircraft operations at Abilene Regional Airport or military operations at Dyess AFB.

- (11) Other Conditions. The Board of Adjustment may place reasonable conditions upon the granting of any variance or special exception.

- (k) Enforcement. It shall be the duty of the Planning Director to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Planning Director upon a

form furnished by the Planning Department. Applications required by this Section to be submitted to the Planning Director shall be promptly considered and granted or denied by said Planning Director. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Planning Director.

(l) Board of Adjustment.

(1) The Board of Adjustment is hereby granted the authority, in addition to its other duties and powers, to have and exercise the following powers:

- a. to hear and decide appeals from any order, requirement, decision, or determination made by the Planning Director, in the enforcement of this Section;
- b. to hear and decide special exceptions to the terms of this Section;
- c. to hear and decide requests for variances of the requirements of this Section.

(2) Decisions made by the Board of Adjustment, appeals, and judicial review related to this Section shall be in accordance with this Code.

(3) Recommendation to the Board.

a. Abilene Regional Airport.

The Abilene Regional Airport Development Board may make a recommendation, in writing or by representative, to the Board of Adjustment, regarding any matter before the Board that may have an effect on the Abilene Regional Airport. The Planning Director shall promptly forward any application for a variance or special exception, including any relevant material, to the Airport Development Board for consideration at its next available regular meeting. The Airport Development Board shall thereafter notify the Planning Director of its determination regarding the matter, at any time after the regular meeting, and no later than the date necessary to include the matter on the agenda for the next available regular Board of Adjustment meeting.

b. Dyess Air Force Base.

The Dyess AFB Base Civil Engineer may make a recommendation, in writing or by representative, to the Board of Adjustment, regarding any matter before the Board that may have an effect on Dyess AFB. The Planning Director shall promptly forward any application for a variance or special exception, including any relevant material, to the Dyess AFB Base Civil Engineer for consideration. A representative of the Dyess AFB Base Civil Engineer shall thereafter promptly notify the Planning Director of its determination regarding the matter, at any time after receiving the application from the City of Abilene, and not later than 15 days after receipt. Promptly and within a reasonable time after the 15 days has elapsed or a response has been received from the Dyess AFB Base Civil Engineer (whichever is earlier), the Planning Director shall include the matter on the agenda for the next available regular Board of Adjustment meeting.

(m) Violations and Penalties.

(1) It shall be unlawful for any person to violate any regulation, order, or ruling promulgated under this Section.

(2) Each day a violation occurs shall constitute a separate offense. The daily Penalties will be

suspended upon application for Special Exception or request for Variance.

- (3) Any person who violates any provision of this Section shall be guilty of a misdemeanor, punishable by a fine as set forth in Chapter 1, [Sec. 1-9](#) of the Code of the City of Abilene.

(n) Civil Remedies.

- (1) The City Attorney may enforce this Section by injunction, declaratory relief, or other action at law or in equity.
- (2) Any structure erected or used, or any work done, contrary to any of the provisions of this Section or to any of the details contained in the final site plan or Airport Zone Development Permit approved by the City is hereby declared to be unlawful and shall constitute a violation of this Section. The Council may direct the City Attorney to initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, correct or remove the unlawful structure, use or work.
- (3) In addition to any other remedies which may be available at law or in equity, the City may sue in the appropriate district court for an injunction to prohibit the violation of, or to enforce compliance with, any regulation contained in this Section.

(o) Amendments.

- (1) As part of the development of an amendment to this Section, a committee shall be appointed to participate in the development of the amendment language. This committee shall include the County Commissioner whose precinct is within the affected area around Dyess AFB and at least three (3) property owners whose property is located within an area affected by the Section, to include the current Dyess AFB accident potential zones or noise contours, who shall be appointed by said County Commissioner.
- (2) Prior to approval of an amendment to this Section, this committee shall have a minimum of 60 days to review and comment on any proposed amendment.

(p) Exemptions.

The following uses are exempt from the Airport Zoning regulations, unless otherwise regulated through other sections:

- (1) Agricultural Use. This regulation shall not be used to regulate any operational aspect of an existing agricultural use, including the cultivation and harvesting of crops, land management activities (prescribed burning, clearing, spraying and trimming), livestock management, hunting, use and application of water, or ponds/tanks used for watering of livestock or recreational use. Expansion of existing structures and construction of new structures that are accessory for agricultural uses are subject to these regulations to the extent permitted by state law.
- (2) Existing Structures. This regulation shall not restrict or limit the use of legally established, existing land uses and structures as of the effective date of these regulations.

(Ord. No. 8-2010, pt. 1 (Exh. A), 4-22-10; Ord. No. 12-2010, pt. A (Exh. A), 6-10-10)



ORDINANCE AMENDMENT REQUEST

Case: OAM-2024-01

Applicant: City of Abilene
Don Green, Transportation Services Director

Request: An amendment to the Land Development Code (LDC) to repeal Section 2.3.5.1 “*Airport Zoning*” and replace it with Section 2.3.5.1 “*Airport Zoning*”, as revised.

Planning & Zoning: November 5, 2024

Council Hearing: November 21, 2024
December 5, 2024





Airport Zoning Regulations - Purpose

The purpose of the Airport Zoning regulations are to:

1. Protect health, safety, and general welfare of the public, where it is recognized that obstructions, aircraft accidents, and excessive noise have the potential for endangering or harming the lives and/or property of users or occupants of land in the vicinity of Abilene Regional Airport and Dyess Air Force Base.
2. Regulate airport zoning hazard areas and compatible land uses surrounding Dyess AFB and Abilene Regional Airport pursuant to Chapter 241 of the Texas Local Government Code, as amended.





Airport Zoning Regulations

Generally speaking, airport zoning regulations:

1. Are highly technical and 3-dimensional relative to airport Clear Zones (CZ) and the height of buildings and structures in proximity to CZ areas; and
2. Restrict development in:
 - Accident Potential Zones (APZ) beyond the runway clear zones;
 - Noise Zones (NZ) where the sound of aircraft may be detrimental to public health and safety; and
 - Areas where residential uses are not appropriate in relation to the locations of CZ, APZ, and NZ zones.





JLUS Report and Recommendations

- The City of Abilene sponsored the Joint Land Use Study (JLUS) to assess the impact of new development in proximity to Dyess AFB.
- The study included stakeholders from Taylor County, City of Tye, Dyess AFB, and representatives from the View/Caps communities.
- The study resulted in recommendations to mitigate the impacts of aircraft traffic on new residential uses and to ensure that new residential development will not diminish the ability of Dyess AFB to accomplish its purposes and missions in the future.
- One of the JLUS recommendation is to revise the Airport Zoning Ordinance to incorporate the JLUS recommendations.





JLUS Report Conclusions and Considerations

1. The stakeholders agreed that amendments to the LDC were needed to ensure:
 - That undeveloped areas around Dyess AFB are developed in a manner that will allow Dyess AFB to continue to fulfill its on-going purposes and missions;
 - That the rights of property owners in the regulated areas will not be unnecessarily diluted; and
 - Similar considerations are necessary for Abilene Regional Airport for the same purposes and rationale.
2. The term “non-compatible use” was revised to “not-recommended”.
3. The voting members of the committee unanimously approved the final report.
4. The proposed ordinance will implement the development related JLUS recommendations.





FINDINGS AND RECOMMENDATIONS

The proposed ordinance is consistent with:

- The *Comprehensive Plan*;
- The *JLUS Study* recommendations;
- Generally accepted military and civilian airport management principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **13. Ordinance (Final Reading) CUP-2024-10: 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 0.32 Acres Zoned General Retail (GR) to Allow for a Freight Container, Located at 1350 Grape Street**
(Tim Littlejohn)

GENERAL INFORMATION

The applicant is requesting to apply a Conditional Use Permit to approximately 0.32 acres zoned General Retail (GR) to allow for a Freight Container.

SPECIAL CONSIDERATIONS

The subject property was annexed into the City in 1895, within the Original Town of Abilene. Located on this site is a home built in 1940 and a freight container. The freight container has been at this property since, at least, 2012. The owner states the freight container is used for personal storage and will remain as such if the request is approved. The owner has been using this lot for his Contractor Services but is in the process of moving that use off the property, as it is not a permitted use.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends **approval** of the Conditional Use Permit, subject to the following conditions:

1. A building permit must be applied for within 30 days of approval
2. The freight container must comply with all applicable LDC requirements, as listed in the

staff report.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval with conditions as proposed by staff, including the container be repainted. by a vote of 6-0.

ATTACHMENTS:

1. Ordinance
2. staff report
3. 350 Grape waiver
4. Freight Container Requirements - Section 2.4.3.3(25)
5. CUP 2024-10
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 21st day of November, 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 18th day of October, 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 5th day of December, 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 5th day of December, 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

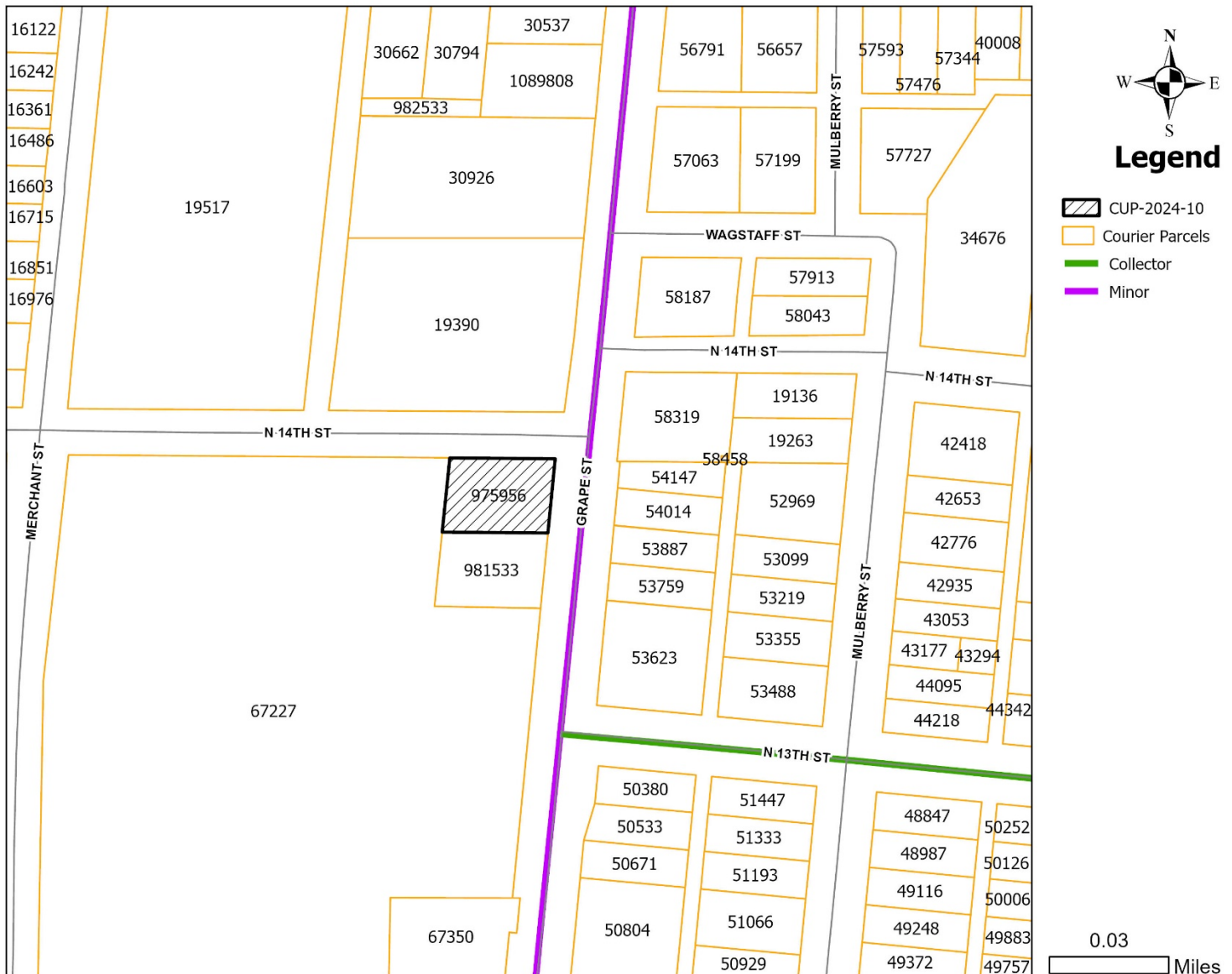
EXHIBIT A

Apply a Conditional Use Permit to approximately 0.32 acres zoned General Retail (GR) to allow for a Freight Container, subject to the following conditions:

- A building permit must be applied for within 30 days of approval
- The freight container must be screened from public right-of-way and neighboring properties
- Any signs, logos, or other markings must be removed from the freight container or painted over in a cohesive manner to the freight container, or home.

Legal description being the Merchant Grape Subdivision, Block A, Lot 225, Abilene, Taylor County, Texas.

Located at 1350 Grape Street.



END

ZONING CASE CUP-2024-10 STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 5, 2024
City Council 1st Read: November 21, 2024
City Council 2nd Read: December 5, 2024

Applicant

Owner: Crosstone Properties, LLC
Agent: Bruce Reed

Case Manager

Mason Teegardin – Planner

Request

The applicant is requesting to apply a Conditional Use Permit to approximately 0.32 acres zoned General Retail (GR) to allow for a Freight Container.

Location

The subject property is located at 1350 Grape Street, legal description being the Merchant Grape Subdivision, Block A, Lot 225, Abilene, Taylor County, Texas.

Background

The subject property was annexed into the City in 1895, within the Original Town of Abilene. Located on this site is a home built in 1940 and a freight container. The freight container has been at this property since, at least, 2012. The owner states the freight container is used for personal storage and will remain as such if the request is approved. The owner has been using this lot for his Contractor Services but is in the process of moving that use off the property, as it is not a permitted use.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	GR	Church
East	GR	Vacant lot & residences
South	GR	Residence
West	GR	Shopping Center

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 proposed request is consistent with the Comprehensive Plan and Future Land Use Map.
- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.**
The proposed request is consistent with the intent of the General Retail zoning district regulations and uses.

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/existing use is compatible with surrounding developments and will not create adverse impacts regarding traffic, noise, or visual nuisances.

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/existing use will not generate additional pedestrian or vehicular traffic.

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 applicant will be required to comply with the Land Development Code requirements regarding freight containers in General Retail zoning.

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, if approved, will be subject to the following LDC requirements:

- Freight Containers in Commercial districts shall be screened from public right-of-way, except alleys
- Freight containers in any district shall be screened from adjacent properties with zoning designations other than HI, LI, HC, and GC
- Freight containers shall not have signs, logos, or other markings, other than small, incidental labeling, visible from the right-of-way or visible from adjacent properties with zoning designations other than HI, LI, HC, and GC.
- A building permit shall be obtained for each container, and each shall meet all building and development regulations

P&Z Recommendation

The Planning and Zoning Commission recommends **approval** subject to the following conditions:

1. A building permit must be applied for within 30 days of approval
2. The freight container must comply with all applicable LDC requirements, as listed in the staff report.

Attachments

- Aerial image provided by applicant
- Application
- LDC requirements for freight containers

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on October 16, 2024, via standard mail to the owners of property within a 200-foot radius of the

subject street right of way. The property owners and associated parcel identification numbers are identified below:

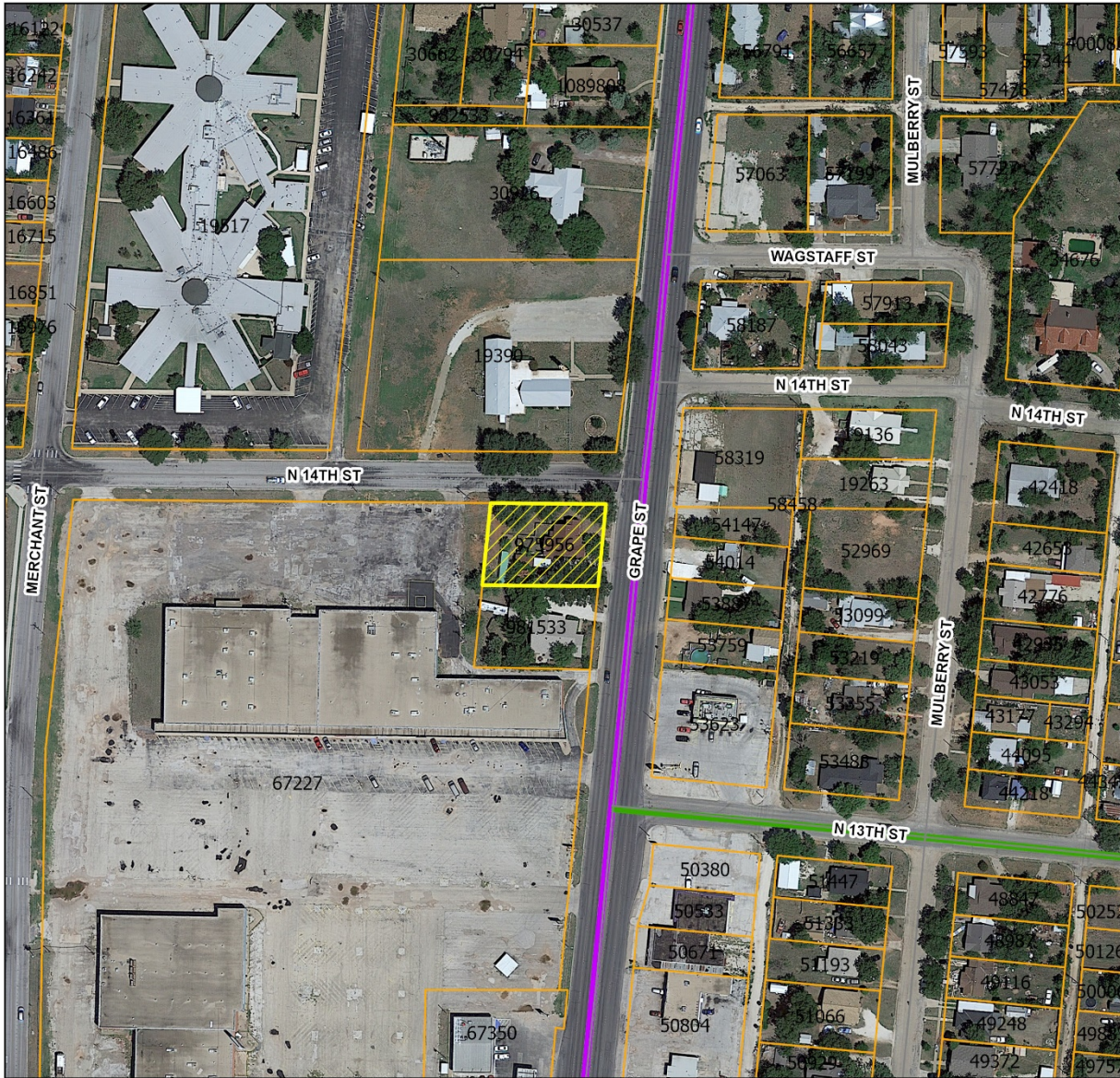
Legend: O - Opposed, F - In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
CHAVIRA PEDRO	54147	1349 GRAPE ST	
CHAVIRA PEDRO	58319	1357 GRAPE ST	
CROSTONE PROPERTIES LLC	981533	1336 GRAPE ST	
DE LEON JUAN	58187	1407 GRAPE ST	
GRACE & MERCY COMMUNITY CHURCH OF ABILENE	19390	1402 GRAPE ST	
HUSKIN JEREMY JAMES	53887	1333 GRAPE ST	
HUSKIN JEREMY JAMES	54014	1341 GRAPE ST	
JMK5 ABILENE LLC	67227	1204 GRAPE ST	
M BAIG 897 LLC	53623	1309 GRAPE ST	
WILSON SUSIE VIRGINIA	53759	1325 GRAPE ST	

NOTIFICATION MAP



LOCATION MAP



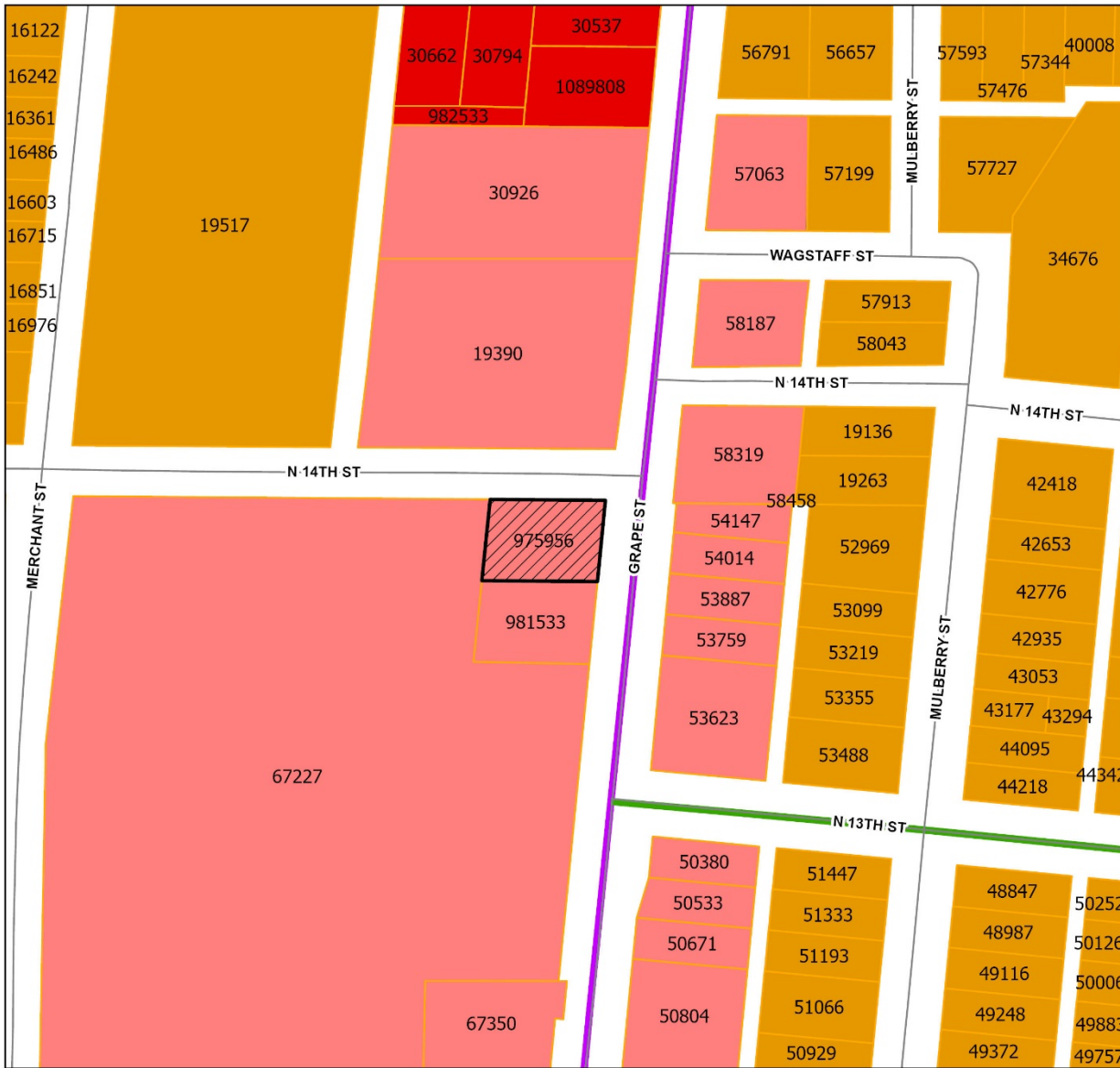
Legend

- CUP-2024-10
- Courier Parcels
- Collector
- Minor

0.03

Miles

ZONING MAP



Legend

- CUP-2024-10
- Courier Parcels
- GC (General Commercial)
- GR (General Retail)
- MD (Residential - Medium Density)
- Collector
- Minor

0.03

Miles



To whom it may concern,

The concept plan is waived for this request located at 1350 Grape Street. Staff does not feel like it will help with the presentation or the understanding of what you are requesting.

Warm regards,

Timothy A Littlejohn
Director of Planning and
Development Services

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



a. *Screening.*

1. Freight Containers in Agricultural Open Space districts and Commercial districts shall be screened from public right-of-way, except alleys.
2. Freight containers in any district shall be screened from adjacent properties with zoning designations other than HI, LI, HC, and GC.
3. Screening, as required in subsections a.1 and a.2 above, shall be accomplished through the use of landscaping as indicated below:
 - i. A continuous hedge with a mature height of at least five feet achieved within one year, and
 - ii. Trees with a mature height of at least ten feet spaced at twenty-foot intervals.
 - iii. Alternative screening of a minimum seven feet height of an opaque material consisting of wood fencing and/or masonry walls may be approved by the Development Review Committee (DRC) where landscaping would not be practical or appropriate.

b. *Location and Appearance in Certain Zoning Districts.* In HC or GC districts, freight containers shall be located in the rear of the main structure and shall be a solid color to match the dominant color of the principal structure. In AO districts, freight containers shall be located a minimum of 200 feet from property lines.

c. *Signage.* Freight containers shall not have signs, logos, or other markings, other than small, incidental labeling, visible from the right-of-way or visible from adjacent properties with zoning designations other than HI, LI, HC, and GC.

d. *Building Permit Required.* A building permit shall be obtained for each container and each shall meet all building and development regulations, with the exception that building separation requirements shall apply to separation from freight containers to other structures, not between multiple freight containers.

e. *Storage Freight Containers.* Freight containers used only for storage shall meet the building requirements as a "temporary structure," regardless of the length of time it is in use on the property, with the exception that any ventilation requirements that would apply to a permanent structure also apply to a permanently placed freight container.

f. *Stacking Prohibited.* Freight containers shall not be stacked.

g. *Number of Freight Containers and Distance to Property Lines in AO Zoning.* Only 1 freight container is permitted by right in the AO zoning district. A Conditional Use Permit is required if more than 1 freight container is proposed or if a freight container is proposed to be less than 200 feet from a property line.



Decision of the Planning and Zoning Commission

November 5, 2024

**Bruce Reed
3750 Woodridge Dr
Abilene, Tx 79605**

Re: 1350 Grape Street Conditional Use Permit for the use of a Freight Container

Dear Bruce,

On November 5th, 2024, by a vote of 7 in favor and 0 opposed, the Planning and Zoning Commission recommends approval for the conditional use permit for the use of a freight container. The City Council will conduct the first and second readings on November 21st, 2024 and December 5th 2024.

Timothy A Littlejohn
Director of Planning and
Development Services

11/5/2024

Planning & Development Services
555 Walnut Street
Abilene, Texas 79601
325.676.6237

ABILENETX.GOV/PLANNINGANDDEVELOPMENT





CONDITIONAL USE PERMIT

Case: CUP-2024-10

Agent: Bruce Reed

Requests: A Conditional Use Permit to allow for a Freight Container in General Retail (GR) zoning.

Location: 1350 Grape Street

Notification: 0 in Favor, 0 in Opposition

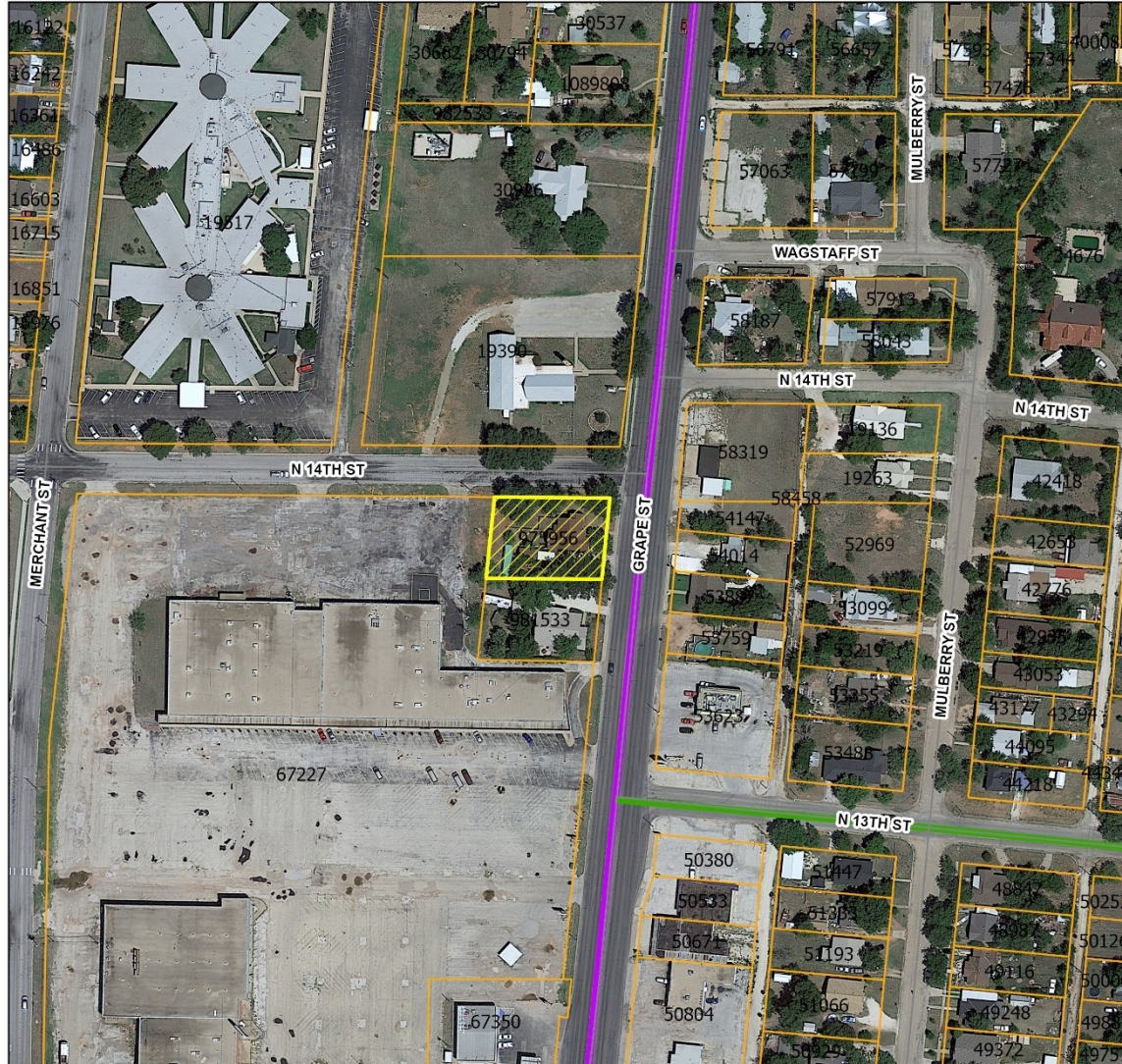
Planning & Zoning: November 5, 2024

Council Hearing: November 21, 2024
December 5, 2024





AERIAL LOCATION MAP

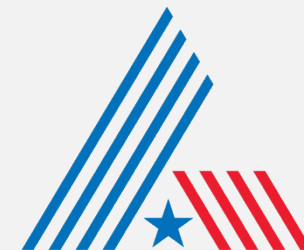


Legend

- CUP-2024-10
- Courier Parcels
- Collector
- Minor

0.03

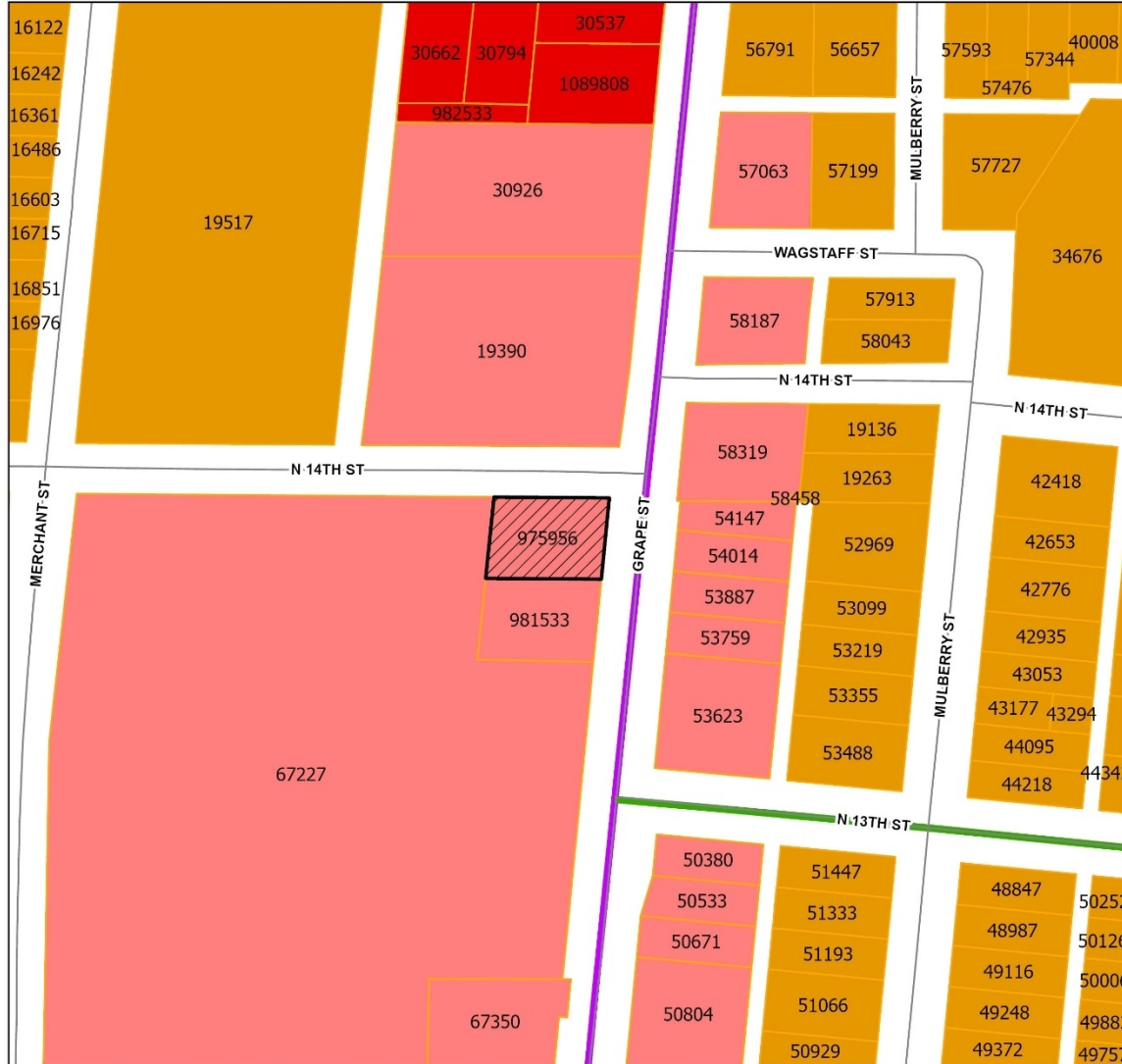
Miles



CITY OF
ABILENE
TEXAS



ZONING MAP



Legend

- CUP-2024-10
- Courier Parcels
- GC (General Commercial)
- GR (General Retail)
- MD (Residential - Medium Density)
- Collector
- Minor

0.03

Miles



CITY OF
ABILENE
TEXAS



USES IN GENERAL RETAIL ZONING

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- C Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- P Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P/C Day Care Operation – Home Based
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- P Garage Sales
- P Home Occupation
- TP Itinerant Business
- P Manufacturing (incidental)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- P Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- C Ambulance Service
- P Fire/Police Station
- P Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- C Trade/Business School
- P University/College

SERVICE:

- P/C Automobile Wash
- C Funeral Home/ Mortuary/Morgue
- P Kennel (Without Outdoor Pens)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

TRADE – RETAIL USES:

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)
- C Retail Sales/Rental (outdoors, non-vehicle)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower- Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

- P 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





PROPERTY VIEWS



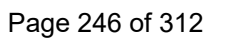
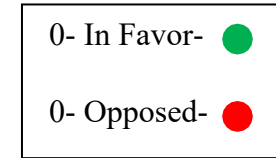
CITY OF
ABILENE
TEXAS



PROPERTY VIEWS



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ABILENE
TEXAS





FINDINGS AND RECOMMENDATION

The proposed request is consistent with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning; or
- The Criteria for Approval in the LDC.

Planning and Zoning Commission Recommendation:

P&Z recommends **approval** of the Conditional Use Permit, subject to the following conditions:

1. A building permit must be applied for within 30 days of approval.
2. The freight container must comply with all applicable LDC requirements, as listed in the staff report.





Planning and Zoning Commission Recommendation:

P&Z recommends **approval** of the Conditional Use Permit, subject to the following conditions:

1. A building permit must be applied for within 30 days of approval.
2. The freight container must comply with all applicable LDC requirements, as listed in the staff report:
 - Freight Containers in Commercial districts shall be screened from public right-of-way, except alleys
 - Freight containers in any district shall be screened from adjacent properties with zoning designations other than HI, LI, HC, and GC
 - Freight containers shall not have signs, logos, or other markings, other than small, incidental labeling, visible from the right-of-way or visible from adjacent properties with zoning designations other than HI, LI, HC, and GC.
 - A building permit shall be obtained for each container, and each shall meet all building and development regulations





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **14. Ordinance (Final Reading) Z-2024-31: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, to Change the Zoning of Approximately 0.44 Acres from Heavy Commercial (HC) to Office (O), Located at 1234, 1232, 1226 & 1218 N Treadaway Blvd. (Tim Littlejohn)**

GENERAL INFORMATION

The request is to change the zoning of approximately 0.45 acres from Heavy Commercial (HC) to Office (O). The applicant is proposing office zoning for private practice.

SPECIAL CONSIDERATIONS

The subject properties were annexed in 1895 within the Original Town of Abilene. The single-family residences formerly located at 1232, 1226, and 1218 North Treadaway Boulevard were all demolished in 2006 due to condemnation. A demolition permit was pulled October 2024 for the remaining house on the property and has yet to be completed. Currently, the subject properties are being re-platted into one lot.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6-0.

ATTACHMENTS:

1. Ordinance
2. Staff Report
3. FINAL PLAT - DAUGHTERY'S SUBD
4. project overview
5. Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING 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 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than 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 21st day of November, 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 18th day of October, 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 5th day of December, 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 5th day of December, 2024.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

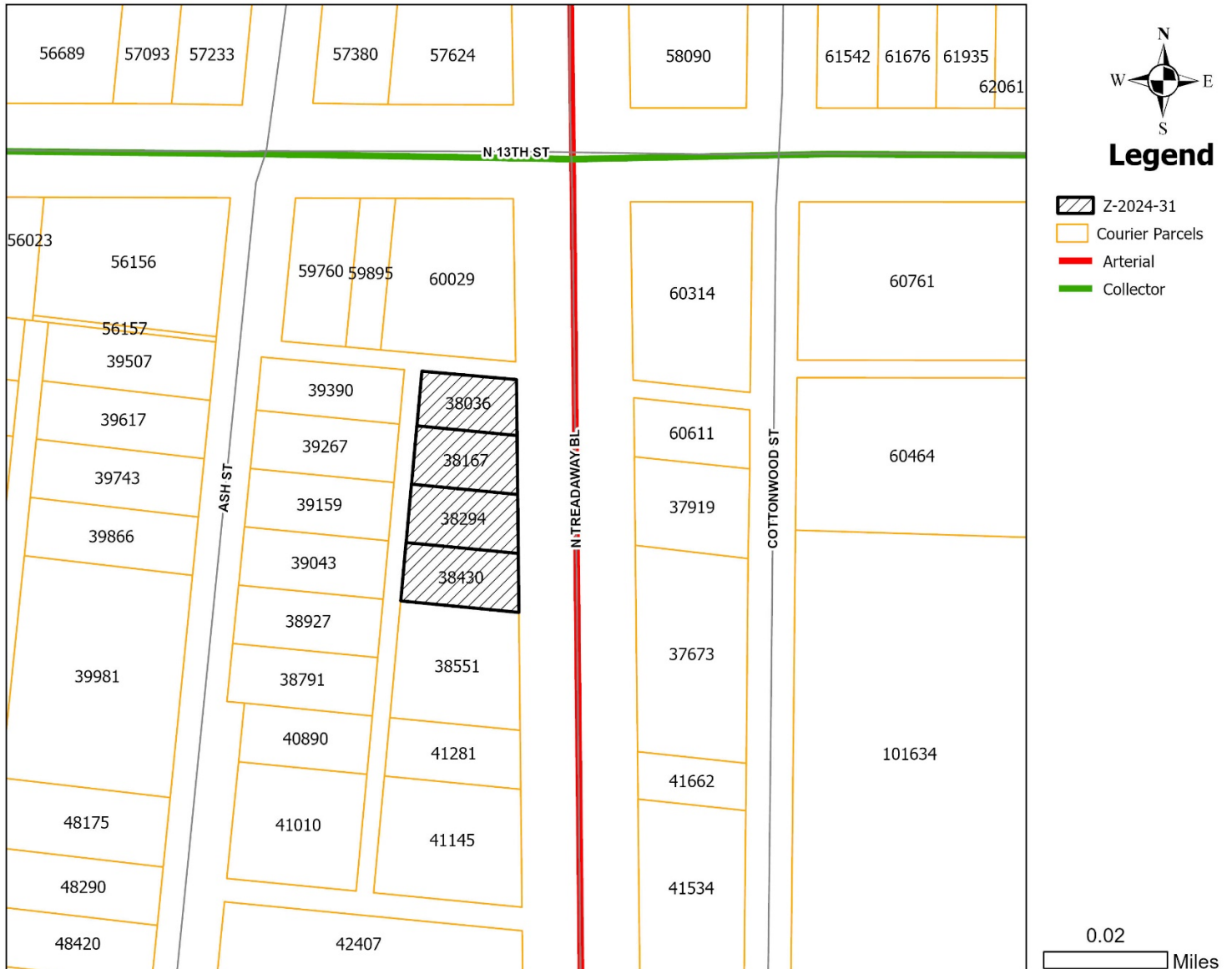
CITY ATTORNEY

EXHIBIT A

Change the zoning of approximately 0.45 acres from Heavy Commercial (HC) to Office (O).

Legal Description being Lots 1-4, Block 2, T W Daugherty Subdivision within Original Town Abilene, Abilene, Taylor County, Texas.

Located at 1234, 1232, 1226, and 1218 N Treadaway Blvd.



END

ZONING CASE Z-2024-31

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 5, 2024
 City Council 1st Reading: November 21, 2024
 City Council 2nd Reading: December 5, 2024

Applicant

Owner: Jessica Jacob

Case Manager

Kera Valois – Planner

Request

Change the zoning of approximately 0.45 acres from Heavy Commercial (HC) to Office (O).

Location

Located at 1234, 1232, 1226, and 1218 North Treadaway Boulevard. Legal description Lots 1-4, Block 2, T W Daugherty Subdivision within Original Town Abilene, Abilene, Taylor County, Texas.

Background

The subject properties were annexed in 1895 within the Original Town of Abilene. The single-family residences formerly located at 1232, 1226, and 1218 North Treadaway Boulevard were all demolished in 2006 due to condemnation. A demolition permit was pulled October 2024 for the remaining house on the property and has yet to be completed. Currently, the subject properties are being re-platted into one lot. The applicant is proposing office zoning for private practice.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	HC	Convenience Store
East	HC	Restaurant & Monument Sales
South	HC	Boot Store
West	RS-6	Residences

Criteria Assessment

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

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

The Future Land Use Map recommends Medium Density Residential, which is not compatible with the request. However, the Comprehensive Plan identifies this area as a Transitional Character Area which supports the request. The proposed Office zoning would serve as an appropriate transition between residential and commercial properties. The Transitional Character Area promotes varying housing, office and retail options which would be consistent

with the Comprehensive Plan and a more appropriate zoning abutting the residential properties than the current zoning.

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

The proposed zoning would be appropriate as it would be consistent with the surrounding uses. Office zoning would serve as a less intensive transition to the residential properties than the existing Heavy Commercial zoning.

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

This property will be subject to a formal site plan review and any proposed utilities that may be required will be addressed during that review period.

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

None known.

P&Z Recommendation

The Planning & Zoning Commission recommends **approval**

Attachments

- Final draft of Plat
- PowerPoint Presentation

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on October 16, 2024, via standard mail to the owners of property within a 200-foot radius of the subject street right of way. The property owners and associated parcel identification numbers are identified below:

PROPERTY OWNER			Legend: O - Opposed, F - In Favor
PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
	41145	1138 N TREADAWAY BL	
	41010	1127 ASH ST	
ABILENE CONCEPTS IN STONE LLC	37673	1221 N TREADAWAY BL	
ABILENE CONCEPTS IN STONE LLC	41662	1131 N TREADAWAY BL	
CITY OF ABILENE	56157	1242 ASH ST	
CJAB ENTERPRISES LLC	38294	1226 N TREADAWAY BL	
CJAB ENTERPRISES LLC	38430	1218 N TREADAWAY BL	
FREYHOLTZ MICHAEL J	60314	409 N 13TH ST	
GRANT JON	59760	537 N 13TH ST	
GRAY BETTY	39866	1216 ASH ST	
GRIMES JOSEPH DANIEL	56156	609 N 13TH ST	
JACOB CRAIG & JESSICA	38167	1232 N TREADAWAY BL	
JACOB CRAIG & JESSICA	38036	1234 N TREADAWAY BL	
JGN PROPERTIES LLC	59895	533 N 13TH ST	
LEDDYS LEGACY LLC	38551	1220 N TREADAWAY BL	
LEDDYS LEGACY LLC	41281	1142 N TREADAWAY BL	

NORTH TREADAWAY AUTOMOTIVE INC	41534	1141 N TREADAWAY BL	F
NORTH TREADAWAY AUTOMOTIVE INC	41534	1125 N TREADAWAY BL	F
OLNEY LARRY D	60611	1241 N TREADAWAY BL	
OLNEY LARRY D	37919	1233 N TREADAWAY BL	
PORTLOCK WALTER	39507	1234 ASH ST	
PORTLOCK WALTER	39617	1226 ASH ST	
PORTLOCK WALTER	39743	1218 ASH ST	
RANDOLPH ELIZABETH ET AL	39390	1233 ASH ST	
RICHARDSON LUCY A	38791	1201 ASH ST	
RISE CHURCH ABILENE INC	38927	1205 ASH ST	
RISE CHURCH ABILENE INC	40890	1137 ASH ST	
RISE CHURCH ABILENE INC	39981	1142 ASH ST	
RISE CHURCH ABILENE INC	39981	1202 ASH ST	
SKINNYS INC	60029	1242 N TREADAWAY BL	
VILLARREAL DOTTY M	39043	1209 ASH ST	
VILLARREAL ROBERTO DAVID	39267	1225 ASH ST	
VILLARREAL ROBERTO DAVID	39159	1217 ASH ST	

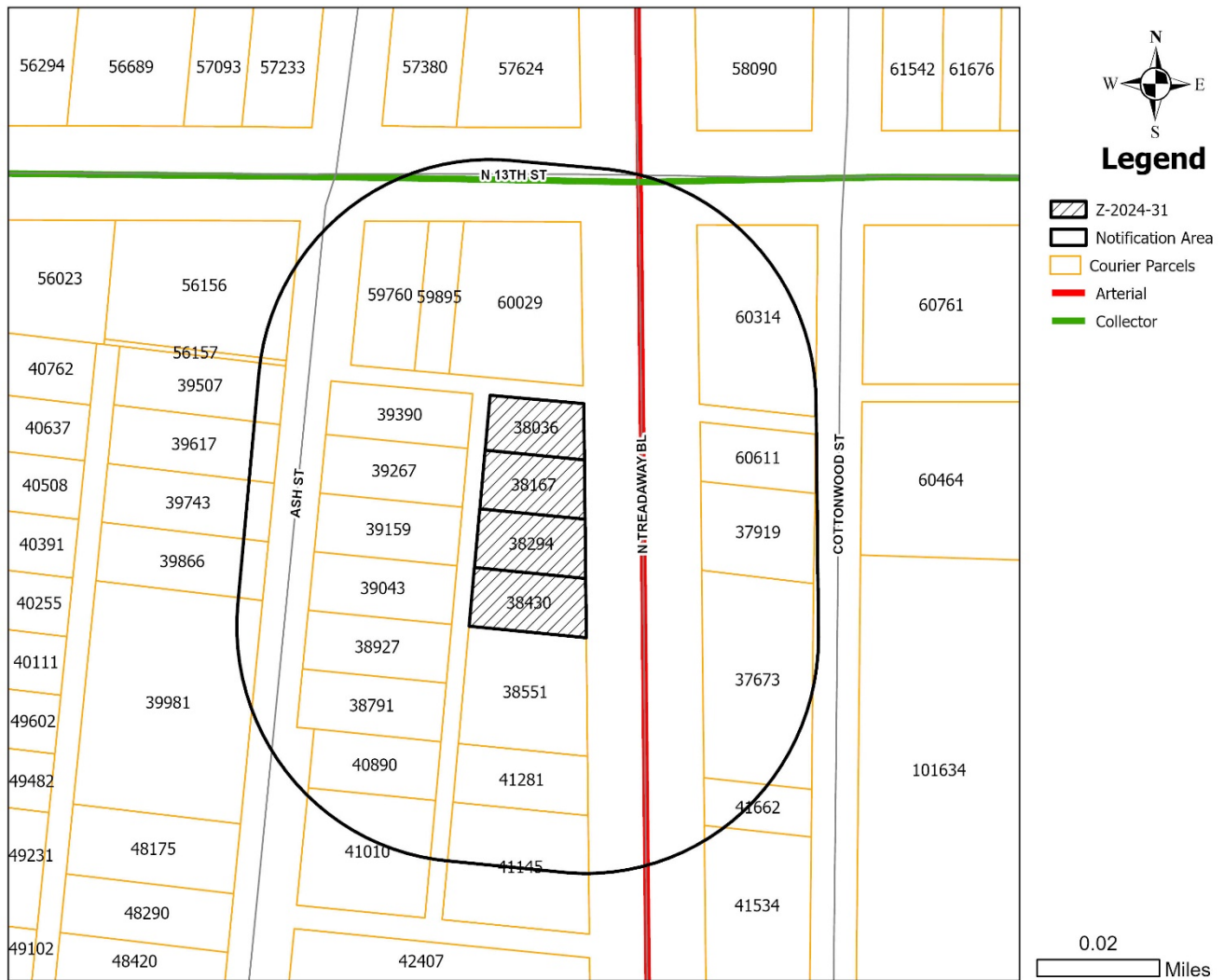
PROPERTY ID

Legend: O - Opposed, F - In Favor

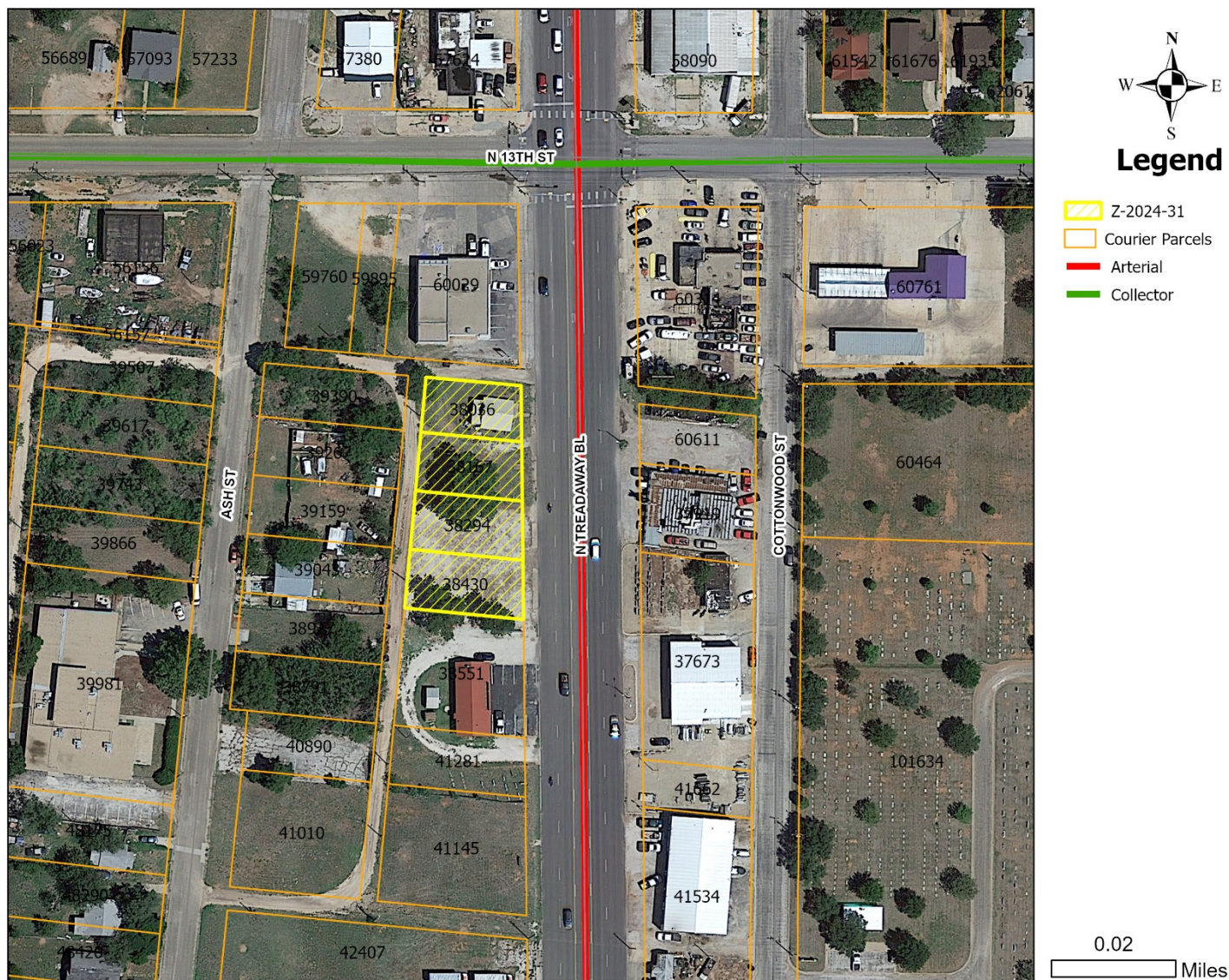
PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
ABILENE CONCEPTS IN STONE LLC	37673	1221 N TREADAWAY BL	
OLNEY LARRY D	37919	1233 N TREADAWAY BL	
JACOB CRAIG & JESSICA	38036	1234 N TREADAWAY BL	
JACOB CRAIG & JESSICA	38167	1232 N TREADAWAY BL	
CJAB ENTERPRISES LLC	38294	1226 N TREADAWAY BL	
CJAB ENTERPRISES LLC	38430	1218 N TREADAWAY BL	
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FREYHOLTZ MICHAEL J	60314	409 N 13TH ST	
OLNEY LARRY D	60611	1241 N TREADAWAY BL	

NOTIFICATION MAP

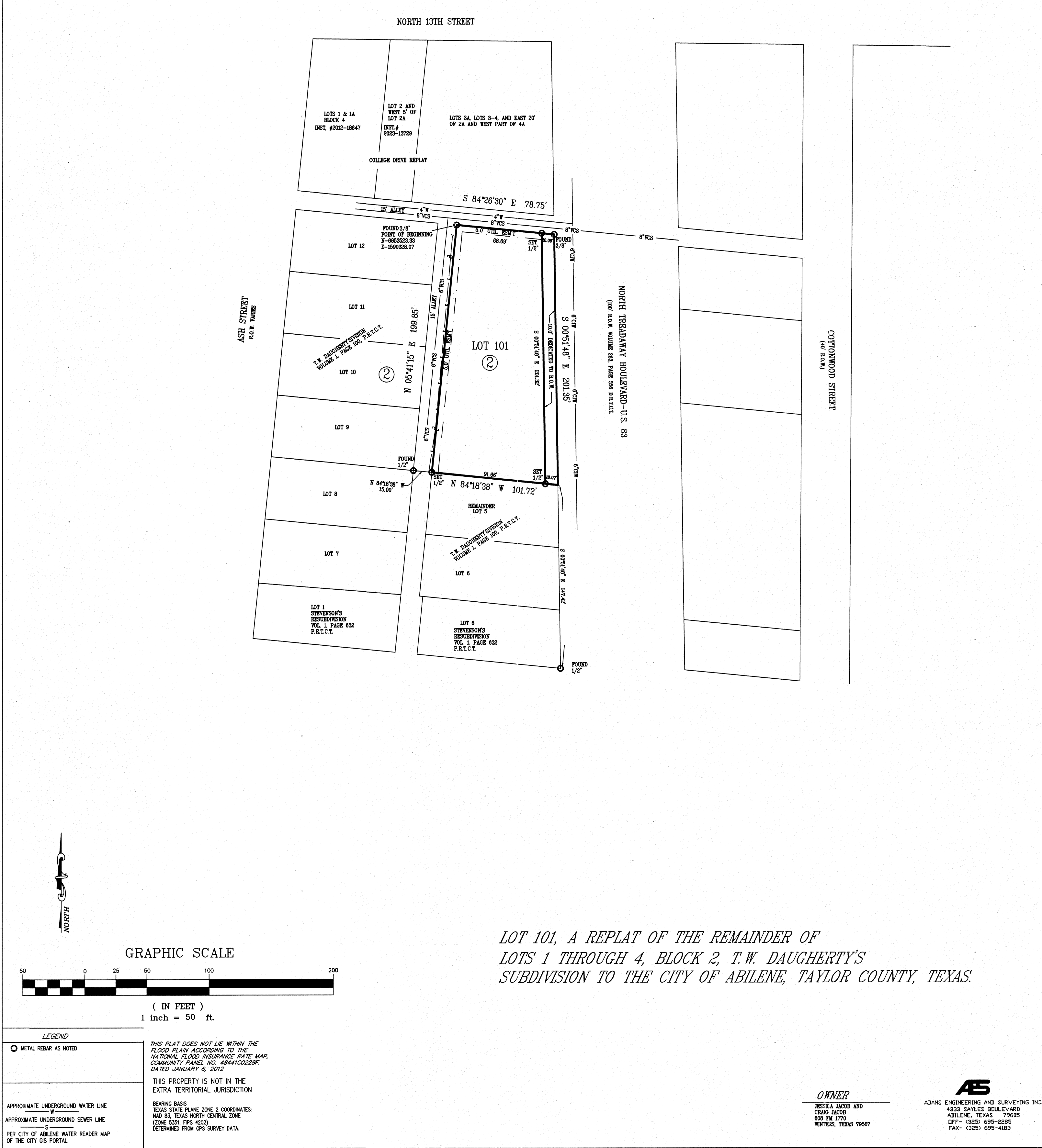


LOCATION MAP



ZONING MAP





LOT 101, A REPLAT OF THE REMAINDER OF
LOTS 1 THROUGH 4, BLOCK 2, T.W. DAUGHERTY'S
SUBDIVISION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS.

OWNER
JESSICA JACOB AND
CRAIG JACOB
600 14 1700
WORTHEN, TEXAS 79067

ADAMS ENGINEERING AND SURVEYING INC.
4300 SAYLES BOULEVARD
ABILENE, TEXAS 79605
OFF - (325) 695-3295
FAX - (325) 695-4183

PLANNING DIRECTOR FILED WITH PLANNING DIRECTOR, CITY OF ABILENE, TEXAS.	
DATE	FILE NUMBER
PLANNING DIRECTOR	
FEES	
COUNTY CLERK	
I CERTIFY THAT THE SUBDIVISION PLAT DESCRIBED HEREIN WAS FILED FOR RECORD ON	
DATE	FILE NUMBER
COUNTY CLERK COUNTY TEXAS	
DEPUTY	
DIRECTOR OF PUBLIC WORKS	
THE DEDICATION FILED, IN CONNECTION WITH THIS PLAT IS HEREBY APPROVED AND ALL STREETS, ALLEYS, AND PUBLIC AREAS SHOWN HEREON ARE HEREBY ACCEPTED ON BEHALF OF THE PUBLIC BY THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF ABILENE, TEXAS.	
DATE	DIRECTOR OF PUBLIC WORKS
OWNER'S CERTIFICATE AND DEDICATION THE UNDERSIGNED OWNERS OF THE HEREINAFTER DESCRIBED REAL PROPERTY HAVE CAUSED SUCH PROPERTY TO BE SURVEYED AND PLATTED AND TO BE SUBDIVIDED INTO BLOCKS, LOTS, STREETS AND ALLEYS UNDER THE NAME OF LOT 101, A REPLAT OF THE REMAINDER OF LOTS 1 THROUGH 4, BLOCK 2, T.W. DAUGHERTY'S SUBDIVISION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS. AS SHOWN ON THE ATTACHED PLAT AND DO HEREBY DEDICATE TO THE PUBLIC FOREVER FOR ALL PUBLIC PURPOSES THE STREETS, ALLEYS, LANES, EASEMENTS, PARKS AND OTHER PUBLIC LANDS SHOWN THEREON. THE LANDS INCLUDED WITHIN SUCH PLAT OR SUBDIVISION ARE DESCRIBED BY METES AND BOUNDS AS FOLLOWS: Being 0.414 acres of land being a replat of the remainder of Lots 1, 2, 3, and 4, Block 2, T. W. Daugherty's Subdivision to the City of Abilene, Taylor County, Texas recorded in Volume 1, Page 100, Plat Records of Taylor County, Texas and said 0.414 acres being more particularly described as follows: BEGINNING at a found 3/8" metal rebar at the Northwest corner of said Lot 1 on the South and East line of a 15.0' alley; THENCE S84°26'30"E 78.75' along the South line of said 15.0' alley and the North line of said Lot 1 to a found 3/8" metal rebar on the West line of North Treadaway Boulevard (100.0' R.O.W.); THENCE S00°51'45"E 201.35' along the West line of North Treadaway to a point on the South line of said Lot 4 whence a found 3/8" metal rebar at the Southwest of Lot 6, Stevenson's Subdivision to the City of Abilene, recorded in Volume 1, Page 632, Plat Records, Taylor County, Texas bears S00°51'45"E 147.42'; THENCE N84°18'38"W along the South line of said Lot 4 at 10.07' pass a set 1/2" metal rebar and continue on a distance in all of 101.72' to a set 3/4" metal rebar at the Southwest corner of said Lot 4 on the East line of a 15.0' alley whence a found 3/8" metal rebar at the Southeast corner of Lot 9, Block 2, T. W. Daugherty's Subdivision bears N84°18'38"W 15.00'; THENCE N05°41'15"E 199.85' along the East line of a 15.0' alley to the place of beginning and containing 0.414 acres of land.	
EXECUTED THIS _____ DAY OF _____ 2024	
OWNER JESSICA JACOB OWNER CRAIG JACOB	
ACKNOWLEDGMENT THE STATE OF TEXAS: COUNTY OF TAYLOR BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID COUNTY AND STATE ON THIS DAY PERSONALLY APPEARED JESSICA JACOB AND CRAIG JACOB KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF _____ A.D. 2024	
TAYLOR COUNTY TEXAS NOTARY PUBLIC	
JOSEPH GERARD GRZYWA My Notary ID # 1111184 Expires February 1, 2026	
GENERAL NOTES SHEET 1 OF 1 SHEETS ACREAGE 0.414 ACRES SCALE 1" = 50' SMALLEST LOT 16,000 SQ. FT. LARGEST LOT 16,000 SQ. FT. LOT WIDTH MIN 200' MAX 200' LOT DEPTH MIN 69' MAX 92' CONCRETE MONUMENTS _____ POLES _____ DOWN GUYS _____ (SYMBOL) (SYMBOL) (SYMBOL)	
SURVEYOR CERTIFICATE AND PLAT DESCRIPTION CERTIFICATION: I HEREBY CERTIFY THAT THE PLAT SUBMITTED HEREWITH REPRESENTS A TRUE SURVEY MADE BY THE UNDERSIGNED OR UNDER MY SUPERVISION ON THE GROUND ON THAT PERMANENT MARKERS AND MONUMENTS HAVE BEEN SET AS INDICATED ON THE PLAT AND IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE CITY OF ABILENE PLAT DESCRIPTION: LOT 101, A REPLAT OF THE REMAINDER OF LOTS 1 THROUGH 4, BLOCK 2, T.W. DAUGHERTY'S SUBDIVISION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS. 10-22-2024 DATE SIGNATURE ALVIN JOE ADAMS ALVIN JOE ADAMS REGISTERED PROFESSIONAL LAND SURVEYOR P.E. NO. 49263 R.P.L.S. NO. 4130	

PROJECT OVERVIEW

Project Type: Zoning Application | **Project Title:** Z-2024-31 HC to O
ID # 24-000214 | **Started** 09/25/2024 at 10:43 AM



Address

1234 N Treadaway Bl, Abilene, TX USA 79601

Legal

O T Abilene
1 199 T W Daugherty S1/2 3-2 Abl Ot

Description

Rezoning to office in order to build a private therapy practice on this property. Joe Adams is filing a plat to get 1226 and 1234 (both owned by me) as one lot.

PROPERTY DETAILS

Property ID	38036
GEO ID	6254
Enforcement Area	North College

PROPERTY ADDITIONAL INFORMATION

Account Number	80100039700
Property ID	6254
Flood Zone	
Land Use	Single Family Res
High School	Ahs
Middle School	Craig
Elementary School	College_heights
Super Neighborhood	North College
Lot - Acreage	0.09035628
Object ID	13884
Courier - Building Square Feet	736

CONTACTS	CONTACT INFO	ADDRESS	CREDENTIALS	ROLE
Jacob Craig & Jessica -		608 Fm 1770 Winters, TX 79567	-	Property Owner
Jessica Jacob	jjacob@beyondthebumptherapy.com 3253203872	608 FM 1770 Winters, TX 79567	-	APPLICANT
Joe Adams	joeadam1@swbell.net 3256952285	4333 Sayles Blvd Abilene, TX 79605-7244	Engineer	Contractor

PROJECT STEPS	DATE & TIME	RESULT	USER
Request	09/25/2024 at 10:47 AM	Accept	-
Zoning Application Review	10/02/2024 at 1:00 PM	Accepted	Adam Holland
Planning Payment	10/02/2024 at 1:01 PM	Paid	Adam Holland
Create Agenda for Planning and-Zoning Commission		-	-
Staff Prepares Report & Send Property Notification Letters	-	-	-
P&Z Commission Decision	-	-	-
Appeal P&Z Decision	-	-	-
Prepare City Council Agenda	-	-	-
City Council Decision	-	-	-
Archive	-	-	-

INFORMATION FIELDS

Owner Name
Jessica Jacob

Agent Name
-

Block
1200

Lot
-

Acreage
-

Legal Description of property
1 199 T W DAUGHERTY S1/2 3-2 ABL OT and LT 3 199 T W DAUGHERTY ABL S1/2 OF 3 OT

Subdivision Name
80100

Current Zoning
Heavy Commercial

Proposed Zoning
Office

Agree to Terms

Jessica Jacob

INVOICES	DUE DATE	CONTACT	TOTAL	PAID	DUE
----------	----------	---------	-------	------	-----

No data for Invoices, Fees & Payments.

CREDENTIALS

Developer

Homeowner

Engineer

Name	Contact Info	Address	Credentials	Availability	Validity
Joe Adams	joeadam1@swbell.net (325) 695-2285	4333 Sayles Blvd Abilene, TX 79605-7244		0 days left	Off

Surveyor

OCCUPANCY TYPE	CONSTRUCTION TYPE	SQUARE FEET	VALUATION
----------------	-------------------	-------------	-----------

No data for Occupancy Type.

REVIEWS	DATE & TIME	STATUS	HISTORY
Zoning Application Review	10/02/2024 at 1:00 PM	Approved	Accepted
Create Agenda for Planning and Zoning Commission	10/02/2024 at 1:01 PM	In Review	-

INSPECTIONS	DATE & TIME	STATUS	HISTORY
-------------	-------------	--------	---------

No data for Inspections.

GENERATED DOCUMENTS	PRINTED ON	PRINTED BY	ISSUED TO
---------------------	------------	------------	-----------

No data for Generated Documents.

ATTACHED DOCUMENTS	UPLOADED ON	UPLOADED BY
--------------------	-------------	-------------

No data for Attached Documents.

EPR DOCUMENTS	ASSOCIATED STEPS	STATUS	LAST REVIEW BY
---------------	------------------	--------	----------------

Civil	Zoning Application Review	Not Uploaded	-
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GENERAL COMMENTS

No data for General Comments.



REZONE REQUEST

Case: Z-2024-31

Agent: Jessica Jacob

Request: Change the zoning of approximately 0.45 acres from Heavy Commercial (HC) to Office (O).

Location: Located at 1234,1232, 1226, and 1218 North Treadaway Blvd.

Notification: 1 in Favor, 0 in Opposition

Planning & Zoning: November 5, 2024

Council Hearing: November 21, 2024
December 5, 2024





AERIAL LOCATION MAP



Legend

- Z-2024-31
- Courier Parcels
- Arterial
- Collector

0.02

Miles



CITY OF
ABILENE
TEXAS



ZONING MAP

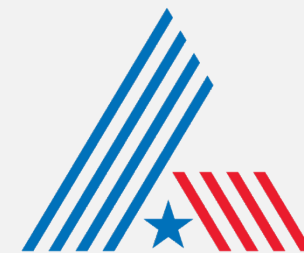


Legend

- Z-2024-31
- Courier Parcels
- HC (Heavy Commercial)
- MD (Residential - Medium Density)
- MF (Residential - Multi-family)
- RS (Residential - Single Family)
- AO (Agricultural Open)
- Arterial
- Collector

0.02

Miles



CITY OF
ABILENE
TEXAS



PROPERTY VIEWS





USES IN HEAVY COMMERCIAL ZONING

RESIDENTIAL USES:

C Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

P Accessory Structure (Also see Division 4 of this article)
P Antenna, Non-Commercial/Amateur
P ATM's, Self-Serve Kiosks, and Similar Facilities
P Drive-Through Facility
TP Field Office or Construction Office (temporary)
P Freight Container
P Fuel Sales
TP Itinerant Business
P Manufacturing (incidental)
C Mobile Home (permanent security residence)
TP Mobile Home (temporary security residence)
P Mobile Home or Temporary Building (office for sales and service)
P Recycling Collection Point
C Travel Trailers (accessory to hospitals)
P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

C Adult Entertainment Enterprise
P Civic, Social, and Fraternal Organization
P Cultural Facilities
P Drive-in Theater
C Motorized Racing
P Recreation – Outdoors (active)
P Recreation – Outdoors (passive)
P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

P Ambulance Service
C Correction, Detention, or Penal Facilities
P Fire/Police Station
P Homeless/Emergency Shelter
P Hospital
P Medical/Dental Laboratory
P Military and Armed Forces Reserve Center
P Post Office
P Rehabilitation Facility
C Sanitary Landfill
P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

P Arts School
C Cemetery, Crematorium, and Mausoleum
P Church or Place of Worship
P Educational and Scientific Research
P School: Public/Private
P Trade/Business School

TRADE – RETAIL USES:

P Aircraft and Accessories
P ATM's, Self-Serve Kiosks, and Similar Facilities
P Fuel Sales
P Head Shop
P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
P Restaurant, Brew Pub
P Restaurant, Fast Food
P Restaurant, Standard
P Retail Sales/Rental (automobile/small truck)
P Retail Sales/Rental (indoor)
P Retail Sales/Rental (outdoors, non-vehicle)
P Retail Sales/Rental (trucks and other large vehicles and equipment)

SERVICE:

P/C Automobile Wash
P Contractor Services
P Funeral Home/ Mortuary/Morgue
P Kennel (With Outdoor Pens)
P Kennel (Without Outdoor Pens)
P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
P Laundry/Dry Cleaning Services & Facilities
P Office (general, professional, financial)
P Printing, Copying, Reproduction, Publishing
P Recycling Collection and Processing Center
P Repair and Maintenance Services - Automobile/Small Truck (major)
P Repair and Maintenance Services - Automobile/Small Truck (minor)
P Repair and Maintenance Services (indoor)
P Repair and Maintenance Services (outdoors)
P Repair and Maintenance Services (truck and other large vehicles)
P Scales (public)
P Storage - Self-Service Units
P Tattoo Parlor
P Taxidermist
P Veterinary Service (all size animals)
P Veterinary Service (small animals)
P Wrecker/Towing

TRADE – WHOLESALE USES:

P Liquor, Wholesale/Distribution
P Wholesaling and Storage (indoor)
C Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
C Antenna Tower - Commercial
P Automobile Parking Lot or Structure - Commercial
P Broadcast Studio
P Passenger Ground Transportation Terminal
P Pressure Control Station
P Public Utility Facility
C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

P Petroleum or Gas Well
C Manufacturing (light)
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





USES IN OFFICE ZONING

RESIDENTIAL USES:

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

ACCESSORY AND INCIDENTAL USES:

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

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- C Cultural Facilities
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Fire/Police Station
- C Medical/Dental Laboratory
- P Post Office

EDUCATIONAL AND RELIGIOUS USES:

- C Arts School
- P Church or Place of Worship
- C Day-Care Operation - Center-Based
- P School: Public/Private

SERVICE:

- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing

TRADE – RETAIL USES:

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P/C Restaurant, Fast Food
- P/C Restaurant, Standard

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Automobile Parking Lot or Structure - Commercial
- C Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION & EXTRACTION:

- P Petroleum or Gas Well
- P Urban Garden

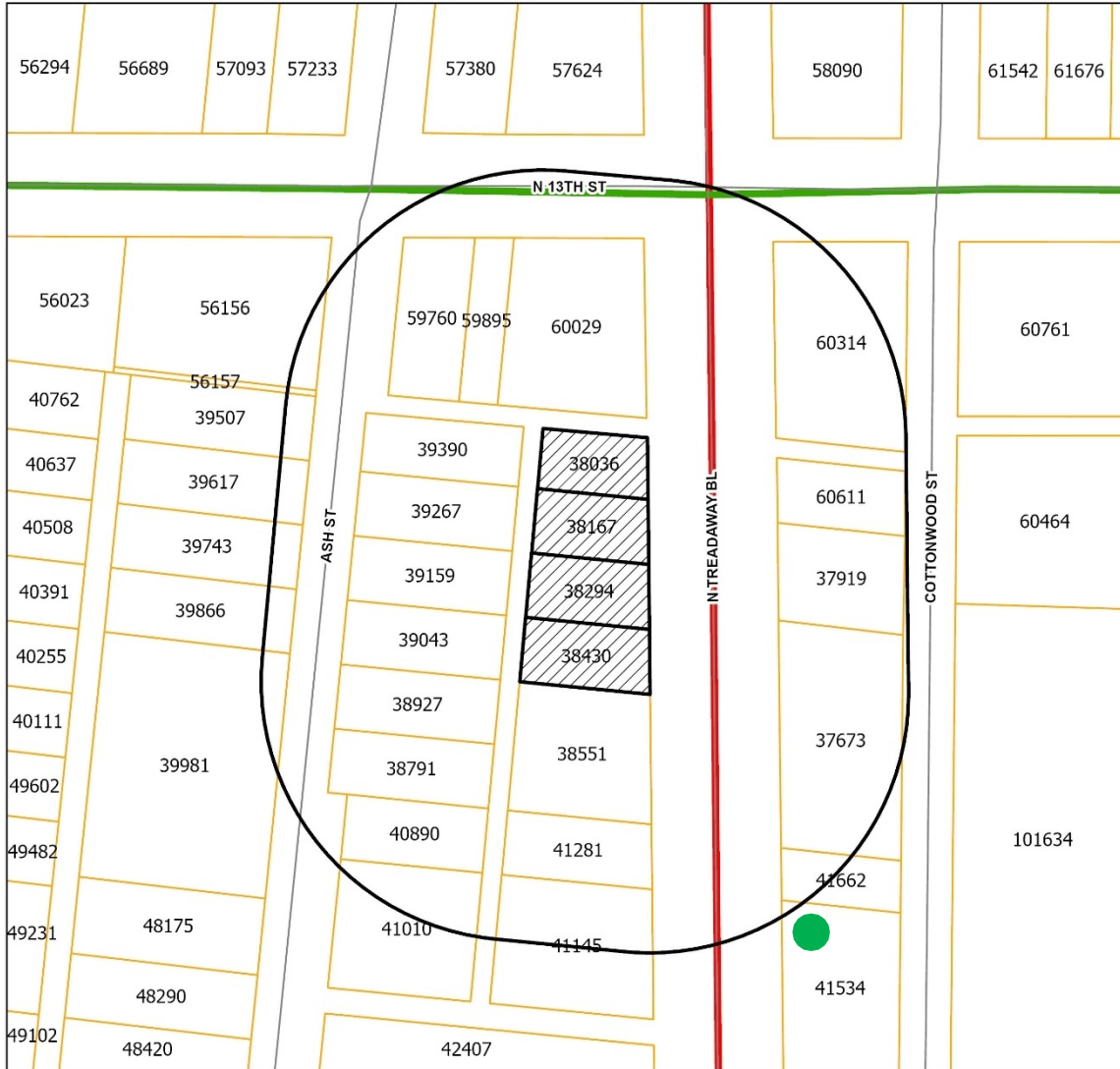
LEGEND

- 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





NOTIFICATION AREA MAP



Legend

- Z-2024-31
- Notification Area
- Courier Parcels
- Arterial
- Collector

1 - in Favor -

0 - in Opposition -

% OPPOSITION





FINDINGS AND RECOMMENDATIONS

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: 12/5/2024

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **15. Ordinance (Final Reading) Z-2024-33:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, Amend the Terms and Conditions of Planned Development District (PDD-181) Specifically to Add Approximately 5.9 Acres of Land Zoned Agricultural Open (AO) to be Added to Lot One to Allow Heavy Industrial Uses and Light Industrial Uses as Specified in the PDD, Located At 617 F.M. 2404 *(Tim Littlejohn)*

GENERAL INFORMATION

The request is to change the zoning of approximately 5.9 acres from Agricultural Open (AO) to Planned Development District 181 (PDD-181). The subject property was annexed in 2024 and zoned as Agricultural Open per the LDC requirements. The owner proposes to incorporate this property into existing Planned Development district to the west (PDD-181).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6-0.

ATTACHMENTS:

1. New Ordinance
2. Staff Report
3. Original 181- PDD Ordinance
4. Concept Plan
5. Presentation

ORDINANCE NO. _____

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

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

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

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than 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 21st day of November, 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 18th day of October, 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 5th day of December 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 5th day of December, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Request: Change the zoning classification of the following described land (5.9 acres), from the Agricultural Open Space (AO) district to the Planned Development District (PDD-181) and incorporated into Lot 1 Block A, Lancium Subdivision.

Location: 617 F.M. 2404, as legally described as:

BEING 5.9 acres out of a portion of 25.01 acre tract to be adsorbed into Lot 1, Block A, Lancium Subdivision. And being 5.9 acres out of a portion of a 25.01 acre tract recorded in document no. 2022-15428 Official Public Records, Taylor County, Texas, that is out of Lot 4, A.F. McDonald Subdivision recorded in Volume 22, Page 641, Deed Records, Taylor County, Texas, being more particularly described as follows:

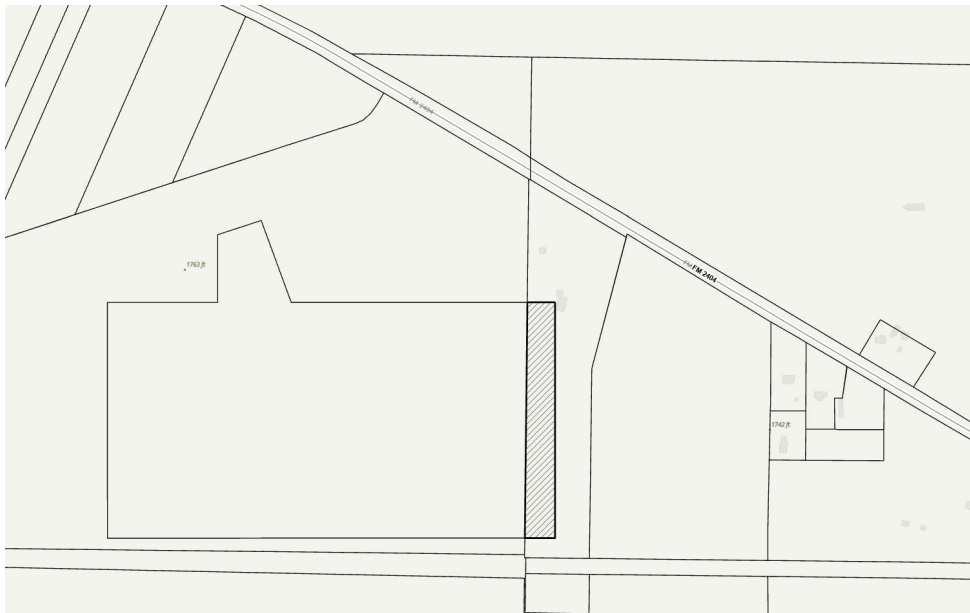
Beginning at a found ½ inch iron rod with plastic cap marked “H&T” at the northwest corner of this tract

Thence North 89 Degrees 59 Minutes 25 Seconds East a distance of 169.78 feet to a found ½ inch Iron Rod with plastic cap marked “H&T” northeast corner of this tract, where a found ½ inch iron pipe at the northeast corner of said 25.01 acre tract bears 589.92’ N46°21’43” E;

Thence South 00 Degrees 00 Minutes 35 Seconds East a distance of 1444.47 Feet to a found ½ inch iron rod with plastic cap marked “H&T” at the southeast corner of this tract, where a found ½ inch iron rod with plastic cap marked “Sheppard RPLS 3697” at the northeast corner of a .90 acre save and except tract recorded in Document No. 2019-2247, Official Public Records, Taylor County, Texas, bears 255.77’ S 53°22’04” E;

Thence South 89 Degrees 59 Minutes 25 Seconds West a Distance of 185.75 feet to a set ½ inch iron rod with plastic cap marked “H&T” at the southwest corner of this tract same being on the west boundary line of said 25.01 acre tract;

Thence North 00 Degrees 37 Minutes 26 Seconds East a Distance of 1444.56 along the west boundary line of said 25.01 acre tract to the point of beginning containing an area of 5.9 acres more or less.



ZONING CASE Z-2024-33

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 5, 2024
City Council 1st Reading: November 21, 2024
City Council 2nd Reading: December 5, 2024

Applicant

Owner: City of Abilene

Case Manager

Adam Holland – Planner

Request

Change the zoning of approximately 5.9 acres from Agricultural Open (AO) to Planned Development District 181 (PDD-181).

Location

Located at 617 F.M. 2404

Background

The subject property was annexed in 2024 and zoned as Agricultural Open per the LDC requirements. The owner proposes to incorporate this property into existing Planned Development district to the west (PDD-181).

Lancium intends to incorporate the property with lot 1 of the initially approved conceptual plan to extend the Heavy Industrial uses further east.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	NA	Residential (ETJ)
East	NA	Residential (ETJ)
South	NA	Residential (ETJ)
West	PDD-181	Heavy Industrial

Criteria Assessment

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

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

The proposed request is consistent with the Comprehensive Plan and Future Land Use Map.

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

The proposed zoning would be appropriate as it would be consistent with the surrounding uses.

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

This property has been platted. New utility connections are being constructed in the area in accordance with the LDC to serve the property.

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

None known.

P&Z Recommendation

The Planning and Zoning Commission recommends **approval**.

Attachments

- PowerPoint Presentation
- Concept Plan

Notification

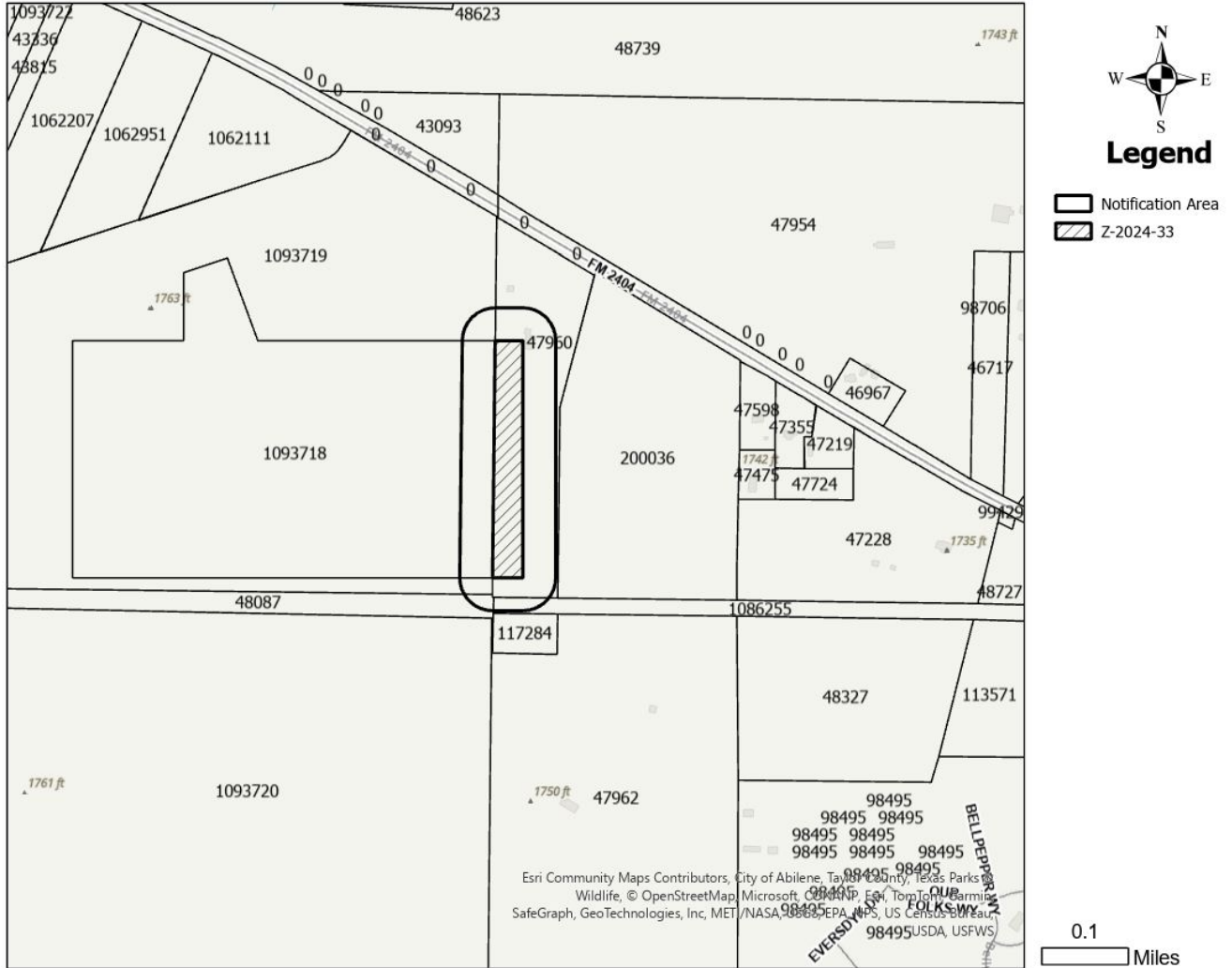
Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on October 16, 2024, via standard mail to the owners of property within a 200-foot radius of the subject street right of way. The property owners and associated parcel identification numbers are identified below:

PROPERTY OWNER

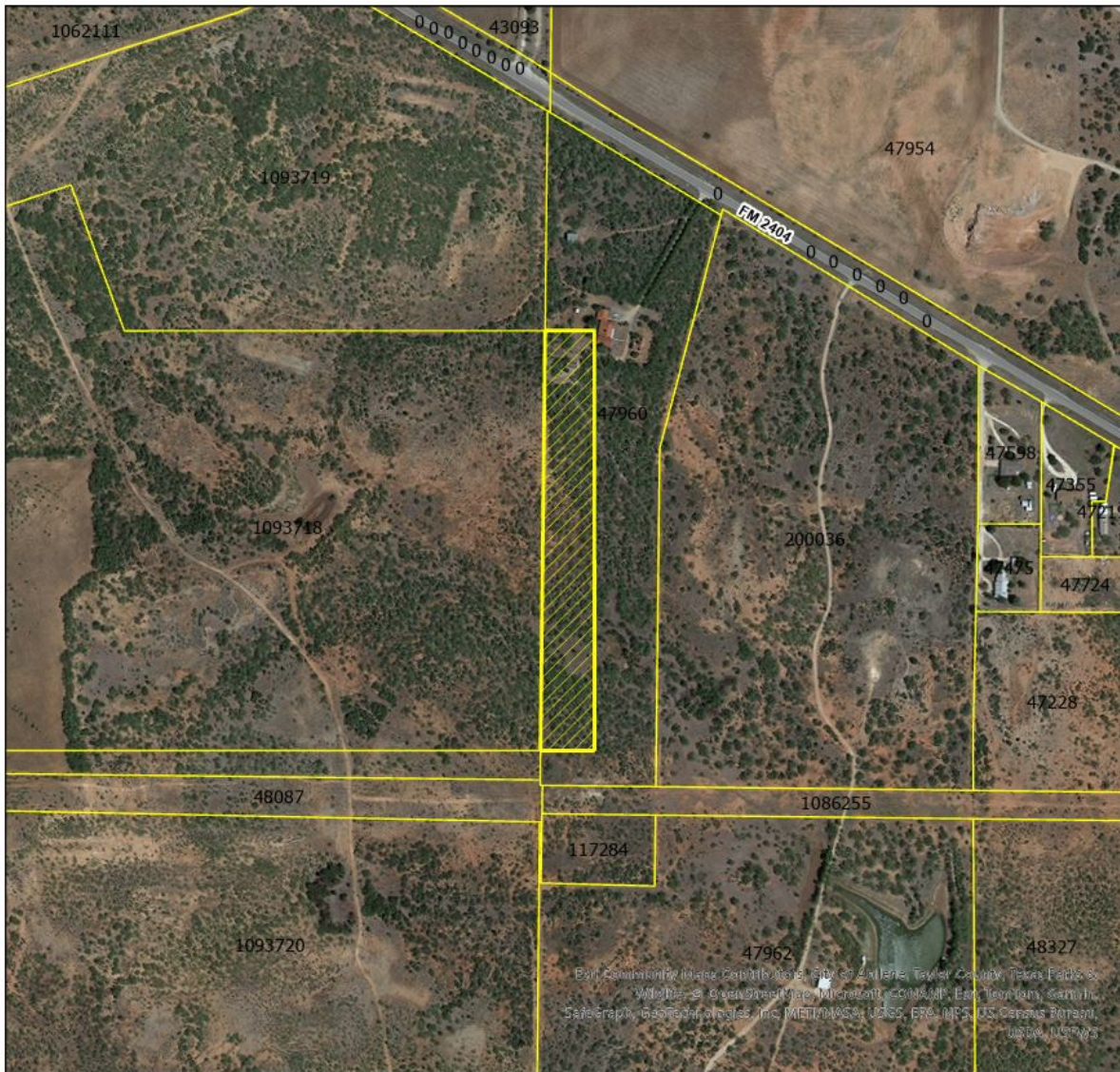
Legend: O - Opposed, F - In Favor

OWNER	SITUS	PROP_ID	RESPONSE
ROLLING PLAINS EV STATIONS LLC		47960	
WEST TEXAS UTILITIES CO		1086255	

NOTIFICATION MAP



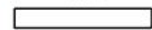
LOCATION MAP



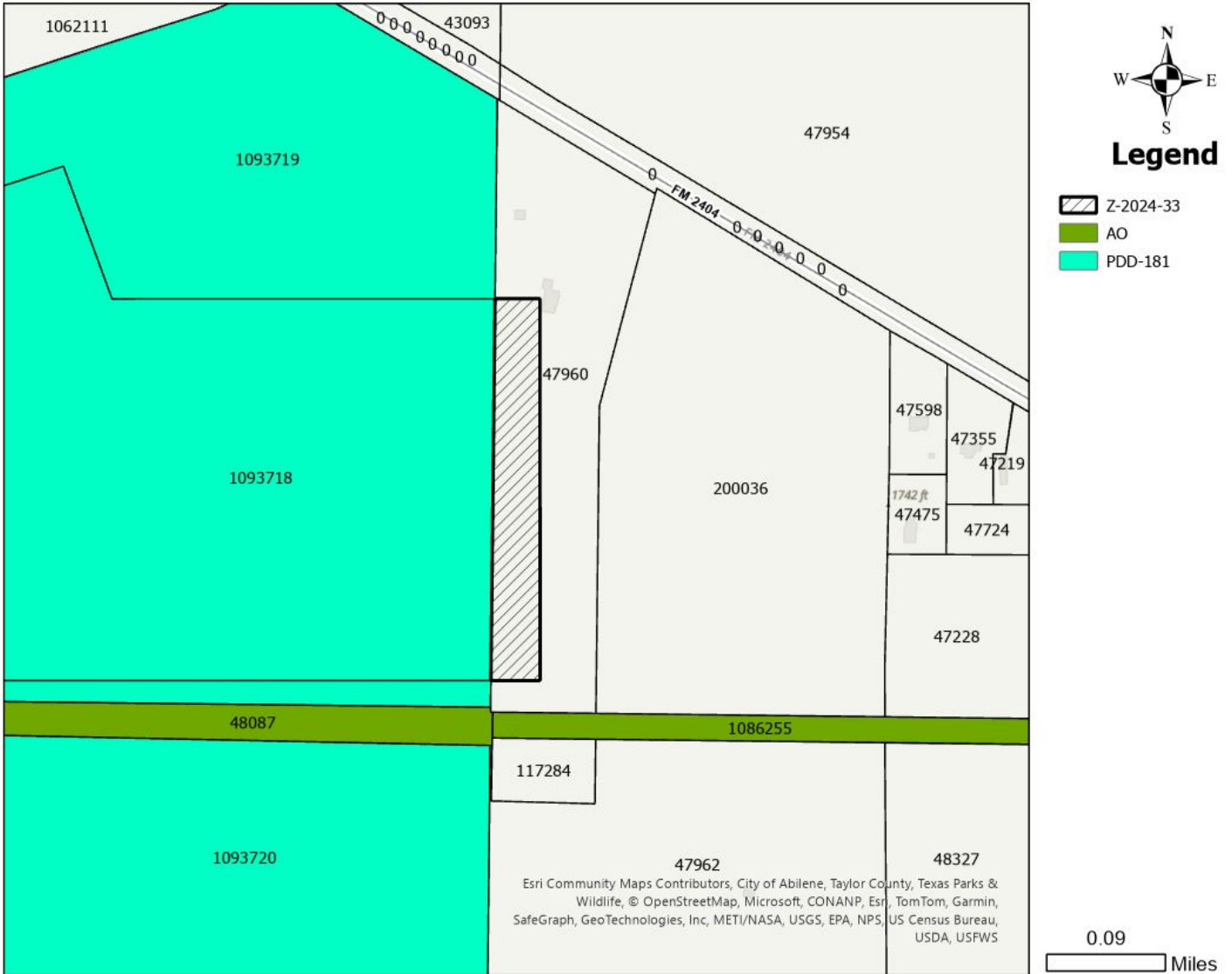
Legend

 Z-20204-33

0.09

 Miles

ZONING MAP



ORDINANCE NO. 25-2023

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

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

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

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than 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 27th day of April, 2023.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17th day of March, 2023, 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 11th day of May 2023, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 11th day of May, 2023.

ATTEST:


CITY SECRETARY


MAYOR

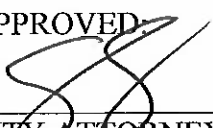
APPROVED:

CITY ATTORNEY

EXHIBIT A

Request: Change the zoning classification of the following described land, from the Agricultural Open Space (AO) district to the Planned Development District (PDD-181). The property shaded blue in the below map comprises the extent of PDD-181. The property shaded green on the map is not a part of PDD-181 and will continue to be zoned Agricultural Open (AO).

Location: 5502 Spinks Road, as legally described as:

285.90 acres out of Section 53 and 54, Block 16, T.&P. RR. Company Surveys, Taylor County, Texas; and 191.18 acres of Section 55, Block 16, T & P RR. Company Surveys, Taylor County, Texas; and 305.95 Acres of Section 24, W. W. Sills Survey, Taylor County, Texas.

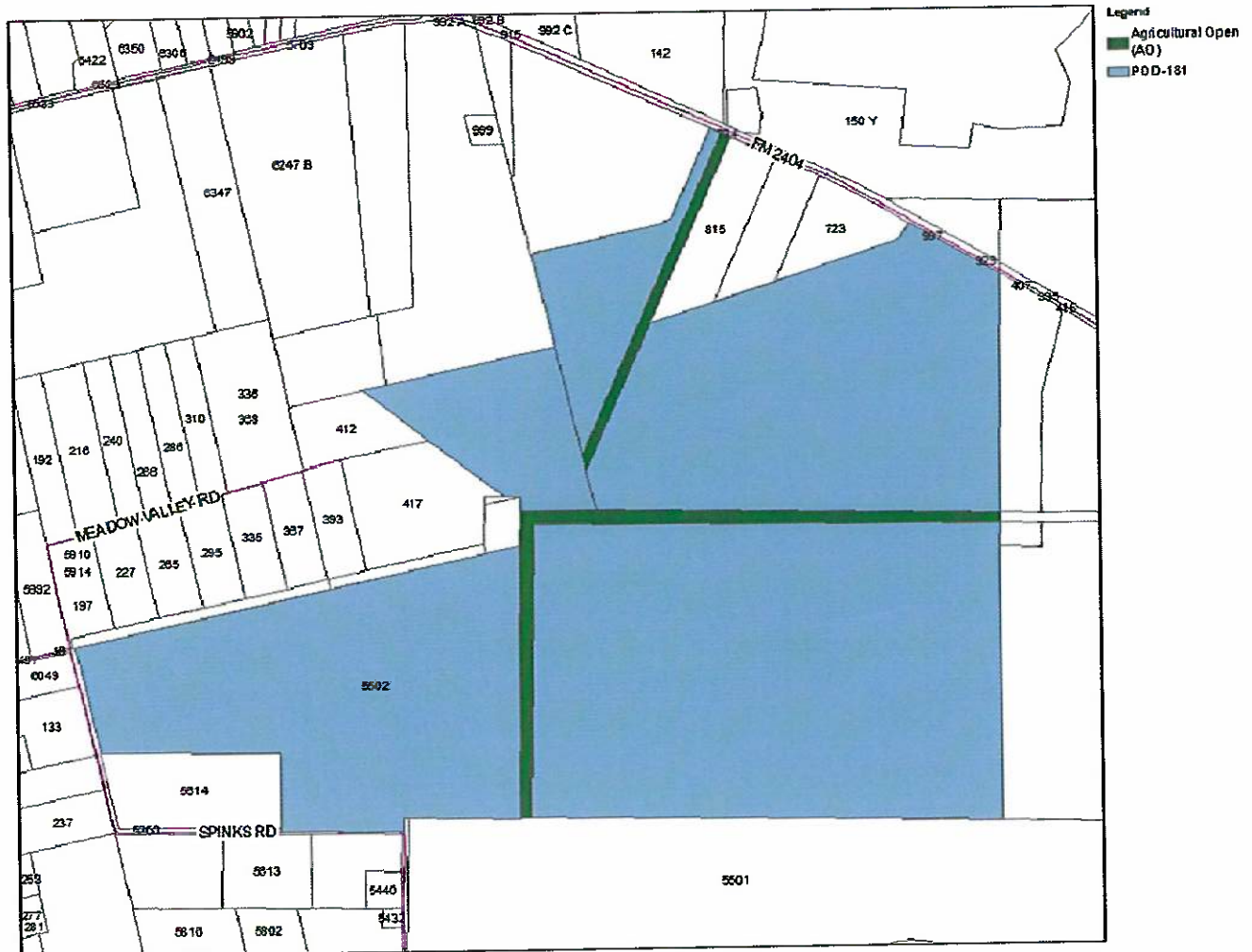


EXHIBIT B CONCEPT PLAN

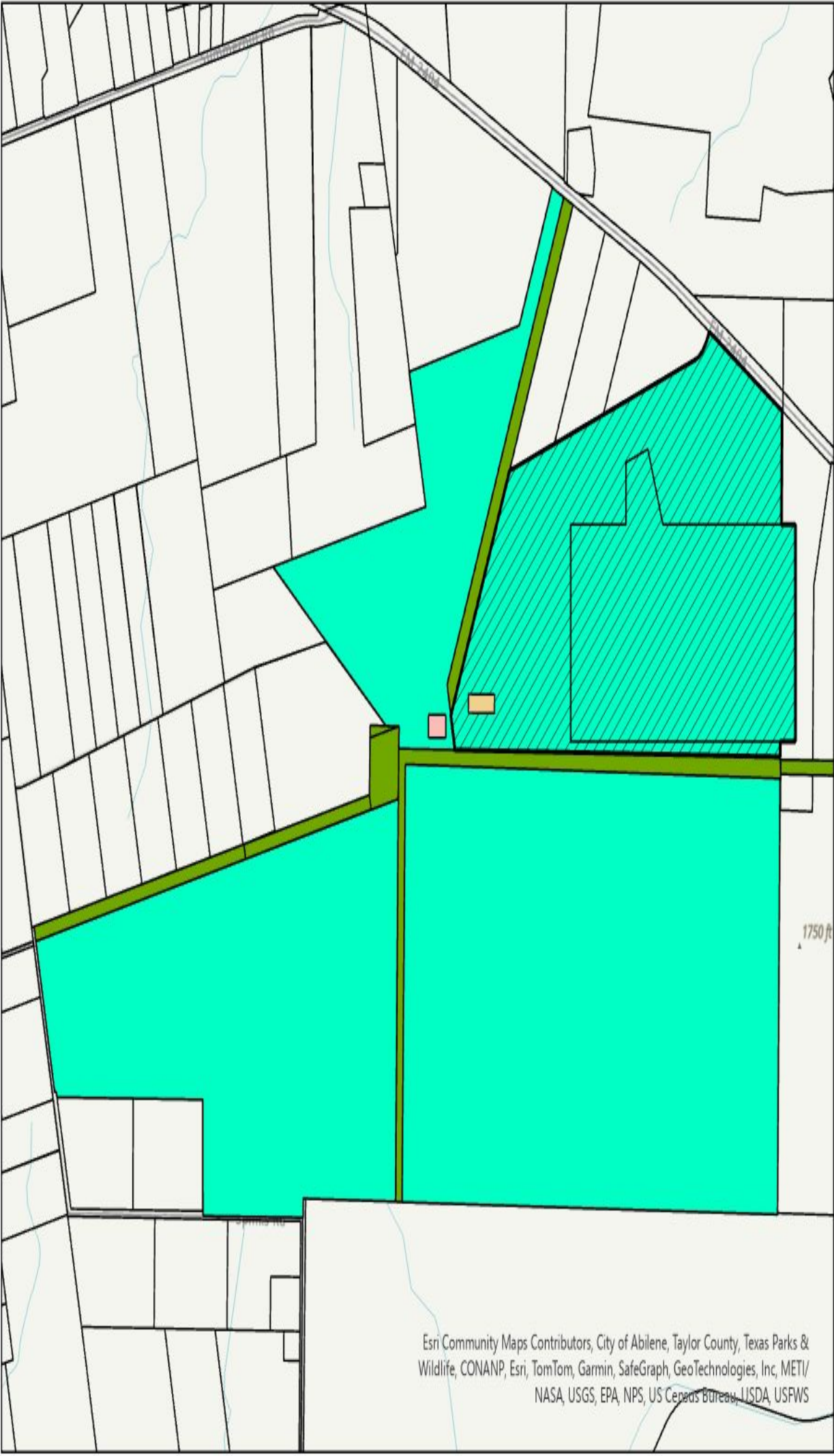


EXHIBIT C

Proposed Base Zoning District, Land Uses, and Development Standards

1. PDD-181 shall be developed in accordance with the Concept Plan (**Exhibit B**).
2. The base zoning district of PDD-181 shall be Light Industrial (LI).
3. The following Light Industrial uses shall be permitted by right at any location in PDD-181:
 - a. Data Center: High Performance Computing;
 - b. Data Center: Bitcoin Mining;
 - c. Operation and Maintenance Facilities;
 - d. Electric Vehicle Charging Station;
 - e. Solar Panel Array (green energy production);
 - f. Corporate Park (light industrial/office);
 - g. Warehousing;
 - h. Cold Storage;
 - i. Light Manufacturing;
 - j. Electric Substation; and
 - k. Corporate Headquarters (office).
4. The following Heavy Industrial (HI) uses shall be permitted by right on Lot 1:
 - a. Green Ammonia Production, Storage, and Loading Terminal;
 - b. Direct Air Capture (CO², carbon dioxide); and
 - c. Hydrogen Production, Storage, Loading Terminal.
5. The land area that comprises Lot 1 shall be the area highlighted in grey as shown in **Exhibit B**.
6. The 200-foot buffer designated on **Exhibit D** shall be maintained as open space, with all existing vegetation being maintained. Additional landscaping may also be installed as necessary.
7. The land area that comprises the 200-foot buffer area shall be the area as shown in **Exhibit D**.
8. PDD-181 shall be subject to all of the development standards that pertain to the LI zoning district.

Page 287 of 312



Legend

-  Heavy Industrial Use
-  To remain AO
-  PDD-181

Substations

-  200MW
-  Future 1000 MW

Esri Community Maps Contributors, 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

0.2

Miles



REZONE REQUEST

Case: Z-2024-33

Owner: Rolling Plains EV Stations, LLC

Requests: Change the zoning of approximately 5.9 acres from Agricultural Open to Planned Development District (PDD-181).

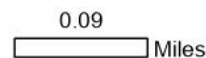
Location: 617 F.M. 2404

Notification: 0 in Favor, 0 in Opposition

Planning & Zoning: November 5, 2024

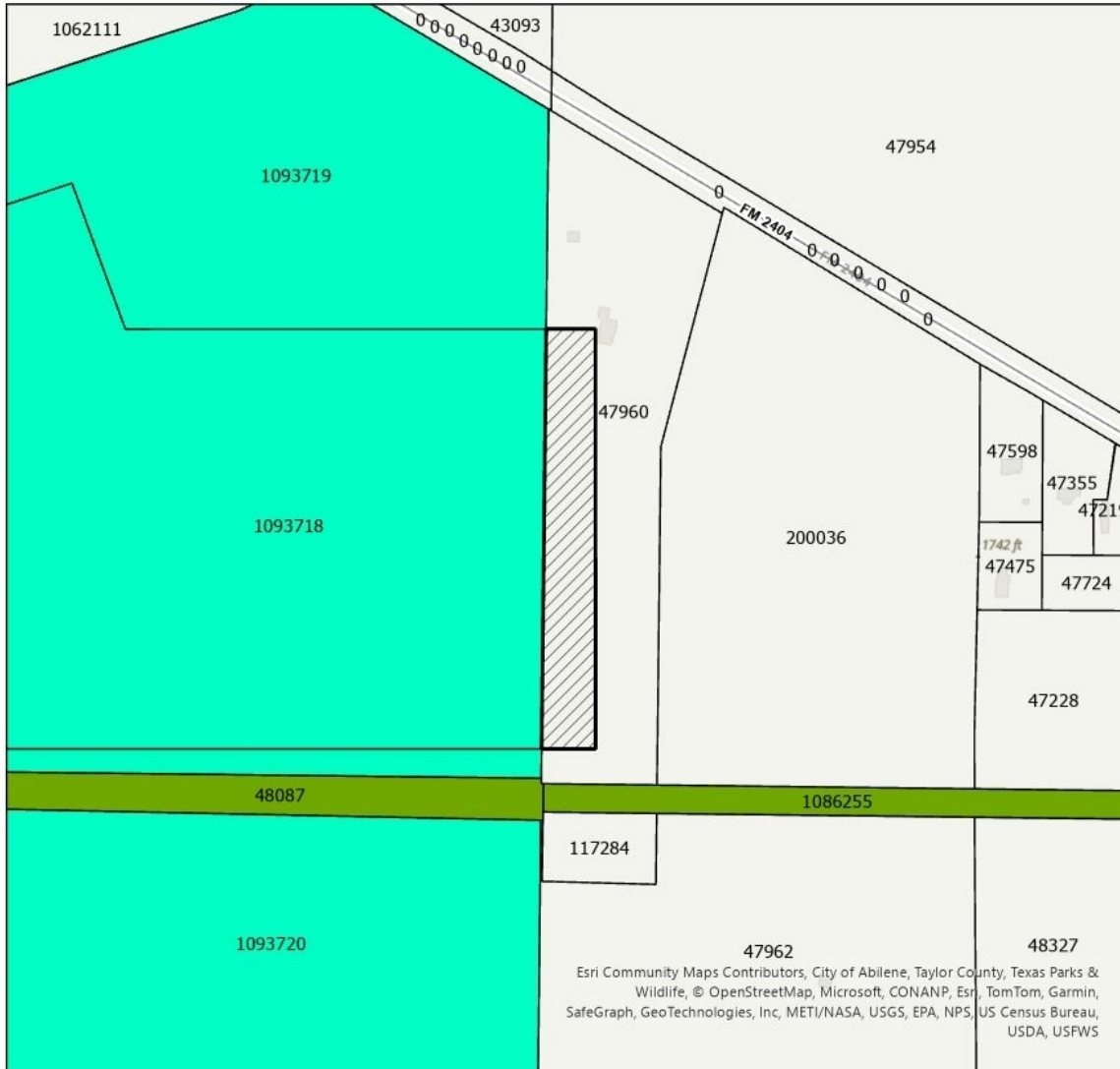
Council Hearing: November 21, 2024
December 5, 2024







ZONING MAP



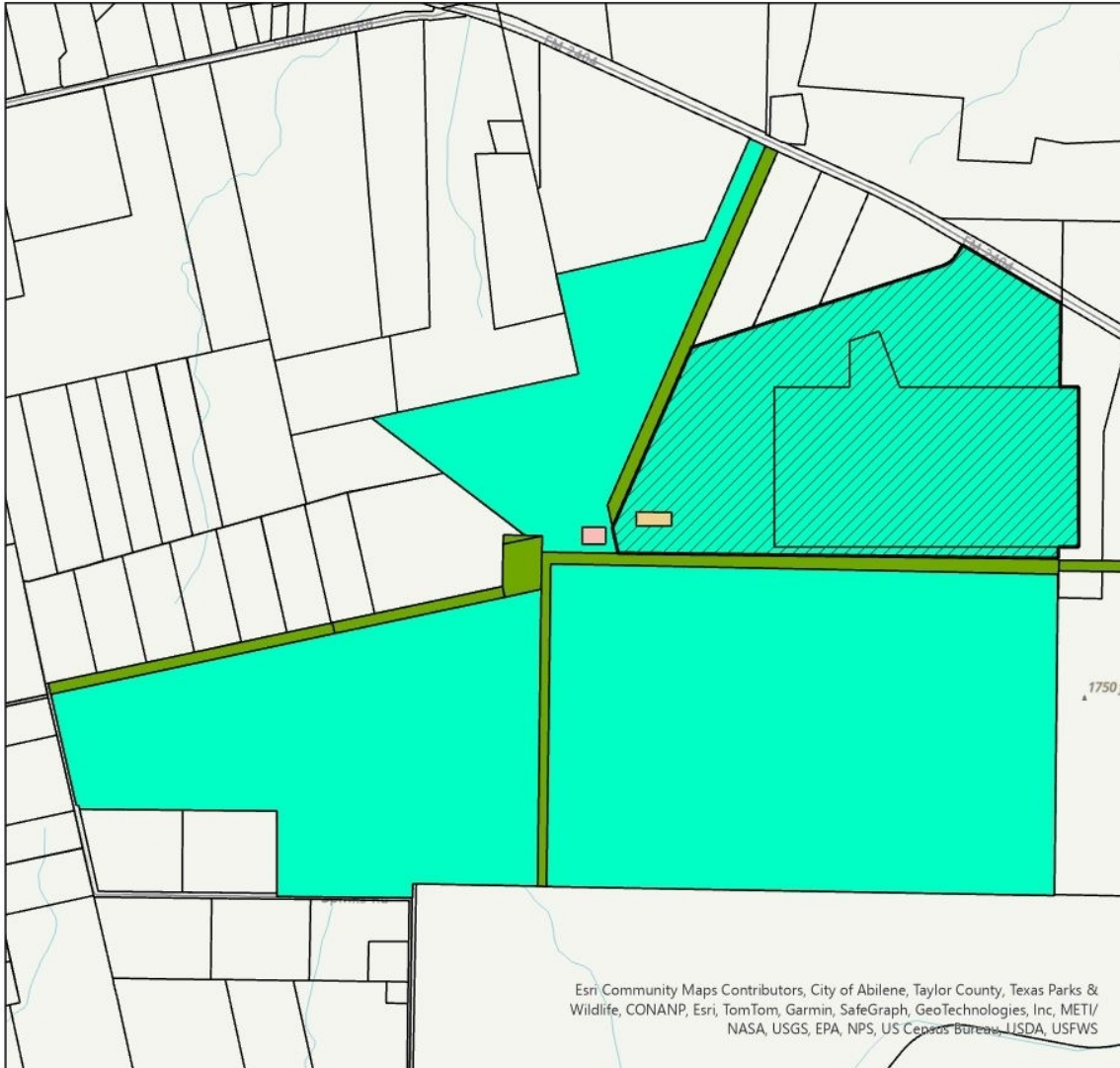
Legend

- Z-2024-33
- AO
- PDD-181





CONCEPT PLAN



Legend

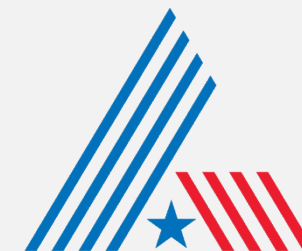
- Heavy Industrial Use
- To remain AO
- PDD-181

Substations

- 200MW
- Future 1000 MW

0.2

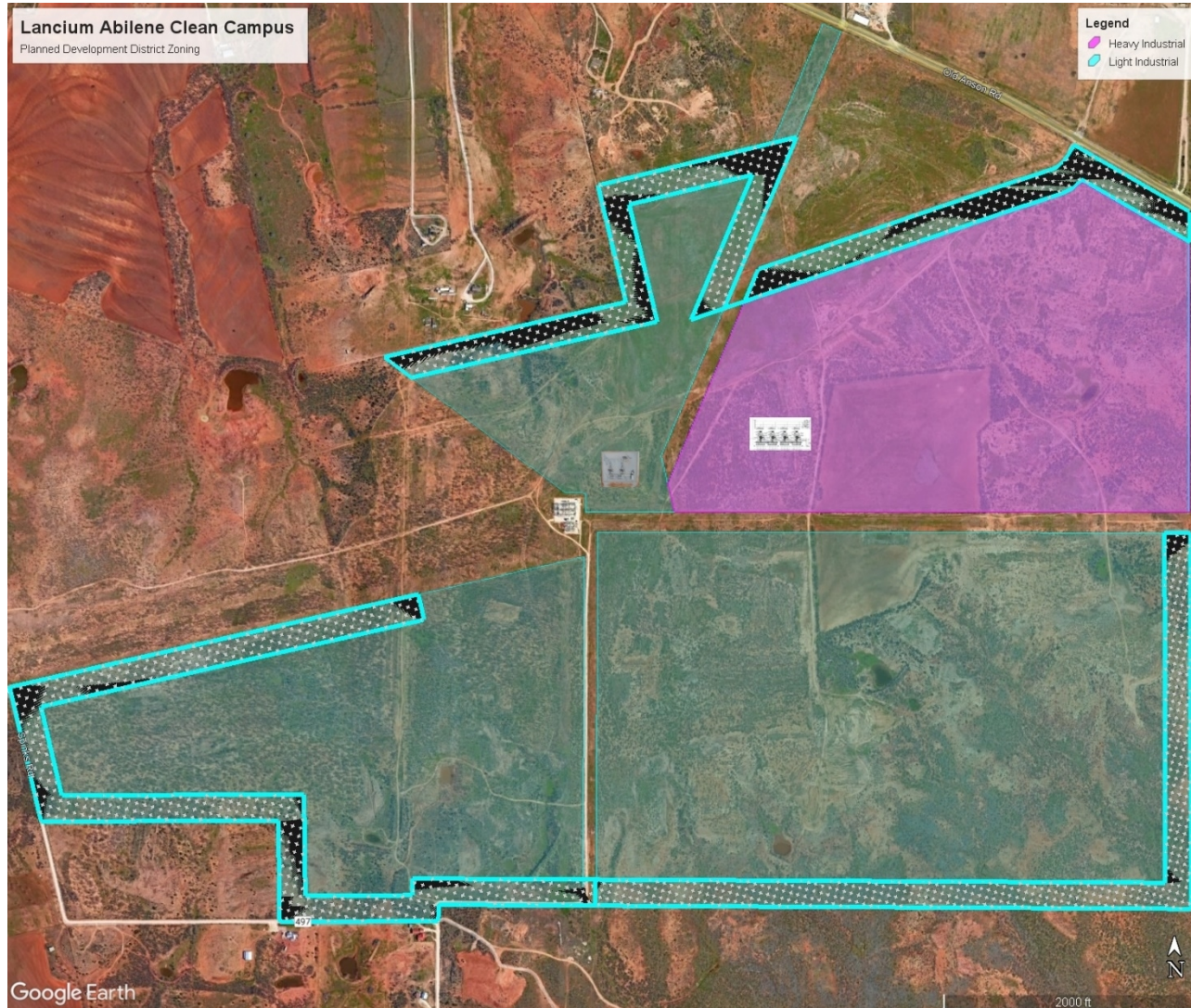
Miles



CITY OF
ABILENE
TEXAS



200-FOOT BUFFER PLAN





PROPERTY VIEWS

North neighboring
property



North neighboring
property



North neighboring
property

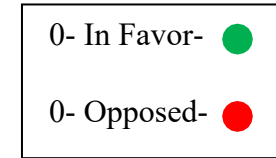


West neighboring
property



Subject property







FINDINGS AND RECOMMENDATION

The request is consistent with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning;
- Generally accepted planning principles; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: Approval





Questions?





City Council Agenda Memo

City Council Meeting Date: 12/5/2024

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: **16. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Condemnation for Access & Drainage Easement Being 0.011 Acres Located in the Southwest Corner of Lot 19, Block B, Wychwood Plaza Addition, Abilene, Taylor County, Texas, 3472 Santa Monica Drive (Stanley Smith)

GENERAL INFORMATION

Eminent domain proceedings in the State of Texas are governed by Chapter 21 of the Texas Property Code. Under that code a governmental entity exercising the power of eminent domain must first authorize the initiation of the condemnation proceeding at a public meeting by a record vote adopting a resolution, ordinance, or order.

The City of Abilene requires a public alley and drainage easement located in Lot 19, Block B, of a Replat of Lots 1, 2, 3, and 4, Block B, Wychwood Plaza Addition, as recorded in Cabinet 2, Slide 70-D, Taylor County, Texas, being 0.011 acres. The proposed easement which is the subject of the condemnation is located in Taylor County and will be located on the real property as depicted in the attached Exhibit "A". Acquiring this public alley and drainage easement is necessary for solid waste services and water drainage into Catclaw Creek, and the City of Abilene finds it necessary to begin the eminent domain process to condemn the permanent easement.

To date, the City has been unsuccessful in reaching an agreement with the Property Owner for purchase of the necessary public easement. The City will continue to seek an agreement with the Property Owner for the voluntary granting of an easement, but eminent domain is necessary if an agreement is not reached.

SPECIAL CONSIDERATIONS

The Council should make the following Motion:

"I move that the City Council of the City of Abilene authorize the use of the power of

eminent domain to acquire a 0.011 acre strip of land out of the Southwest corner of Lot 19, Block B, Wychwood Plaza Addition, Abilene, Taylor County, Texas, also known as 3472 Santa Monica Drive, for a public alley and drainage easement."

FUNDING/FISCAL IMPACT

None at this time.

STAFF RECOMMENDATION

Staff recommends that the City Council approved condemnation action for the access and drainage easement, being 0.011 acres, 3472 Santa Monica Drive, Abilene, Taylor County, Texas.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2024 Resolution authorizing alley easement condemnation
2. Exhibit A Survey
3. 3472 Santa Monica Dr easement
4. Eminent Domain Alley & Drainage Easement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE AN EASEMENT FOR THE PURPOSE OF A PUBLIC ALLEY AND DRAINAGE, BEING A 0.011 ACRE STRIP OF LAND LOCATED IN SECTION 19, BLOCK B, OF A REPLAT OF LOTS 1, 2, 3 AND 4, BLOCK B, WYNCHWOOD PLAZA ADDITION, AS RECORDED IN CABINET 2, SLIDE 70-D, TAYLOR COUNTY, TEXAS, AND BEING LOCATED IN LOT 19 AS DESCRIBED IN A SPECIAL WARRANTY DEED TO JAMES LAYNE PARTIN RECORDED IN INSTRUMENT NO. 2010-00014768, OFFICIAL PUBLIC RECORDS, TAYLOR COUNTY, TEXAS.

WHEREAS, eminent domain proceedings in the State of Texas are governed by Chapter 21 of the Texas Property Code; and

WHEREAS, under that code a governmental entity exercising the power of eminent domain must first authorize the initiation of the condemnation proceeding at a public meeting by a record vote adopting a resolution, ordinance, or order; and

WHEREAS, the City of Abilene requires a public alley and drainage easement located in Lot 19, Block B, of a Replat of Lots 1, 2, 3, and 4, Block B, Wychwood Plaza Addition, as recorded in Cabinet 2, Slide 70-D, Taylor County, Texas, being 0.011 acres; and

WHEREAS, the proposed easement which is the subject of the condemnation is located in Taylor County and will be located on the real property as depicted in the attached Exhibit “A”; and

WHEREAS, acquiring this public alley and drainage easement is necessary for solid waste services and water drainage into Catclaw Creek, and the City of Abilene finds it necessary to begin the eminent domain process to condemn the permanent easement.

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

- PART 1: That the City Council incorporates herein as findings the above listed Whereas clauses.
- PART 2: That the City Council finds that taking is necessary to achieve a public use and does hereby make a determination of a public necessity to acquire the alley and drainage easement.
- PART 3: That following a public hearing and record vote, the City Council hereby authorizes the use of the power of eminent domain to acquire a permanent utility easement as depicted in “Exhibit A”, being a 0.011 acre strip of land located in Lot 19, Block B, of a Replat of Lots 1, 2, 3, and 4, Block B, Wychwood Plaza Addition, as recorded in Cabinet 2, Slide 70-D, Taylor County, Texas, for the public purpose of and alley and drainage easement in Taylor County.
- PART 4: That this Resolution is effective immediately upon adoption.

ADOPTED this 5th day of December, 2024.

ATTEST:

City Secretary

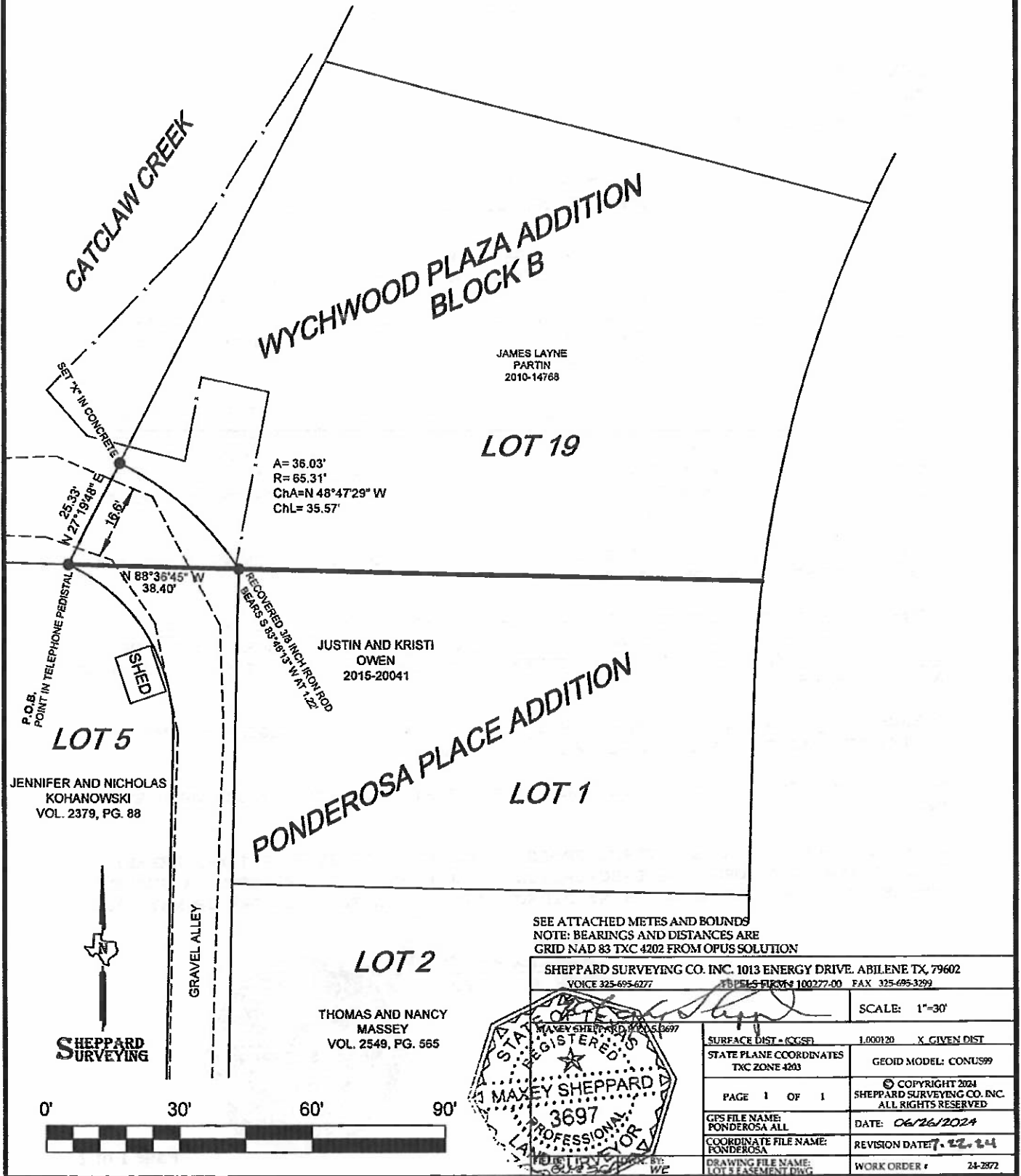
Weldon Hurt, Mayor

APPROVED:

City Attorney

EXHIBIT "A"

PLAT SHOWING THE LOCATION OF AN EASEMENT
IN THE SOUTHWEST CORNER OF
LOT 19, BLOCK B, WYCHWOOD PLAZA ADDITION,
ABILENE, TAYLOR COUNTY, TEXAS



S:\C&G SURVEY\ENGINEERING AND ENVIRONMENTAL\TAYLOR COUNTY\ABILENE CITY PROJ\PONDEROSA CIRCLE LOT 2 EASEMENT.dwg



SHEPPARD SURVEYING COMPANY, INC.

TBPELS FIRM # 100277-00

1013 Energy Drive, Abilene, Texas 79602

325-695-6277 • sheppard-survey@sheppard-survey.com

STATE OF TEXAS
TAYLOR COUNTY
CITY OF ABILENE

JAMES LAYNE PARTIN
INSTRUMENT NUMBER 2010-00014768

METES AND BOUNDS DESCRIPTION OF A VARYING WIDTH EASEMENT FOR THE CITY OF ABILENE, LOCATED IN SECTION 19, BLOCK B, OF A REPLAT OF LOTS 1, 2, 3, AND 4, BLOCK B, WYCHWOOD PLAZA ADDITION, AS RECORDED IN CABINET 2, SLIDE 70-D, TAYLOR COUNTY, TEXAS. SAID EASEMENT BEING LOCATED IN LOT 19 AS DESCRIBED IN SPECIAL WARRANTY DEED TO JAMES LAYNE PARTIN RECORDED AS INSTRUMENT NUMBER 2010-00014768, OFFICIAL PUBLIC RECORDS, TAYLOR COUNTY.

BEGINNING AT A POINT (N:6836655.31, E:1577023.78) IN A TELEPHONE PEDISTAL BEING THE SOUTHWEST CORNER OF LOT 19 AND BEING IN THE NORTH LINE OF LOT 5, SECTION 2, PONDEROSA PLACE ADDITION TO THE CITY OF ABILENE, THIS POINT IN A TELEPHONE PEDISTAL BEING S 27°19'48" W AT A DISTANCE OF 241.07' (CALLED 244.9') FROM A 3/8" IRON ROD IN CONCRETE RECOVERED FOR THE NORTHWEST CORNER OF LOT 20, WYCHWOOD PLAZA ADDITION.

THENCE N 27°19'48" E FOR A DISTANCE OF 25.33' TO AN "X" IN CONCRETE SET FOR THE NORTHWEST CORNER OF THIS EASEMENT.

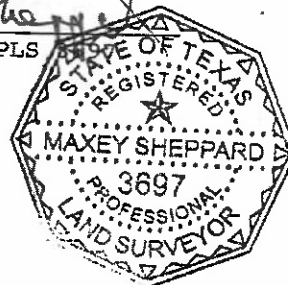
THENCE WITH A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 36.03', A RADIUS OF 65.31', A CHORD BEARING OF S 48°47'29" E, AND A CHORD LENGTH OF 35.57' TO A POINT FROM WHICH A RECOVERED 3/8" IRON ROD BEARS S 83°46'13" W AT A DISTANCE OF 1.22'.

THENCE N 88°36'45" W A DISTANCE OF 38.40' TO THE POINT OF BEGINNING AND HAVING AN AREA OF 489.0 SQUARE FEET, 0.011 ACRES.

NOTE ALL BEARINGS AND DISTANCES ARE GRID NAD 83, TXNC 4202, BASED UPON RTK NETWORK.

I, MAXEY SHEPPARD, A REGISTERED PROFESSIONAL LAND SURVEYOR OF TEXAS HEREBY CERTIFY THAT THE FOREGOING DESCRIPTION AND ATTACHED PLAT REPRESENT A SURVEY COMPLETED ON THE GROUND UNDER MY DIRECT SUPERVISION THE 20TH DAY OF MAY, 2024.

Maxey Sheppard
MAXEY SHEPPARD, RPLS



Page 1 of 2



PONDEROSA
PROPOSED EASEMENT

Google Earth

Image Landsat/Copernicus

AUTHORIZE USE OF EMIMENT DOMAIN FOR PUBLIC ALLEY AND DRAINAGE EASEMENT

3472 SANTA MONICA DRIVE





**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Honorable Mayor & Members of City Council

FROM: Stanley Smith, City Attorney

SUBJECT: 17. 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

13. Regional Water & City of Clyde

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

1. Storybook Gardens 2

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members

2. City of Abilene Boards and Commissions may be discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 12/5/2024

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 18.

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

- Abilene-Taylor County Public Health District 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 5th day of December, 2024.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Abilene-Taylor County Public Health Advisory Board</i>	
Paige LeMasters [Reappointment]	November 2026



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

- Abilene-Taylor County Public Health District Board

