



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 March 13, 2025, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

1. Councilmember Brian Yates

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

2. **Service Awards:**

- Robert Klafter - 25 Years - Water Utilities

3. **Recognition:**

- Special Presentation from the Veteran's Land Board
- Special Presentation from Taylor County Judge Phil Crowley

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 February 27, 2025 **(Shawna Atkinson)**
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the Purchase of Two (2) 2025 RC-Mower R60 Remote Operated Mowers for Stormwater Utilities, Through Sourcewell Contract # 112624-EMB from Kinloch Equipment of Pasadena Texas **(Don Green)**
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the Purchase of One(1) 2025 Caterpillar 265 C3H3 Skid Steer for Streets Services through Sourcewell Contract # 011723-CAT from Warren Cat of Abilene **(Don Green)**
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Appropriate Funds for and Approve the Purchase of Four (4) Fuel Dispensers for Fleet Services from JF Petroleum Group's Abilene Office using Sourcewell Contract #081524-JFA **(Don Green)**
8. **Resolution:** Receive a Report, Hold a Discussion, and Take Action to Approve Change Order 1 to the Microwave System Modernization and Reconfiguration Project Contract with Scientel Solutions, LLC. **(Don Green)**
9. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Enter into a Contract with Schneider Electric Buildings America Inc. (ESCO), for Phase 5 Energy Efficient Facility Improvements **(Lesli Andrews)**
10. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to enter into a Contract for Phase 6 with Schneider Electric Buildings America Inc. (ESCO), for Water Department Improvements **(Lesli Andrews)**
11. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Design and Creation of the Giving Tree Sculpture as Part of Clear Fork Bank Sculpture Garden **(Lesli Andrews)**
12. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Design and Creation of the Winnie the Pooh Series as Part of the Storybook Series **(Lesli Andrews)**
13. **Resolution:** Receive a Report, Hold a Discussion, and Take Action to Approve an Agreement with Empyrean Benefit Solutions to Provide an Online Benefits Administration Platform **(Pamela Williams)**
14. **Resolution:** Receive a Report, Hold a Discussion and Take Action To Authorize the City Manager to Execute an Agreement with MES Service Company, LLC for the Purchase of Dual Certified Firefighting Protective Gear for the Abilene Fire Department **(Cande Flores)**
15. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Change Order No. 1 to the Contract with Dowtech Specialty Contractors for the Sodium

- Hydroxide Bulk Storage and Dry Polymer Feed Improvements *(Matthew Dane)*
16. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Approve an Amendment to the City's Tyler Technologies Contract to add the Environmental Health Enterprise Module to Replace the Sunsetting Digital Health Department Electronic System *(Annette Lerma)*
 17. **Resolution:** Receive a Report, Hold a Discussion and Take Action to Approve a Resolution Authorizing the Child Advocacy Center to Apply for an Other Victims Assistance Grant (OVAG) *(Annette Lerma)*
 18. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the Continuation of Services for a 3 Year Term with Granicus, LLC for the Swagit Live Switching, Broadcast, Streaming, and Archiving of Public Meetings *(Mari Cockerell)*
 19. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering into an Economic Development Agreement with Brick and Mortar Properties for the Major Renovation of 2826 Roberts St. *(Tim Littlejohn)*
 20. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Entering into an Economic Development Agreements with Thornton Custom Homes for 5433 and 5441 N 10th St. *(Tim Littlejohn)*
 21. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Allowing the City Manager to Enter into a Contract with BVNA for Inspection Services located at the Lancium Project *(Tim Littlejohn)*
 22. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Allowing the City Manager to Enter Into a Contract with BVNA for City Backup Inspection Services *(Tim Littlejohn)*
 23. **Ordinance (First Reading) Z-2025-04:** Receive a Report, Hold a Discussion and Take Action on A Request From The Owner, To Change The Zoning Of Approximately 2.5 Acres From Heavy Industrial (HI) To Light Industrial (LI). Located At 4397 Crawford Drive. Legal Description Being Block A, Lot 1, Of The Button Willow, Section 5 Subdivision, Abilene, Taylor County, Texas *(Tim Littlejohn)*
 24. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on Amending Chapter 18, "Motor Vehicles and Traffic," Article X, "Stopping, Standing and Parking," Division 4, "Limited on Certain Streets," and Division 5, "Parking Meters," of the Abilene Code of Ordinances, and create a Paid Parking Program *(Max Johnson)*
 25. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on Amending the Fee Ordinance to Add a Commercial Breeder Permit Fee *(Robert Hanna)*

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

26. **(Remove from Table) Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Special Events Permit Policy *(Lesli Andrews)*
27. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 29, "Streets and Sidewalks," Article IX, "Special Events Permit" of the Code of Ordinances *(Lesli Andrews)*
28. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Fees and Charges Ordinance to Special Events Fees *(Lesli Andrews)*
29. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 6, Animals and Fowl, of the Abilene Code of Ordinances

(Stanley Smith)

30. **Ordinance (Final Reading) CUP-2025-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, to Apply a Conditional Use Permit to Approximately 0.9 Acres to Allow for Contractor Services within General Commercial (GC) Zoning, Located at 625 ES 11th Street **(Tim Littlejohn)**
31. **Ordinance (Final Reading) CUP-2025-04:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, Represented by Precision Contractors, to Apply a Conditional Use Permit to Approximately 1.81 Acres Zoned General Commercial to Allow Freight containers, Located at 718 S. Clack Street **(Tim Littlejohn)**
32. **Ordinance (Final Reading) CUP-2025-05:** 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 15.03 Acres to Allow an RV (Recreational Vehicle) Park, Located at 3201 Dub Wright Blvd. **(Tim Littlejohn)**
33. **Ordinance (Final Reading) Z-2025-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, to Change the Zoning of Approximately 22.14 Acres from Agricultural Open (AO) to Multi Family (MF) Located at 6310 Butterfield Trail **(Tim Littlejohn)**
34. **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 - 31 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 **(Tim Littlejohn)**
35. **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 - 28.58 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 **(Tim Littlejohn)**
36. **Presentation:** Receive a Report and Hold a Discussion and Public Hearing and Provide Direction on Homeless Initiatives **(Max Johnson)**

EXECUTIVE SESSION

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

A. 551.071 (Consultation with Attorney)

1. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
2. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
3. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
4. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021

6. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023
7. The Woodlands Pride, Inc., et al. v. Ken Paxton, Attorney General of Texas, et al., Case No. 4:23-cv-02847, In the United States District Court, Southern District of Texas, Houston Division, filed August 2, 2023
8. PFAS Litigation
9. Ginger Robertson v. City of Abilene and Abilene Zoological Society; Cause No. 13179-D, In the 350th Judicial District Court, Taylor County, Texas; filed December 5, 2023
10. City of Dallas, et al, v. Disney DTC, LLC, et al., Cause No. DC-22-09128, In the 14th Judicial District Court, Dallas County, Texas, filed August 3, 2022
11. Patricia Anderson v. City of Abilene; Cause No. 51867-A, IN the 42nd Judicial District Court, Taylor County, Texas; filed March 1, 2024
12. Mary Lou Gonzales v. City of Abilene, Board of Building Standards; Cause No. 29156-B; In the District Court, 104th Judicial District, Taylor County, Texas; filed April 10, 2024

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

RECONVENE

REGULAR AGENDA

38. **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**)

- Landmarks Commission
- Street Maintenance Advisory & Appeals Board

39. **Oral Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Mindy Patterson as the City Manager (**Robert Hanna**)

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 7th day of March, 2025, at 3:10 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

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 February 27, 2025
(*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on February 27, 2025

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 02-27-2025 Minutes - Regular - Morning

CITY COUNCIL MEETING
February 27, 2025 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 February 27, 2025, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Weldon Hurt was present and presiding, along with Deputy Mayor Pro-tem Travis Craver, and Councilmembers Shane Price, Lynn Beard, Blaise Regan, and Brian Yates. Mayor Pro-tem Kyle McAlister was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Councilmember Travis Craver delivered the invocation.

Mason and Cooper Gorman, both 5th graders from Austin 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

- Service Awards:
 - Michael Baird – 30 Years – Police Department
 - Stephen Hughes – 30 Years – Fire Department
- Proclamation:
 - Black History Month – accepted by Andrew Gwinn from the Salvation Army.
- Special Presentation:
 - The West Central Texas Branch of the National Association of Social Workers recognized Councilmember Lynn Beard for being selected as the Public Elected Official of the Year for their chapter of social workers.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 4-16. Items 5 and 9 were pulled for individual consideration. Item 16 was pulled from the agenda prior to the meeting.

Item pulled for individual consideration:

- Item 5 – Councilmember Regan
- Item 9 – Councilmember Regan

Items pulled from consideration:

- Item 16

PUBLIC COMMENTS

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

- Charles Baucum
- Aaron Young
- Erin Wiley
- Thomas McIntire
- 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 4, 6-8 and 10-15. Councilmember Yates seconded the motion. Motion carried.

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

NAYS (0): None

ABSENT (1): Mayor Pro-tem McAlister

4. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on February 13, 2025
6. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Purchase of an Aqua Wash Press Unit from Parkson Corporation for the Hamby Water Reclamation Facility
[ASSIGNED RESOLUTION NO. 26-2025]
7. Resolution: Receive a Report, Hold a Discussion and Take Action on the purchase of seven (7) 2025 Ford Escapes from Arrow Ford through bid received from CB-2512 for the Police Department and Planning Services
[ASSIGNED RESOLUTION NO. 27-2025]
8. Resolution: Receive a Report, Hold a Discussion and Take Action to Execute Professional Services Contracts with West Texas Occupational Corporate Health Solutions (WTX-OCHS) and Screening For Life to Conduct Annual Medical Physicals for Employees of the Abilene Fire Department (AFD)
[ASSIGNED RESOLUTION NO. 28-2025]
10. Ordinance (First Reading) CUP-2025-03: Receive a Report, Hold a Discussion and Take Action on a Request from the Owner, to Apply a Conditional Use Permit to Approximately 0.9 Acres to Allow for Contractor Services within General Commercial (GC) Zoning, Located at 625 ES 11th Street
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ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

5. Resolution: Receive a Report, Hold a Discussion and Take Action on Purchase of Chairs for the Convention Center from MityLite Inc.

[ASSIGNED RESOLUTION NO. 25-2025]

Having pulled the item, Councilmember Regan had concerns about the dollar amount for the chairs. Robert Hanna, City Manager, stated that this item was competitively bid through Buyboard, and is not out of the budget.

Mayor Hurt opened the public hearing. The following spoke in favor of the item:

- Tammy Fogle
- Tiffany Nichols, General Manager of the Abilene Convention Center

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

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

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

NAYS (0): None

ABSENT (1): Mayor Pro-tem McAlister

9. Resolution: Receive a Report, Hold a Discussion, and Take Action on Amending Resolution 21-2025 in Support for OPG Cypress Partners LLC Supporting their Proposed Project on 301 Cypress St.
[ASSIGNED RESOLUTION NO. 29-2025]

Having pulled the item, Councilmember Regan wanted clarification as to what the changes were to this item from the first time they approved it. Robert Hanna, City Manager stated that OPG Cypress Partners LLC needed the resolution to state that we are in “support” of this item, so just a minor wording correction.

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

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

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

NAYS (1): Councilmember Regan

ABSENT (1): Mayor Pro-tem McAlister

ITEMS PULLED FROM INDIVIDUAL CONSIDERATION

16. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on Amending the Fee Ordinance to Add a Commercial Breeder/Show Animal Permit Fee
[NOT COSNIDERED]

REGULAR AGENDA

17. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 6, Animals and Fowl, of the Abilene Code of Ordinances
[NOT CONSIDERED]

This item was pulled from consideration prior to the meeting.

18. Discussion: Receive a Report and Hold a Discussion and Public Hearing and Provide Direction on a Downtown Paid Parking Program

Michael Rice, Assistant City Manager, presented the item. This program would designate certain parking lots as paid parking in the downtown area. After two consecutive hours of parking the customer would be required to pay a fee. A fee structure was presented, and staff is looking for council direction on moving forward with this. The consensus from council was to start only with the parking lot in front of the DoubleTree Hotel. Council does not feel comfortable creating the old Abilene Reporter News lot as a paid parking lot as of now, especially with Cypress street still in construction.

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

- Glen Dromgoole
- Tammy Fogle
- Rani Burke
- Jerry Salinas

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

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

EXECUTIVE SESSION

Mayor Hurt recessed into Executive Session at 10:04 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:

- 19.A.551.072 (Deliberations About Real Property)
 - 1. Abilene Heritage Square
- 19.D.551.074 (Personnel Matters)
 - 1. Boards & Commissions
- 19.F.551.087 (Economic Development)
 - 1. AYSA Flat Fields

The Executive Session ended at 10:17 a.m. and reconvened to Open Session. Mayor Hurt reported no votes or action were taken in Executive Session.

REGULAR AGENDA

23. 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
[ASSIGNED RESOLUTION NO. 30-2025]

Adoption of the item would approve the (re)appointments of the following board and commission members, per the City Charter:

Board	Term End Date
<i>Abilene-Taylor County Child Advocacy Center Board</i>	
Tim Bundick [New]	December 2026
<i>Tax Increment Reinvestment Zone (TIRZ) #3</i>	
Sam Vinson [Reappointment]	March 2028
Robert Stormy Higgins [Reappointment]	March 2028

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

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

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

NAYS (0): None

ABSENT (1): Mayor Pro-tem McAlister

ADJOURNMENT

There being no further business, the meeting adjourned at 10:18 a.m.

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion and Take Action on the Purchase of Two (2) 2025 RC-Mower R60 Remote Operated Mowers for Stormwater Utilities, Through Sourcewell Contract # 112624-EMB from Kinloch Equipment of Pasadena Texas (Don Green)

GENERAL INFORMATION

Fleet Services seeks to purchase two (2) 2025 R-60 remote control mowers through Kinloch Equipment of Pasadena Texas using Sourcewell Contract # 112624-EMB for Stormwater Utilities.

These mowers are part of a planned Stormwater strategy for maintaining areas it is responsible for by replacing the Spyder unit that had frequent mechanical failures making it unreliable.

SPECIAL CONSIDERATIONS

Texas law allows a municipality to purchase goods through a state or local cooperative purchasing program. Sourcewell is such a program, and the purchase meets the competitive bidding requirements.

FUNDING/FISCAL IMPACT

Funds for the purchase are to be provided by the Fleet Replacement Fund and total \$140,825.00. The funds for this purchase were planned and included in the FY25 Budget. This is \$49,175.00 under budget.

STAFF RECOMMENDATION

Fleet Services and Stormwater Utilities staff recommend the purchase of two (2) 2025 RC-Mower R60 remote control mowers through Kinloch Equipment of Pasadena Texas using Sourcewell Contract # 112624-EMB for Stormwater Utilities.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. FY25 CO-OP Remote Control Mowers Resolution
2. FY25 CO-OP Remote Control Mowers Additional Info
3. FY25 CO-OP Remote Control Mowers Budget vs Actual
4. FY25 CO-OP RC Mowers Pricing Worksheet
5. FY25 CO-OP Remote Control Mowers PiP

RESOLUTION NO _____

**A RESOLUTION OF THE CITY OF ABILENE, TEXAS
TO PURCHASE TWO (2) 2025 R-60 REMOTE OPERATED MOWERS FROM KINLOCH, PASADENA TX
THROUGH SOURCEWELL CONTRACT #112624-EMB**

WHEREAS, City of Abilene has a need for two (2) remote control mowers; and

WHEREAS, City of Abilene budgeted this purchase for Fiscal Year 2025; and

WHEREAS, These units are to be a 2025 RC Mowers R-60 remote operated mowers; and

WHEREAS, These units are both new budget items; and

WHEREAS, City of Abilene received pricing for two (2) 2025 RC Mower R-60 remote operated mowers through Sourcewell Co-Operative Contract #112624-EMB; and

WHEREAS, Kinloch is the Sourcewell approved vendor for the Remote Operated Mowers;

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

PART 1: That the City Council approves this purchase from Kinloch of Pasadena, Texas in the amount of One Hundred Forty Thousand Eight Hundred Twenty-Five Dollars and Zero Cents (\$140,825.00) for two (2) 2025 R-60 Remote Operated Mowers.

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

ADOPTED this 13th day March 2025

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM
Remote Control Mowers

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance Costs	Disposal Method	Points	Replacement Reasoning
NBI	Stormwater Utilities									
NBI	Stormwater Utilities									

BUDGET vs ACTUAL COSTS
Remote Control Mowers

Repl For Unit #	Division #	Division Name	Type Equipment	Budgeted Cost	Actual Cost	Budgeted vs Actual Variance	
NBI	4105	Stormwater	Remote Control Mower	\$ 95,000.00	\$ 70,412.50	\$ (24,587.50)	
NBI	4105	Stormwater	Remote Control Mower	\$ 95,000.00	\$ 70,412.50	\$ (24,587.50)	
				<u>\$ 190,000.00</u>	<u>\$ 140,825.00</u>	<u>\$ (49,175.00)</u>	UNDER BUDGET



www.kinlochequip.com

Ph. 713-473-6213 Fax: 713-473-7858

By: Jered Sellers Cell: 806-787-2002

Email: jered.sellers@kinlochequip.com

R-60
City of Abilene

3320 Pasadena Blvd, Pasadena, TX 77503



QUOTATION

R-60

2/25/2025

R Series Gen 5.0 Remote-Operated Robotic Mower, 60" Deck, Vanguard Commercial Big Block 40hp

REMOTE-OPERATED ROBOTIC MOWER

	PRICE	Qty	Extended
R-60	\$66,950.00	2	\$133,900.00

OPTION

4500 LB Winch Kit Installed	\$1,115.00	2	\$2,230.00
Light Kit Installed	\$747.50	2	\$1,495.00

FREIGHT	\$1,600.00	2	\$3,200.00
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SUBTOTAL	\$140,825.00
8.25% SALES TAX	
TOTAL	\$140,825.00



PROPOSAL NOTES:

1. Prices quoted herein are firm until 3.25.25.
2. Prices quoted herein are from Sourcwell Contract # 112624-EMB. City of Abilene member # 101784.
3. Payment terms are net due upon delivery.

Remote Control Mowers





Remote Control Mowers

- Two New Budget Items
- Purchase of Two 20250 RC Mower R60 Remote Controlled Mowers
- Unit to be Purchased from Kinloch through Sourcewell Co-operative contract number #112624-EMB





Remote Control Mower





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on the Purchase of One(1) 2025 Caterpillar 265 C3H3 Skid Steer for Streets Services through Sourcewell Contract # 011723-CAT from Warren Cat of Abilene (Don Green)

GENERAL INFORMATION

Fleet Services seeks to purchase one (1) 2025 Caterpillar 265 C3H3 Skid Steer through Warren Cat of Abilene Texas using Sourcewell Contract # 011723-CAT for Street Services.

SPECIAL CONSIDERATIONS

Texas law allows a municipality to purchase goods through a state or local cooperative purchasing program. Sourcewell is such a program, and the purchase meets the competitive bidding requirements.

FUNDING/FISCAL IMPACT

Funds for the purchase are to be provided by the Fleet Replacement Fund and total \$116,460.00. The funds for this purchase were planned and included in the FY24 Budget. This is \$31,460.00 over budget.

STAFF RECOMMENDATION

Fleet Services and Street Services staff recommend the purchase of one (1) 2025 Caterpillar 265 C3H3 Skid Steer through Warren Cat of Abilene Texas using Sourcewell Contract # 011723-CAT for Street Services.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. FY25 CO-OP Skid Steer Resolution
2. FY25 CO-OP Skid Steer Additional Info
3. FY25 CO-OP Skid Steer Budget vs Actual
4. FY25 CO-OP Skid Steer With Milling Attachment Pricing Worksheet
5. FY25 CO-OP Skid Steer Presentation PiP

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF ABILENE, TEXAS

**TO PURCHASE ONE 2025 CATERPILLAR 265 C3H3 SKID STEER FROM WARREN CAT, ABILENE TX,
THROUGH SOURCEWELL CO-OPERATIVE CONTRACT #011723-CAT, QUOTE NUMBER 309524-01**

WHEREAS, City of Abilene has a need for one Skid Steer; and

WHEREAS, City of Abilene budgeted for this purchase for Fiscal Year 2025; and

WHEREAS, This unit will be a 2025 Caterpillar 265 C3H3 Skid Steer; and

WHEREAS, City of Abilene received pricing for one a 2025 Caterpillar 265 C3H3 Skid Steer through Sourcewell Co-Operative Contract #011723-CAT, Quote # 309524-01; and

WHEREAS, Warren Cat is the Sourcewell approved vendor for the Skid Steer.

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

PART 1: That the City Council approves this purchase from Warren Cat of Abilene, Texas in the amount of One Hundred Sixteen Thousand Four Hundred Sixty Dollars and Zero Cents (\$116,460.00) for one 2025 Caterpillar 265 C3H3 Skid Steer through Sourcewell Co-Operative Contract #011723-CAT, Quote # 309524-01.

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

ADOPTED this 13th day March, 2025

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM
Skid Steer with Milling Attachment

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance Costs	Disposal Method	Points	Replacement Reasoning
NBI	Street Services									

BUDGET vs ACTUAL COSTS
Skid Steer

Repl For Unit #	Division #	Division Name	Type Equipment	Budgeted Cost	Actual Cost	Budgeted vs Actual Variance	
NBI	4103	Street Services	Skid Steer	\$85,000.00	\$116,460.00	\$31,460.00	
				\$85,000.00	\$116,460.00	\$31,460.00	over budget



Sourcewell Warren CAT Quote
Contract # 011723-CAT
City of Abilene Member ID# 101784

Quote 309524-01

Feb 20, 2025

CITY OF ABILENE
PO BOX 60
ABILENE
Texas
79604-0060

Attention: CASSANDRA LAMBERT

Thank you for this opportunity to quote Caterpillar products for your business needs. We are pleased to quote the following for your purchase consideration.

One (1) New Caterpillar Model: 265 C3H3 Skid Steer Loaders | Compact Track Loaders with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER: C147304

SERIAL NUMBER: 0KR406276

YEAR: 2025

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.

Sincerely,

Chase Churchill
Machine Sales Representative

One (1) New Caterpillar Model: 265 C3H3 Skid Steer Loaders | Compact Track Loaders with all standard equipment in addition to the additional specifications listed below:

STANDARD EQUIPMENT

POWERTRAIN -Cat C2.8TA turbocharged, aftercooled -diesel engine --Gross horsepower per ISO 14396 -74.2 hp (55.3 kW) --Glow plugs starting aid --Liquid cooled, direct injection -Air cleaner, dual element, radial seal -S-O-S sampling valve, hydraulic oil -Ecology drain - coolant -Filter, hydraulic supply, cartridge type -Filter, hydraulic return, cartridge type -Filter, canister type, engine oil -Filter, canister type, fuel -and water separator -Radiator / hydraulic oil -cooler (side-by-side) -Spring applied, hydraulically released, -parking brakes -Hydrostatic transmission -Lockable fuel cap -Auto engine idle -

UNDERCARRIAGE -Torsion Suspension (4 independent -torsion axles) -Two speed travel -Integrated tie downs on track -frame (4) -

HYDRAULICS -Selectable control pattern - ISO or H -Electro/hydraulic implement control -Electro/hydraulic hydrostatic -transmission control -Speed sensor guarding -Heavy duty flat faced quick disconnects -with integrated pressure release lever -

ELECTRICAL -Work Tool Electrical Harness -Heavy duty battery --includes battery disconnect with -lockout feature -12 volt electrical system -85 ampere alternator -LED work lights -Auto reverse lights -Switch backlighting -Interior LED dome light -Backup alarm -Electrical outlet, beacon -Courtesy lighting, exterior -Automatic Work light notification flash -when parking brake is released -

OPERATOR ENVIRONMENT -Operator warning system indicators: --Air filter restriction --Alternator output --Armrest raised / operator out of seat --Engine coolant temperature --Engine oil pressure --Glow plug activation --Hydraulic supply filter restriction --Hydraulic oil temperature --Park brake engages --Engine emission system -(where applicable) -Control interlock system, when operator -leaves seat or armrest raised: --Hydraulic system disables --Hydrostatic transmission disables --Parking brake engages -ROPS cab, tilt up -FOPS, Level I -Color LCD monitor: --Creep speed control --Drive response adjustment --Implement response adjustment --Drive Power Priority adjustment --Language selection (x32) --Date, Time, Units, and brightness -settings --Multi-operator Anti-theft Security -System & Monitoring --Maintenance schedule and reminders --Event and Diagnostic Code monitoring --Smart Technology, enables use of -Smart Attachments -Gauges: fuel level, hour meter, -hydraulic temperature, battery -voltage, tachometer. -Cell Phone Storage Pocket -Cup Holder -Ergonomic contoured armrest -Independently adjustable, seat -mounted joystick controls. -Top and rear windows -Floormat -Headliner -Interior rear view mirror -Horn -Hand (dial) throttle, electronic -12 volt power port -Rear window breaker hammer -

FRAMES -Lift linkage, vertical path -Chassis, one piece welded -Machine tie down points (9) -Removable panels for machine -frame cleanout -Support, lift arm -Steel rear and front bumpers, welded -Fuel fill, machine right hand side

OTHER STANDARD EQUIPMENT -Steel engine door with replaceable -louvers -Engine door - lockable -Extended life antifreeze (-37C, -34F) -Work tool attachment coupler -Hydraulic oil level sight gauge -Radiator coolant level sight gauge -Radiator expansion bottle -Cat ToughGuard TM hose -Hydraulic demand cooling fan

MACHINE SPECIFICATIONS

265 05A COMPACT TRACK LOADER	586-0268
LANE 3 ORDER	0P-9003
CAB PACKAGE, ULTRA	651-8314
HYDRAULICS, PERFORMANCE, (HP3)	586-0014
IDLER WHEELS, TRIPLE FLANGE	642-3007
WORKLIGHTS,LED,FRONT/REAR/SIDE	579-2311
COMFORT PKG, ENCLOSED CAB,HVAC	585-9837
SEAT,AIR SUSPENSION,HEAT/VENT	585-9588
PACKAGE, TECHNOLOGY (T5)	607-8408
FAN, COOLING, DEMAND	586-0167
COUPLER, HYDRAULIC, SELF LEVEL	586-0041
HOSE GUIDE, ATTACHMENT	640-5405
GUARDING / SEALING PKG, (HD1)	586-0093
TRACK,RUBBER,450MM(17.7IN)BLCK	596-4432
RIDE CONTROL, NONE	592-6357
FUEL, ELECTRIC PRIMING	606-6585
REAR LIGHTS	579-2312
DOOR, CAB, POLYCARBONATE	593-7244
INTEGRATED RADIO	651-8586
SEAT BELT, 2"	613-1924
PRODUCT LINK, CELLULAR PL243	579-2323
CERTIFICATION ARR, P65	643-7208
INSTRUCTIONS, ANSI, USA	585-9582
SERIALIZED TECHNICAL MEDIA KIT	421-8926
HEATER, ENGINE COOLANT, 120V	594-2212
FACTORY PDI	
COLD PLANER, PC306, 42GAL TANK	529-5791
BUCKET-GP, 86", BOCE	642-4160
KIT, DEMAND FAN, REVERSING	637-2983

SELL PRICE	\$116,460.00
CSA	Included
NET BALANCE DUE	\$116,460.00
AFTER TAX BALANCE	\$116,460.00

WARRANTY

Standard Warranty: Standard 24 Month 2000 Hour Full Machine Coverage
CSA 1 YR / 500 HR PM KIT W/ CONNECTIVITY

F.O.B/TERMS:

Delivered to customer.

PAYMENT TERMS

Cash Invoice Terms

CASH WITH ORDER	QUOTE SELL PRICE
\$116,460.00	\$116,460.00

Accepted by _____ on _____

Signature

Skid Steer





Skid Steer

- New Budget Item for Street Services
- Purchase for One 2025 Caterpillar 265 C3H3 Skid Steer with cold planer attachment
- Unit to be purchased from Warren Cat of Abilene through Sourcewell Co-operative contract number # 011723-CAT





Skid Steer





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action to Appropriate Funds for and Approve the Purchase of Four (4) Fuel Dispensers for Fleet Services from JF Petroleum Group's Abilene Office using Sourcewell Contract #081524-JFA (*Don Green*)

GENERAL INFORMATION

Fleet Services seeks the appropriation of funds and approval to purchase four (4) fuel dispensers and installation services from JF Petroleum using Sourcewell purchasing contract #081524. The dispensers are greater than 20 years old and require an increasing amount of maintenance to reliably dispense fuel to the City fleet.

SPECIAL CONSIDERATIONS

Texas law allows a municipality to purchase goods through a state or local cooperative purchasing program. Sourcewell is such a program, and the purchase meets the competitive bidding requirements.

FUNDING/FISCAL IMPACT

Funds for the purchase are to be provided by the Fleet Service Fund and total \$33,623.12. The purchase was not included in the FY25 Budget and would be adjusted in the FY25 Revised Budget. Fleet Services charges a per gallon markup on fuel to recover Maintenance, Repair, and Operations costs from user Divisions.

STAFF RECOMMENDATION

Staff recommends the approval of the purchase and installation of the fuel dispensers.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. FY25 CO-OP Fuel Dispensers Resolution
2. FY25 CO-OP Fuel Dispensers Pricing Worksheet
3. 45-Day Guarantee - CITY OF ABILENE GASBOY (3)
4. FY25 CO-OP Fuel Dispensers PiP

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF ABILENE, TEXAS

TO APPROPRIATE FUNDS IN THE FY25 BUDGET AND PURCHASE AND INSTALL FOUR (4) FUEL DISPENSERS FROM JF PETROLEUM GROUP, ABILENE TX, THROUGH SOURCEWELL CO-OPERATIVE CONTRACT #081524-JFA, QUOTE 12-DH-PLB3468-1

WHEREAS, City of Abilene has a need to replace four (4) fuel dispensers; and

WHEREAS, City of Abilene will revise the budget for Fiscal Year 2025; and

WHEREAS, City of Abilene received pricing for fuel dispensers and installation through Sourcewell Co-Operative Contract #081524-JFA, Quote 12-DH-PLB3468-1; and

WHEREAS, JF Petroleum Group is the Sourcewell approved vendor for the dispensers and installation.

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

PART 1: That the City Council appropriates the funds and approves this purchase from JF Petroleum Group of Abilene, Texas in the amount of Thirty-Three Thousand Six Hundred Twenty Three Dollars and Twelve Cents (\$33,623.12) for Four (4) Fuel Dispensers and the Installation of the Dispensers.

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

ADOPTED this 13th day March 2025

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



Innovation that works.

Southwest Regional Office:
PSI JF Petroleum Group, Inc.
dba JF Petroleum Group
3702 S. Expressway 281
Edinburg, TX 78542

TCEQ LICENSE CRP000821, (PSI JF Petroleum Group, Inc.) CR0000263 (McCon)

PROPOSAL AND AGREEMENT FORM

JF PETROLEUM
QUOTE #: **12-DH-PLB3468-1**
DATE: **2/21/2025**

Local JF
Petroleum
Group Contact
Information:

1632-B Vision Dr., Abilene, TX 79602 (325) 676-2371

PURCHASER: CITY OF ABILENE

WORK TO BE
PERFORMED AT: CITY OF ABILENE FLEET MAINT.

CONTACT NAME: CHRIS BUSH
ADDRESS: P.O. BOX 60
CITY, STATE ZIP: ABILENE, TX 79604
PHONE NUMBER:

ADDRESS: 898 SANDY

CITY, STATE, ZIP: ABILENE, TX.

REFINER SITE ID:

TCEQ SITE ID:

CELL PHONE 1: 325-514-1612

CELL PHONE 2:

EMAIL: CHRISTOPHER.BUSH@ABILENETX.GOV

JF ACCOUNT #: CITABI

SALES REP: DRU HALL

SOURCEWELL CONTRACT #081524-JFA**Program Terms: 50% Deposit / NET 7-Days**

JF Petroleum Group (hereinafter "Seller") agrees to furnish the materials and if requested labor to complete the work described below and incorporated herein by reference, subject to the general terms and conditions described below, in this agreement:

QTY	DESCRIPTION	MFG P/N	LIST \$	UNIT PRICE	EXTENSION
4	GSB Single disp. 22GPM Side Load (dispenser)	9853GX DF	\$5,560.00	\$5,004.00	\$20,016.00
4	Pulse Output dual channel, Dual Pulse	Z-ATO-APULID	\$599.00	\$539.10	\$2,156.40
Sub Total Dispensers					22,172.40
2	OPW 11B (auto diesel pressurized)	11B 0100	136.94	\$123.25	\$246.50
2	OPW 11BP (pressurized)	11BP 0400	136.94	\$123.25	\$246.50
4	Catlow Magnetic Breakaway HD 3/4"	CTM75	\$145.41	\$130.87	\$523.48
4	HUSKY 3/4" x 3/4" swivel	HK-0350	\$58.95	\$53.06	\$212.24
4	HOSE, ASSY HW 3/4" X 8" BLK, FIXED	FLHFR200008	\$31.00	\$27.90	\$111.60
4	3/4" x 14' Hardwall curb hose	FLHFR201400	\$102.00	\$91.80	\$367.20
Sub Total Hanging Hardware					1,707.52

PROJECT NOTES: PROVIDE AND INSTALL NEW GASBOYS**PRICING NOTICE - PROPOSAL PROVIDED FOR ESTIMATE PURPOSES ONLY, PRICES MUST BE VALIDATED AT THE TIME OF EXECUTION.**

THIS ESTIMATE IS TO PROVIDE AND INSTALL (4) NEW GASBOY DISPENSERS. (2) DISPENSER FOR GASOLINE AND (2) DISPENSER FOR DIESEL. ESTIMATE IS BASED ON USING EXISTING PRODUCT PIPING AND ELECTRICAL. NO WORK TO BE DONE BELOW CONCRETE

EQUIPMENT SUB TOTAL	\$23,879.92
FREIGHT CHARGES: 1312.00 X 1.10	\$1,443.20
SUB TOTAL MATERIALS	\$25,323.12
4 CALIBRATION PER METER STANDARD FLOW PER ME	\$100.00
4 DISPENSER SWAP LABOR	\$7,200.00
4 DISPENSER SWAP, MATERIALS (From Summary tab)	\$1,000.00
SUB TOTAL LABOR	\$8,300.00
TOTAL	\$33,623.12

A credit application and review will be required for all customers that do not have a established account with JF Petroleum Group. The credit review must be completed prior to the order of any capital equipment as part of this agreement. Failure to complete and submit the documents will delay the order and delivery of equipment or goods. A copy of the credit application is attached to this agreement.

SUBJECT TO THE TERMS OF THIS AGREEMENT, PURCHASER AGREES TO PAY SELLER THE SUM OF *** DOLLARS and /100 (\$, - the "Agreement Price") WHICH INCLUDES APPLICABLE SALES TAX.**

STANDARD PAYMENT SCHEDULE:

DEPOSIT PAYMENT DUE UPON SIGNING: \$0.00 0.00%

DEPOSITS ARE APPLIED TO INDIVIDUAL INVOICES BASED ON THE INVOICE AMOUNT IN RELATIONSHIP TO THE TOTAL PROJECT AMOUNT.

FACILITY EQUIPMENT: \$25,323.12

Gilbarco Veeder Root equipment will be invoiced upon shipment from Gilbarco Veeder Root. Invoice due and payable 7 days from invoice date without retainage. All other material is subject to invoice and shall be due and payable within 30 days upon receipt of such invoice and subject to payment in full without retainage.

INSTALLATION LABOR: \$8,300.00

Installation labor and materials due upon completion. Change Orders and additional charges billed upon completion and shall be due and payable upon receipt of such invoice.

APPLICABLE SALES TAX: \$0.00

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING GENERAL TERMS AND CONDITIONS:

- 1. ACCEPTANCE:** This offer when accepted by Purchaser will constitute a bona fide contract subject to these terms and conditions and approval by Seller's authorized representative. Delivery of the materials/equipment herewith, installation of specified equipment, Purchaser's acceptance hereof (either in writing, in electronic format or orally in person or over the telephone), reliance on any of Seller's work (when applicable), and/or the issuance of an invoice, constitutes a binding acceptance by Purchaser of these General Terms and Conditions. This agreement is the entire undertaking of the parties for the subject matter hereof, and there are no promises, agreements, or understandings, oral or written, not specified herein.
- 2. PARTIES AND SCOPE OF WORK (WHEN APPLICABLE):** Seller shall include said company or its particular division, subsidiary or affiliate performing the Work (when applicable) as defined above, Purchaser's acceptance thereof and these General Terms and Conditions. Additional materials or equipment ordered by Purchaser shall also be subject to these General Terms and Conditions. If Purchaser is ordering the materials or equipment on behalf of another, Purchaser represents and warrants that it is the duly authorized agent of said party for the purpose of ordering said materials or equipment. Unless otherwise stated in writing, Purchaser assumes sole responsibility for determining whether the quantity and the nature of the materials or equipment ordered by Purchaser are adequate and sufficient for Purchaser's intended purpose. Purchaser shall communicate these General Terms and Conditions to each and every third party to whom Purchaser transmits any part of the materials or equipment. Seller shall have no duty or obligation to any third party greater than that set forth herein.
- 3. PRICES; TERMS OF SALE; CREDIT:**
 - a. All prices are quoted in good faith; however, from time to time, manufacturers may change prices without notice prior to shipment, Seller may quote an incorrect price, or applicable taxes may increase, in which case any price or tax increase may be added to Purchaser's price. Prices quoted are based on current prices and are subject to change by the manufacturer. Prices quoted shall be firm for seven (7) days from the date of this offer, unless indicated otherwise. Unless otherwise stated in this agreement, prices are F.O.B. place of manufacture. Unless otherwise stated, the freight rate in existence at the date of acceptance of this agreement shall apply but any change in freight rate in effect on shipment date shall result in a corresponding change in price. Credits issued by JF Petroleum are valid for one year after their issue date. After one year, credits are void and no longer have any value.
 - b. Unless otherwise specified above, terms are net 7 days on delivery of equipment and due upon completion for services or installation. For equipment ordered for this project, the Purchaser will be invoiced the date the equipment is delivered (shipped from manufacturer) to Seller's warehouse for purposes of convenience or coordination and shall be considered "delivery" for billing purposes. Payment for all such equipment is due upon delivery without retainage. A deposit may be required at Seller's sole discretion. Invoices are due and payable in Edinburg, Hidalgo County, Texas to PSI JF Petroleum Group, Inc., with lockbox payment remit address of P.O. Box 676045, Dallas, Texas 75267-6045. Purchaser further agrees to pay interest on all amounts invoiced and not paid as required under this agreement at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under the applicable law), until paid.
 - c. Purchaser shall be responsible for and shall pay all sales, use, excise, governmental surcharge, and other taxes (including penalties and interest) levied in connection with this sale. If payment is not made promptly when due, Purchaser shall pay all costs and expenses of collection, including but not limited to, courts costs and reasonable attorney's fees. Seller may revoke any credit extended to Purchaser because of its failure to pay when due or for any other reason.

d. In addition to the contractual relationship herein created between the Purchaser and Seller, this agreement is further intended by the parties to be a SECURITY AGREEMENT, and as such does hereby create a purchase money security interest in all those certain items of property, equipment and fixtures herein described, which is the COLLATERAL of this Security Agreement. The collateral is given to secure the payment of the agreement price described above, together with all additions thereto and modifications thereof, and all costs and expenses, including but not limited to, courts costs and reasonable attorney's fees incurred by Seller in the collection of the agreement price, or the enforcement of this Contact and Security Agreement. Purchaser further grants Seller a security interest in and to all proceeds, increases, substitutions, replacements, additions and accession to the Collateral. Purchaser agrees that it will pay the Agreement Price secured hereby in accordance with the terms and provisions hereof, and failure to so pay will be considered DEFAULT hereunder, giving rise to the remedies hereinafter set forth. Additionally, it shall be considered DEFAULT hereunder if at any time Seller believes that the prospect of payment of the obligations secured hereby, or the performance of this Agreement and Security Agreement is impaired.

On the occurrence of any such event of default, and at any time thereafter, Seller may declare all obligations secured hereby to become immediately due and payable and may proceed to enforce payment of the same and exercise any and all the rights and remedies, either at law or equity, to which it may be entitled. Seller may require Purchaser to assemble the Collateral and make it available to Seller at any place designated by Seller which is reasonably convenient to both parties. Unless the collateral is perishable or threatens to decline speedily in value, or is of a type customarily sold on a recognized market, Seller will give Purchaser reasonable notice of the time and place of any public sale of the collateral or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is mailed, postage prepaid, by certified mail, return receipt requested to Purchaser's address as shown above. Expenses of retaking, holding, preparing for sale, or the like, shall include reasonable attorney's fees and related legal expenses incurred by Seller. All terms used herein which are defined in the Uniform Commercial Code of Texas (Texas Business and Commercial Code) shall have the same meaning herein as in said Code.

e. **Bill & Hold Arrangement - Bill & Hold** is a service offering by JF Petroleum Group will provide to its customers upon request, when events that are outside of the customer's control (i.e. site not ready, weather delays, permit delays etc.) prevent the customer from accepting physical delivery of products on the scheduled date. JF Petroleum Group will provide temporary storage and custody of the products and coordinate delivery with the customer's representative when the site is ready to accept the products. **Temporary storage of dispensers will be subject to a storage fee of \$ 90 per dispenser per month once dispensers remain in storage beyond 90 days from receipt in to warehouse**. The products will be invoiced to the customer on the previously agreed upon date as stated in the original quote/sales order and title/ownership of the products will transfer to the customer at invoicing. Payment terms will not be altered or extended in connection with a **Bill & Hold** arrangement. Once products are invoiced and placed into **Bill & Hold**, they will be segregated and marked as customer owned material, be readily available for immediate delivery to the customer, and will be the sole property of the customer. JF Petroleum Group will have no entitlement to the products in **Bill & Hold**.

f. Seller shall not be bound by any provision or agreement requiring or providing Seller to waive any rights to any lien, including a mechanic's lien, or any provision conditioning Seller's right to receive payment for its work (when applicable) upon payment to Purchaser by any third party.

4. DELIVERY; SHIPMENT TERMS; FREIGHT DAMAGE CLAIMS:

a. Shipping dates are approximate; delivery assurances are based on manufacturers' material suppliers to maintain schedules. Delivery promises are contingent upon fires, strikes, accidents, lockout, work stoppages, war, riot, availability of materials, acts of God, governmental action or regulation, or for other causes beyond Seller's control. The Seller shall have no liability for any delay, failure to deliver, loss of business, liquidated damages or other loss or damages which might result therefrom. The Seller will endeavor to maintain schedules, but cannot guarantee to do so. Delivery, unless otherwise stated, does not include unloading. Seller shall not be liable for damage in transit of any materials furnished. The Purchaser shall make a secure area (the "Secured Area") available to Seller if requested by Seller. Any necessary relocation of equipment or installation materials from the Secured Area will be at Purchaser's expense.

b. The shipping terms, including the F. O. B. point (such as "shippers dock" or a designated destination), may be indicated on the face of this agreement. The shipping terms should also include whether freight is "collect" or to be "prepaid and added". If these terms are not indicated, they may be chosen by Seller at Seller's sole discretion. Whenever merchandise is delivered to the designated F.O.B. point, by common carrier (by manufacturer or Seller), or is received by Purchaser, whichever is earlier, Seller's responsibility ceases and full risk of loss (including transportation delays and losses) and title passes to Purchaser, and Purchaser shall be liable to Seller for the full price of the merchandise. Delivery to Seller's facility for purposes of convenience, coordination or price protection shall be considered "delivery" for invoice purposes.

c. If any damage is evident upon delivery, Purchaser must make a notation on the freight bill of lading and have the carrier's agent sign upon delivery for claim record. Purchaser must immediately notify Seller and file a claim with the carrier, as Seller assumes no responsibility for goods damaged in shipment. Shortages and hidden damages or defects to goods must be reported to Seller and carrier within 30 days of receipt of shipment. The quoted prices do not include the cost of unloading, which is Purchaser's responsibility.

5. INSURANCE, LIMITED WARRANTY, INDEMNITY AND HOLD HARMLESS:

a. Seller does not extend any warranties to Purchasers of materials and equipment. The products sold by Seller may be warranted by the manufacturer of the product but only to the extent of any warranty offered by the manufacturer. Purchaser shall register equipment warranties with the manufacturer. MANUFACTURERS OR SELLER HAVE NO LIABILITY WHATSOEVER FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, including but not limited to lost profits, down time, loss of material or product, clean up costs associated with loss of product, or damage to other equipment, unless said damage is proven to have been caused by Seller's sole negligence. No warranty is extended where equipment is improperly installed by Purchaser, its employees, agent, representative or contractor. Seller represents that it will convey good title to the items purchased, however, except as modified in the next paragraph, SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SELLER.

b. To the extent allowed by law Purchaser agrees to hold Seller harmless from and defend and indemnify it against any of Seller's or Purchaser's losses in connection with any property damage, personal injury or death, whether same is related to any claim, penalty, or fine by government agency for pollution, environmental damage, cleanup, or otherwise, or whether any claim is made by any third party against Seller or Purchaser or said damage, personal injury or death is claimed or sustained by Purchaser or Purchaser's employee or made against Purchaser or Seller in connection therewith, including but not limited to damages, costs, expenses, and attorneys fees, except to the extent that said damage, personal injury or death is proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller, its agent or employee or any third party under the control or supervision of the Seller, other than the Seller or its agent, employee or subcontractor of any tier. Where a penalty, fine or claim for pollution damage or cleanup is made against Seller in connection with installation of materials or equipment, Purchaser agrees to hold Seller harmless from and defend and indemnify it against same, except to the extent that said fine or claims is proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.

c. Seller shall have NO LIABILITY under this warranty if equipment malfunctions or other problems result, directly or indirectly, from accident (not caused by Seller), subsequent work on equipment by Purchaser or third party, improper operation of equipment, inadequate maintenance, and/or failure to protect properly the equipment from environmental hazards. Seller does not assume any liability and Purchaser agrees to hold Seller harmless from and defend and indemnify Seller for losses or claims for tanks(s) that emerge from their set position and/or are lost after installation due to improper ballasting, ground water, high water tables, or hydrostatic pressure, unless proper anchorage is provided for under terms of this agreement, and Purchaser shall at all times provide adequate ballast.

d. NO EMPLOYEE OR REPRESENTATIVE OF SELLER IS AUTHORIZED TO CHANGE THIS WARRANTY IN ANY WAY.

e. Purchaser will defend and indemnify Seller against any claims for damages for profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to goods manufactured, either in whole or part, to Purchaser's specifications, except to the extent that said claims are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.. Purchaser will defend and indemnify Seller against any claims for damages for profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to goods manufactured, by Seller and modified by Purchaser, except to the extent that said claims are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller. Seller assumes no liability for sales engineering or application information extended by its personnel. Purchaser agrees to hold Seller and its representatives harmless from and indemnify them against any and all claims, losses, damages, judgments, and costs, whether direct or indirect, or by reason of any reliance upon said representatives concerning sales, engineering or application information provided by Seller and/or its representatives, except to the extent that said claims, losses, damages, judgments, and costs are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.

f. NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT, OR OTHERWISE, MAY BE BROUGHT AGAINST SELLER, ARISING FROM OR RELATED TO THE MATERIALS OR EQUIPMENT HEREBY PURCHASED MORE THAN TWO YEARS AFTER THE DATE OF PURCHASE.

6. CANCELLATIONS AND RETURN OF GOODS: Purchaser may cancel an order only upon advance written approval of Seller and provided Purchaser pays freight charges and Seller's reasonable cancellation and restocking charges, which are based in part on manufacturer's charges. No merchandise may be returned without Seller's advance written consent, with shipping instructions furnished, and no merchandise will be accepted for credit without Seller's authorization. At the option of the Seller, the return of material prior to Purchaser receiving Seller's approval will result in the material remaining the property of Purchaser, and it will be stored at Purchaser's sole risk and expense. If such material is not picked up by Purchaser within ten (10) days from the date of the unauthorized return, Seller, may, at its sole option, declare Purchaser's interest and right to the material forfeited and retain all money Purchaser has paid as liquidated damages. This means, Purchaser shall have no further rights in the material and no money will be refunded or credit given. If Seller accepts the material in return for credit, a handling charge based in part on acceptance of the material for return by the manufacturer will be charged, and no credit shall be issued to Purchaser until credit from the manufacturer is received.

7. GOVERNMENTAL COMPLIANCE: Environmental compliance is Purchaser's responsibility. Purchaser's failure to comply strictly with applicable federal, state or local requirements, rules and/ or regulations (including but not limited to those applicable to notice) shall completely void Seller's limited warranty under this Agreement. It is Purchaser's responsibility to report any inventory shortage or suspected release to federal, state and all other authorities having jurisdiction and to Seller within 24 hours of occurrence. Purchaser agrees to hold Seller harmless from and indemnify and defend Seller against any claims or liability relating to Purchaser's failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice. If Purchaser fails to comply strictly with any federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice, Purchaser hereby releases Seller its officers, directors, employees, agents, affiliates, subsidiaries, related entities, successors and assigns (collectively "Releases") from any and all liabilities, claims, obligations, suits, proceedings, causes of action, whether known or unknown, suspected or unsuspected, both at law and in equity, which Purchaser ever had, now has or may hereafter have against any of the Releases arising out of or relating to its failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice.

8. MANUFACTURER INFORMATION: Seller may provide manufacturer's product information and installation instructions for informational purposes, but makes no representations regarding such information. Seller may also provide manufacturer's product operating manual when available.

9. RECORD KEEPING: Purchaser is responsible to keep daily accurate inventory records on products stored in tanks, lines, and dispensing equipment. In the event of a shortage or leakage within seven (7) calendar days from date of installation, Purchaser shall immediately notify Seller. In no event shall Seller be responsible for shortages, clean-up or related costs incurred for said shortages or leakages prior to notification. Notification must be made by telephone contact, immediately followed by written confirmation within twenty-four (24) hours.

10. ENFORCEABILITY / SEVERABILITY, NON-WAIVER AND NON-ASSIGNABILITY: If any of the provisions hereof shall be deemed unenforceable by reason of law or court ruling, the remaining provisions shall be deemed enforceable. Any waiver of a breach of this agreement shall not be construed as a waiver of any other breach. Purchaser may not assign this agreement or any rights hereunder, in whole or part, without the prior written consent of Seller.

11. MANDATORY MEDIATION AND CHOICE OF LAW AND FORUM. ANY DISPUTE INVOLVING THE ENFORCEMENT OR INTERPRETATION OF THIS AGREEMENT IS SUBJECT TO MANDATORY, NON-BINDING MEDIATION UNDER THE CONSTRUCTION INDUSTRY MEDIATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, THE COST OF WHICH IS TO BE BORNE BY THE PARTIES EQUALLY, PRIOR TO EITHER PARTY PURSUING ARBITRATION AS REQUIRED UNDER THIS AGREEMENT. THE PLACE OF THE MEDIATION SHALL BE IN HIDALGO COUNTY, TEXAS. All other provisions hereof and of all resulting orders are to be governed and construed under the laws of the State of Texas, and the courts of said state shall have sole jurisdiction over any dispute concerning this agreement.

12. ENTIRE AGREEMENT: This Agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein; however, this agreement is subject to revision and may not be the final project cost. This agreement is further binding between the parties for all labor performed, materials supplied and/or work completed (when applicable) between the parties whether or not such work is included within the scope of the Work as defined herein this Agreement.

Acceptance: The above prices, specifications and conditions included and detailed above have been read and are hereby accepted, including the statement concerning this project is not a "lump sum" project. Purchaser is responsible for all sales, use and other governmental taxes and charges, which are not included in the price unless expressly stated. You are authorized to do the work as specified. Payment will be made as outlined above. Seller may revoke this offer before acceptance.

IN WITNESS THEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES. This agreement is subject to revision and may not be the final project cost. Additions or deletions as defined by the owner will reflect the final project cost.

THIS OFFER MAY BE WITHDRAWN OR REVISED BY JF PETROLEUM GROUP IF NOT ACCEPTED WITHIN 7 DAYS OF THE DATE OF JF PETROLEUM GROUPS'S SIGNATURE BELOW.

ACCEPTED FOR:

PSI JF PETROLEUM GROUP INC.

SIGNATURE:

By: *Dru Hall*

Title: Sales Representative

PRINT NAME

Dru Hall

DATE

3/3/2025

ACCEPTED FOR:

(Company Name)

SIGNATURE

TITLE

PHONE

ADDRESS

CITY

STATE

ZIP CODE

PRINT NAME

DATE

EMAIL



Innovation that works.

Southwest Regional Office:
PSI JF Petroleum Group, Inc.
dba JF Petroleum Group
3702 S. Expressway 281
Edinburg, TX 78542

TCEQ LICENSE CRP000821, (PSI JF Petroleum Group, Inc.) CR0000263 (McCon)

PROPOSAL AND AGREEMENT FORM

JF PETROLEUM
QUOTE #: **12-DH-PLB3468-1**
DATE: **3/10/2025**

Local JF
Petroleum
Group Contact
Information:

1632-B Vision Dr., Abilene, TX 79602 (325) 676-2371

PURCHASER: CITY OF ABILENE

WORK TO BE
PERFORMED AT: CITY OF ABILENE FLEET MAINT.

CONTACT NAME: CHRIS BUSH
ADDRESS: P.O. BOX 60
CITY, STATE ZIP: ABILENE, TX 79604
PHONE NUMBER:

ADDRESS: 898 SANDY

CITY, STATE, ZIP: ABILENE, TX.

REFINER SITE ID:

TCEQ SITE ID:

CELL PHONE 1: 325-514-1612

CELL PHONE 2:

EMAIL: CHRISTOPHER.BUSH@ABILENETX.GOV

JF ACCOUNT #: CITABI

SALES REP: DRU HALL

SOURCEWELL CONTRACT #081524-JFA

JF Petroleum Group (hereinafter "Seller") agrees to furnish the materials and if requested labor to complete the work described below and incorporated herein by reference, subject to the general terms and conditions described below, in this agreement:

QTY	DESCRIPTION	MFG P/N	LIST \$	UNIT PRICE	EXTENSION
4	GSB Single disp. 22GPM Side Load (dispenser)	9853GX DF	\$5,560.00	\$5,004.00	\$20,016.00
4	Pulse Output dual channel, Dual Pulse	Z-ATO-APULID	\$599.00	\$539.10	\$2,156.40
Sub Total Dispensers					22,172.40
2	OPW 11B (auto diesel pressurized)	11B 0100	136.94	\$123.25	\$246.50
2	OPW 11BP (pressurized)	11BP 0400	136.94	\$123.25	\$246.50
4	Catlow Magnetic Breakaway HD 3/4"	CTM75	\$145.41	\$130.87	\$523.48
4	HUSKY 3/4" x 3/4" swivel	HK-0350	\$58.95	\$53.06	\$212.24
4	HOSE, ASSY HW 3/4" X 8" BLK, FIXED	FLHFR200008	\$31.00	\$27.90	\$111.60
4	3/4" x 14' Hardwall curb hose	FLHFR201400	\$102.00	\$91.80	\$367.20
Sub Total Hanging Hardware					1,707.52

PROJECT NOTES: PROVIDE AND INSTALL NEW GASBOYS**PRICING NOTICE - PROPOSAL PROVIDED FOR ESTIMATE PURPOSES ONLY, PRICES MUST BE VALIDATED AT THE TIME OF EXECUTION.**

THIS ESTIMATE IS TO PROVIDE AND INSTALL (4) NEW GASBOY DISPENSERS. (2) DISPENSER FOR GASOLINE AND (2) DISPENSER FOR DIESEL. ESTIMATE IS BASED ON USING EXISTING PRODUCT PIPING AND ELECTRICAL. NO WORK TO BE DONE BELOW CONCRETE

EQUIPMENT SUB TOTAL	\$23,879.92
FREIGHT CHARGES: 1312.00 X 1.10	\$1,443.20
SUB TOTAL MATERIALS	\$25,323.12
4 CALIBRATION PER METER STANDARD FLOW PER ME	\$100.00
4 DISPENSER SWAP LABOR	\$7,200.00
4 DISPENSER SWAP, MATERIALS (From Summary tab)	\$1,000.00
SUB TOTAL LABOR	\$8,300.00
TOTAL	\$33,623.12

A credit application and review will be required for all customers that do not have a established account with JF Petroleum Group. The credit review must be completed prior to the order of any capital equipment as part of this agreement. Failure to complete and submit the documents will delay the order and delivery of equipment or goods. A copy of the credit application is attached to this agreement.

SUBJECT TO THE TERMS OF THIS AGREEMENT, PURCHASER AGREES TO PAY SELLER THE SUM OF *** DOLLARS and /100 (\$, - the "Agreement Price") WHICH INCLUDES APPLICABLE SALES TAX.**

STANDARD PAYMENT SCHEDULE:

DEPOSIT PAYMENT DUE UPON SIGNING: \$0.00 0.00%

DEPOSITS ARE APPLIED TO INDIVIDUAL INVOICES BASED ON THE INVOICE AMOUNT IN RELATIONSHIP TO THE TOTAL PROJECT AMOUNT.

FACILITY EQUIPMENT: \$25,323.12

Gilbarco Veeder Root equipment will be invoiced upon shipment from Gilbarco Veeder Root. Invoice due and payable 7 days from invoice date without retainage. All other material is subject to invoice and shall be due and payable within 30 days upon receipt of such invoice and subject to payment in full without retainage.

INSTALLATION LABOR: \$8,300.00

Installation labor and materials due upon completion. Change Orders and additional charges billed upon completion and shall be due and payable upon receipt of such invoice.

APPLICABLE SALES TAX: \$0.00

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING GENERAL TERMS AND CONDITIONS:

- 1. ACCEPTANCE:** This offer when accepted by Purchaser will constitute a bona fide contract subject to these terms and conditions and approval by Seller's authorized representative. Delivery of the materials/equipment herewith, installation of specified equipment, Purchaser's acceptance hereof (either in writing, in electronic format or orally in person or over the telephone), reliance on any of Seller's work (when applicable), and/or the issuance of an invoice, constitutes a binding acceptance by Purchaser of these General Terms and Conditions. This agreement is the entire undertaking of the parties for the subject matter hereof, and there are no promises, agreements, or understandings, oral or written, not specified herein.
- 2. PARTIES AND SCOPE OF WORK (WHEN APPLICABLE):** Seller shall include said company or its particular division, subsidiary or affiliate performing the Work (when applicable) as defined above, Purchaser's acceptance thereof and these General Terms and Conditions. Additional materials or equipment ordered by Purchaser shall also be subject to these General Terms and Conditions. If Purchaser is ordering the materials or equipment on behalf of another, Purchaser represents and warrants that it is the duly authorized agent of said party for the purpose of ordering said materials or equipment. Unless otherwise stated in writing, Purchaser assumes sole responsibility for determining whether the quantity and the nature of the materials or equipment ordered by Purchaser are adequate and sufficient for Purchaser's intended purpose. Purchaser shall communicate these General Terms and Conditions to each and every third party to whom Purchaser transmits any part of the materials or equipment. Seller shall have no duty or obligation to any third party greater than that set forth herein.
- 3. PRICES; TERMS OF SALE; CREDIT:**
 - a. All prices are quoted in good faith; however, from time to time, manufacturers may change prices without notice prior to shipment, Seller may quote an incorrect price, or applicable taxes may increase, in which case any price or tax increase may be added to Purchaser's price. Prices quoted are based on current prices and are subject to change by the manufacturer. Prices quoted shall be firm for seven (7) days from the date of this offer, unless indicated otherwise. Unless otherwise stated in this agreement, prices are F.O.B. place of manufacture. Unless otherwise stated, the freight rate in existence at the date of acceptance of this agreement shall apply but any change in freight rate in effect on shipment date shall result in a corresponding change in price. Credits issued by JF Petroleum are valid for one year after their issue date. After one year, credits are void and no longer have any value.
 - b. Unless otherwise specified above, terms are net 7 days on delivery of equipment and due upon completion for services or installation. For equipment ordered for this project, the Purchaser will be invoiced the date the equipment is delivered (shipped from manufacturer) to Seller's warehouse for purposes of convenience or coordination and shall be considered "delivery" for billing purposes. Payment for all such equipment is due upon delivery without retainage. A deposit may be required at Seller's sole discretion. Invoices are due and payable in Edinburg, Hidalgo County, Texas to PSI JF Petroleum Group, Inc., with lockbox payment remit address of P.O. Box 676045, Dallas, Texas 75267-6045. Purchaser further agrees to pay interest on all amounts invoiced and not paid as required under this agreement at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under the applicable law), until paid.
 - c. Purchaser shall be responsible for and shall pay all sales, use, excise, governmental surcharge, and other taxes (including penalties and interest) levied in connection with this sale. If payment is not made promptly when due, Purchaser shall pay all costs and expenses of collection, including but not limited to, courts costs and reasonable attorney's fees. Seller may revoke any credit extended to Purchaser because of its failure to pay when due or for any other reason.

d. In addition to the contractual relationship herein created between the Purchaser and Seller, this agreement is further intended by the parties to be a SECURITY AGREEMENT, and as such does hereby create a purchase money security interest in all those certain items of property, equipment and fixtures herein described, which is the COLLATERAL of this Security Agreement. The collateral is given to secure the payment of the agreement price described above, together with all additions thereto and modifications thereof, and all costs and expenses, including but not limited to, courts costs and reasonable attorney's fees incurred by Seller in the collection of the agreement price, or the enforcement of this Contact and Security Agreement. Purchaser further grants Seller a security interest in and to all proceeds, increases, substitutions, replacements, additions and accession to the Collateral. Purchaser agrees that it will pay the Agreement Price secured hereby in accordance with the terms and provisions hereof, and failure to so pay will be considered DEFAULT hereunder, giving rise to the remedies hereinafter set forth. Additionally, it shall be considered DEFAULT hereunder if at any time Seller believes that the prospect of payment of the obligations secured hereby, or the performance of this Agreement and Security Agreement is impaired.

On the occurrence of any such event of default, and at any time thereafter, Seller may declare all obligations secured hereby to become immediately due and payable and may proceed to enforce payment of the same and exercise any and all the rights and remedies, either at law or equity, to which it may be entitled. Seller may require Purchaser to assemble the Collateral and make it available to Seller at any place designated by Seller which is reasonably convenient to both parties. Unless the collateral is perishable or threatens to decline speedily in value, or is of a type customarily sold on a recognized market, Seller will give Purchaser reasonable notice of the time and place of any public sale of the collateral or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is mailed, postage prepaid, by certified mail, return receipt requested to Purchaser's address as shown above. Expenses of retaking, holding, preparing for sale, or the like, shall include reasonable attorney's fees and related legal expenses incurred by Seller. All terms used herein which are defined in the Uniform Commercial Code of Texas (Texas Business and Commercial Code) shall have the same meaning herein as in said Code.

e. **Bill & Hold Arrangement - Bill & Hold** is a service offering by JF Petroleum Group will provide to its customers upon request, when events that are outside of the customer's control (i.e. site not ready, weather delays, permit delays etc.) prevent the customer from accepting physical delivery of products on the scheduled date. JF Petroleum Group will provide temporary storage and custody of the products and coordinate delivery with the customer's representative when the site is ready to accept the products. **Temporary storage of dispensers will be subject to a storage fee of \$ 90 per dispenser per month once dispensers remain in storage beyond 90 days from receipt in to warehouse**. The products will be invoiced to the customer on the previously agreed upon date as stated in the original quote/sales order and title/ownership of the products will transfer to the customer at invoicing. Payment terms will not be altered or extended in connection with a **Bill & Hold** arrangement. Once products are invoiced and placed into **Bill & Hold**, they will be segregated and marked as customer owned material, be readily available for immediate delivery to the customer, and will be the sole property of the customer. JF Petroleum Group will have no entitlement to the products in **Bill & Hold**.

f. Seller shall not be bound by any provision or agreement requiring or providing Seller to waive any rights to any lien, including a mechanic's lien, or any provision conditioning Seller's right to receive payment for its work (when applicable) upon payment to Purchaser by any third party.

4. DELIVERY; SHIPMENT TERMS; FREIGHT DAMAGE CLAIMS:

a. Shipping dates are approximate; delivery assurances are based on manufacturers' material suppliers to maintain schedules. Delivery promises are contingent upon fires, strikes, accidents, lockout, work stoppages, war, riot, availability of materials, acts of God, governmental action or regulation, or for other causes beyond Seller's control. The Seller shall have no liability for any delay, failure to deliver, loss of business, liquidated damages or other loss or damages which might result therefrom. The Seller will endeavor to maintain schedules, but cannot guarantee to do so. Delivery, unless otherwise stated, does not include unloading. Seller shall not be liable for damage in transit of any materials furnished. The Purchaser shall make a secure area (the "Secured Area") available to Seller if requested by Seller. Any necessary relocation of equipment or installation materials from the Secured Area will be at Purchaser's expense.

b. The shipping terms, including the F. O. B. point (such as "shippers dock" or a designated destination), may be indicated on the face of this agreement. The shipping terms should also include whether freight is "collect" or to be "prepaid and added". If these terms are not indicated, they may be chosen by Seller at Seller's sole discretion. Whenever merchandise is delivered to the designated F.O.B. point, by common carrier (by manufacturer or Seller), or is received by Purchaser, whichever is earlier, Seller's responsibility ceases and full risk of loss (including transportation delays and losses) and title passes to Purchaser, and Purchaser shall be liable to Seller for the full price of the merchandise. Delivery to Seller's facility for purposes of convenience, coordination or price protection shall be considered "delivery" for invoice purposes.

c. If any damage is evident upon delivery, Purchaser must make a notation on the freight bill of lading and have the carrier's agent sign upon delivery for claim record. Purchaser must immediately notify Seller and file a claim with the carrier, as Seller assumes no responsibility for goods damaged in shipment. Shortages and hidden damages or defects to goods must be reported to Seller and carrier within 30 days of receipt of shipment. The quoted prices do not include the cost of unloading, which is Purchaser's responsibility.

5. INSURANCE, LIMITED WARRANTY, INDEMNITY AND HOLD HARMLESS:

a. Seller does not extend any warranties to Purchasers of materials and equipment. The products sold by Seller may be warranted by the manufacturer of the product but only to the extent of any warranty offered by the manufacturer. Purchaser shall register equipment warranties with the manufacturer. MANUFACTURERS OR SELLER HAVE NO LIABILITY WHATSOEVER FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, including but not limited to lost profits, down time, loss of material or product, clean up costs associated with loss of product, or damage to other equipment, unless said damage is proven to have been caused by Seller's sole negligence. No warranty is extended where equipment is improperly installed by Purchaser, its employees, agent, representative or contractor. Seller represents that it will convey good title to the items purchased, however, except as modified in the next paragraph, SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SELLER.

b. To the extent allowed by law Purchaser agrees to hold Seller harmless from and defend and indemnify it against any of Seller's or Purchaser's losses in connection with any property damage, personal injury or death, whether same is related to any claim, penalty, or fine by government agency for pollution, environmental damage, cleanup, or otherwise, or whether any claim is made by any third party against Seller or Purchaser or said damage, personal injury or death is claimed or sustained by Purchaser or Purchaser's employee or made against Purchaser or Seller in connection therewith, including but not limited to damages, costs, expenses, and attorneys fees, except to the extent that said damage, personal injury or death is proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller, its agent or employee or any third party under the control or supervision of the Seller, other than the Seller or its agent, employee or subcontractor of any tier. Where a penalty, fine or claim for pollution damage or cleanup is made against Seller in connection with installation of materials or equipment, Purchaser agrees to hold Seller harmless from and defend and indemnify it against same, except to the extent that said fine or claims is proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.

c. Seller shall have NO LIABILITY under this warranty if equipment malfunctions or other problems result, directly or indirectly, from accident (not caused by Seller), subsequent work on equipment by Purchaser or third party, improper operation of equipment, inadequate maintenance, and/or failure to protect properly the equipment from environmental hazards. Seller does not assume any liability and Purchaser agrees to hold Seller harmless from and defend and indemnify Seller for losses or claims for tanks(s) that emerge from their set position and/or are lost after installation due to improper ballasting, ground water, high water tables, or hydrostatic pressure, unless proper anchorage is provided for under terms of this agreement, and Purchaser shall at all times provide adequate ballast.

d. NO EMPLOYEE OR REPRESENTATIVE OF SELLER IS AUTHORIZED TO CHANGE THIS WARRANTY IN ANY WAY.

e. Purchaser will defend and indemnify Seller against any claims for damages for profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to goods manufactured, either in whole or part, to Purchaser's specifications, except to the extent that said claims are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.. Purchaser will defend and indemnify Seller against any claims for damages for profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to goods manufactured, by Seller and modified by Purchaser, except to the extent that said claims are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller. Seller assumes no liability for sales engineering or application information extended by its personnel. Purchaser agrees to hold Seller and its representatives harmless from and indemnify them against any and all claims, losses, damages, judgments, and costs, whether direct or indirect, or by reason of any reliance upon said representatives concerning sales, engineering or application information provided by Seller and/or its representatives, except to the extent that said claims, losses, damages, judgments, and costs are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.

f. NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT, OR OTHERWISE, MAY BE BROUGHT AGAINST SELLER, ARISING FROM OR RELATED TO THE MATERIALS OR EQUIPMENT HEREBY PURCHASED MORE THAN TWO YEARS AFTER THE DATE OF PURCHASE.

6. CANCELLATIONS AND RETURN OF GOODS: Purchaser may cancel an order only upon advance written approval of Seller and provided Purchaser pays freight charges and Seller's reasonable cancellation and restocking charges, which are based in part on manufacturer's charges. No merchandise may be returned without Seller's advance written consent, with shipping instructions furnished, and no merchandise will be accepted for credit without Seller's authorization. At the option of the Seller, the return of material prior to Purchaser receiving Seller's approval will result in the material remaining the property of Purchaser, and it will be stored at Purchaser's sole risk and expense. If such material is not picked up by Purchaser within ten (10) days from the date of the unauthorized return, Seller, may, at its sole option, declare Purchaser's interest and right to the material forfeited and retain all money Purchaser has paid as liquidated damages. This means, Purchaser shall have no further rights in the material and no money will be refunded or credit given. If Seller accepts the material in return for credit, a handling charge based in part on acceptance of the material for return by the manufacturer will be charged, and no credit shall be issued to Purchaser until credit from the manufacturer is received.

7. GOVERNMENTAL COMPLIANCE: Environmental compliance is Purchaser's responsibility. Purchaser's failure to comply strictly with applicable federal, state or local requirements, rules and/ or regulations (including but not limited to those applicable to notice) shall completely void Seller's limited warranty under this Agreement. It is Purchaser's responsibility to report any inventory shortage or suspected release to federal, state and all other authorities having jurisdiction and to Seller within 24 hours of occurrence. Purchaser agrees to hold Seller harmless from and indemnify and defend Seller against any claims or liability relating to Purchaser's failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice. If Purchaser fails to comply strictly with any federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice, Purchaser hereby releases Seller its officers, directors, employees, agents, affiliates, subsidiaries, related entities, successors and assigns (collectively "Releases") from any and all liabilities, claims, obligations, suits, proceedings, causes of action, whether known or unknown, suspected or unsuspected, both at law and in equity, which Purchaser ever had, now has or may hereafter have against any of the Releases arising out of or relating to its failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice.

8. MANUFACTURER INFORMATION: Seller may provide manufacturer's product information and installation instructions for informational purposes, but makes no representations regarding such information. Seller may also provide manufacturer's product operating manual when available.

9. RECORD KEEPING: Purchaser is responsible to keep daily accurate inventory records on products stored in tanks, lines, and dispensing equipment. In the event of a shortage or leakage within seven (7) calendar days from date of installation, Purchaser shall immediately notify Seller. In no event shall Seller be responsible for shortages, clean-up or related costs incurred for said shortages or leakages prior to notification. Notification must be made by telephone contact, immediately followed by written confirmation within twenty-four (24) hours.

10. ENFORCEABILITY / SEVERABILITY, NON-WAIVER AND NON-ASSIGNABILITY: If any of the provisions hereof shall be deemed unenforceable by reason of law or court ruling, the remaining provisions shall be deemed enforceable. Any waiver of a breach of this agreement shall not be construed as a waiver of any other breach. Purchaser may not assign this agreement or any rights hereunder, in whole or part, without the prior written consent of Seller.

11. MANDATORY MEDIATION AND CHOICE OF LAW AND FORUM. ANY DISPUTE INVOLVING THE ENFORCEMENT OR INTERPRETATION OF THIS AGREEMENT IS SUBJECT TO MANDATORY, NON-BINDING MEDIATION UNDER THE CONSTRUCTION INDUSTRY MEDIATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, THE COST OF WHICH IS TO BE BORNE BY THE PARTIES EQUALLY, PRIOR TO EITHER PARTY PURSUING ARBITRATION AS REQUIRED UNDER THIS AGREEMENT. THE PLACE OF THE MEDIATION SHALL BE IN HIDALGO COUNTY, TEXAS. All other provisions hereof and of all resulting orders are to be governed and construed under the laws of the State of Texas, and the courts of said state shall have sole jurisdiction over any dispute concerning this agreement.

12. ENTIRE AGREEMENT: This Agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein; however, this agreement is subject to revision and may not be the final project cost. This agreement is further binding between the parties for all labor performed, materials supplied and/or work completed (when applicable) between the parties whether or not such work is included within the scope of the Work as defined herein this Agreement.

Acceptance: The above prices, specifications and conditions included and detailed above have been read are hereby accepted, including the statement concerning this project is not a "lump sum" project. Purchaser is responsible for all sales, use and other governmental taxes and charges, which are not included in the price unless expressly stated. You are authorized to do the work as specified. Payment will be made as outlined above. Seller may revoke this offer before acceptance.

IN WITNESS THEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES. This agreement is subject to revision and may not be the final project cost. Additions or deletions as defined by the owner will reflect the final project cost.

THIS OFFER MAY BE WITHDRAWN OR REVISED BY JF PETROLEUM GROUP IF NOT ACCEPTED WITHIN 45 DAYS OF THE DATE OF JF PETROLEUM GROUPS'S SIGNATURE BELOW.

ACCEPTED FOR:

PSI JF PETROLEUM GROUP INC.

SIGNATURE:

By: *Dru Hall*

Title: Sales Representative

PRINT NAME

Dru Hall

DATE

3/10/2025

ACCEPTED FOR:

(Company Name)

SIGNATURE

TITLE

PHONE

ADDRESS

CITY

STATE

ZIP CODE

PRINT NAME

DATE

EMAIL

Fuel Dispensers





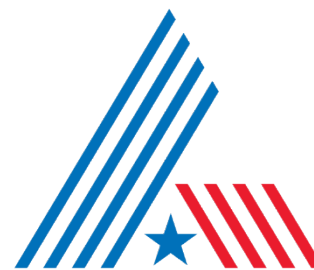
Fuel Dispensers

- The fuel dispensers fuel the City fleet with a combined distribution of more than 600,000 gallons per year.
- Reliability and repair cost have become increasingly problematic.
- FY24 repairs totaled \$5143.27 and FY25 is \$3938.00 YTD
- Dispensers to be purchased from JF Petroleum Group, Abilene Office through Sourcewell Co-operative contract number # 081524-JFA





Fuel Dispensers



CITY OF
ABILENE
TEXAS



**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve Change Order 1 to the Microwave System Modernization and Reconfiguration Project Contract with Scientel Solutions, LLC. *(Don Green)*

GENERAL INFORMATION

On September 26, 2024, City Council awarded the contract to Scientel Solutions, LLC to perform the Microwave System Modernization and Reconfiguration for the City's radio system in the amount of \$739,265.00. As part of the scope of work, Scientel conducted an evaluation of the structural integrity of each tower to verify their capability to handle the load of the new equipment to be installed. Only one tower was a concern, the Sandy Street Tower.

Scientel recommended replacing the identified brackets and bolts to increase the structural integrity of this tower. Staff agreed with the need and the recommended work and asked for a quote. Scientel provided a quote of \$78,645.00 to replace these items and remove three existing, but unused, antennas on this tower.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

This project originally came in below estimate, so there are sufficient budgeted funds available for this change order. Change Order 1 increases the contract amount to \$817,910.00.

STAFF RECOMMENDATION

Staff recommends approval of Change Order 1.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Scientel Microwave Replacement Change Order 1 Resolution 3-13-25
2. 217-2024 - Authorizing the Microwave System Modernization & Ring Configuration contract with Scientel Solutions (2)
3. Abilene Sandy Tower Modifications (1)
4. Scientel CO 1 Presentation (3-13-25)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER 1 FOR THE
MICROWAVE SYSTEM MODERNIZATION AND RING CONFIGURATION CONTRACT
WITH SCIENTEL SOLUTIONS, LLC**

WHEREAS, The City of Abilene (City) owns and operates its own radio and data communications system for public safety and City services' use; and

WHEREAS, City Council approved the contract award to Scientel through Resolution 217-2024; and

WHEREAS, Scientel conducted a structural analysis of each tower as part of the scope of work; and

WHEREAS, Scientel discovered structural concerns with the Sandy Street Tower; and

WHEREAS, the cost to address these concerns and remove three unused antennas from the Sandy Street Tower is \$78,645.00; and

WHEREAS, this work is outside of the original contract cost and would be added through Change Order 1.

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

1. That the City Manager is authorized to execute Change Order 1 in the amount of \$78,645.00 to the contract with Scientel Solutions, LLC.
2. Change Order 1 increases the total contract cost to \$817,910.00.
3. That this Resolution shall be effective immediately.

ADOPTED this 13th day of March 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. 217-2024

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE THE MICROWAVE SYSTEM
MODERNIZATION AND RING CONFIGURATION CONTRACT WITH SCIENTEL
SOLUTIONS, LLC**

WHEREAS, The City of Abilene (City) owns and operates its own radio and data communications system for public safety and City services' use; and

WHEREAS, the radio system relies on microwave signals for the efficient, reliable and broad coverage of radio system audio and data; and

WHEREAS, the City's microwave system has reached the end of its useful life with decreasing availability of parts; and

WHEREAS, a new ring configuration of the microwave system will increase the reliability and resiliency of the radio system; and

WHEREAS, the City conducted a Request for Proposals (CB-2475); and

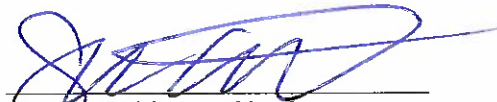
WHEREAS, Scientel Solutions, LLC had the highest staff scoring of all proposals received.

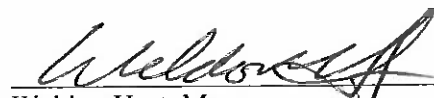
**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ABILENE, TEXAS:**

1. That the City Manager is authorized to execute a contract with Scientel Solutions, LLC in the amount of \$739,265.00.
2. That this Resolution shall be effective immediately.

ADOPTED this 26th day of September 2024.

ATTEST:


Shawna Atkinson, City Secretary


Weldon Hurt, Mayor

APPROVED:


Stanley Smith, City Attorney

Scientel Solutions LLC

2021 N. Eola Rd.
Aurora, IL 60502

Submitted To:

Jerry Reiling
Division Manager
Airwave Services
Jerry.reiling@abilenetx.gov

Change Order #: SCI01300_C01

Date: 03/03/2025

Expires: 04/02/2025

Submitted By:

Randy Beem
Outside Sales Executive
rbeem@scientelsolutions.com
Phone: (214) 548-9757

Change Order Name: Abilene Microwave System Modernization and Ring Configuration – Sandy Tower Modifications

Quote Description: Scientel Solutions, LLC (Scientel) has prepared this Change Order (CO) for the City of Abilene, TX (Abilene) to provide the required modifications to Sandy Tower needed as a result of the completion of the structural analysis. Scientel will perform the following scope of services under this CO.

Base Scope of Services: Tower Modifications

- Furnish and Install replacement intermediate horizontal members be 0' - 100' levels as shown in Leo Roberts Structural Modification Design dated 2/12/25
 - 0' - 20' replace with new L3" x 3" x 5/16"
 - 20' - 40' replace with new L3" x 3" x 1/4"
 - 40' - 60' replace with new L2 1/2" x 2 1/2" x 5/16"
 - 60' - 80' replace with new L2 1/2" x 2 1/2" x 1/4"
 - 80' - 100' replace with new L2 1/2" x 2 1/2" x 3/16"
 - 160' - 180' replace existing 3/8" bolts with 1/2" bolts
 - 180' - 200' replace existing 3/8" bolts with 1/2" bolts

Optional Scope of Services: Antenna Decommissions

- Remove and dispose of three antennas with associated mounts and feedline from the 188', 180' and 170' levels.

Closeout Services:

- Scientel will provide Abilene with a closeout package which will include:
 - Installation photos and Testing results
 - Documentation with equipment information such as serial #'s, IP Addresses, login credentials, and warranty information.

Assumptions:

- Scope of work allows for coordinated scheduled deployment and site access, any interruptions to project schedule may be subject to change order.
- All work is to be performed during regular business hours, I.E. 8AM-5PM, Mon-Fri.
- Requested work on weekends, holidays or additional overtime will be billed at a premium rate.
- Prior approval by both parties is required.
- Customer is responsible for any license or permit fees required by local ordinance.
- All new members will be hot dipped galvanized after fabrication
- All pricing excludes shipping and taxes.

Pricing:

Description	Price
Sandy Tower Modifications Base Scope of Work	\$68,151.00
Optional Scope of Work – Antenna Decommissions	\$10,494.00
TOTAL	\$78,645.00

Billing Milestones:

- 30% on Purchase Order
- 20% on Detailed Design Review
- 20% on Equipment Delivery
- 20% on Installation Completion
- 10% on System Acceptance

Terms, Conditions, & Acceptance: Scientel Solutions LLC will accept a written Purchase Order (P.O.) for work. Payment due 30 days after submission of invoice. This Change order is valid for 30 days. If the above quote and terms are accepted by the quote recipient, please indicate as requested below. The completed document may be returned to Scientel with the necessary Purchase Order via email at Salesorder@scientelsolutions.com

Signature: _____

Date: ____/____/____

Name (Print): _____

Title: _____

Scientel Solutions Change Order 1





Scientel Contract Award

- On September 26, 2024, City Council awarded the contract to Scientel Solutions, LLC to perform the Microwave System Modernization and Reconfiguration for the City's radio system in the amount of \$739,265.00.
- As part of the scope of work, Scientel conducted an evaluation of the structural integrity of each tower to verify their capability to handle the load of the new equipment to be installed.
- Only one tower was a concern, the Sandy Street Tower.



- Scientel recommended replacing the identified brackets and bolts to increase the structural integrity of this tower.
- Scientel provided a quote of \$78,645.00 to replace these items and remove three existing, but unused, antennas on this tower.







**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to Enter into a Contract with Schneider Electric Buildings America Inc. (ESCO), for Phase 5 Energy Efficient Facility Improvements (*Lesli Andrews*)

GENERAL INFORMATION

Beginning in 2007, the City of Abilene and Schneider Electric Buildings America Inc.(ESCO), partnered to improve operations, security, comfort and efficiency. Since then, the City has upgraded 37 buildings, reduced utility usage by 27.5% and is projected to reach \$11.9 M in savings over the 20-year partnership. ESCO is proud to partner with such a forward-thinking, proactive City.

Our partnership timeline; Phase 1 - 2007, Phase 2 - 2009, Phase 3 - 2012, Phase 4 - 2019. Performance to-date; \$11.9M in 20-year lifecycle savings, \$500,000+ in savings achieved over the past year, 4,644,701 kWh saved - equating to a 3,285 ton reduction in CO2 emissions.

The City did a Request for Qualifications for the 2024 City of Abilene Energy Savings Performance Contract Services.

The City received a response to RFQ for Energy Savings Performance Contract Services (RFQ#CB-2452) on June 6, 2024. ESCO was the only respondent. ESCO was evaluated and found to meet all qualifications.

The Phase 5 Scope of Work includes: Mechanical Upgrades, Building Automation System (BAS) Upgrade, Electrical Upgrades, Elevator Refurbishment, and Building Envelope Improvements, and should take approximately 18 months.

We have moved all Water Department related improvements out of Phase 5 and into Phase 6.

This has resulted in Phase 5 being less than estimated and Phase 6 being higher than estimated compared to what was presented during the City Council Workshop. Together they are still within the estimated cost presented on January 31, 2025.

SPECIAL CONSIDERATIONS

ESCO is an authorized contractor through contract #220104 of The Inter-Local Purchasing System (TIPS) purchasing co-op, and competitive bidding is not required.

FUNDING/FISCAL IMPACT

The City is proposing to issue Certificates of Obligation to fund the improvements, where property tax will pay the debt service. By approving this contract, it is obligating the City of Abilene to pay for the work completed. The total cost for Phase 5 is \$10,627,520.

Included in the total is \$892,076 for the Abilene Airport. This work will be required whether the Abilene Airport May 2025 bond passes or fails. If the bond passes, there will be more work needed for the expansion. If the bond fails, the \$892,076 will not be eligible for Certificates of Obligation and will need to be funded through Minor Improvement Funds.

STAFF RECOMMENDATION

Staff recommends approval of the contract.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 25_3_13 Resolution Schneider Electric Phase 5 Improvements
2. City of Abilene Phase 5 Energy and Construction Services Contract updated (3_10_25)
3. Supplement to Agreement - boycott language 2023.docx (2)
4. Presentation City of Abilene Phase 5

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH
SCHNEIDER ELECTRIC BUILDINGS AMERICA INC., (ESCO) FOR PHASE 5
IMPROVEMENTS.**

WHEREAS, in 2007, the City of Abilene and Schneider Electric Buildings America, Inc. (ESCO) partnered to improve operations, security, comfort, and efficiency; and

WHEREAS, the City has upgraded 37 buildings, reduced utility usage by 27.5%, and is projected to reach \$11.9M in savings over the 20-year partnership; and

WHEREAS, the City did a Request for Qualifications for the 2024 City of Abilene Energy Savings Performance Contract Services; and

WHEREAS, ESCO was the only respondent, and

WHEREAS, ESCO was evaluated and found to meet all Qualifications; and

WHEREAS, the contract cost is \$10,627,520; and

WHEREAS, the City seeks to contract with Schneider Electric Buildings America, Inc. (ESCO) for phase 5 improvements; and

WHEREAS, ESCO is an authorized contractor through contract #220104 of The Inter-Local Purchasing System (TIPS) purchasing co-op, and competitive bidding is not required.

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

Part 1: The City Manager is hereby authorized to enter into a contract with Schneider Electric Buildings America, Inc. (ESCO) for phase 5 improvements.

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

ADOPTED this 13th day of March 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

ENERGY AND CONSTRUCTION SERVICES CONTRACT¹

This Energy and Construction Services Contract is entered into as of March 13, 2025 (the “Effective Date”) by and between Schneider Electric Buildings Americas, Inc. (“ESCO”) and The City of Abilene (“Customer”).

ARTICLE 1 – DEFINITIONS

- 1.1. “Change Order” means a written document executed by both parties for purposes of modifying the Scope of Work, the Project Price, the Project Time, the PASS Services, the PASS Fees, and/or the Performance Guarantee.
- 1.2. “Contract” means this Energy and Construction Services Contract, together with the following schedules, exhibits, and other documents, each of which is attached hereto and incorporated herein by this reference:
 - SCHEDULE I: Scope of Work:
 - SCHEDULE II: Energy Services Schedules:
 - Schedule II(A): Energy Services Definitions
 - Schedule II(B): Performance Assurance Support Services Plan
 - Schedule II(C): Performance Guarantee
 - Schedule II(D): Measurement & Verification Plan
 - Schedule II(E): Customer Responsibilities for Performance Guarantee
- 1.3. “Date of Commencement” means the later of the Effective Date and the date on which ESCO receives payment of the Project Development Costs.
- 1.4. “Deliverables” means the Products, Software, documents, and services provided under this Contract, together with the information and technologies included therein or therewith.
- 1.5. “Energy Services Schedules” means Schedules II(A) – II(E) to this Contract.
- 1.6. “Final Completion” means that Substantial Completion of the Project has been achieved, and all Punch List Items have been completed.
- 1.7. “Notice” means written notice delivered in accordance with Section 11.1.
- 1.8. “PASS Fee” has the meaning set forth in Schedule II(A).
- 1.9. “PASS Plan” has the meaning set forth in Schedule II(A).
- 1.10. “PASS Services” has the meaning set forth in Schedule II(A).
- 1.11. “Performance Guarantee” has the meaning set forth in Schedule II(A).
- 1.12. “Project” means the materials, equipment, labor, services and improvements to the Project Site(s) to be provided by ESCO in accordance with and subject to the terms and conditions of this Contract, as set forth in the Scope of Work. For the avoidance of doubt, the Scope of Work shall represent the entirety of the intended and agreed upon scope of the Project.
- 1.13. “Project Development Costs” means, collectively, (i) all costs and expenses incurred by ESCO in connection with designing, developing, or engineering the Project, along with (ii) costs and expenses incurred by ESCO for procurement of equipment, materials, bonds, and other project

start-up and mobilization expenses.

- 1.14. "Project Site(s)" means the facilities of the Customer on or at which Work is to be performed, as identified in the Scope of Work.
- 1.15. "Scope of Work" means Schedule I and the contents thereof.
- 1.16. "State" means the State of Texas.
- 1.17. "Substantial Completion" (as used with respect to the Project as a whole or any discrete portion(s) of the Work, as appropriate) means the point at which such Work is operational, ready for use by Customer, and fully complete except for minor adjustments and/or corrections ("Punch List Items").
- 1.18. "Substantial Completion Letter" means a letter notifying Customer that Substantial Completion has been achieved with respect to the portion of the Work described therein.
- 1.19. "Warranty Period" means one (1) year from the date set forth in the applicable Substantial Completion Letter, unless a different period is stated in the Scope of Work.
- 1.20. "Work" means the services required to be performed by ESCO pursuant to the Scope of Work, whether completed or partially completed, and all materials, equipment, labor and services required to be provided in order for ESCO to perform such services in accordance with the terms and conditions of the Contract. Work may refer to the whole or parts of the Scope of Work.

ARTICLE 2 – PROJECT PRICE AND PAYMENT

- 2.1. Project Price. The total price of the Work to be performed by ESCO pursuant to this Contract shall be \$10,627,520 (the "Project Price").
- 2.2. Schedule of Values. ESCO will develop a schedule that delineates the items to be completed pursuant to the Scope of Work and apportions the Project Price among such items ("Schedule of Values") and shall endeavor to provide such Schedule of Values to Customer within thirty (30) days of the Effective Date. Within ten (10) business days of receipt, Customer shall review the Schedule of Values and shall advise ESCO if Customer identifies any items requiring correction or clarification.
- 2.3. Payment of Project Development Costs. Within thirty (30) days of the Effective Date, Customer shall make payment to ESCO for the Project Development Costs, as defined above.
- 2.4. Invoicing and Payment. ESCO shall invoice Customer monthly for progress payments based on the completion to date of items delineated on the Schedule of Values. Amounts invoiced must be paid or disputed by written Notice within thirty (30) days of the applicable invoice date. If ESCO has not received payment of all undisputed amounts within thirty (30) days of the applicable invoice date, then a late penalty equal to one percent (1%) or the late penalty imposed by applicable law will be applied to the overdue amounts each month until paid. Final Payment shall be paid in accordance with Section 6.4 (Final Payment).
- 2.5. Payment of PASS Fees. The PASS Fee and payment of the PASS Fee shall be as set forth in Schedule II(B).

- 2.6. Withholding of Payment. Upon providing written Notice of a payment dispute pursuant to Section 2.4, Customer may withhold payment of amounts otherwise due hereunder (i) if ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under this Contract, and (ii) Customer has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and the failure, refusal, or neglect has not yet been cured.
- 2.7. Taxes. ESCO and Customer agree to take all necessary measures to comply with all tax laws and regulations that apply to this Contract. ESCO shall be responsible for and pay when due all taxes for which ESCO is liable by reason of the performance of this Contract. Customer shall be responsible for and pay when due all taxes, if any, for which Customer is liable by reason of the performance of this Contract.
- 2.8. Payment to be Funded with Debt Obligations. ESCO understands, acknowledges and agrees that all amounts to be paid by Customer under this contract for the Project Price are to be funded with the issuance of the Customer's debt obligations and any failure to issue such debt obligations as a result of a failed bond election, a challenged debt issuance, uneconomical issuance conditions or otherwise, shall immediately notify ESCO and terminate this Contract. Where the Customer has given approval to ESCO to commence work and the Customer shall have no responsibility to pay any amounts due hereunder. Notwithstanding anything to the contrary contained herein, if the Customer has given written approval to ESCO to commence work prior to termination, the termination shall be considered a termination for convenience and ESCO shall be entitled to payment in accordance with Section 8.6.

ARTICLE 3 – ESCO'S PERFORMANCE OF THE WORK

- 3.1. Standard of Performance. ESCO shall supervise and direct the Work using such degree of care, skill and attention as is reasonably expected of professionals providing similar services within the State under similar circumstances (such circumstances to include, for example, conditions present at the Project Site(s) and any financial or other constraints applicable to the Project). ESCO shall be solely responsible for coordinating and/or performing all portions of the Work and shall have control over the means, methods, techniques, sequences and procedures used in the performance of the Work, unless the Scope of Work gives other specific instructions concerning these matters. All construction documents that are required to be prepared by ESCO in connection with the Work shall be prepared by qualified personnel and shall be in accordance with applicable codes, regulations, and laws. The ESCO shall remain responsible for all Work performed, whether performed by the ESCO or its Subcontractors.
- 3.2. Labor and Materials. Unless otherwise provided in the Scope of Work, ESCO shall provide and pay for all labor, materials, tools, equipment, machinery, and transportation necessary for the proper execution and completion of the Work. In the event a significant delay in acquiring materials or equipment or a significant increase in the price of materials or equipment occurs during the performance of the Contract by no fault of ESCO, the parties shall in good faith negotiate such changes (if any) as the parties deem equitable and appropriate under the circumstances and shall memorialize any agreed changes in a Change Order.
- 3.3. Licenses and Compliance with Law. ESCO currently has or shall timely obtain, and shall maintain, all such licenses, permits, qualifications and approvals as it is legally required to hold for performance of the Work. ESCO shall comply with all applicable laws and regulations bearing ESCO's performance of the Work.

- 3.4. Regular Working Hours. Work will be performed during normal working hours (meaning 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding ESCO holidays) unless the parties specifically agree otherwise in writing. ESCO will use commercially reasonable efforts to minimize disturbances to Customer's operations while performing the Work.
- 3.5. Safety. ESCO shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to, (1) employees performing the Work and other persons who may be affected thereby, (2) the Work and materials and equipment to be incorporated therein, and (3) other property at the Project Site(s) or adjacent thereto.
- 3.6. Clean-Up. ESCO shall keep the Project Site(s) free from accumulation of waste materials and rubbish caused by its performance of the Work. Upon completion of the Work, ESCO shall remove from the Project Site(s) all waste materials and rubbish caused by its performance of the Work, all of ESCO's tools, equipment, machinery, and any surplus materials.
- 3.7. Employees.
- 3.7.1. Responsibility for Employees. ESCO is responsible for the supervision, direction, and control of its employees performing Work on the Project. ESCO shall pay all wages, salaries, and other amounts due its employees in compliance with applicable law.
- 3.7.2. No Unlawful Discrimination. ESCO represents and warrants that it is an equal opportunity employer and agrees that it shall not discriminate in violation of any applicable federal, state, or other law, rule, or regulation, including, but not limited to, discrimination against any employee or applicant for employment on account of such person's race, religion, color, national origin, ancestry, sex, or age.
- 3.8. Subcontractors. A "Subcontractor" is a person or entity that has a written contract with ESCO to perform a portion of the Work at the Project Site(s) (such written contract, a "Subcontract").
- 3.8.1. Use of Subcontractors. ESCO may use one or more Subcontractors to perform portions of the Work. If requested in writing by Customer, ESCO shall furnish in writing to Customer the names of the Subcontractors to whom ESCO plans to award Work.
- 3.8.2. ESCO's Responsibility for Subcontractors. ESCO shall remain ultimately responsible for the performance of its obligations under this Contract and shall be responsible for the acts and omissions of its Subcontractors (and any persons and entities employed by such Subcontractors) in their performance of the Work.
- 3.8.3. Subcontracts. Each Subcontract shall be consistent with the terms and conditions of this Contract and shall require the Subcontractor, to the extent applicable to the scope, quality, character, and manner of the Work to be performed by the Subcontractor, to be bound to ESCO by the terms and conditions of this Contract and to assume all the obligations and responsibilities that ESCO assumes toward Customer thereunder. No Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Contract.
- 3.8.4. Payment of Subcontractors. ESCO shall timely pay each of its Subcontractors in accordance with their respective Subcontracts and in compliance with applicable law.

- 3.9. Unforeseen Conditions. “Unforeseen Conditions” means and includes any subsurface, concealed, latent or other physical conditions, including without limitation the presence of hazardous materials, that differ materially from those conditions contemplated in the Scope of Work or known by ESCO. In the event ESCO encounters Unforeseen Conditions that impact the Project, ESCO shall inform Customer of such conditions promptly and before such conditions are further disturbed. To the extent ESCO incurs additional costs or delays as a result of Unforeseen Conditions, the parties shall execute a Change Order reflecting an equitable adjustment to the Project Price, the Project Time, and/or the Scope of Work, as appropriate.
- 3.10. Hazardous Materials.
- 3.10.1. Exclusion for Hazardous Materials. The Work to be performed by ESCO pursuant to this Contract, and the compensation to be paid to ESCO hereunder, expressly excludes any Work of any nature associated or connected with the identification, abatement, cleanup, control or removal of environmentally hazardous materials, unless and except to the extent the Scope of Work provides otherwise. As used herein, “hazardous materials” shall be understood to include, but not be limited to, asbestos, lead, polychlorinated biphenyls (PCBs), mold, petroleum products, and any other material or substance known to have adverse health risks. Customer agrees that all duties and obligations in connection with any hazardous materials located at the Project Site(s) or affecting the Work are strictly the responsibility of Customer, unless and except to the extent ESCO expressly assumes such duties and obligations pursuant to the Scope of Work. Customer will provide any hazardous materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing. Customer warrants and represents that, to the best of Customer’s knowledge, there are no hazardous materials at the Project Site(s) that will or would reasonably be expected to affect, be affected by, come in contact with, or otherwise impact or interfere with the Work, unless and except to the extent the Scope of Work provides otherwise.
- 3.10.2. Responsibilities Upon Encounter. If, in performing or preparing to perform the Work, ESCO encounters or has reason to suspect the presence of hazardous materials of a different type or in a different amount or location than described in the Scope of Work, ESCO is authorized to immediately cease any and all Work that may be affected thereby, and ESCO will promptly notify Customer of the conditions discovered. Should ESCO stop Work because of the discovery or suspicion of hazardous materials, the time for performance of ESCO’s Work or service will be extended to cover the period required for abatement, cleanup, or removal of the hazardous materials. ESCO will not be held responsible for any claims, damages, costs, or expenses of any kind associated with the period during which ESCO has stopped Work as a result of hazardous materials. If appropriate, ESCO will be entitled to an equitable adjustment of the Project Price for any increased costs or other charges incurred by ESCO in connection with the exercise of its rights under this paragraph. Unless and except to the extent ESCO expressly assumes any such responsibilities pursuant to the Scope of Work, Customer will be responsible for taking all necessary steps to correct, abate, clean up, or control hazardous materials in accordance with all applicable statutes and regulations. Customer specifically agrees, to the extent allowed by State law, to indemnify and to hold ESCO, its officers, agents and employees harmless from and against any and all claims, demands, damages, or causes of action in any way arising out of the release of hazardous materials into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act.
- 3.11. Ownership and Use. The Work and the PASS Services may include the sale to Customer of materials, goods, equipment and/or other tangible personal property (“Products”). Except as otherwise set forth in the Scope of Work, any Products that are included in the Work shall be owned by Customer upon Customer’s full payment of the invoice covering such Products. The Work and the PASS Services may also involve the licensing of software or software-as-a-service products, subscriptions and/or other digital content (“Software”) to Customer. Except as otherwise set forth

in the Scope of Work or Energy Services Schedules, ESCO grants Customer a limited, personal and non-exclusive license to use Software that is included in the Work and/or PASS Services, subject to Customer's timely payment of the Project Price and/or PASS Fees, as applicable, and subject to ESCO's and/or its supplier's standard license agreement(s) for such Software, the terms and conditions of which are hereby incorporated by reference. ESCO shall be under no obligation to provide updates or revisions to such Software except to the extent expressly provided in the Scope of Work or Energy Services Schedules. Notwithstanding the foregoing, nothing in this Contract shall be deemed or construed to result in the Customer acquiring any ownership interest or rights in any intellectual property of ESCO or any third parties.

- 3.12. Infringement. Except as otherwise specified, ESCO shall pay all royalties and license fees required for the manufacture, sale and/or use of the designs, processes, devices, and other Products and Software provided by ESCO pursuant to the Scope of Work ("IP Products"). ESCO shall defend Customer from suits or claims for infringement of patent rights caused by the manufacture, sale and/or use of any such IP Products and shall hold Customer harmless from loss on account thereof. In the event any IP Product is found to infringe a third party's intellectual property rights, ESCO shall, at its expense and at its sole option, either: (i) procure the right for Customer to continue using such IP Product, (ii) modify such IP Product to render it non-infringing (provided such modification does not materially degrade the performance or operation of the IP Product), (iii) replace such IP Product with functionally equivalent, compatible, non-infringing IP Product, or (iv) refund or credit the amount paid for the infringing IP Product. Notwithstanding the foregoing, ESCO's obligations hereunder shall not apply to the extent (1) the alleged infringement is based upon or caused by ESCO's IP Products being modified or combined with any other design, process, device, material, Product or Software without ESCO's prior written approval, or (2) ESCO provided the allegedly infringing IP Product subject to specific requirements of Customer, unless ESCO knew of the alleged infringement and failed to inform Customer.
- 3.13. Warranty. ESCO warrants to Customer that, for the applicable Warranty Period: (i) the Work to be performed hereunder will conform to the requirements of the Contract and will be performed in accordance with applicable industry standards, (ii) any Products manufactured by ESCO and sold hereunder will be free of defects in workmanship and material, and (iii) any Software licensed hereunder will perform its essential functions (however, for the avoidance of doubt, ESCO does not warrant that the Software will operate uninterrupted or error-free, nor does ESCO warrant that the Software will meet any compatibility requirements not specified in the Scope of Work). Work, Products and/or Software that fail to comply with such standards may be deemed defective. If any Work, Product, and/or Software is proven to be defective within the Warranty Period, ESCO shall re-perform such defective Work, repair or replace such defective Product, and/or update or replace such defective Software, as ESCO deems appropriate. The foregoing warranties do not apply to the extent any Work, Product or Software has been: (i) subject to abuse, misuse, neglect, or accident, (ii) subject to improper operation, maintenance, storage or repair, (iii) subject to damage caused by circumstances beyond ESCO's control, or (iv) manufactured, programmed, installed, modified, or repaired other than by ESCO, on ESCO's behalf, or with ESCO's prior written approval. If a defect is found not to be ESCO's responsibility, standard rates for repair, replacement and/or labor shall apply. With respect to Products not manufactured by ESCO, ESCO will pass on any warranties provided to ESCO by its supplier(s). NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 3.13 (WARRANTY) ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES AND REMEDIES, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

ARTICLE 4 – CUSTOMER’S ROLE AND RESPONSIBILITIES

- 4.1. Cooperation Generally. Customer acknowledges and agrees that timely and proper performance of the Work is dependent on Customer’s full and prompt cooperation in reviewing documentation and submittals, issuing approvals, attending meetings, providing facility access (including, without limitation and as appropriate, by providing sufficient keys, access cards, and/or escort services to facilitate timely execution of Work at multiple locations with multiple trades), relocating personnel, furniture, and equipment, and taking such other actions as may be reasonably requested by ESCO in furtherance of ESCO’s performance of the Work.
- 4.2. Submittals. Within fifteen (15) business days of receiving any design, construction or other ESCO submittals, Customer shall review such documentation to confirm acceptance and consistency with the Contract and shall promptly advise ESCO of any issues or questions that are identified.
- 4.3. Project Meetings. Customer shall ensure that the appropriate Customer representatives attend Project meetings coordinated by ESCO. At ESCO’s request, Customer shall provide commercially reasonable cooperation and assistance in scheduling and coordinating Project meetings.
- 4.4. Filings and Permits. Except for permits and fees that are to be obtained and paid for by ESCO as expressly stated in the Scope of Work, Customer shall make all such filings as are required by the State or other government authorities in connection with the Work and shall obtain and pay for all permits, approvals, inspections, easements, assessments and charges as are required for the use, occupancy or modification of the real property or structures at and around the Project Site(s), including (without limitation) inspections for concrete and/or earthen compaction, where applicable.
- 4.5. Repairs. Except to the extent the Scope of Work specifically contemplates the repair or replacement by ESCO of any existing system, equipment or other property, all such systems, equipment and other property are assumed to be in normal working order, and any defect(s) in the same that could adversely impact the Work or the energy and efficiency savings expected to be generated thereby shall be promptly repaired or replaced by Customer.
- 4.6. Customer Information. Customer agrees that it has provided and shall continue to provide ESCO with all such information, documentation, access, knowledge and history as is available to Customer and as is relevant to ESCO’s timely and successful completion of the Project and performance of its other obligations under the Contract, including, without limitation, the following:
 - 4.6.1. Drawings, Specifications and Surveys. Customer shall provide ESCO with copies of or access to (i) all such working drawings, specifications, surveys and “As-Built” drawings as it may have relating to the Project Site(s), to the Work, and/or to work being performed by other companies at the Project Site(s), and (ii) all such surveys as it may have describing the physical characteristics, legal boundaries and restrictions, and/or utility locations at and around the Project Site(s). All drawings, specifications, and surveys furnished to ESCO by Customer are and shall remain the property of Customer.
 - 4.6.2. Energy Usage Data. Customer shall make available to ESCO, on a monthly basis or as ESCO may otherwise request, copies of all energy bills, energy usage data, and all other such documentation maintained by Customer.
 - 4.6.3. Facilities Information. Customer shall promptly provide information and documentation relating to Customer’s facilities, systems, and equipment and to its maintenance and operations practices. Customer has disclosed or will disclose as promptly as possible upon learning of, all known or suspected deficiencies, defects, and malfunctions of or affecting its facilities, systems or equipment and/or any components thereof, as well as any conditions of the Project Site(s) that should be considered in planning and executing the Work. To facilitate the exchange of relevant facilities information, Customer shall provide ESCO with access to Customer’s key facilities personnel and, at ESCO’s reasonable

request, shall designate a Customer representative to ensure the timely and correct transfer of information requested by ESCO.

4.7. Operations. Customer shall operate all Work installed under this Contract in accordance with the manufacturer's recommendations and the manuals supplied to Customer by ESCO. Customer agrees to protect the Work and operating conditions thereof, and Customer shall promptly notify ESCO in the event of any malfunction in the operation of the Work. Except in the case of emergency, Customer shall not remove, move, turn off or otherwise significantly alter the operation of any Work performed hereunder without ESCO's prior written approval, which approval shall not be unreasonably withheld. Upon receipt of such approval, Customer shall closely follow any instructions provided by ESCO in connection with the same. If, due to an emergency, it is not reasonable to obtain ESCO's approval prior to taking action, Customer shall protect the Work from damage or loss and shall notify ESCO of all actions taken as soon as reasonably possible thereafter. For purposes of this Section, a significant alteration would include, without limitation, any alteration that might cause a reduction in the level of energy or efficiency savings generated by the Work and/or any alteration to any measurement and verification system installed in connection with the Work.

4.8. Cybersecurity.

4.8.1. Definitions. For purposes of Section 4.8 (Cybersecurity) only: (i) "Cyber Threat" means any circumstance with the potential to adversely impact Customer's Systems or that may result in any unauthorized access, acquisition, loss, misuse, destruction, disclosure, and/or modification of the Systems, including through malware, hacking, or similar attacks, (ii) "Patch" means an Update that fixes a vulnerability in a Deliverable, (iii) "Systems" means Customer's computer network, systems, machines, and data, and (iv) "Update" means software that contains a correction of errors in a Deliverable and/or minor enhancements or improvements for a Deliverable but does not contain significant new features.

4.8.2. Customer's Obligations for Its Systems. Customer is solely responsible for the implementation and maintenance of a comprehensive security program that contains reasonable and appropriate security measures and safeguards to protect its Systems against Cyber Threats, including those Systems on which it runs the Deliverables. Without limiting the foregoing, Customer shall at a minimum:

- (a) have qualified personnel with appropriate expertise in cybersecurity maintain Customer's security program and regularly monitor cyber intelligence feeds and security advisories applicable to Customer's Systems or Customer's industry;
- (b) promptly update or patch its Systems or implement other appropriate measures based on any reported Cyber Threats and in compliance with any security notifications or bulletins, whether publicly disclosed on ESCO's security notification webpage at <https://www.se.com/ww/en/work/support/cybersecurity/security-notifications.jsp> or otherwise provided to Customer;
- (c) regularly monitor its Systems for possible Cyber Threats;
- (d) regularly conduct vulnerability scanning, penetration testing, intrusion scanning, and other cybersecurity testing on its Systems; and
- (e) meet the recommendations of ESCO's Recommended Cybersecurity Best Practices, available at <https://www.se.com/us/en/download/document/7EN52-0390/> and then-current industry standards.

4.8.3. Customer's Use of the Deliverables. ESCO may release Updates and Patches for its Deliverables from time to time. Customer shall promptly install any Updates and Patches for such Deliverables as soon as they are available in accordance with ESCO's installation instructions and using the latest version of the Deliverables, where applicable. Customer understands that failing to promptly and properly install Updates or Patches for the Deliverables may result in the Deliverables or Customer's Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and ESCO shall not be liable or responsible for any losses or damages that may result.

4.8.4. Identification of Cyber Threats. If Customer identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Deliverables for which ESCO has not released a Patch, Customer shall promptly notify ESCO of such vulnerability or other Cyber Threat(s) via the ESCO Report a Vulnerability page (<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers>) and further provide ESCO with any reasonably requested information relating to such vulnerability (collectively, "Feedback"). ESCO shall have a non-exclusive, perpetual and irrevocable right to use, display, reproduce, modify, and distribute the Feedback (including any confidential information or intellectual property contained therein) in whole or part, including to analyze and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Deliverables, in any manner without restrictions, and without any obligation of attribution or compensation to Customer; provided, however, ESCO shall not publicly disclose Customer's name in connection with such use or the Feedback (unless Customer consents otherwise). By submitting Feedback, Customer represents and warrants to ESCO that Customer has all necessary rights in and to such Feedback and all information it contains, including to grant the rights to ESCO described herein, and that such Feedback does not infringe any proprietary or other rights of third parties or contain any unlawful information.

4.9. Export Control. The Deliverables provided by ESCO under this Contract may contain components and/or technologies from the United States of America ("US"), the European Union ("EU") and/or other nations. Customer acknowledges and agrees that the supply, assignment and/or usage of Deliverables under this Contract must fully comply with applicable US, EU and/or other national or international export control laws and regulations ("Export Laws"). Unless applicable export licenses have been obtained from the relevant authority and ESCO has approved, the Deliverables shall not (i) be exported and/or re-exported to any destination or party restricted by applicable Export Laws; or (ii) be used for those purposes or fields restricted by any Export Laws. Customer also agrees that the Deliverables will not be used either directly or indirectly in any rocket systems, unmanned air vehicles, nuclear weapons delivery systems, and/or in any design, development, production or use of or related to weapons (which may include, without limitation, chemical, biological or nuclear weapons). ESCO shall be excused from performing any obligations under this Contract that would, in ESCO's judgment, violate any Export Laws or expose ESCO to a risk of liability thereunder.

ARTICLE 5 – PROJECT TIME

5.1. Project Time. ESCO projects that it will take 547 days from the Date of Commencement to achieve Substantial Completion of the Project (as the same may be adjusted from time to time in accordance with the terms and conditions of the Contract, the "Project Time").

5.2. Excusable Delay. If ESCO's performance of Work is at any point delayed or obstructed by circumstances beyond ESCO's reasonable control (including, without limitation, acts or omissions of Customer, epidemic, pandemic, quarantine restrictions, changes in applicable law, labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, unusually severe shortages in the available supply of and/or unusually severe increases in the cost of materials or equipment needed for performance of the Work, or delays of common carriers) then the parties agree to execute a Change Order allowing

for an equitable extension of time for performance of ESCO's Work to cover such delay.

ARTICLE 6 – COMPLETION AND FINAL PAYMENT

- 6.1. Substantial Completion of Work. ESCO will issue Customer one or more Substantial Completion Letters upon achieving Substantial Completion of discrete portion(s) of Work. Customer shall provide ESCO with written Notice within seven (7) days of ESCO's issuance of a Substantial Completion Letter if Customer disputes the assertion that ESCO has achieved Substantial Completion of the applicable Work, and such Notice shall explain the basis for Customer's dispute and the portion of the applicable Work to which it pertains. The parties shall meet promptly following Customer's issuance of any such Notice of dispute and shall in good faith attempt to resolve the dispute and align on a path forward (i.e. any corrections or adjustments to be made to the Work, Scope of Work, or Project schedule, etc.). Unless timely disputed by Customer, the date on which ESCO issues any such Substantial Completion Letter shall be the "Date of Substantial Completion" with respect to the applicable Work.
- 6.2. Substantial Completion of the Project. ESCO will issue Customer a Substantial Completion Letter upon achieving Substantial Completion of the Project (the "Project Substantial Completion Letter"). Promptly following ESCO's delivery of a Project Substantial Completion Letter, the parties shall schedule a walk-through to compile a list of Punch List Items that remain to be completed, if any.
- 6.3. Final Completion of the Project. When all Punch-List Items have been completed, ESCO shall inform Customer that the applicable Work is ready for inspection and shall provide an invoice for the outstanding balance of the Project Price along with a conditional release of all liens arising out of the Contract. Promptly following Customer's receipt thereof, the parties shall conduct a final walk-through and, upon confirming at the walk-through that all of the agreed Punch-List Items have been completed, Customer shall execute an acknowledgment stating that Final Completion has been achieved as of the date set forth therein (the "Project Completion Date").
- 6.4. Final Payment. Payment of the final invoice amount ("Final Payment") shall be due within thirty (30) days of the Project Completion Date. The making of Final Payment shall constitute a waiver of claims by the Customer except those arising from: (a) unsettled liens, security interests, or encumbrances arising out of the Contract; (b) the failure of the Work to comply with the requirements of the Contract; or (c) the terms and conditions of warranties expressly provided in the Contract. Upon receipt of Final Payment, ESCO shall deliver an unconditional and final release of all liens arising out of the Contract.

ARTICLE 7 – CHANGES

- 7.1. Change Request. Customer may request changes to the Scope of Work by submitting a description of the requested changes to ESCO in writing. In response to any such request, ESCO shall provide Customer a written proposal (the "Change Proposal") that describes, in reasonable detail, the proposed changes to the Scope of Work and any corresponding adjustments that would need to be made to the Project Time, the Project Price, the PASS Services, the PASS Fees, and/or the Performance Guarantee, as applicable. ESCO may also submit a Change Proposal to Customer in the event that this Contract authorizes or requires the parties to negotiate and/or execute a Change Order or in the event that ESCO otherwise wishes to request a Change Order in good faith, in which case such Change Proposal shall describe the proposed changes in reasonable detail, along with the contractual, legal or other basis for requesting such changes.
- 7.2. Change Order Process. Within five (5) business days following receipt of the Change Proposal, the parties shall meet and confer, acting reasonably and in good faith, to negotiate a mutually acceptable Change Order in accordance with the principles set forth herein. Promptly following agreement on the terms and conditions of the Change Order, the parties shall execute the same. If the parties do not agree upon the terms and conditions of the Change Order and the proposed change relates to circumstances in which a party is entitled to a Change Order under this Contract,

then either party may submit the matter to dispute resolution pursuant to Section 11.6 (Disputes and Choice of Law).

- 7.3. Customer Delays. In the event of any failure by Customer to timely fulfill its obligations under Article 4 (Customer's Role and Responsibilities) or in the event of any other delay or Work stoppage due to the acts or omissions of Customer or Customer's agents, the Project Time shall be equitably adjusted to reflect such period of interruption and the Project Price shall be equitably adjusted to cover reasonable costs incurred by ESCO due to the delay or Work stoppage, including, without limitation, any demobilization and remobilization costs. ESCO will use commercially reasonable efforts to mitigate such costs.

ARTICLE 8 – SUSPENSION AND TERMINATION

- 8.1. Non-Appropriation or Non-Issuance of Debt Obligations. If Customer is a governmental entity, any applicable State or local law entitling Customer to terminate the Contract due to insufficient appropriation of funds is hereby incorporated in this Section 8.1 by reference. In the event of a termination pursuant to this Section 8.1 or Section 2.8, Customer shall provide ESCO written Notice of termination as soon as is reasonably possible, and in no event later than the effective date of termination. Upon receipt of such Notice of termination and payment for work performed at the direction of the Customer prior to termination, ESCO shall deliver an unconditional and final release of all liens arising out of the Contract
- 8.2. ESCO Default. Customer may terminate the Contract or suspend the performance of Work by providing written Notice to ESCO if: (i) ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract, (ii) Customer has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and (iii) within thirty (30) days of ESCO's receipt of such written Notice, ESCO has neither cured nor commenced and diligently continued efforts to cure such default.
- 8.3. Customer Default. ESCO may terminate the Contract or suspend the performance of Work or PASS Services, as applicable, by providing written Notice to Customer if: (i) Customer repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract or fails to make any payment(s) to ESCO as and when due hereunder, (ii) ESCO has provided written Notice of default to Customer detailing the alleged failure, refusal, neglect, or payment default, and (iii) within thirty (30) days of Customer's receipt of such written Notice, Customer has neither cured nor commenced and diligently continued efforts to cure such default.
- 8.4. Prolonged Stoppage of Work. ESCO may terminate the Contract by providing seven (7) days' written Notice to Customer if: (i) Work is stopped due to an act, omission, or request of Customer, other than pursuant to Section 8.2 (ESCO Default), (ii) the Work stoppage is not due to Contractor's negligence, misconduct, or breach of the Contract, and (iii) the Work stoppage is for more than ninety (90) consecutive days or one hundred twenty (120) aggregate days.
- 8.5. Insolvency. Either party may terminate the Contract by providing written Notice to the other party if the other party: (i) becomes insolvent, (ii) is generally unable to pay, or fails to pay, its debts as they become due, (iii) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, (iv) makes or seeks to make a general assignment for the benefit of its creditors, or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.
- 8.6. Payment upon Termination. In the event of any termination other than a termination for cause by Customer pursuant to Section 8.2 (ESCO Default) or Section 2.8 (non-issuance of Customer debt obligations, subject to the exclusion stated therein), Customer shall compensate ESCO: (i) in accordance with the Schedule of Values for Work performed and in progress prior to the effective date of termination, and (ii) for reasonable costs and damages incurred by reason of the termination, such as demobilization costs, termination fees, and restocking fees..

- 8.7. Effect of Termination. Subject to Section 11.7 (Survival; Statute of Limitations), termination of the Contract shall release ESCO of all remaining obligations under the Contract as of the effective date of such termination.
- 8.8. Other Remedies. Any remedies provided for in this Article 8 shall not be exclusive of any additional remedies available to a party pursuant to this Contract, in equity or in the law. Nothing in this Contract shall be deemed or construed as a waiver by either party of any rights it may have with respect to a wrongful termination by the other party.

ARTICLE 9 – INDEMNIFICATION AND ESCO LIABILITY

- 9.1. Indemnity. ESCO shall, at its own cost and expense, indemnify, defend and hold harmless Customer and Customer's officers, directors, employees and agents ("Indemnified Parties") from and against all damages, penalties, losses, costs and expenses (including reasonable attorneys' fees) arising out of any third-party claim for personal injury or tangible property damage, but only to the extent caused by the negligence or misconduct of ESCO or any of ESCO's agents (including Subcontractors of any tier) in connection with this Contract, and provided that the Indemnified Parties (i) give ESCO prompt written notice of any such claim, and (ii) provide such cooperation and information as ESCO may reasonably require in the defense or handling of any such claim. ESCO shall not be responsible for any settlement or consent to judgment made by or on behalf of an Indemnified Party without ESCO's prior written consent.
- 9.2. Limitations of Liability.
- 9.2.1. In no event shall either party or its officers, directors, affiliates, or employees be liable for any form of indirect, special, consequential, or punitive damages, whether such damages arise in contract or tort, and irrespective of fault, negligence or strict liability or whether such party has been advised in advance of the possibility of such damages.
- 9.2.2. The remedies of Customer set forth in the Contract are exclusive unless stated otherwise and ESCO's total liability with respect to damages arising out of this Contract shall not exceed the Project Price. However, the foregoing sentence shall not limit ESCO's liability with respect to (i) damages caused by ESCO's gross negligence or intentional misconduct, (ii) third-party claims for personal injury or tangible property damage to the extent caused by ESCO's negligence or misconduct, or (iii) any other claims or damages for which ESCO's liability cannot be limited pursuant to applicable law.
- 9.2.3. The provisions of this Section 9.2 apply only to the extent permitted by the Constitution and laws of the State and shall supersede any contrary provisions of the Contract.

ARTICLE 10 – INSURANCE AND BONDS

- 10.1. Required Insurance. ESCO shall, at its own cost and expense, maintain in effect the following policies of insurance (each a "Policy", and collectively the "Policies") for the applicable period(s) set forth in Section 10.2:
- 10.1.1. Commercial General Liability Insurance. A policy of commercial general liability insurance, written on an "occurrence" basis, with a liability limit of two million dollars (\$2,000,000) per occurrence ("General Liability Policy").
- 10.1.2. Automobile Liability Insurance. A policy of automobile liability insurance, written on an "occurrence" basis, with a combined single limit of one million dollars (\$1,000,000) per accident for bodily injury and property damage ("Auto Liability Policy"). The Auto Liability Policy must include coverage for owned, hired and non-owned automobiles.

- 10.1.3. Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance as required by State law, and employer's liability insurance, written on an "occurrence" basis, with a liability limit of two million dollars (\$2,000,000).
- 10.1.4. Professional Liability Insurance. Professional liability insurance, written on a claims-made (and reported) basis, with a liability limit of two million dollars (\$2,000,000) per claim ("Professional Liability Policy").
- 10.2. Duration of Insurance. The Policies shall be procured by ESCO prior to ESCO's commencement of the Project and, except for the Professional Liability Policy, shall be maintained in effect for at least one year following the earlier of the Project Completion Date or termination of this Contract. ESCO shall maintain the Professional Liability Policy in effect for at least three years following the earlier of the Project Completion Date or termination of this Contract.
- 10.3. Insurer Rating Standards. The insurance policies required pursuant to this Article must be issued by one or more insurers that are (i) licensed to do business in the State and (ii) have an A.M. Best Company rating of not less than "A-" and a financial size category of not less than "VII."
- 10.4. Additional Insureds. At Customer's request, ESCO shall include Customer and Customer's directors, officers, employees, and agents as additional insureds on ESCO's General Liability Policy and Auto Liability Policy. The additional insured endorsements will be on ESCO's most current versions of ISO Form CG 2010 and ISO Form CG 2037 or their substantial equivalents.
- 10.5. Waiver of Subrogation. Each of the General Liability Policy and the Auto Liability Policy shall provide a waiver of transfer of rights of recovery in favor of Customer.
- 10.6. ESCO Insurance is Primary. The General Liability Policy and the Auto Liability Policy shall be endorsed to provide that they are primary and non-contributory.
- 10.7. Premiums, Deductibles and Self-Insured Retentions. ESCO shall be solely responsible for paying deductibles and self-insured retentions applicable to the Policies.
- 10.8. Evidence of Coverage. At Customer's request, ESCO shall provide to Customer a duly authorized and executed certificate of insurance evidencing that the required Policies and endorsements are in effect (each a "Certificate of Insurance").
- 10.9. Notice of Change in Policies. ESCO shall notify Customer within thirty (30) days of its receipt of written notice from an applicable insurer that a Policy will expire without renewal or will be canceled, terminated, or materially reduced in coverage.
- 10.10. Review of Coverage. Customer's failure to identify any non-compliance with the requirements of this Article shall not be deemed as a waiver of such requirements.
- 10.11. Subcontractor Insurance. ESCO shall require each Subcontractor to maintain such levels and types of insurance coverage as are appropriate for the Work to be performed by such Subcontractor.

- 10.12. Bonds. ESCO shall provide payment and performance bonds for 100% of the Project Price to secure the faithful performance of the Work and to ensure the satisfaction of ESCO's payment obligations to its Subcontractors and suppliers related to the Work. Notwithstanding any provision to the contrary herein, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of the Contract and shall not be construed to guarantee the performance of: (1) any efficiency or energy savings guarantees, (2) any support or maintenance service agreement, or (3) any other guarantees or warranties with terms beyond one (1) year in duration from Substantial Completion Date.

ARTICLE 11 – MISCELLANEOUS

- 11.1. Notices. All written Notices required to be delivered pursuant to the Contract must be in writing and addressed to the other party at its address set forth below (or to such other address as the receiving party may designate from time to time by providing written notice to the other party in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Contract, a Notice is effective only (a) on receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

- (a) If to ESCO, to:

Schneider Electric Buildings Americas, Inc.
1650 W. Crosby Rd.
Carrollton, TX 75006
Attention: Corey Newby
E-mail: corey.newby@se.com

with copies to:

Schneider Electric Legal Department
70 Mechanic Street
Foxboro, MA 02035
Attention: Time-Sensitive Legal Notice for SEBA

- (b) If to the Customer, to:

City of Abilene Texas
555 Walnut Street
Abilene, TX 79601
Attention: City Manager
E-mail: robert.hanna@abilenetx.gov

- 11.2. Relationship of Parties. Nothing in this Contract creates any agency, joint venture, partnership or other form of joint enterprise, employment, or fiduciary relationship between the parties. ESCO is an independent contractor pursuant to this Contract. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.
- 11.3. Public Statements. Customer acknowledges that ESCO may provide information pertaining to this Project and this Contract when responding to requests for proposals, requests for qualifications, requests for references, and other requests from prospective customers and/or government agencies. However, ESCO will not disclose Customer information that has been marked confidential without Customer's prior written consent.

11.4. Ethics and Compliance with Law. Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party. In the event Customer has concerns related to ESCO's ethics or any potential violations of ESCO's Trust Charter (code of conduct), Customer is welcome to make use of ESCO's Trust Line. The Trust Line is a confidential channel through which customers can ask questions and raise concerns. Reports can be made using the following link: <https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>.

11.5. Applicable Law Deemed Included. Each and every provision required by applicable law to be included in this Contract is hereby deemed to be so included, and this Contract shall be construed and enforced as if all such provisions are so included. If, for any reason, any provision required by any applicable law is not expressly included herein, or is not correctly included herein, then, upon request of either Customer or ESCO, the parties shall amend this Contract to include or incorporate, or to correctly include or incorporate, such provision.

Without limiting the generality of the foregoing, the following provisions are hereby included at Customer's direction, to the extent legally required:

11.5.1. Not Applicable

11.6. Disputes and Choice of Law. To the extent allowed by applicable law, the parties shall attempt to resolve any controversy or claim arising out of or relating to this Contract or an alleged breach hereof by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Contract shall be governed by the laws of the State, and any litigation or arbitration proceeding shall take place in the county in which the Project is located.

11.7. Survival; Statute of Limitations. The obligations and rights of the parties under this Contract that by their nature would continue beyond expiration, termination, or cancellation of this Contract (including, without limitation, the warranties, indemnification obligations, limitation of liability, effect of suspension or termination, payment upon termination, and ownership and property rights) shall survive any such expiration, termination, or cancellation. For the avoidance of doubt, ESCO's obligations regarding the Performance Guarantee shall not continue beyond the expiration, termination, or cancellation of this Contract or the PASS Plan. As between Customer and ESCO, any applicable statute of limitation shall commence to run and any alleged cause of action shall be deemed to have accrued (1) not later than the Project Completion Date for acts or failures to act occurring prior to the Project Completion Date, or (2) not later than the date of the relevant act or failure to act by either party for acts or failures to act occurring after the Project Completion Date.

11.8. Entire Agreement. This Contract, inclusive of the schedules, exhibits, and other documents attached hereto and expressly incorporated herein, constitutes the sole and entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written and verbal understandings, agreements, representations, warranties, and covenants with respect to such subject matter.

11.9. Further Assurances. Upon either party's reasonable request, the other shall execute and deliver all such further documents and instruments, and take all such further acts, as are necessary to give full effect to this Contract and applicable legal requirements.

- 11.10. Amendment and Modification. No amendment to or modification of this Contract is effective unless it is in writing and signed by an authorized representative of each party.
- 11.11. Waiver. No waiver under this Contract is effective unless it is in writing and signed by an authorized representative of the party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion.
- 11.12. Assignment. Customer may not assign any of its rights or delegate any of its obligations under this Contract without the prior written consent of ESCO. ESCO may assign its rights and delegate its obligations to any affiliate or to any person acquiring all or substantially all of ESCO's assets. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Contract.
- 11.13. Third-Party Beneficiaries. This Contract benefits solely the parties to this Contract and their respective permitted successors and assigns, and nothing in this Contract confers on any other person any express or implied legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Contract.
- 11.14. Interpretation. Unless the context otherwise requires, references in this Contract: (i) to articles, sections, exhibits, schedules, and attachments mean the articles and sections of, and exhibits, schedules, and attachments attached to, this Contract; (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Contract is the result of negotiations between, and has been reviewed by, the parties and their respective legal counsel. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- 11.15. Headings. The headings in this Contract are for convenience only and do not affect the interpretation of this Contract.
- 11.16. Severability. If any term or provision of this Contract is deemed invalid, illegal, or unenforceable pursuant to applicable law, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Contract to affect the original intent of the parties to the greatest extent possible.
- 11.17. Counterparts. This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Contract.
- 11.18. Due Authority of Signatories. Each party represents and warrants that this Contract constitutes the legal, valid, binding, and enforceable obligation of such party, and that neither the execution nor performance of this Contract constitutes a breach of any agreement that such party has with any third party or violates any law, rule, regulation, or legal duty applicable to such party. Each party further represents and warrants that the execution of this Contract is within such party's legal powers, and that each individual executing this Contract on behalf of such party is duly authorized to do so by all necessary and appropriate action and does so with full legal authority.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties has caused this Energy and Construction Services Contract to be executed as of the Effective Date by its duly authorized representative below.

**The City of Abilene,
Abilene, TX**

**Schneider Electric Buildings
Americas, Inc.**

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE I SCOPE OF WORK

Customer hereby acknowledges and agrees that the scope of work shall be limited to, and ESCO shall only perform, the following:

Scope of Work Description:

MECHANICAL SCOPE OF WORK

Police Station/Courts Building

(16) Roof Top Unit Replacement

- Remove and dispose of sixteen (16) existing roof top packaged units.
- Provide sixteen (16) new roof top packaged units sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Rose Park Senior Center

(13) Roof Top Unit Replacement

- Remove and dispose of thirteen (13) existing roof top packaged units.
- Provide thirteen (13) new roof top packaged units sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Rose Park Gym

(2) Packaged Unit Replacement

- Remove and dispose of two (2) existing packaged units.
- Provide two (2) new roof top packaged units sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Fire Station #1

(7) Roof Top Unit Replacement

- Remove and dispose of seven (7) existing roof top packaged units.
- Provide seven (7) new roof top packaged units sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

County Health & Community Services

(5) Roof Top Unit Replacement

- Remove and dispose of five (5) existing roof top packaged units.
- Provide five (5) new roof top packaged units sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Convention Center

(4) Hot Water Boiler Replacement

- Remove and dispose of four (4) existing hot water boilers.
- Provide four (4) new hot water boilers sized to meet the load in same location.

- Commission and Balance units to design specifications.

(4) Chilled Water and Condenser Water Pump Replacement

- Remove and dispose of four (4) existing chilled water and condenser water pumps.
- Provide four (4) new chilled water and condenser water pumps sized to meet the load in same location.
- Commission and Balance units to design specifications.

Abilene Regional Airport

(5) Hot Water Boiler Replacement

- Remove and dispose of five (5) existing hot water boilers.
- Provide five (5) new hot water boilers sized to meet the load in same location.
- Commission and Balance units to design specifications.

City Hall

(2) Hot Water Boiler Replacement

- Remove and dispose of two (2) existing hot water boilers.
- Provide two (2) new hot water boilers sized to meet the load in same location.
- Commission and Balance units to design specifications.

(2) Computer Room Split Systems Replacement

- Remove and dispose of two (2) existing split systems.
- Provide two (2) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Fire Station #6

(2) Split Systems Replacement

- Remove and dispose of two (2) existing split systems.
- Provide two (2) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Armory Building

(1) Roof Top Unit Replacement

- Remove and dispose of one (1) existing roof top packaged unit.
- Provide one (1) new roof top packaged unit sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Environmental Lab Building

(3) Roof Top Unit Replacement

- Remove and dispose of three (3) existing roof top packaged unit.
- Provide three (3) new roof top packaged unit sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Maintenance Building

(2) Split Systems Replacement

- Remove and dispose of two (2) existing split systems.

- Provide two (2) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Fire Station #2

(1) Split Systems Replacement

- Remove and dispose of one (1) existing split system.
- Provide one (1) new split system sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Fire Station #3

(2) Split Systems Replacement

- Remove and dispose of two (2) existing split systems.
- Provide two (2) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Fleet Maintenance Building

(1) Roof Top Unit Replacement

- Remove and dispose of one (1) existing roof top packaged unit.
- Provide one (1) new roof top packaged unit sized to meet the load in same location.
- New curb adaptors will be provided for packaged units as necessary for proper unit fit.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Police Academy Building

(2) Split Systems Replacement

- Remove and dispose of two (2) existing split systems.
- Provide two (2) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Rose Park Adaptive Rec

(4) Split Systems Replacement

- Remove and dispose of four (4) existing split systems.
- Provide four (4) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Rose Park Activity Building

(1) Split Systems Replacement

- Remove and dispose of one (1) existing split systems.
- Provide one (1) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Safety City

(1) Split Systems Replacement

- Remove and dispose of one (1) existing split systems.
- Provide one (1) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Abilene Zoo

(2) Split Systems Replacement

- Remove and dispose of two (2) existing split systems.
- Provide two (2) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

BUILDING AUTOMATION SYSTEM

The existing Schneider Electric Building Automation Systems (BAS) at the facilities listed below will have their legacy hardware building automation system controllers replaced with newer EcoStruxure (or equivalent) hardware. Much of this scope is the removal of Continuum controller hardware and add newer EBO hardware (Space Logic & Viconics) to monitor and control the equipment on the existing BAS system. There are some mechanical changes which are noted below. The BAS will be controllable from the existing central workstation on the owner's WAN/LAN. The central workstation will be supplied by Schneider Electric (owned by the customer), providing continuous access to the system with a user-friendly graphical Windows interface – much of the existing graphical interface will appear similar for facilities below. A web-enabled interface will also be included to provide web access to the system for up to 3 simultaneous users. As part of this scope of work, the existing EBO version will be upgraded to EBO version 2024, which will allow the city to utilize more current Microsoft operating systems. Existing control zones and scheduling will be consistent with existing system, allowing for temperature setup, setback, and night dewpoint setup. Permanent scheduling, holiday scheduling, and exception scheduling capabilities for each control zone will be retained.

Schneider Electric will provide site-specific on-site training for BAS operation. The training will focus on new controller hardware and updated features with EBO upgrade, but can also include but is not limited to, system architecture, controller and override panel operation, control drawings, device replacement, product overview and demonstration, logging on and off, system passwords, screen layout, software toolbars and menus, graphic page navigation, and use scheduling (permanent, holiday, and exception), and basic troubleshooting.

The facilities included are:

- | | |
|--------------------------------------|---------------------|
| • Rose Park Senior Center | • Convention Center |
| • Fire Station #1. | • Airport |
| • County Health & Community Services | • City Hall |

Schneider Electric will be responsible for all final design decisions, including controller selection, point configurations, and end device selection, and will base such decisions on Schneider Electric and City of Abilene current standards and operational. The owner's wide area network will provide communication from each building to the central workstation.

ROSE PARKS SENIOR CENTER

The existing Continuum controllers will be decommissioned and replaced with new Schneider Electric EBO controllers. This scope of work is to remove these existing controllers within the BAS system and replace with new EBO hardware to control the HVAC equipment that is controlled by the existing BAS. Existing panels will either be replaced, reconfigured, or removed to accommodate the new EBO hardware, while the current input/output wiring will be retained and connected directly or through wire expansion. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. Most of the field devices are compatible with new controllers and are not being replaced, with exception to RTU controllers, new BACnet® color touch-screen thermostats are to replace these controllers, associated temperature sensors are to be replaced for controller compatibility. The systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical

interface will be updated to reflect the new controllers while maintaining a similar user experience.

The existing BAS system includes controls for two rooftop units (RTU-5 & RTU-15). These units are an abandoned VVT system that has not been functional since original installation in Phase 1. In this scope of work, these controllers are to be removed (they are not functional today), and the units will be controlled with a new BACnet thermostat for consistency with other units in this facility. The VVT Dampers are locked open today with controllers, when controllers are removed, these dampers will be physically locked open.

With proposed new mechanical alterations, this facility, includes thirteen (13) existing rooftop units replaced (in-kind) with thirteen (13) new rooftop units. Three (3) of the new units will have on/off outside air damper, while the other ten (10) will have dry bulb economizer outside air damper functions controlled by OEM. Demand control ventilation will also be available for RTU-3,4,7,17.

Control and monitoring parameters will be consistent with existing control scheme (without VVT system). New BACnet® thermostat locations will include integral humidity control by unit, in lieu of by zone.

FIRE STATION 1

The existing controllers shall be utilized for the alterations of new mechanical equipment. These new seven (7) units shall be replaced with new mechanical equipment and existing controllers are to be repurposed to control these systems. Other aspects of this site are to remain unaffected. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. The systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new equipment (RTU airflows might change with new equipment) while maintaining a similar user experience.

With proposed new mechanical alterations, this facility, includes seven (7) existing rooftop units replaced (in-kind) with seven (7) new rooftop units. One of the new units will have on/off outside air damper, while the other six (6) will have dry bulb economizer outside air damper function controlled by OEM.

COUNTY HEALTH & COMMUNITY SERVICES

The existing Continuum controllers will be decommissioned and replaced with new Schneider Electric EBO controllers. This scope of work is to remove these existing controllers within the BAS system and replace with new EBO hardware to control the HVAC equipment that is controlled by the existing BAS. Existing panels will either be replaced, reconfigured, or removed to accommodate the new EBO hardware, while the current input/output wiring will be retained and connected directly or through wire expansion. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. Most of the field devices are compatible with new controllers and are not being replaced, with exception to RTU controllers, new BACnet® color touch-screen thermostats are to replace these controllers, associated temperature sensors are to be replaced for controller compatibility. The systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new controllers while maintaining a similar user experience.

With proposed new mechanical alterations, this facility, includes five (5) existing rooftop units replaced (in-kind) with five (5) new rooftop units. Five (5) new units will have dry bulb economizer outside air damper function controlled by OEM.

Control and monitoring parameters will be consistent with existing control scheme, although supply air temperature sensors are to be added to all the controlled units for consistency with other facilities and additional diagnostics. New BACnet® thermostat locations will include integral humidity control by unit, in lieu of by zone.

CONVENTION CENTER

The existing Continuum controllers will be decommissioned and replaced with new Schneider Electric EBO controllers. This scope of work is to remove these existing controllers within the BAS system and replace with new EBO hardware to control the HVAC equipment that is controlled by the existing BAS. Existing panels will either be replaced, reconfigured, or removed to accommodate the new EBO hardware, while the current input/output wiring will be retained and connected directly or through wire expansion. The panels located in the North Mezzanine (Conference Wing) area are exposed or compromised by extreme temperatures, the new hardware is more temperature tolerant, and upgraded panels are included to support this area. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. Most of the field devices are compatible with new controllers and are not being replaced, with exception to new VAV controllers, new digital space sensors are required. The systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new controllers while maintaining a similar user experience.

With proposed new mechanical alterations, this facility, includes 4 existing boilers replaced (in-kind) with new boilers. Control and monitoring parameters will be consistent with existing control scheme.

AIRPORT

The existing Continuum controllers will be decommissioned and replaced with new Schneider Electric EBO controllers. This scope of work is to remove these existing controllers within the BAS system and replace with new EBO hardware to control the HVAC equipment that is controlled by the existing BAS. Existing panels will either be replaced, reconfigured, or removed to accommodate the new EBO hardware, while the current input/output wiring will be retained and connected directly or through wire expansion. The panels located in Mechanical Room 1 is exposed or compromised by extreme temperatures, the new hardware is more temperature tolerant, and upgraded panels are included to support this area. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. Most of the field devices are compatible with new controllers and are not being replaced, with exception to new FCU controllers, new BACnet® color touch-screen thermostats are to replace these controllers, associated temperature sensors are to be replaced for controller compatibility. The systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new controllers while maintaining a similar user experience.

With proposed new mechanical alterations, this facility, includes 5 existing boilers replaced (in-kind) with new boilers.

Control and monitoring parameters will be consistent with existing control scheme. New BACnet® thermostat locations will include integral humidity control by unit, in lieu of by zone.

CITY HALL

The existing Continuum controllers will be decommissioned and replaced with new Schneider Electric EBO controllers. This scope of work is to remove these existing controllers within the BAS system and replace with new EBO hardware to control the HVAC equipment that is controlled by the existing BAS. Existing panels will either be replaced, reconfigured, or removed to accommodate the new EBO hardware, while the current input/output wiring will be retained and connected directly or through wire expansion. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. Most of the field devices are compatible with new controllers and are not being replaced, with exception to new VAV controllers, new digital space sensors are required. The systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new controllers while maintaining a similar user experience.

With proposed new mechanical alterations, this facility, includes 2 existing boilers replaced (in-kind) with new boilers. Control and monitoring parameters will be consistent with existing control scheme.

CLARIFICATIONS

- To the best of Schneider Electric's knowledge, the replacement of controllers and re-attachment of field devices will be consistent with existing system. BAS shall be printed out of points for pre/post input/output count. If any control or monitoring BAS points are changed, the scope of work shall be adjusted. If additional points are required to operate the systems, they will be incorporated under this scope of work.
- New mechanical scopes of work may impact the ability to replicate existing control parameters and graphical representation. Points associated with new mechanical equipment (if applicable) are subject to change based on those points available from the equipment ultimately furnished and the points deemed necessary for operation of the system.
- Schneider Electric may reuse existing equipment including (but not limited to) valves, variable frequency drives, relays, sensors, dampers, and actuators for the execution of this contract, and assumes the equipment or devices are in good working order. Should the equipment or devices require repair or replacement, this will be the responsibility of the owner unless specifically indicated otherwise in the scope of work. Schneider Electric will create an equipment deficiency report (EDR) to provide the owner with written notification if such equipment or devices are identified.
- Schneider Electric will only control equipment and/or devices shown in the Scope of Work or as referenced as existing BAS for what HVAC equipment is currently controlled. Equipment and devices not in the Scope of Work are excluded. Schneider Electric is not responsible for the functionality of such equipment even if such equipment is operated by an existing BAS.
- Matching of ceiling tile color and pattern shall be limited by current commercial availability should replacement tile be required. Similar or complementary tiles shall be provided where exact matches are not available.
- Demolition of the existing HVAC controls / building automation equipment will be performed as needed to implement the new DDC system installation (reuse of enclosures, wire, and end devices will be solely at the discretion of Schneider Electric). The total demolition of any remaining abandoned or obsolete control elements will be the responsibility of the owner, unless otherwise stated.
- Schneider Electric is not responsible for safeties on existing equipment including smoke detectors, fire alarm interlocks, and low or high temperature cut-outs or any life safety equipment. Pre and post testing of smoke, fire, and life safety systems will be the responsibility of the customer and the sequence will be provided to Schneider Electric. Where life safety equipment utilizes compressed air (pneumatics), the source of the air, logic, and actuators will not be removed or modified within the execution of the project.
- Exhaust fans controlled by occupancy sensors or local switches, that are process / life safety related, or that do not move air beyond the building envelope will not be integrated with the building management system.
- Schneider Electric will not be responsible for any modification or expansion of the owner's existing WAN/LAN for the execution of this project. Owner to provide Schneider Electric with designated open port(s) as required at existing network switches in all facilities within this scope of work. Schneider Electric to provide CAT5e Ethernet cable from control equipment to Owner network switch.
- Where new control panels are to be installed, Conduit will be installed from the panel knock-out to a height of 8' or the level of the finished ceiling if present – whichever is lower – for all low voltage wiring. Conduit will not be required in other applications unless otherwise indicated by the scope of work above. All wiring shall be in compliance with local codes and authorities having jurisdiction.

EXCLUSIONS

- Asbestos abatement of any kind is excluded.
- Costs of providing access, access control, or security escorts not specified in the Scope of Work are excluded.
- Hydronic / airflow testing and balancing on HVAC equipment will not be included as part of the controls scope of work.
- Repair of existing HVAC and control equipment beyond the scope of work above is excluded.
- Any repair patching of existing walls, sheetrock, plaster, brick, wood, etc due to the removal of existing thermostats (for retrofit with DDC Sensor or new thermostat) is excluded.

ELECTRICAL SCOPE OF WORK

ESCO will perform work to replace the following electric panels at the following Customer facilities:

Building Name	Asset Name	Asset Type	Voltage	Amps
Fleet Maintenance	PP1	Panelboard (Elc Panel)	120/240	225
Fleet Maintenance	PP2	Panelboard (Elc Panel)	120/240	400
Fleet Maintenance	PP5 (Oil Bay)	Panelboard (Elc Panel)	120/240	125
Fleet Maintenance	PP4 (Oil Bay)	Panelboard (Elc Panel)	120/240	225
Cal Young Bball Park	Concession Stand Panel	Panelboard (Elc Panel)	240	125
Rose Park Rec & Tennis	100A Panel	Panelboard (Elc Panel)	240	100
Rose Park Rec & Tennis	600A 480V Main Panel A	Panelboard (Elc Panel)	480	600
Rose Park Rec & Tennis	Big League Power Panel	Panelboard (Elc Panel)	480	225
Will Hair Park	Restroom 2 panel	Panelboard (Elc Panel)	208	100
Will Hair Park	Restroom panel 1	Panelboard (Elc Panel)	240	100
Rose Activity & RR	1st Floor Panel 225A Panel	Panelboard (Elc Panel)	208	225
Rose Activity & RR	Panel A 100A	Panelboard (Elc Panel)	208	100
Rose Activity & RR	Panel L3 Floor 2	Panelboard (Elc Panel)	208	225
Rose Activity & RR	Panel L2 Floor 2	Panelboard (Elc Panel)	208	150
Rose Activity & RR	200A Panel Floor 2	Panelboard (Elc Panel)	208	200
Rose Activity & RR	Restroom 100A Panel	Panelboard (Elc Panel)	240	100
Wylie Girls Softball	Panel Fields 1&4 (Power)	Panelboard (Elc Panel)	480	150
Wylie Girls Softball	PP1 (For Circuits)	Panelboard (Elc Panel)	120/240	125
Facility Shop	Panel B	Panelboard (Elc Panel)	120/208	225
Facility Shop	Panel A	Panelboard (Elc Panel)	120/208	225
Traffic	Federal Pacific Panel (Ext Brkr)	Panelboard (Elc Panel)	240	40
Traffic	Federal Pacific Panel (Ext Brkr)	Panelboard (Elc Panel)	240	60
Traffic	Federal Pacific Panel (Ext Brkr)	Panelboard (Elc Panel)	240	70
Fleet Maintenance	Disconnect	Disconnect	600	100
Fleet Maintenance	Disconnect	Disconnect	240	100
Tennis Center	Disconnect	Disconnect	240	200
Tennis Center	Disconnect	Disconnect	240	200
Water Park	Motor Control Center	Motor Control Center	480	600

ELEVATOR

ESCO will perform work on the elevators at the following Customer facilities:

- Adaptive Rec
- Convention Center

Elevators are to be upgraded/modernized with the following improvements:

<u>Machine Room</u>		
<u>Component</u>	<u>Scope</u>	<u>Associated Description</u>
Controller	New	Non-proprietary, micro-processor based
Hydraulic Pumping Unit	New	
Oil	New	
Oil Line	New	As needed
Landing System	New	
Shut Off Valve	New	Machine room & pit
<u>Door System</u>		
Car Door Operator	New	Convention and Rec Center Only, WTP - Refurbish
Car Door Clutch	New	
Car Gate Switch	New	
Car Door Track	New	
Car Door Sill	Retain	Clean and Polish or replace if necessary
Car Door Gibs	New	
Car Door Rollers	New	
Car Door Safety Edge	New	
Hoist Way Door Closures	New	
Hoist Way Interlocks	New	
Hoist Way Interlock Drive Rollers	New	
Landing Door Labeling	New	
Interlock Wiring	New	
Hoist Way Door Track	New	Convention and Rec Center only, WTP - refurbish
Hoist Way Door Rollers	Retain	Replace as needed
Hoist Way Door Panels	Retain	
Hoist Way Track Header	Retain	
Escutcheon Tubes	New	
Hoist Way Door Sill	Retain	Clean and polish or replace if necessary
Hoist Way Access	New	
<u>Signal Fixtures</u>		
Car Operating Panel	New	LED applied main car operating panel #4 SS
Hall Lantern/Position Indicator	New	Lanterns at typical floors
Car Position Indicator	New	In COP
Emergency Light	New	
Hall Push-Button Stations	New	Surface mount #4 SS
ADA Jamb Braille	New	

<u>Hoist Way</u>		
Limits/Slow Downs	New	
Car Top Inspection Station	New	
Guide Rails	Retain	Check for tightness and alignment
Duct	Retain	New as needed
Wiring	New	
Alarm Bell	New	
Entrances	Retain	
Cutting & Patching	N/A	Surface mount fixtures
Fascia	Reuse	Replace as needed
<u>Pit</u>		
Floor numbering	New	
Pit stop switch	New	
Buffers and channels	Retain	Clean & Paint. Replace if necessary
Shut Off Valve	New	
Painting	New	Car top, pit floor, pit channels, machine room floor will be cleaned and painted
<u>Cab</u>		
Shell	Retain	
Platform	Retain	
Cab Interiors	Retain	Can add cab allowance if required
Car Top Handrail	N/A	
Guides/wheels	New	
Fan	New	
Cab Door	New	

BUILDING ENVELOPE

ESCO will perform work for BUILDING ENVELOPE at the following Customer facilities:

- City Link
- Civic (Convention) Center
- Community Services/Health Department
- Rose Park Adaptive Rec Center
- Rose Park Senior Center

General Site Scope

This Scope of Work involves the improvement of building envelope using a variety of different methods.

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Site-Specific Scope

BUILDING ENVELOPE WORK SUMMARY

Task	City Link	Civic Center	Community Services & Health Dept.	Rose Park Adaptive Rec	Rose Park Rec Center	Rose Park Senior Center	Total Quantity
Building Envelope Improvement							
Attic Air Barrier Retrofit (SF)			6804				6804
Caulking (LF)			17				17
Door - Install Jamb Spacer (Units)		5	7	1		3	16
Door Weather Stripping - Doubles (Units)		30	4	1	2	1	38
Door Weather Stripping - Singles (Units)	7	8	4	3	1	4	27
Door Weather Stripping (Units)		3				1	4
Overhang Air Sealing (SF)						291	291
Retrofit Roof Hatch (Units)		1					1
Roll-Up Door Weather Stripping (Units)		5					5
Roof-Wall Intersection Air Sealing (LF)			372				372
Wall Air Sealing (SF)						1701	1701
Supplemental Window System							
Caulking (LF)		360					360
Window Inserts (Units)		145		60		80	285

- Door Weather Stripping – deteriorated weather-stripping materials, ineffective weather-stripping installation and daylight showing at the perimeter of door systems create direct pathways for unwanted infiltration/ exfiltration throughout the school district.
- Overhang Air Sealing – overhangs are roofs, floor systems or areas above entryways that extend beyond the plane of the exterior wall system. Overhangs that are not properly sealed at the plane of the surface that should separate the conditioned space from the outdoors lead to excessive air leakage and heat loss at these vulnerable areas in the building envelope.

- Overhead Door Weather Stripping/ Roll-up Door Weather Stripping – remove existing weather stripping and replace with new commercial grade weather stripping to create a full air seal around the door. With low-grade, none, or deteriorating materials, overhead and roll-up doors are major air leakage sources.
- Roof-Wall Intersection Air Sealing – the roof-wall intersection is regularly an area that allows unwanted air leakage through the building shell. Exterior flashing and finish details at this area are not constructed to stop air leakage (exterior flashings are for water control, not air control); unsealed exterior flashing details combine with interior gaps in the framing between the roof and wall assembly to allow infiltration/ exfiltration.
- Wall Air Sealing – a wall assembly that does not have an effective air barrier in place allows unnecessary air leakage losses. Areas of poorly insulated and sealed wall assembly create a bypass for air leakage that force the heating and cooling systems to work harder than necessary.

GENERAL PROJECT EXCLUSIONS

- Anything not defined or stated in the scope of work is interpreted as excluded.
- Repairs, remedies, and any development of any such repairs or remedies due to unforeseen, undisclosed, and unidentified conditions
- Costs of providing access, access control, or security escorts not specified in the Scope of Work
- Cleanup beyond construction debris, such as dusting, or air scrubbers
- Structural modifications not specified in the Scope of Work
- Additional labor costs due to restriction of allowable work hours, provided however, ESCO is aware that Customer facilities are used as public facilities and has been provided the current operating schedules. Any additional cost hereunder shall be limited to costs arising from circumstances of which ESCO was not made aware during the development phase, and that are not reasonably anticipated at the time of this Contract.
- Additional labor costs due to limitations to access and keys
 - Customer shall provide facility access adequate to the requirements of ESCO and their subcontractors. Keys, security system codes, access cards, and/or escorts will be provided for all facilities involved in the Scope of Work in a quantity sufficient to facilitate execution of scopes at multiple locations with multiple trades. Customer is subject to change orders for delays resulting from limited or restricted access for scheduled or previously coordinated work. Keys, security system codes, and/or access cards will be issued to ESCO project personnel and subcontractor site foreman or lead personnel.
- Hazardous materials testing and abatement not specified in the Scope of Work
 - Customer will provide any hazardous materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing.
 - Customer will provide testing for suspected hazardous materials if current test reports are not available.
- Materials and labor associated with modifications to existing systems and equipment not identified as included in the Scope of Work
 - Patching of fire rated walls beyond area directly affected by Scope of Work
 - Maintenance of egress routes and signage
 - Existing open J boxes
 - Existing wiring resting on ceiling grid
 - Life safety interlocks
 - Floor repair not specified in the Scope of Work.
 - Patching or painting of an area where equipment was removed or altered

- Screening to hide equipment
- Testing, adjusting, and balancing unless specified in the Scope of Work
- Commissioning of existing systems not identified in the Scope of Work
- The cost for utilities including natural or propane gas, fuel oil, electricity, potable or non-potable water during the construction period
- The cost for equipment, labor, and/or utilities to provide temporary heating or cooling of facilities during the construction period
- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction
- Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction
- Repair or replacement of ceiling beyond that required to accomplish the Scope of Work
- Electrical systems not related to disconnecting and reconnecting the new equipment.
- Equipment replacement and their components not specified above.
- Patching, painting, or repair of floor and wall surfaces not specified in the Scope of Work
- Fees and project costs for third party engineers acting as Customer agent
- All damage and performance limitations considered Acts of God
- Night/holiday work unless otherwise specified in the Scope of Work.
- Additional labor cost due to restriction of allowable work hours.
- Costs incurred due to lack of access to required areas or due to access to storage areas to which materials are to be delivered.
- Costs of providing access, access control, or security escorts not specified in the Scope of Work.
- Hazardous materials testing and abatement not specified in the Scope of Work.
- Materials and labor associated with modifications to existing systems and equipment not identified in these documents as included in the Scope of Work.
- Repair or replacement of ceiling beyond that required to accomplish the Scope of Work.
- Waste disposal other than that required to accomplish the Scope of Work.
- The cost for utilities including natural or propane gas, fuel oil, electricity, potable or non-potable water during the construction period.
- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction.
- Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction.
- All unforeseen Authorities Having Jurisdiction (AHJ) requirements & fees and third-party inspection, if not included in scope of work.
- All additional seismic and or structural support, engineering, and upgrades to systems or components outside of the scope of work outlined above.
- Costs for schedule delay for contract execution. After 90 days, Customer will be responsible for additional costs incurred by ESCO.
- All unforeseen conditions.
- All work not explicitly stated in the contract documents.

GENERAL PROJECT CLAIRIFICATIONS

- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction.
- Unforeseeable conditions which impact the ability to proceed with this work shall be address by the customer

SCHEDULE II
ENERGY SERVICES SCHEDULES

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See attached Schedules:

- Schedule II-A: Energy Services Definitions
- Schedule II-B: Performance Assurance Support Services Plan
- Schedule II-C: Performance Guarantee
- Schedule II-D: Measurement & Verification Plan
- Schedule II-E: Customer Responsibilities for Performance Guarantee

**SCHEDULE II(A)
ENERGY SERVICES DEFINITIONS**

The terms listed in this Schedule II(A) shall have the respective meanings assigned to them below. Any other capitalized terms used but not defined in the Energy Services Schedules shall have the respective meanings assigned to them in the Contract.

- 1.1. "Actual Savings" means the total savings realized or stipulated to by Customer during a specified period of time, as determined in accordance with the provisions of Schedules II(C)-II(E).
- 1.2. "Excess Savings" means the amount (if any) by which Actual Savings exceed the Guaranteed Cumulative Savings to date, including any Actual Savings achieved prior to the Savings Guarantee Commencement Date.
- 1.3. "Guaranteed Annual Savings" means the amount of savings guaranteed by ESCO for a given Guarantee Year, as set forth in the Savings Table under Schedule II(C).
- 1.4. "Guaranteed Cumulative Savings" means, with respect to the entire Performance Period or any other specified period, the total amount of savings guaranteed by ESCO for such period, as set forth in the Savings Table under Schedule II(C).
- 1.5. "Guarantee Year" means any twelve (12) month period that begins on the Savings Guarantee Commencement Date or any anniversary thereof and that occurs during the Performance Period.
- 1.6. "Initial Term" has the meaning set forth in Schedule II(B).
- 1.7. "M&V" means measurement and verification.
- 1.8. "M&V Plan" means the Measurement & Verification Plan set forth in Schedule II(D).
- 1.9. "PASS Fee" means the annual dollar amount to be paid by Customer under the PASS Plan.
- 1.10. "PASS Plan" means the Performance Assurance Support Services Plan set forth in Schedule II(B).
- 1.11. "PASS Services" means the services to be provided by ESCO under the PASS Plan.
- 1.12. "Performance Guarantee" has the meaning set forth in Section 1 of the Contract. means ESCO's guarantee to Customer as set forth in Schedule II(C), as supplemented and/or modified by the terms and conditions of the Energy Services Schedules applicable thereto.
- 1.13. "Performance Period" has the meaning set forth in Schedule II(C).
- 1.14. "Renewal Term" has the meaning set forth in Schedule II(B).
- 1.15. "Savings Guarantee Commencement Date" means the first day of the Customer's first utility billing period following ESCO's.
- 1.16. "Savings Reconciliation" has the meaning set forth in Schedule II(C).
- 1.17. "Savings Shortfall" means the difference between the Guaranteed Annual Savings and the Actual Savings for a given Guarantee Year.

**SCHEDULE II(B)
PERFORMANCE ASSURANCE SUPPORT SERVICES PLAN**

1. TERM AND TERMINATION:

The PASS Plan described in this Schedule II(B) will commence on the Savings Guarantee Commencement Date and will continue for an initial term of 2 year(s) (the "Initial Term"). Upon expiration of the Initial Term and upon commencement of each Guarantee Year thereafter, the PASS Plan will automatically renew for additional one-year periods (each, a "Renewal Term") unless Customer terminates the PASS Plan by giving ESCO written Notice of termination at least thirty (30) days prior to the end of the then-current term.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT THE PASS PLAN EXPIRES OR IS CANCELED OR TERMINATED BY CUSTOMER FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN SCHEDULE II(C) OF THE CONTRACT SHALL BE DEEMED TO HAVE BEEN SATISFIED AND FULFILLED AS OF THE EFFECTIVE DATE OF EXPIRATION, CANCELLATION OR TERMINATION OF THE PASS PLAN, AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

2. SERVICE SCOPE:

a. Initial Term (Guarantee Years 1-2):

- i. PASS Services for Guarantee Year 1. (Included in the funding for the original Performance Contract) ESCO shall provide the following PASS Services during Guarantee Year 1:

Remote System Monitoring & Reporting

Schneider Electric will remotely access your energy management system on a monthly basis. During each session, the system will be inspected, and variables will be compared to the contractual agreement. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported, and that report will be delivered to Customer electronically. Schneider Electric will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if remote access is unavailable.

Remote Energy Management, Training & Technical Support

Schneider Electric will provide 72 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated, and it is the expectation of Schneider Electric that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the Schneider Electric representative documents as used for that task. No credit will be given towards future years if all of the 60 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10-hour blocks which will remain available for use until the end of the next project year.

Measurement & Verification with Savings Reporting Portal

Schneider Electric will perform the measurement & verification as outlined in the M&V plan and will update the energy savings and performance portal as data is received. This website contains charts

and graphs showing the energy savings by month and by meter for the project. Customer will be given web access to the Schneider Electric savings website for the contacts specified by Customer. Changes to that contact list can be made at any time. Data can only be updated on this website if utility bills and other necessary information is provided. If bills and other necessary information are not provided, Schneider Electric is not responsible for maintaining updated information in the energy savings and performance portal until the missing data is provided.

On-Site Visits

Schneider Electric will provide On-Site Energy Consulting consisting of 6 site visits per year with each site visit totaling 16 hours including travel time. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit.

- ii. **PASS Services for Guarantee Year 2.** (Included in the funding for the original Performance Contract) ESCO shall provide the following PASS Services during the Guarantee Year 2:

Remote System Monitoring & Reporting

Schneider Electric will remotely access your energy management system on a monthly basis. During each session, the system will be inspected, and variables will be compared to the contractual agreement. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported, and that report will be delivered to Customer electronically. Schneider Electric will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if remote access is unavailable.

Remote Energy Management, Training & Technical Support

Schneider Electric will provide 72 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated, and it is the expectation of Schneider Electric that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the Schneider Electric representative documents as used for that task. No credit will be given towards future years if all of the 60 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10-hour blocks which will remain available for use until the end of the next project year.

Measurement & Verification with Savings Reporting Portal

Schneider Electric will perform the measurement & verification as outlined in the M&V plan and will update the energy savings and performance portal as data is received. This website contains charts and graphs showing the energy savings by month and by meter for the project. Customer will be given web access to the Schneider Electric savings website for the contacts specified by Customer. Changes to that contact list can be made at any time. Data can only be updated on this website if utility bills and other necessary information is provided. If bills and other necessary information are not provided, Schneider Electric is not responsible for maintaining updated information in the energy savings and performance portal until the missing data is provided.

On-Site Visits

Schneider Electric will provide On-Site Energy Consulting consisting of 6 site visits per year with each site visit totaling 16 hours including travel time. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit.

b. **Renewal Terms:**

- i. **PASS Services for Guarantee Year 3.** Unless Customer terminates the PASS Plan pursuant to Section 1 above or selects a change in the PASS Plan pursuant to Section 2(c) below, the first Renewal Term (Guarantee Year 3) shall include the following PASS Services:

Remote System Monitoring & Reporting

Schneider Electric will remotely access your energy management system on a monthly basis. During each session, the system will be inspected, and variables will be compared to the contractual agreement. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported, and that report will be delivered to Customer electronically. Schneider Electric will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if remote access is unavailable.

Remote Energy Management, Training & Technical Support

Schneider Electric will provide 72 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated, and it is the expectation of Schneider Electric that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the Schneider Electric representative documents as used for that task. No credit will be given towards future years if all of the 60 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10-hour blocks which will remain available for use until the end of the next project year.

Measurement & Verification with Savings Reporting Portal

Schneider Electric will perform the measurement & verification as outlined in the M&V plan and will update the energy savings and performance portal as data is received. This website contains charts and graphs showing the energy savings by month and by meter for the project. Customer will be given web access to the Schneider Electric savings website for the contacts specified by Customer. Changes to that contact list can be made at any time. Data can only be updated on this website if utility bills and other necessary information is provided. If bills and other necessary information are not provided, Schneider Electric is not responsible for maintaining updated information in the energy savings and performance portal until the missing data is provided.

On-Site Visits

Schneider Electric will provide On-Site Energy Consulting consisting of 6 site visits per year with each site visit totaling 16 hours including travel time. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Customer is

responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit.

- ii. **PASS Services for Later Guarantee Years:** Unless Customer terminates the PASS Plan pursuant to Section 1 above or selects a change in the PASS Plan pursuant to Section 2(c) below, each Renewal Term shall include the same PASS Services included with the PASS Plan in the immediately prior Renewal Term.
- c. **Change in PASS Plan for Renewal Term.** Approximately 90 days prior to the end of the then-current Renewal Term, ESCO and Customer will discuss any recommended and/or requested changes in the PASS Services for the upcoming Renewal Term. Any agreed changes to the PASS Plan will be documented in writing and signed by both parties at least thirty days prior to the end of the then-current term, and such changes shall take effect upon commencement of the upcoming Renewal Term.

3. PASS FEES AND PAYMENT:

- a. **PASS Fee for Initial Term.** The PASS Fee for the Initial Term is included in the Project Price.
- b. **PASS Fees for Renewal Terms.** Unless Customer terminates the PASS Plan pursuant to Section 1 above or selects a change in the PASS Plan pursuant to Section 2(c) above, the PASS Fee for the first Renewal Term (Guarantee Year 3) shall be \$56,364.00, and such PASS Fee shall be adjusted upwards for each Renewal Term thereafter in accordance with the increase in Consumer Price Index ("CPI").
- c. **Payment.** After the Initial Term, the PASS Fee for each Renewal Term shall be paid within thirty (30) days of the commencement of such Renewal Term. If ESCO has not received payment of all undisputed amounts within thirty (30) days of the applicable invoice date, then a late penalty equal to one percent (1%) or the late penalty imposed by applicable law will be applied to the overdue amounts each month until paid.

SCHEDULE II(C) PERFORMANCE GUARANTEE

Subject to the terms and conditions of this Schedule II(C) and the other Energy Services Schedules, ESCO hereby provides the Performance Guarantee described below.

1. TERM AND TERMINATION:

The Performance Guarantee shall commence on the Savings Guarantee Commencement Date and shall continue in effect for a period of 20 years thereafter, unless sooner terminated in accordance with the Contract Documents (the "Performance Period").

NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT THE CONTRACT OR THE PASS PLAN EXPIRES OR IS CANCELED OR TERMINATED FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN THIS SCHEDULE II(C) SHALL BE DEEMED TO HAVE BEEN SATISFIED AND FULFILLED AS OF THE EFFECTIVE DATE OF SUCH EXPIRATION, CANCELLATION OR TERMINATION, AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

2. SAVINGS RECONCILIATION:

Customer shall send ESCO all utility and energy data in accordance with the requirements of Schedule II(E). Within sixty (60) days of receipt of such information for the previous Guarantee Year, ESCO will determine the Actual Savings for such Guarantee Year in accordance with the M&V Plan set forth in Schedule II(D) (such determination, the "Savings Reconciliation").

If the Actual Savings for a Guarantee Year are less than the Guaranteed Annual Savings for such Guarantee Year, ESCO will pay Customer the Savings Shortfall, less any Excess Savings, within forty-five (45) days of completing that year's Savings Reconciliation.

Except as set forth in this Performance Guarantee, ESCO makes no express or implied representations, warranties, guarantees or covenants concerning the potential energy efficiency or cost savings benefits of the Work, and payment by ESCO for any Savings Shortfall(s) in accordance with this Performance Guarantee shall be Customer's sole and exclusive remedy for any alleged energy efficiency or cost savings deficiencies.

3. GUARANTEE:

Year	Phase 4			Phase 5			Annual Guaranteed Savings	Cumulative Guaranteed Savings
	Measured Savings	Non-Measured Savings	O&M Savings	Measured Savings	Non-Measured Savings	O&M Savings		
0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1	\$164,299	\$169,476	\$115,186				\$448,961	\$448,961
2	\$169,228	\$174,560	\$118,642				\$462,430	\$911,391
3	\$174,305	\$179,797	\$122,201				\$476,303	\$1,387,694
4	\$179,534	\$185,191	\$125,867				\$490,592	\$1,878,285
5	\$184,920	\$190,747	\$129,643				\$505,310	\$2,383,595
6	\$190,468	\$196,469	\$133,532	\$1,347	\$17,044	\$19,750	\$1,376,144	\$3,759,739
7	\$196,182	\$202,363	\$137,538	\$1,388	\$17,555	\$20,343	\$1,392,902	\$5,152,641
8	\$202,067	\$208,434	\$141,664	\$1,429	\$18,081	\$20,953	\$1,410,163	\$6,562,805
9	\$208,129	\$214,687	\$145,914	\$1,472	\$18,624	\$21,581	\$1,427,942	\$7,990,747
10	\$214,373	\$221,128	\$150,292	\$1,516	\$19,183	\$22,229	\$1,446,255	\$9,437,002
11	\$220,804	\$227,762	\$154,800	\$1,562	\$19,758	\$22,896	\$1,465,116	\$10,902,118
12	\$227,428	\$234,594	\$159,444	\$1,609	\$20,351	\$23,583	\$1,484,544	\$12,386,661
13	\$234,251	\$241,632	\$164,228	\$1,657	\$20,961	\$24,290	\$1,504,554	\$13,891,215
14	\$241,279	\$248,881	\$169,155	\$1,707	\$21,590	\$25,019	\$1,525,164	\$15,416,380
15	\$248,517	\$256,348	\$174,229	\$1,758	\$22,238	\$25,769	\$1,546,393	\$16,962,773
16	\$255,972	\$264,038	\$179,456	\$1,811	\$22,905	\$26,542	\$1,568,259	\$18,531,032
17	\$263,652	\$271,959	\$184,840	\$1,865	\$23,592	\$27,339	\$1,590,781	\$20,121,813
18	\$271,561	\$280,118	\$190,385	\$1,921	\$24,300	\$28,159	\$1,613,978	\$21,735,791
19	\$279,708	\$288,522	\$196,096	\$1,979	\$25,029	\$29,004	\$1,637,872	\$23,373,663
20	\$288,099	\$297,177	\$201,979	\$2,038	\$25,780	\$29,874	\$1,662,482	\$25,036,145
21				\$0	\$28,652	\$30,770	\$876,957	\$25,913,101
22				\$0	\$29,512	\$31,693	\$878,739	\$26,791,840
23				\$0	\$30,397	\$32,644	\$880,575	\$27,672,416
24				\$0	\$31,309	\$33,623	\$882,467	\$28,554,883
25				\$0	\$32,249	\$34,632	\$884,415	\$29,439,297
Total	\$4,414,776	\$4,553,884	\$3,095,091	\$25,059	\$469,111	\$530,690	\$16,350,687	\$29,439,297

NOTES & CLARIFICATIONS:

- The Performance Guarantee provided by ESCO in the Phase 4 Energy Services Contract (signed November 8, 2019) shall be revised as outlined above.

2. The Phase 4 Guarantee began May 2021. It is anticipated that the Phase 5 scope of work will be completed at the beginning of Phase 4 Guarantee Year 6. However, the Phase 5 Guarantee above may be adjusted by prorating the Guarantee and using the applicable year's escalation in the year of the Phase 5 Substantial Completion to account for the misalignment of Phase 5 with the Phase 4 guarantee term.
3. The Guarantee associated with Phase 4 will end on April 30th, 2041. At that point, the measured savings associated with the Phase 5 ECMs on tracked meters will be converted to Non-Measured at the guaranteed amount and the Phase 4 meters will no longer be tracked. The Phase 5 Guarantee will end 20 years after the Phase 5 Savings Guarantee Commencement Date.

**SCHEDULE II(D)
MEASUREMENT & VERIFICATION PLAN**

PROJECTED ANNUAL SAVINGS

The Performance Guarantee as established in Schedule C shall consist of savings from multiple scopes of work. The projected savings from each scope of work is presented in the table below.

Facility	Annual Projected Savings		
	Consumption	Demand	Units
Airport Other	397,224	540	kWh, kW
Airport Terminal	502,272	684	kWh, kW
Armory Electric	1,121	0	kWh, kW
APD Courts Electric	66,853	0	kWh, kW
City Hall Electric	401,396	549	kWh, kW
City Hall Gas	17,690	0	CCF
City Link Electric	46,226	56	kWh, kW
City Link Gas	1,833	0	CCF
Civic Center Electric	577,971	475	kWh, kW
Civic Center Gas	-1,208	0	CCF
Cobb Rec Electric	44,279	96	kWh, kW
Cobb Rec Gas	1,907	0	CCF
Community Services Electric	32,601	64	kWh, kW
Community Services Gas	123	0	CCF
Environmental Lab Electric	24,501	19	kWh, kW
Environmental Lab Gas	210	0	CCF
Fire Station 1 Electric	18,278	0	kWh, kW
Fire Station 2 Electric	34,339	56	kWh, kW
Fire Station 2 Gas	132	0	CCF
Fire Station 3 Electric	4,517	0	kWh, kW
Fire Station 5 Electric	44,778	85	kWh, kW
Fire Station 5 Gas	209	0	CCF
Fire Station 6 Electric	37,690	89	kWh, kW
Fire Station 6 Gas	98	0	CCF
Fire Station 8 Electric	41,116	66	kWh, kW
Fire Station 8 Gas	116	0	CCF
Fire Training Academy Electric	14,908	52	kWh, kW
Fire Training Academy Gas	113	0	CCF
Grimes WTP Electric	90,456	123	kWh, kW
Grimes WTP Gas	-147	0	CCF
GV Rec Center Electric	42,444	60	kWh, kW
GV Rec Center Gas	-182	0	CCF
Hamby WWTP	94,766	0	kWh, kW
Har WTP	151,892	145	kWh, kW
Health Department Electric	193,586	296	kWh, kW
Health Department Gas	665	0	CCF
Maintenance Electric	146,141	281	kWh, kW
Maintenance Gas	5,540	0	CCF
NE WTP	119,397	89	kWh, kW
Park Lighting	203,106	8,765	kWh, kW
Police Academy Electric	2,793	0	kWh, kW
Rose Park Electric	311,922	450	kWh, kW
Rose Park Gas	2,376	0	CCF
Safety City Electric	713	0	kWh, kW
Sears Rec Electric	51,871	130	kWh, kW
Sears Rec Gas	1,642	0	CCF
T&P Culinary Electric	22,188	18	kWh, kW
T&P Culinary Gas	2,684	0	CCF
Winn Dixie Storage Electric	10,265	0	kWh, kW
Zoo Electric	86,527	80	kWh, kW
Zoo Gas	1,703	0	CCF

The projected savings in the table above are provided for reference only and are not intended to construe

a savings guarantee by meter, facility, or energy unit. The savings guarantee is fully defined in Schedule C.

ENERGY, WATER, AND OPERATIONS & MAINTENANCE (O&M) RATE DATA

The cost of energy in any period will be determined by applying the rates as defined below with an annual escalation of 3% ("Baseline Energy Rates"), or the actual energy rates during the period, at the discretion of ESCO, to the energy used in a given period for each fuel type. The measured savings for Phase 5 will use the rate and escalation applied to Phase 4 meters at the time of Phase 5 Substantial Completion and both phases will continue with the same rates and escalation.

Utility Company:	Atmos			
Rate Schedule:	C020			
Component	Charge	Unit	Description	
Customer Charge	\$41.92	per billing period	Applies each billing period	
Consumption Charge	\$0.67426	per CCF	Applies to all CCF	
Rider Tax/ MGRT	\$0.02037	per \$	Applies to all of the above \$ charges	

Utility Company:	Reliant/ AEP			
Rate Schedule:	> 10 kW			
Component	Charge	Unit	Description	
Fixed Charges	\$24.39	per billing period	Applies each billing period	
Consumption Charges	\$0.041064	per kWh	Applies to all kWh	
Billed Demand Charges	\$3.889589	per billed kW	Applies to all billed kW	
Metered Demand Charges	\$3.30182	per metered kW	Applies to all metered kW	
Gross Rec Tax Reim & PUC Assessment Charges	\$0.022117	per \$	Applies to all of the above \$ charges	
Determination of Billed kW:	Billed kW is the maximum of the current month's metered kW and 80% of the maximum metered kW from the past 11 months.			

COMMON ECM ASSUMPTIONS

WEATHER DATA SOURCE

Data for weather compensation adjustments will be actual climate data obtained from the National Weather Service Station at Abilene Regional Airport (ABI). In the event the specified weather station is de-activated, weather data will be collected from the nearest weather station with suitable observations. If the data source becomes unavailable or a superior source is identified, ESCO may select an alternative data source with Customer's approval.

ANNUAL CALENDAR OF EVENTS

Provided below is a table summarizing the annual calendar of events that will be used as a basis in calculations, unless otherwise specified. In the event that there are any changes or deviations to this annual calendar, an appropriate adjustment will be made in accordance with the "Adjustment Schedule" set forth in Schedule E.

Date(s)	Event
New Year	1-Jan
MLK Jr Day	19-Jan
Good Friday	14-Apr
Memorial Day	25-May
Independence Day	4-Jul

Date(s)	Event
Labor Day	7-Sep
Veteran's Day	11-Nov
Thanksgiving	26-Nov
Christmas	25-Dec

BUILDING OCCUPANCY SCHEDULES

Provided below is a table summarizing the building occupancy schedules used within the calculations, unless otherwise specified. In the event that there are any changes or deviations to this occupancy

schedule, an appropriate adjustment will be made in accordance with the Adjustment Schedule set forth in Schedule E.

Facility	Day Type	Daily Schedule
Airport	All Days	24/7
APD Courts	All Days	24/7
Citylink	Weekdays	6am-8pm
Citylink	Weekends/Holidays	Unoccupied
Cobb Rec	Mon, Tues, Thurs	7am-11pm
Cobb Rec	Weds, Fri	7am-8pm
Cobb Rec	Weekends/Holidays	Unoccupied
Community Services	Weekdays	7am-6pm
Community Services	Weekends/Holidays	Unoccupied
Environmental Lab	All Days	4am-10pm
Fire Stations 1,2,3, 5, 6, & 8	All Days	24/7
Fire Training Academy	All Days	7am-6pm
Grimes WTP	All Days	2am-10pm
GV Rec	Mon, Tues, Thurs	9am-10pm
GV Rec	Weds, Fri	9am-8pm
GV Rec	Weekends/Holidays	Unoccupied
Hamby WTP	All Days	4am-10pm
Hargesheimer WTP	All Days	2am-10pm
Health Department	Weekdays	6am-6pm
Health Department	Weekends/Holidays	Unoccupied
Maintenance	Weekdays	7am-8pm
Maintenance	Weekends/Holidays	Unoccupied
Rose Park, Rec, Senior Center	Weekdays	7am-10pm
Rose Park, Rec, Senior Center	Weekends/Holidays	Unoccupied
Sears Rec	Mon, Tues, Thurs	8am-10pm
Sears Rec	Weds, Fri	8am-7pm
Sears Rec	Weekends/Holidays	Unoccupied
Zoo	All Days	7am-7pm
Civic Center	Mon-Sat	7am-10pm
Civic Center	Sunday	7am-8pm
City Hall	Weekdays	7am-6pm
City Hall	Weekends/Holidays	Unoccupied
T&P Culinary School	Tues-Sat	9am-7pm
T&P Culinary School	Sunday/Holidays	Unoccupied
NE WTP	Weekdays	7am-6pm
NE WTP	Weekends/Holidays	Unoccupied
NE WTP Control Room	All Days	24/7

STANDARDS OF SERVICE AND COMFORT

Provided below is a table summarizing the temperature setpoints used within the calculations, unless otherwise specified. Customer agrees to operate the conditioned spaces in the facilities within the temperature ranges scheduled in the table below. In the event that there are any changes or deviations to these standards of service and comfort, an appropriate adjustment will be made in accordance with the Adjustment Schedule set forth in Schedule E.

	Heating	Cooling
Occupied	68°F	74°F
Unoccupied	55°F	85°F

OPTION A – LIGHTING EFFICIENCY AND CONTROLS

A. Overview of M&V Plan, and Savings Calculation

Savings in this section are determined by using an “Option A: Retrofit Isolation – Key Parameter Measurement” approach as described in the International Performance Measurement & Verification Protocol (IPMVP Volume I, EVO 10000-1:2012). The remainder of this section describes the energy savings calculations, key parameter measurements that will be conducted, parameters that will be estimated and those values, and how cost savings will be calculated. The energy and cost savings that are determined using this approach will be the annual savings values used for each year of the Performance Period.

B. Energy Savings Calculations

Provided within this section is an explanation of the calculations that will be used to perform energy savings calculations for this verification method.

Equations and Analysis of Energy Savings

Savings are calculated as the difference in energy usage from the baseline conditions, and the Performance Period conditions.

For energy demand, the demand savings will be determined for each fixture and summed for all fixtures that will be retrofitted using the following formula:

Equation 1 – Energy Demand Savings

$$D_{save} = \sum_{i=1}^n [(E_{pre} \times F - E_{post} \times F) \times M]_i$$

Where,

D_{save} = Demand savings

n = Number of fixtures

E_{pre} = Power usage of the baseline lighting conditions

E_{post} = Power usage of the Performance Period lighting conditions

F = Demand diversity factor

M = Equivalent months of annual demand savings =12

For energy consumption, the energy savings will be determined for each fixture and summed for all fixtures that will be retrofitted using the following formula:

Equation 2 – Energy Consumption Savings

$$E_{save} = \sum_{i=1}^n [E_{pre} \times H - E_{post} \times H]_i$$

Where,

E_{save} = Energy savings

H = Baseline burn hours

The energy usage of both the baseline and Performance Period lighting conditions are calculated utilizing the same equations. The measured parameters collected during the pre-implementation period will be used to compute the baseline fixture power use. The measured parameters collected during the post-implementation period will be used to compute the Performance Period fixture power use. The equations for a single fixture for both the baseline and Performance Period are shown below using the baseline

calculations as an example.

Equation 3 – Total Fixture Power Use

$$E_{Pre} = E_{Fixt, Pre}$$

Where,

$E_{Fixt, Pre}$ = Pre-implementation direct power usage of light fixture

Equation 4 – Fixture Lighting Power Use

$$E_{Fixt, Pre} = P_{pre} \times Q$$

Where,

P_{pre} = Pre-implementation power draw of light fixture

Q = Quantity of associated light fixture

C. Key Parameter Measurement Strategy

This section outlines the measurements that will be conducted to determine the measured values in the equations provided above in Paragraph B. For this lighting project, the key parameters that will be measured are the power consumption of each fixture type and the burn hours for each occupancy type. Measurement and documentation strategies for each project phase are outlined below.

Pre-Implementation Measurements and Documentation

Power measurements will be taken on a sample set of baseline fixture types to determine the average power use for that fixture type. The minimum sample sizes and precision of results are different depending on the number of fixtures included in the project. The most common fixtures will have a high degree of certainty in the results, while the least common fixtures will have greater uncertainty in order to ensure measurement costs are commensurate with performance risk. Three different classes of measurement requirements are included:

1. Fixture types with less than 20 total fixtures will not be measured. The power shown in the table below will be used in all calculations.
2. Fixture types with 20 – 100 total fixtures will have at least 4 measurements taken. Measurements will continue to be taken until the 90% confidence interval for the true population mean spans no more than 10% above and below the mean of the sample.
3. Fixture types with more than 100 total fixtures will have at least 10 measurements taken. Measurements will continue to be taken until the 95% confidence interval for the true population mean spans no more than 5% above and below the mean of the sample.

The mean of a sample set will be treated as the power consumption for that fixture type for all savings calculations. The table below lists each fixture type to be measured, the estimated power of that fixture type, the total quantity of that fixture type, and the minimum amount to be measured prior to removing the fixtures to implement the retrofit. As stated above, more measurements may be needed if the sampled fixtures have too much variance.

Fixture Code	Estimated Power (W)	Total Fixtures	Minimum Sample
MH1500/1	1500	1380	10
MH400/1	400	64	4
MH175/1	175	5	0
MH250/1	250	15	0

Post-Implementation Measurements and Documentation

Power measurements will be taken on a sample set of Performance Period fixture types to determine the average power use for that fixture type. The minimum sample sizes and precision of results are different depending on the number of fixtures included in the project. The most common fixtures will have a high degree of certainty in the results, while the least common fixtures will have greater uncertainty in order to ensure measurement costs are commensurate with performance risk. Three different classes of measurement requirements are included:

1. Fixture types with less than 20 total fixtures will not be measured. The power shown in the table below will be used in all calculations.
2. Fixture types with 20 – 100 total fixtures will have at least 4 measurements taken. Measurements will continue to be taken until the 90% confidence interval for the true population mean spans no more than 10% above and below the mean of the sample.
3. Fixture types with more than 100 total fixtures will have at least 10 measurements taken. Measurements will continue to be taken until the 95% confidence interval for the true population mean spans no more than 5% above and below the mean of the sample.

The mean of each sample set will be treated as the power consumption for that fixture type for all savings calculations. The preferred locations for measurements for the new retrofit types will be locations where some previous measurement was taken. The number of post-retrofit samples measured is independent from the number of pre-retrofit samples taken. These measurements are taken to determine the average power use of each fixture type, not the reduction of power use in any specific locations. All measurements will be taken using the same equipment and will be calibrated. The table below lists each fixture type to be measured, the estimated power of that fixture type, the total quantity of that fixture type, and the minimum amount to be measured during the post-implementation period.

Fixture Code	Estimated Power (W)	Total Fixtures	Minimum Sample
LED500-FIXT	500	1359	10
LED200-FIXT	200	30	4
LED055-FIXT	55	5	0
LED080-FIXT	80	19	0
LED150-FIXT	150	30	4

Performance Period Measurements and Documentation

No additional measurements will be taken during the Performance Period of this M&V strategy.

D. Parameter Estimates

Of the parameters identified under the equations for energy savings in Section B, several of the parameters are estimates, and will not be measured during any period of the project. Of the variables identified, the parameters that will be estimated for this particular ECM and M&V strategy include: burn hours and demand diversity factors. This information is provided for each grouping of fixtures. Common information that applies to all fixtures groups is included below:

Building/Area	Room Description	Pre Fixture Code	Pre Wattage	Pre Quantity	Post Fixture Code	Post Wattage	Post Quantity	Demand Diversity	Burn Hours
Athletic	ROSE PARK ATHLETIC	MH1500/1	1500	165	LED500-FIXT	500	165	0.9	164
Athletic	LEE COMPLEX	MH1500/1	1500	58	LED500-FIXT	500	57	0.9	164
Athletic	COBB	MH1500/1	1500	30	LED500-FIXT	500	30	0.9	164
Athletic	NELSON	MH1500/1	1500	250	LED500-FIXT	500	245	0.9	164
Athletic	CAL YOUNG	MH1500/1	1500	42	LED500-FIXT	500	42	0.9	164
Athletic	MLK/JANE SESSIONS	MH1500/1	1500	52	LED500-FIXT	500	52	0.9	164
Athletic	LAKE KIRBY	MH1500/1	1500	231	LED500-FIXT	500	226	0.9	164
Athletic	RED BUD	MH1500/1	1500	209	LED500-FIXT	500	204	0.9	164
Athletic	JACKSON	MH1500/1	1500	60	LED500-FIXT	500	60	0.9	164
Athletic	SCARBOROUGH	MH1500/1	1500	105	LED500-FIXT	500	102	0.9	164
Athletic	SEARS	MH1500/1	1500	84	LED500-FIXT	500	82	0.9	164
Athletic	WILL HAIR	MH1500/1	1500	94	LED500-FIXT	500	94	0.9	164
Athletic	Rose Park Tennis	MH400/1	400	30	LED200-FIXT	200	30	0.9	205
Exterior	175w wallpacks	MH175/1	175	5	LED055-FIXT	55	5	0.75	4380
Exterior	250w wallpacks	MH250/1	250	15	LED080-FIXT	80	15	0.75	4380

Exterior	400w wallpacks	MH400/1	400	4	LED080-FIXT	80	4	0.75	4380
Athletic	Rose Park Tennis	MH400/1	400	30	LED150-FIXT	150	30	0.9	205

E. Cost Savings Calculations

Provided below are the methods and equations used to determine the cost savings associated with this particular methodology.

Cost Savings are calculated as the difference between the baseline and Performance Period energy costs using the utility rates as defined in Schedule D, Energy, Water, and O&M Rate Data. The applicable marginal utility rates will be applied to the baseline and Performance Period energy use as determined in Paragraph B. Equation 7 will be used to compute the total cost savings for each Guarantee Year. Savings will escalate annually at 3%.

Equation 7 – Total Cost Savings

$$\$_{save} = \sum_{i=1}^n (\$_{Baseline} - \$_{Performance})_i$$

Where,

- $\$_{save}$ = Guarantee year cost savings
- $\$_{Baseline}$ = Billing period k baseline utility cost for account i
- $\$_{Performance}$ = Billing period k performance period utility cost for account i
- n = Total number of utility types

\$/KW	\$5.22416
\$/KWH	\$0.04040

MEASUREMENT & VERIFICATION DETAILS

OPTION C – WHOLE TERM

A. Overview of M&V Plan, and Savings Calculation

The method of determining energy savings described in this section uses “Option C – Whole Facility (Main Meter Measurement)” as described in the International Measurement and Verification Protocol (IPMVP Volume I, EVO 10000-1:2012). The remainder of this section provides the energy savings calculations, the key parameter measurements that will be conducted, the parameters that will be estimated and those values, and how cost savings will be calculated.

Guaranteed Meters

The following meters will be used to measure actual energy consumption for both the base year and guarantee periods.

Meter Name	Account	Utility Type	Utility Company	Rate	Units
Airport Parking Lights Electric	91734-290	Electric	Reliant/ AEP	> 10 kW	kWh, kW
City Hall Electric	91734-201	Electric	Reliant/ AEP	> 10 kW	kWh, kW
City Hall Gas	3038585664	Gas	Atmos	C020	CCF
Civic Center Electric 1	10204049731428510	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Civic Center Electric 2	10204049779157280	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Health Department Electric	10204049797324568	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Maintenance Electric	10204049729624400	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Rose Park Electric	10204049761087660	Electric	Reliant/ AEP	> 10 kW	kWh, kW

Building Summary

The following table lists the buildings that were served by guarantee meters during the base year period.

Building Name	Area (ft ²)
Airport	48,800
City Hall	60,410
Civic Center	127,000
Health Department	20,800
Maintenance	29,218
Rose Park	40,899

B. Energy Savings Calculations

Provided within this section is an explanation of the calculations that will be used to perform energy savings calculations for this particular ECM.

Overview of Savings Methodology

Energy savings will be measured by comparing the Performance Period's total energy consumption and demand to the total energy consumption and demand for the same area in the base year period by utilizing energy meter data. Base year energy and demand will be adjusted for differences in weather, facility operation and facility modifications to estimate how much energy would have been used in the guarantee period if the energy conservation measures had not been implemented. The energy saved is the difference between the adjusted base year consumption and the Performance Period consumption. The demand saved is the difference between the adjusted base year demand and the Performance Period demand. This process will be followed for each fuel type involved in the guarantee.

Equations and Analysis of Energy Savings

Savings are calculated as the difference in energy usage from the baseline conditions after adjusting for all necessary changes, and the Performance Period conditions. This is shown in Equation 1 below:

Equation 1 – Energy Consumption Savings

$$E_{save} = E_{Baseline} - E_{Performance}$$

Where,

E_{save} = Energy savings

$E_{Baseline}$ = Adjusted energy usage of facility equipment pre-implementation

$E_{Performance}$ = Energy usage of facility equipment post-implementation

The baseline is that set of parameters that describes both the energy consumed in the base year and the conditions that caused that consumption to occur. This set of parameters includes utility consumption, facility use information, weather data and other information as may be necessary to describe the base year conditions. In addition, the baseline includes certain mathematical values, calculated by a model, that are used to correlate the base year energy consumption with the factors that caused that consumption and is defined by Equation 2 below:

Equation 2 – Baseline Energy Use

$$E_{Baseline} = \sum_{i=1}^n C_D \times T_i + C_H \times HDD_i + C_C \times CDD_i + C_O \times OCC_i + CO_i + CM_i$$

Where,

n = Number of billing periods in year.

$E_{Baseline}$ = Adjusted baseline period consumption

C_D = A constant representing units of consumption per billing period day

T_i = Number of days in billing period

C_H = A constant representing units of consumption per heating degree day

HDD_i = Heating degree days in the current billing period

C_C = A constant representing units of consumption per cooling degree day

CDD_i = Cooling degree days in the current billing period

C_O = A constant representing units of consumption per occupied day

OCC_i = Occupied days in the current billing period

CO_i = Offset for the current billing period

CM_i = Other adjustments for the current billing period

Customer agrees to accept modifications to this baseline that are necessary to account for changes in the facilities and their use which may have occurred prior to the execution of this agreement but come to the attention of ESCO after the execution of this agreement. Typical adjustments are provided in detail in Schedule E.

Demand savings are computed similarly to the consumption savings, as shown by Equation 3 below:

Equation 3 – Peak Demand Savings

$$D_{save} = D_{Baseline} - D_{Performance}$$

Where,

D_{save} = Demand savings

$D_{Baseline}$ = Adjusted energy demand of facility equipment pre-implementation

$D_{Performance}$ = Energy demand of facility equipment post-implementation

Adjusted base year demand is calculated as demonstrated in Equation 4 below:

Equation 4 – Baseline Peak Demand

$$D_{Baseline} = \sum_{i=1}^n D_D + D_H \times \frac{HDD_i}{T_i} + D_C \times \frac{CDD_i}{T_i} + DO_i + DM_i$$

Where,

D_D = A constant representing units of demand per billing period

D_H = A constant representing units of demand per heating degree day per day

D_C = A constant representing units of demand per cooling degree day per day

DO_i = Offset for the current billing period

DM_i = Other adjustments for the current billing period

C. Key Parameters Measurement Strategy

Measurement and documentation strategies for each project phase are outline below.

Pre-Implementation Measurements and Documentation

Customer will provide ESCO with monthly utility bills and all delivery invoices for the accounts included in Paragraph A for a minimum of twenty-four (24) months worth of historical utility data that is to represent a complete span of two years worth of energy usage. Customer will also provide ESCO with monthly utility bills and all delivery invoices for the accounts included in Paragraph A from the end of that twenty-four (24) month data set through the Savings Guarantee Commencement Date within the timelines specified in Schedule E.

ESCO will collect daily high and low temperature data from the weather station defined in Schedule D, Common ECM Assumptions.

Post-Implementation Measurements and Documentation

No short term verification is performed using this method. All post-implementation measurements are conducting during the Performance Period.

Performance Period Measurements and Documentation

Throughout the Performance Period, Customer will provide ESCO with the monthly utility bills and all delivery invoices for the accounts included in Paragraph A within the timelines specified in Schedule E.

ESCO will collect daily high and low temperature data from the weather station defined in Schedule D, Common ECM Assumptions.

D. Parameter Estimates

The parameters defined in the equations outlined in Paragraph B that are estimated are determined through engineering analysis of at least twelve (12) months worth of the pre-implementation measured utility data. This is done to establish the relationship between the weather, billing period length, any other independent factors, and the consumption and demand associated with a particular account. The end result of this analysis is the set of coefficients used in the equations defined in Paragraph B to fully define the baseline for each account. The values will be presented to Customer by ESCO before the Savings Guarantee Commencement Date and will be documented and agreed upon by both parties in the Meter Tuning Summary. Below are definitions of each of the estimated parameters included in Paragraph B;

- The values of CD and DD represent the base load consumption and demand of the utility usage of a particular meter and are equivalent to the weather independent energy usage and demand.
- The values of CH and DH represent the heating consumption and demand of the utility usage of a particular meter and are equivalent to the weather dependent energy usage and demand. They are associated with a consumption and demand heating balance point specific to that account.
- The values of CC and DC represent the cooling consumption and demand of the utility usage of a particular meter and are equivalent to the weather dependent energy usage and demand. They are associated with a consumption and demand cooling balance point specific to that account.
- The billing period values of COi and DOi represent the portion of the energy consumption and demand that cannot be accounted for with the weather independent and weather dependent consumption.

Each of these parameters will be determined based on the relationship of the baseline period energy and demand and the independent factors. During the Performance Period they will be used to estimate the energy use and demand that would have occurred if the project had not been performed. To accomplish this, COi and DOi will be pro-rated to the Performance Period billing periods for each account.

The terms CMi and DMi are included in the equations in Paragraph B to account for changes in the Performance Period energy use and demand from the baseline Period energy use and demand on the accounts in Paragraph A for any causes unrelated to the project as defined in Schedule E. The procedures for developing these estimates vary with the specific causes for the adjustments. The requirements for determining these values and any measurements necessary to support these estimates are defined in Schedule E.

E. Cost Savings Calculations

Provided below are the methods and equations used to determine the cost savings associated with this particular methodology.

Cost Savings are calculated as the difference between the baseline and Performance Period energy costs using the utility rates, escalated 3% annually, as defined in Schedule D, Energy, Water, and O&M Rate Data. The applicable utility rates will be applied to the baseline and Performance Period energy use for the accounts in Paragraph A. Equation 5 will be used to compute the total cost savings for each Guarantee Year.

Equation 5 – Total Cost Savings

$$\$_{save} = \sum_{i=1}^n \left[\sum_{k=1}^q (\$_{Baseline} - \$_{Performance})_k \right]_i$$

Where,

$\$_{save}$ = Guarantee year cost savings

$\$_{Baseline}$ = Billing period k baseline utility cost for account i

$\$_{Performance}$ = Billing period k performance period utility cost for account i

n = Total number of accounts

q = Total number of billing periods for account i

NON-MEASURED SAVINGS

A. Overview of M&V Plan, and Savings Calculation

The Actual Savings associated with this methodology will be agreed upon as outlined herein and will not be verified by measurements after implementation has occurred. Customer and ESCO agree to accept the annual savings values included in Section B with no additional verification. In the event that verification steps are performed by Customer or ESCO, the annual savings values included in Section B will still be the reported savings and values used for reconciling the guarantee in Schedule C. Section B details the agreed upon savings by measure and by category.

B. Annual Non-Measured Savings

Utility Cost Savings

Once the construction of each of the measures below has reached Substantial Completion, the annual savings in the table below will be prorated monthly for each measure until the Savings Guarantee Commencement Date. The annual savings in the table below for each measure will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date with an annual escalation of 3%.

Utility Cost Savings Measure	Cost Savings
Phase 4	
Airport Other LED Lighting	\$9,876
Airport Other BERT	\$106
Airport Terminal LED Lighting	\$15,198
Airport Terminal Mechanical	\$2,787
Airport Terminal BAS	\$7,710
City Link LED Lighting	\$1,279
City Link BAS	\$1,860
City Link BERT	\$265
Civic Center LED Lighting	-\$706
Civic Center Mechanical	-\$351
Civic Center BAS	\$499
Civic Center BERT	\$1
Cobb Rec LED Lighting	\$1,488
Cobb Rec BAS	\$2,021
Cobb Rec BERT	\$69
Comm. Services LED Lighting	\$1,475
Comm. Services BAS	\$438
Comm. Services BERT	\$28
Env. Lab LED Lighting	\$597
Env. Lab BAS	\$657
Env. Lab BERT	\$23
FS2 LED Lighting	\$1,417
FS2 BAS	\$361
FS5 LED Lighting	\$1,999
FS5 BAS	\$607
FS6 LED Lighting	\$1,391
FS6 BAS	\$390
FS8 LED Lighting	\$1,858
FS8 BAS	\$392

Grimes WTP LED Lighting	\$3,485
Grimes WTP BAS	\$627
GV Rec Center BAS	-\$157
GV Rec Center Mechanical	\$787
GV Rec Center LED Lighting	\$1,654
GV Rec Center BERT	\$83
Hamby WWTP LED Lighting	\$1,838
Hamby WWTP BAS	\$2,002
Har WTP LED Lighting	\$6,132
Har WTP BAS	\$552
Health Dept. LED Lighting	-\$460
Health Dept. BAS	\$890
Maintenance LED Lighting	\$2,826
Maintenance BAS	\$4,730
Maintenance BERT	\$95
NE WTP Mechanical	\$1,208
NE WTP LED Lighting	\$2,294
NE WTP BAS	\$1,295
Rose Park LED Lighting	\$971
Rose Park BAS	\$3,453
Rose Park BERT	\$56
Sears Rec LED Lighting	\$1,840
Sears Rec BERT	\$71
Sears Rec BAS	\$2,136
T&P Culinary LED Lighting	\$684
T&P Culinary BAS	\$2,040
Zoo LED Lighting	\$2,438
City Hall LED Lighting	\$63,484
City Hall Water	\$8,687
Phase 4 Total	\$169,476
Phase 5	
Fire Station 6 HVAC Savings	\$476
Maintenance HVAC Savings	\$189
Fire Station 2 HVAC Savings	\$115
Rose Park Adapt Rec Center HVAC Savings	\$528
Zoo HVAC Savings	\$155
Armory HVAC Savings	\$106
Fire Station 1 HVAC Savings	\$1,733
Fire Station 3 HVAC Savings	\$428
New Police Station HVAC Savings	\$6,337
Police Academy HVAC Savings	\$265
Safety City HVAC Savings	\$68
Winn Dixie Storage HVAC Savings	\$973
Building Envelope Upgrades	\$5,817
Phase 5 Total	\$17,044

Any savings accrued prior to the Savings Guarantee Commencement Date will be considered Excess Savings.

Operation and Maintenance Savings

The annual savings in the table below for each measure will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date with an annual escalation rate of 3%.

Operation and Maintenance Savings Measure	Cost Savings
Phase 4	
Lighting	\$101,306
Mechanical	\$13,164
Water	\$716
Phase 4 Total	\$115,186
Phase 5	
HVAC O&M Savings	\$19,750

Avoided Capital Cost Savings

The annual savings in the table below are due to replacement of equipment at the end of its' useful life and will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date.

Avoided Capital Savings Measure	Cost Savings
Phase 5 Capital Cost Avoidance Savings	\$817,534

SCHEDULE II(E) CUSTOMER RESPONSIBILITIES FOR PERFORMANCE GUARANTEE

GENERAL RESPONSIBILITIES

Customer acknowledges and agrees that proper maintenance is essential to any energy conservation program. Therefore, Customer agrees to undertake the following responsibilities:

Customer agrees to: (1) provide, or cause its suppliers to provide, periodic utility invoices to ESCO within ten (10) days of receipt, (2) execute all Customer responsibilities as outlined herein, and (3) provide to ESCO reasonable access to all Customer facilities and information necessary for ESCO to perform its responsibilities. Access will include, but is not limited to, the following items:

- All buildings listed within this Contract
- All buildings served by the meters listed within this Contract
- All mechanical equipment rooms in the buildings listed within this Contract
- Remote connection to all temperature control and energy management systems which control part or all of any of the buildings listed within this Contract. Remote connection will use a cyber secure access point approved by Schneider Electric.
- Personnel with responsibility for operating and/or managing any of the buildings listed within this Contract
- Monthly utility invoices and billing history for all of the meters listed within this Contract
- Construction documents, equipment inventories, and other documents that may be helpful in evaluating a cause for adjustment as listed within this Contract
- Any data from meters or sub-meters relevant to M&V associated with this Contract

Customer will solely be responsible for providing communications and/or network interface to all buildings for operation and PASS support.

Customer will perform daily facilities monitoring and promptly review any alarm summaries.

Customer will designate a "Primary Operator" of the system. The Primary Operator is defined as the individual who will be trained by ESCO during the installation period and will be responsible for daily operation and maintenance of the equipment and systems necessary to achieve the Performance Guarantee. Customer will notify ESCO within five (5) days after the departure or termination of the Primary Operator. Within ten (10) days of the departure of the current Primary Operator, Customer will designate a new Primary Operator and shall provide ESCO access to train the new Primary Operator. ESCO shall train a new Primary Operator at the sole expense of Customer on a time and materials basis.

MAINTENANCE RESPONSIBILITIES

Customer agrees to use its best efforts to maintain the ECMs in original operating condition ("Original Operating Condition") with allowance for normal wear and tear. If an ECM is operating at any state other than the Original Operating Condition as defined above ("Failed ECM"), Customer agrees to (1) repair or replace the ECM immediately, and (2) contact a PASS representative at 1-800-274-5551, within 24 hours of such event. ESCO reserves the right to adjust the amount of Performance Guarantee associated with the Failed ECM for the duration of the failure in the Annual Savings Guarantee.

Customer will agree to maintain all parts of the Project site(s) where the ECM(s) reside including but not limited to components, equipment, machinery, energy management systems, structure of the facility(s), computer hardware, network and IT systems, either existing or newly installed. Customer must comply with the general maintenance requirements specified by equipment manufacturers and the maintenance tasking guidelines included in the operating and maintenance manual. Customer will be responsible to provide to ESCO documentation that proper maintenance has been performed at ESCO'S request within fifteen (15) days of written request.

Notwithstanding anything to the contrary contained herein, all ECM(s) must be maintained in proper working condition in all cases where the performance of said ECM(s) affects or could affect the ability to achieve, measure or verify the Annual Savings Guarantee. Should Customer refuse to perform the required maintenance as required in this Contract, ESCO and Customer shall agree to one of the following means of recourse: (1) ESCO will adjust the Performance Guarantee associated with that ECM pursuant to Schedule II(E), or (2) ESCO may terminate this Performance Guarantee and any and all obligations and liabilities of ESCO associated therewith upon fifteen (15) days written notice.

ADJUSTMENT RESPONSIBILITIES

In addition to the responsibilities of Customer set forth in this Schedule, Customer also agrees to undertake the responsibilities set forth in the Adjustment Schedule Is necessary.

ADJUSTMENT SCHEDULE

Below is the procedure for accounting for non-routine adjustments for any of the utility meters included in Schedule II(D). A non-routine adjustment is required for any change outside of those explicitly defined in Schedule II(D) that will impact the energy use or the verified savings under this Contract. It is Customer's responsibility to notify ESCO of any changes that may necessitate a non-routine baseline adjustment and to perform the required non-routine baseline adjustment steps identified below at Customer's sole expense.

CUSTOMER REQUIRED NON-ROUTINE BASELINE ADJUSTMENT RESPONSIBILITIES

If the required non-routine baseline adjustment steps are not performed, and the change is greater than the threshold limit, savings will be determined with the Assumed Savings Procedure Adjustment, as defined below. Actual Savings will be determined using the Assumed Savings Procedure Adjustment for all billing periods until the required non-routine baseline adjustment steps have been completed, or until the change which necessitated the non-routine baseline adjustment is no longer in place. If Customer fails to notify ESCO of a change necessitating a non-routine baseline adjustment or fails to provide details of the change, savings will be determined with the Assumed Savings Procedure Adjustment.

If the required non-routine baseline adjustment steps are not performed, and the change is less than the threshold limit, savings will be determined with the "Estimated Savings Procedure Adjustment". Actual Savings will be determined using the Estimated Savings Procedure Adjustment for all billing periods until the required non-routine baseline adjustment steps have been completed, or until the change which necessitated the non-routine baseline adjustment is no longer in place.

1. Addition of New Building or New Energy User

- All utility services to the building or energy user which affect the energy use of any meter included in Schedule II(D) must be sub-metered at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

2. Addition to Existing Building

- All utility services to the addition which affect the energy use of any meter included in Schedule II(D) must be sub-metered at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

3. Renovation / Modification to Existing Building or Utility Service

- All utility services for the affected portion of the building must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

- 4. Demolition / Abandonment of Existing Building or Utility Service**
 - All utility services for the affected buildings must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
 - Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².
- 5. Re-commissioning of Out of Service Building**
 - All utility services for the affected buildings must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
 - Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².
- 6. Change in Occupancy**
 - Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the "Assumed Savings Procedure" listed below will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
 - Threshold limit: 5% of the total occupant count in the base year.
- 7. Change in Schedule**
 - Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
 - Threshold limit: 5% of the total scheduled hours for the meter as defined in Schedule II(D).
- 8. Change in Set-points**
 - Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
 - Threshold limit: An average of 0.5° from the set-points defined in Schedule II(D).
- 9. Change in Operational Calendar**
 - Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
 - Threshold limit: 5% of the total scheduled hours for the meter as defined in Schedule II(D).
- 10. Change in Plug Load**
 - Customer must perform, or cause to be performed, at Customer's expense, a simulation of energy impact to account for the change. If the computed impact is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
 - Threshold limit: 1% of the base year peak 15-minute average kW for the affected meter.
- 11. Customer Initiated ECMs**
 - Customer must develop and execute an M&V plan at Customer's expense, which has been reviewed and approved by ESCO, to evaluate the impact of the change. If the impact determined by the M&V plan is greater than 20% of the projected savings on the meter, the Assumed Savings

Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.

- Threshold limit: 2% of the projected savings on any affected meter.

12. Missing Bills

- Customer is required to provide ESCO with utility bills for meters defined in Schedule II(D) within ten (10) days of receipt of each bill or provide ESCO direct access to retrieve the utility bills electronically. If utility bills are not received by ESCO within sixty (60) days of the end of the service date, the Assumed Savings Procedure will be used.

13. Failure to Operate ECMs According to Operational and Design Intent

- Customer agrees to operate the ECMs according to the Operational and Design Intent of the ECMs. Failure to do so will necessitate a baseline adjustment using the Assumed Savings Procedure.

14. Failure to Perform Project Specific Customer Responsibilities

- Customer agrees to perform the project specific Customer responsibilities as defined in Schedule II(E). Failure to do so will necessitate a baseline adjustment using the Assumed Savings Procedure.

15. Other Causes

- Any change that impacts the energy use on the meters defined in Schedule II(D) that does not fit into any of the other categories may still require a non-routine baseline adjustment. Customer will notify ESCO before any change is made so that an agreeable adjustment strategy can be determined. If no agreeable adjustment method can be reached, the Assumed Savings Procedure will be used.

ASSUMED SAVINGS PROCEDURE ADJUSTMENT

- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are greater than or equal to the projected savings for the affected meter(s), the Actual Savings from the prior Guarantee Year will be reported while savings are assumed for the affected meter(s).
- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are less than the projected savings for the affected meter(s) and there have been less than twenty-four (24) months since the commencement of the Performance Period, Actual Savings will be reported at the projected savings level while savings are assumed for the affected meter(s).
- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are less than the projected savings for the affected meter(s) and there have been twenty-four (24) months or more since the commencement of the Performance Period, Actual Savings will be reported as the average of the achieved savings over the two (2) most recent Guarantee Year plus half (1/2) of the difference between the projected savings and the average of the achieved savings over the two (2) most recent Guarantee Years.
 - If pursuant to the Assumed Savings Procedure, ESCO makes improvements to the Project beyond the original scope as defined in Schedule I., which results in an increase in the Actual Savings, an M&V plan accounting for those improvements will be executed and the resulting savings will be added to the Actual Savings.

ESTIMATED SAVINGS PROCEDURE ADJUSTMENT

- At ESCO'S sole discretion, ESCO will estimate the impact of the change using computerized building simulations, manual calculations, or other generally accepted estimating procedures and may ignore any changes which fall below the threshold limit.

SUPPLEMENT TO AGREEMENT BETWEEN THE CITY OF ABILENE, TEXAS AND
Schnedier Electric Buildings Americas, Inc. ("Company")

- (1) **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.
- (2) **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.
- (3) **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.
- (4) **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 company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company: (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.

Schnedier Electric Buildings Americas, Inc.
(printed name of company)

Matt Lombardo Matt Lombardo
(signature and printed name of signatory)

3/10/2025
(date of signature)

Enter Into a Contract with Schneider Electric Buildings America, Inc. for Phase 5 Improvements



Sustainability, Modernization & Innovation Phase 5 Mapping Workshop

City of Abilene



Life Is On



+

Maximizing a Successful Long-Term Partnership



City of Abilene, Texas

- Abilene, Texas

Facilities:

- 37 upgraded buildings

Results:

- 27.5% reduction in utility usage

Project at a Glance:

- Beginning in 2008, the City of Abilene wanted to improve operations, security, comfort and efficiency,. With the help of Schneider Electric, the City implemented a Phase I project that consisted of \$9 million in facility enhancements.
- This first phase turned into a long-term, four-phase plan that ensures public buildings are ready to meet the needs of the community today and for years to come.
- The upgrades were a crucial step in empowering The City of Abilene to address deferred maintenance as well as provide comfortable and safe facilities for its residents.

Maximizing a Successful Long-Term Partnership



City of Abilene, Texas

- Abilene, Texas

Facilities:

- 37 upgraded buildings

Results:

- 27.5% reduction in utility usage

Solution:

- The most recent phase of the projected reduced energy use and improved the appearance of City facilities and parks, as well as upgrading HVAC systems to improve occupant comfort.
- Other improvements included replacing water valves and fixtures to enhance conservation and adding electric power distribution equipment to provide visibility into reliability metrics. Additionally, the City Hall and the Convention Center received new fire alarms to provide critical occupant safety.
- Phase 4 was funded through a mix of guaranteed savings, general funds and certificates of obligations.
- Phase 5 - The City is proposing to issue Certificates of Obligation to fund the improvements, where property tax will pay the debt service.

Phase 5 Scope of Work-Buildings

Improvements:

- **Mechanical Upgrades** - Improved Operational Capabilities and Occupant Comfort (Eliminates R22) **\$6,957,531**
- **Building Automation System Upgrade** - Provides Efficiency and Control **\$1,262,547**
- **Electrical Upgrades** - Improved Safety and Reliability **\$760,159**
- **Elevator Refurbishment** – Improved Safety & Reduced Maintenance **\$653,645**
- **Building Envelope Improvements** - Building Repairs and Maintenance **\$993,638**

Phase 5 Total Scope of Work \$10,627,520





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to enter into a Contract for Phase 6 with Schneider Electric Buildings America Inc. (ESCO), for Water Department Improvements (Lesli Andrews)

GENERAL INFORMATION

Beginning in 2007, the City of Abilene and Schneider Electric Buildings America Inc.(ESCO), partnered to improve operations, security, comfort and efficiency. Since then, the City has upgraded 37 buildings, reduced utility usage by 27.5% and is projected to reach \$11.9 M in savings over the 20-year partnership. ESCO is proud to partner with such a forward-thinking, proactive City.

Our partnership timeline; Phase 1 - 2007, Phase 2 - 2009, Phase 3 - 2012, Phase 4 - 2019. Performance to-date; \$11.9M in 20-year lifecycle savings, \$500,000+ in savings achieved over the past year, 4,644,701 kWh saved - equating to a 3,285 ton reduction in CO2 emissions.

The City did a Request for Qualifications for the 2024 City of Abilene Energy Savings Performance Contract Services.

The City received a response to RFQ for Energy Savings Performance Contract Services (RFQ#CB-2452) on June 6, 2024. ESCO was the only respondent. ESCO was evaluated and found to meet all qualifications.

The Phase 6 Scope of Work is to provide electrical resiliency solutions at the Northeast Water Treatment Plant and the South Water Treatment Plant and should take approximately 2 to 2 1/2 years due to lead time for generators and North East Water Treatment Plant expansion.

We have moved all Water Department related improvements out of Phase 5 and into Phase 6.

This has resulted in Phase 5 being less than estimated and Phase 6 being higher than estimated compared to what was presented during the City Council Workshop. Together they are still within the estimated cost presented on January 31, 2025.

SPECIAL CONSIDERATIONS

ESCO is an authorized contractor through contract #220104 of The Inter-Local Purchasing System (TIPS) purchasing co-op, and competitive bidding is not required.

FUNDING/FISCAL IMPACT

The City is proposing to issue Certificates of Obligation to fund the improvements, where water & sewer revenues will pay the debt service. By approving this contract, it is obligating the City of Abilene to pay for the work completed. The total cost for Phase 6 is \$15,860,710.

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 25_3_13 Resolution Schneider Electric Phase 6 Improvements
2. City of Abilene Phase 6 Energy and Construction Services Contract
3. Supplement to Agreement - boycott language 2023.docx (2)
4. Presentation City of Abilene Phase 6

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH
SCHNEIDER ELECTRIC BUILDINGS AMERICA INC., (ESCO) FOR PHASE 6
IMPROVEMENTS.**

WHEREAS, in 2007, the City of Abilene and Schneider Electric Buildings America, Inc. (ESCO) partnered to improve operations, security, comfort, and efficiency. ; and

WHEREAS, the City has upgraded 37 buildings, reduced utility usage by 27.5%, and is projected to reach \$11.9M in savings over the 20-year partnership.; and

WHEREAS, the City did a Request for Qualifications for the 2024 City of Abilene Energy Savings Performance Contract Services; and

WHEREAS, ESCO was the only respondent, and

WHEREAS, ESCO was evaluated and found to meet all Qualifications; and

WHEREAS, the contract cost is \$15,860,710; and

WHEREAS, the City seeks to contract with Schneider Electric Buildings America, Inc. (ESCO) for phase 6 improvements; and

WHEREAS, ESCO is an authorized contractor through contract #220104 of The Inter-Local Purchasing System (TIPS) purchasing co-op, and competitive bidding is not required.

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

Part 1: The City Manager is hereby authorized to enter into a contract with Schneider Electric Buildings America, Inc. (ESCO) for phase 6 improvements.

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

ADOPTED this 13th day of March 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

ENERGY AND CONSTRUCTION SERVICES CONTRACT¹

This Energy and Construction Services Contract is entered into as of March 13, 2025 (the “Effective Date”) by and between Schneider Electric Buildings Americas, Inc. (“ESCO”) and The City of Abilene (“Customer”).

ARTICLE 1 – DEFINITIONS

1.1. “Change Order” means a written document executed by both parties for purposes of modifying the Scope of Work, the Project Price, the Project Time, the PASS Services, the PASS Fees, and/or the Performance Guarantee.

1.2. “Contract” means this Energy and Construction Services Contract, together with the following schedules, exhibits, and other documents, each of which is attached hereto and incorporated herein by this reference:

SCHEDULE I: Scope of Work:

SCHEDULE II: Energy Services Schedules:

Schedule II(A): Energy Services Definitions

Schedule II(B): Performance Assurance Support Services Plan

Schedule II(C): Performance Guarantee

Schedule II(D): Measurement & Verification Plan

Schedule II(E): Customer Responsibilities for Performance Guarantee

1.3. “Date of Commencement” means the later of the Effective Date and the date on which ESCO receives payment of the Project Development Costs.

1.4. “Deliverables” means the Products, Software, documents, and services provided under this Contract, together with the information and technologies included therein or therewith.

1.5. “Energy Services Schedules” means Schedules II(A) – II(E) to this Contract.

1.6. “Final Completion” means that Substantial Completion of the Project has been achieved and all Punch List Items have been completed.

1.7. “Notice” means written notice delivered in accordance with Section 11.1.

1.8. “PASS Fee” has the meaning set forth in Schedule II(A).

1.9. “PASS Plan” has the meaning set forth in Schedule II(A).

1.10. “PASS Services” has the meaning set forth in Schedule II(A).

1.11. “Performance Guarantee” has the meaning set forth in Schedule II(A).

1.12. “Project” means the materials, equipment, labor, services and improvements to the Project Site(s) to be provided by ESCO in accordance with and subject to the terms and conditions of this Contract, as set forth in the Scope of Work. For the avoidance of doubt, the Scope of Work shall represent the entirety of the intended and agreed upon scope of the Project.

1.13. “Project Development Costs” means, collectively, (i) all costs and expenses incurred by ESCO in connection with designing, developing, or engineering the Project, along with (ii) costs and expenses incurred by ESCO for procurement of equipment, materials, bonds, and other project

start-up and mobilization expenses.

- 1.14. "Project Site(s)" means the facilities of the Customer on or at which Work is to be performed, as identified in the Scope of Work.
- 1.15. "Scope of Work" means Schedule I and the contents thereof.
- 1.16. "State" means the State of Texas.
- 1.17. "Substantial Completion" (as used with respect to the Project as a whole or any discrete portion(s) of the Work, as appropriate) means the point at which such Work is operational, ready for use by Customer, and fully complete except for minor adjustments and/or corrections ("Punch List Items").
- 1.18. "Substantial Completion Letter" means a letter notifying Customer that Substantial Completion has been achieved with respect to the portion of the Work described therein.
- 1.19. "Warranty Period" means one (1) year from the date set forth in the applicable Substantial Completion Letter, unless a different period is stated in the Scope of Work.
- 1.20. "Work" means the services required to be performed by ESCO pursuant to the Scope of Work, whether completed or partially completed, and all materials, equipment, labor and services required to be provided in order for ESCO to perform such services in accordance with the terms and conditions of the Contract. Work may refer to the whole or parts of the Scope of Work.

ARTICLE 2 – PROJECT PRICE AND PAYMENT

- 2.1. Project Price. The total price of the Work to be performed by ESCO pursuant to this Contract shall be \$15,860,710 (the "Project Price").
- 2.2. Schedule of Values. ESCO will develop a schedule that delineates the items to be completed pursuant to the Scope of Work and apportions the Project Price among such items ("Schedule of Values") and shall endeavor to provide such Schedule of Values to Customer within thirty (30) days of the Effective Date. Within ten (10) business days of receipt, Customer shall review the Schedule of Values and shall advise ESCO if Customer identifies any items requiring correction or clarification.
- 2.3. Payment of Project Development Costs. Within thirty (30) days of the Effective Date, Customer shall make payment to ESCO for the Project Development Costs, as defined above.
- 2.4. Invoicing and Payment. ESCO shall invoice Customer monthly for progress payments based on the completion to date of items delineated on the Schedule of Values. Amounts invoiced must be paid or disputed by written Notice within thirty (30) days of the applicable invoice date. If ESCO has not received payment of all undisputed amounts within thirty (30) days of the applicable invoice date, then a late penalty equal to one percent (1%) or the late penalty imposed by applicable law will be applied to the overdue amounts each month until paid. Final Payment shall be paid in accordance with Section 6.4 (Final Payment).
- 2.5. Payment of PASS Fees. The PASS Fee and payment of the PASS Fee shall be as set forth in Schedule II(B).

- 2.6. Withholding of Payment. Upon providing written Notice of a payment dispute pursuant to Section 2.4, Customer may withhold payment of amounts otherwise due hereunder (i) if ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under this Contract, and (ii) Customer has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and the failure, refusal, or neglect has not yet been cured.
- 2.7. Taxes. ESCO and Customer agree to take all necessary measures to comply with all tax laws and regulations that apply to this Contract. ESCO shall be responsible for and pay when due all taxes for which ESCO is liable by reason of the performance of this Contract. Customer shall be responsible for and pay when due all taxes, if any, for which Customer is liable by reason of the performance of this Contract.
- 2.8. Payment to be Funded with Debt Obligations. ESCO understands, acknowledges and agrees that all amounts to be paid by Customer under this contract for the Project Price are to be funded with the issuance of the Customer's debt obligations and any failure to issue such debt obligations as a result of a failed bond election, a challenged debt issuance, uneconomical issuance conditions or otherwise, shall immediately notify ESCO and terminate this Contract. Where the Customer has given approval to ESCO to commence work and Customer shall have no responsibility to pay any amounts due hereunder. Notwithstanding anything to the contrary contained herein, if the Customer has given written approval to ESCO to commence work prior to termination, the termination shall be considered a termination for convenience and ESCO shall be entitled to payment in accordance with Section 8.6.

ARTICLE 3 – ESCO'S PERFORMANCE OF THE WORK

- 3.1. Standard of Performance. ESCO shall supervise and direct the Work using such degree of care, skill and attention as is reasonably expected of professionals providing similar services within the State under similar circumstances (such circumstances to include, for example, conditions present at the Project Site(s) and any financial or other constraints applicable to the Project). ESCO shall be solely responsible for coordinating and/or performing all portions of the Work and shall have control over the means, methods, techniques, sequences and procedures used in the performance of the Work, unless the Scope of Work gives other specific instructions concerning these matters. All construction documents that are required to be prepared by ESCO in connection with the Work shall be prepared by qualified personnel and shall be in accordance with applicable codes, regulations, and laws. The ESCO shall remain responsible for all Work performed, whether performed by the ESCO or its Subcontractors.
- 3.2. Labor and Materials. Unless otherwise provided in the Scope of Work, ESCO shall provide and pay for all labor, materials, tools, equipment, machinery, and transportation necessary for the proper execution and completion of the Work. In the event a significant delay in acquiring materials or equipment or a significant increase in the price of materials or equipment occurs during the performance of the Contract by no fault of ESCO, the parties shall in good faith negotiate such changes (if any) as the parties deem equitable and appropriate under the circumstances and shall memorialize any agreed changes in a Change Order.
- 3.3. Licenses and Compliance with Law. ESCO currently has or shall timely obtain, and shall maintain, all such licenses, permits, qualifications and approvals as it is legally required to hold for performance of the Work. ESCO shall comply with all applicable laws and regulations bearing ESCO's performance of the Work.
- 3.4. Regular Working Hours. Work will be performed during normal working hours (meaning 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding ESCO holidays) unless the parties specifically agree otherwise in writing. ESCO will use commercially reasonable efforts to minimize disturbances to Customer's operations while performing the Work.

- 3.5. Safety. ESCO shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to, (1) employees performing the Work and other persons who may be affected thereby, (2) the Work and materials and equipment to be incorporated therein, and (3) other property at the Project Site(s) or adjacent thereto.
- 3.6. Clean-Up. ESCO shall keep the Project Site(s) free from accumulation of waste materials and rubbish caused by its performance of the Work. Upon completion of the Work, ESCO shall remove from the Project Site(s) all waste materials and rubbish caused by its performance of the Work, all of ESCO's tools, equipment, machinery, and any surplus materials.
- 3.7. Employees.
- 3.7.1. Responsibility for Employees. ESCO is responsible for the supervision, direction, and control of its employees performing Work on the Project. ESCO shall pay all wages, salaries, and other amounts due its employees in compliance with applicable law.
- 3.7.2. No Unlawful Discrimination. ESCO represents and warrants that it is an equal opportunity employer and agrees that it shall not discriminate in violation of any applicable federal, state, or other law, rule, or regulation, including, but not limited, to discrimination against any employee or applicant for employment on account of such person's race, religion, color, national origin, ancestry, sex, or age.
- 3.8. Subcontractors. A "Subcontractor" is a person or entity that has a written contract with ESCO to perform a portion of the Work at the Project Site(s) (such written contract, a "Subcontract").
- 3.8.1. Use of Subcontractors. ESCO may use one or more Subcontractors to perform portions of the Work. If requested in writing by Customer, ESCO shall furnish in writing to Customer the names of the Subcontractors to whom ESCO plans to award Work.
- 3.8.2. ESCO's Responsibility for Subcontractors. ESCO shall remain ultimately responsible for the performance of its obligations under this Contract and shall be responsible for the acts and omissions of its Subcontractors (and any persons and entities employed by such Subcontractors) in their performance of the Work.
- 3.8.3. Subcontracts. Each Subcontract shall be consistent with the terms and conditions of this Contract and shall require the Subcontractor, to the extent applicable to the scope, quality, character, and manner of the Work to be performed by the Subcontractor, to be bound to ESCO by the terms and conditions of this Contract and to assume all the obligations and responsibilities that ESCO assumes toward Customer thereunder. No Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Contract.
- 3.8.4. Payment of Subcontractors. ESCO shall timely pay each of its Subcontractors in accordance with their respective Subcontracts and in compliance with applicable law.
- 3.9. Unforeseen Conditions. "Unforeseen Conditions" means and includes any subsurface, concealed, latent or other physical conditions, including without limitation the presence of hazardous materials, that differ materially from those conditions contemplated in the Scope of Work or known by ESCO. In the event ESCO encounters Unforeseen Conditions that impact the Project, ESCO shall inform Customer of such conditions promptly and before such conditions are further disturbed. To the extent ESCO incurs additional costs or delays as a result of Unforeseen Conditions, the parties shall execute a Change Order reflecting an equitable adjustment to the Project Price, the Project Time, and/or the Scope of Work, as appropriate.
- 3.10. Hazardous Materials.
- 3.10.1. Exclusion for Hazardous Materials. The Work to be performed by ESCO pursuant to this

Contract, and the compensation to be paid to ESCO hereunder, expressly excludes any Work of any nature associated or connected with the identification, abatement, cleanup, control or removal of environmentally hazardous materials, unless and except to the extent the Scope of Work provides otherwise. As used herein, "hazardous materials" shall be understood to include, but not be limited to, asbestos, lead, polychlorinated biphenyls (PCBs), mold, petroleum products, and any other material or substance known to have adverse health risks. Customer agrees that all duties and obligations in connection with any hazardous materials located at the Project Site(s) or affecting the Work are strictly the responsibility of Customer, unless and except to the extent ESCO expressly assumes such duties and obligations pursuant to the Scope of Work. Customer will provide any hazardous materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing. Customer warrants and represents that, to the best of Customer's knowledge, there are no hazardous materials at the Project Site(s) that will or would reasonably be expected to affect, be affected by, come in contact with, or otherwise impact or interfere with the Work, unless and except to the extent the Scope of Work provides otherwise.

- 3.10.2. Responsibilities Upon Encounter. If, in performing or preparing to perform the Work, ESCO encounters or has reason to suspect the presence of hazardous materials of a different type or in a different amount or location than described in the Scope of Work, ESCO is authorized to immediately cease any and all Work that may be affected thereby, and ESCO will promptly notify Customer of the conditions discovered. Should ESCO stop Work because of the discovery or suspicion of hazardous materials, the time for performance of ESCO's Work or service will be extended to cover the period required for abatement, cleanup, or removal of the hazardous materials. ESCO will not be held responsible for any claims, damages, costs, or expenses of any kind associated with the period during which ESCO has stopped Work as a result of hazardous materials. If appropriate, ESCO will be entitled to an equitable adjustment of the Project Price for any increased costs or other charges incurred by ESCO in connection with the exercise of its rights under this paragraph. Unless and except to the extent ESCO expressly assumes any such responsibilities pursuant to the Scope of Work, Customer will be responsible for taking all necessary steps to correct, abate, clean up, or control hazardous materials in accordance with all applicable statutes and regulations. Customer specifically agrees, to the extent allowed by State law, to indemnify and to hold ESCO, its officers, agents and employees harmless from and against any and all claims, demands, damages, or causes of action in any way arising out of the release of hazardous materials into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act.
- 3.11. Ownership and Use. The Work and the PASS Services may include the sale to Customer of materials, goods, equipment and/or other tangible personal property ("Products"). Except as otherwise set forth in the Scope of Work, any Products that are included in the Work shall be owned by Customer upon Customer's full payment of the invoice covering such Products. The Work and the PASS Services may also involve the licensing of software or software-as-a-service products, subscriptions and/or other digital content ("Software") to Customer. Except as otherwise set forth in the Scope of Work or Energy Services Schedules, ESCO grants Customer a limited, personal and non-exclusive license to use Software that is included in the Work and/or PASS Services, subject to Customer's timely payment of the Project Price and/or PASS Fees, as applicable, and subject to ESCO's and/or its supplier's standard license agreement(s) for such Software, the terms and conditions of which are hereby incorporated by reference. ESCO shall be under no obligation to provide updates or revisions to such Software except to the extent expressly provided in the Scope of Work or Energy Services Schedules. Notwithstanding the foregoing, nothing in this Contract shall be deemed or construed to result in the Customer acquiring any ownership interest or rights in any intellectual property of ESCO or any third parties.

- 3.12. Infringement. Except as otherwise specified, ESCO shall pay all royalties and license fees required for the manufacture, sale and/or use of the designs, processes, devices, and other Products and Software provided by ESCO pursuant to the Scope of Work ("IP Products"). ESCO shall defend Customer from suits or claims for infringement of patent rights caused by the manufacture, sale and/or use of any such IP Products and shall hold Customer harmless from loss on account thereof. In the event any IP Product is found to infringe a third party's intellectual property rights, ESCO shall, at its expense and at its sole option, either: (i) procure the right for Customer to continue using such IP Product, (ii) modify such IP Product to render it non-infringing (provided such modification does not materially degrade the performance or operation of the IP Product), (iii) replace such IP Product with functionally equivalent, compatible, non-infringing IP Product, or (iv) refund or credit the amount paid for the infringing IP Product. Notwithstanding the foregoing, ESCO's obligations hereunder shall not apply to the extent (1) the alleged infringement is based upon or caused by ESCO's IP Products being modified or combined with any other design, process, device, material, Product or Software without ESCO's prior written approval, or (2) ESCO provided the allegedly infringing IP Product subject to specific requirements of Customer, unless ESCO knew of the alleged infringement and failed to inform Customer.
- 3.13. Warranty. ESCO warrants to Customer that, for the applicable Warranty Period: (i) the Work to be performed hereunder will conform to the requirements of the Contract and will be performed in accordance with applicable industry standards, (ii) any Products manufactured by ESCO and sold hereunder will be free of defects in workmanship and material, and (iii) any Software licensed hereunder will perform its essential functions (however, for the avoidance of doubt, ESCO does not warrant that the Software will operate uninterrupted or error-free, nor does ESCO warrant that the Software will meet any compatibility requirements not specified in the Scope of Work). Work, Products and/or Software that fail to comply with such standards may be deemed defective. If any Work, Product, and/or Software is proven to be defective within the Warranty Period, ESCO shall re-perform such defective Work, repair or replace such defective Product, and/or update or replace such defective Software, as ESCO deems appropriate. The foregoing warranties do not apply to the extent any Work, Product or Software has been: (i) subject to abuse, misuse, neglect, or accident, (ii) subject to improper operation, maintenance, storage or repair, (iii) subject to damage caused by circumstances beyond ESCO's control, or (iv) manufactured, programmed, installed, modified, or repaired other than by ESCO, on ESCO's behalf, or with ESCO's prior written approval. If a defect is found not to be ESCO's responsibility, standard rates for repair, replacement and/or labor shall apply. With respect to Products not manufactured by ESCO, ESCO will pass on any warranties provided to ESCO by its supplier(s). NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 3.13 (WARRANTY) ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES AND REMEDIES, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

ARTICLE 4 – CUSTOMER'S ROLE AND RESPONSIBILITIES

- 4.1. Cooperation Generally. Customer acknowledges and agrees that timely and proper performance of the Work is dependent on Customer's full and prompt cooperation in reviewing documentation and submittals, issuing approvals, attending meetings, providing facility access (including, without limitation and as appropriate, by providing sufficient keys, access cards, and/or escort services to facilitate timely execution of Work at multiple locations with multiple trades), relocating personnel, furniture, and equipment, and taking such other actions as may be reasonably requested by ESCO in furtherance of ESCO's performance of the Work.
- 4.2. Submittals. Within fifteen (15) business days of receiving any design, construction or other ESCO submittals, Customer shall review such documentation to confirm acceptance and consistency with the Contract and shall promptly advise ESCO of any issues or questions that are identified.
- 4.3. Project Meetings. Customer shall ensure that the appropriate Customer representatives attend

Project meetings coordinated by ESCO. At ESCO's request, Customer shall provide commercially reasonable cooperation and assistance in scheduling and coordinating Project meetings.

- 4.4. Filings and Permits. Except for permits and fees that are to be obtained and paid for by ESCO as expressly stated in the Scope of Work, Customer shall make all such filings as are required by the State or other government authorities in connection with the Work and shall obtain and pay for all permits, approvals, inspections, easements, assessments and charges as are required for the use, occupancy or modification of the real property or structures at and around the Project Site(s), including (without limitation) inspections for concrete and/or earthen compaction, where applicable.
- 4.5. Repairs. Except to the extent the Scope of Work specifically contemplates the repair or replacement by ESCO of any existing system, equipment or other property, all such systems, equipment and other property are assumed to be in normal working order, and any defect(s) in the same that could adversely impact the Work or the energy and efficiency savings expected to be generated thereby shall be promptly repaired or replaced by Customer.
- 4.6. Customer Information. Customer agrees that it has provided and shall continue to provide ESCO with all such information, documentation, access, knowledge and history as is available to Customer and as is relevant to ESCO's timely and successful completion of the Project and performance of its other obligations under the Contract, including, without limitation, the following:
 - 4.6.1. Drawings, Specifications and Surveys. Customer shall provide ESCO with copies of or access to (i) all such working drawings, specifications, surveys and "As-Built" drawings as it may have relating to the Project Site(s), to the Work, and/or to work being performed by other companies at the Project Site(s), and (ii) all such surveys as it may have describing the physical characteristics, legal boundaries and restrictions, and/or utility locations at and around the Project Site(s). All drawings, specifications, and surveys furnished to ESCO by Customer are and shall remain the property of Customer.
 - 4.6.2. Energy Usage Data. Customer shall make available to ESCO, on a monthly basis or as ESCO may otherwise request, copies of all energy bills, energy usage data, and all other such documentation maintained by Customer.
 - 4.6.3. Facilities Information. Customer shall promptly provide information and documentation relating to Customer's facilities, systems, and equipment and to its maintenance and operations practices. Customer has disclosed or will disclose as promptly as possible upon learning of, all known or suspected deficiencies, defects, and malfunctions of or affecting its facilities, systems or equipment and/or any components thereof, as well as any conditions of the Project Site(s) that should be considered in planning and executing the Work. To facilitate the exchange of relevant facilities information, Customer shall provide ESCO with access to Customer's key facilities personnel and, at ESCO's reasonable request, shall designate a Customer representative to ensure the timely and correct transfer of information requested by ESCO.
- 4.7. Operations. Customer shall operate all Work installed under this Contract in accordance with the manufacturer's recommendations and the manuals supplied to Customer by ESCO. Customer agrees to protect the Work and operating conditions thereof, and Customer shall promptly notify ESCO in the event of any malfunction in the operation of the Work. Except in the case of emergency, Customer shall not remove, move, turn off or otherwise significantly alter the operation of any Work performed hereunder without ESCO's prior written approval, which approval shall not be unreasonably withheld. Upon receipt of such approval, Customer shall closely follow any instructions provided by ESCO in connection with the same. If, due to an emergency, it is not reasonable to obtain ESCO's approval prior to taking action, Customer shall protect the Work from damage or loss and shall notify ESCO of all actions taken as soon as reasonably possible thereafter. For purposes of this Section, a significant alteration would include, without limitation, any alteration that might cause a reduction in the level of energy or efficiency savings generated

by the Work and/or any alteration to any measurement and verification system installed in connection with the Work.

4.8. Cybersecurity.

4.8.1. Definitions. For purposes of Section 4.8 (Cybersecurity) only: (i) “Cyber Threat” means any circumstance with the potential to adversely impact Customer’s Systems or that may result in any unauthorized access, acquisition, loss, misuse, destruction, disclosure, and/or modification of the Systems, including through malware, hacking, or similar attacks, (ii) “Patch” means an Update that fixes a vulnerability in a Deliverable, (iii) “Systems” means Customer’s computer network, systems, machines, and data, and (iv) “Update” means software that contains a correction of errors in a Deliverable and/or minor enhancements or improvements for a Deliverable but does not contain significant new features.

4.8.2. Customer’s Obligations for Its Systems. Customer is solely responsible for the implementation and maintenance of a comprehensive security program that contains reasonable and appropriate security measures and safeguards to protect its Systems against Cyber Threats, including those Systems on which it runs the Deliverables. Without limiting the foregoing, Customer shall at a minimum:

- (a) have qualified personnel with appropriate expertise in cybersecurity maintain Customer’s security program and regularly monitor cyber intelligence feeds and security advisories applicable to Customer’s Systems or Customer’s industry;
- (b) promptly update or patch its Systems or implement other appropriate measures based on any reported Cyber Threats and in compliance with any security notifications or bulletins, whether publicly disclosed on ESCO’s security notification webpage at <https://www.se.com/ww/en/work/support/cybersecurity/security-notifications.jsp> or otherwise provided to Customer;
- (c) regularly monitor its Systems for possible Cyber Threats;
- (d) regularly conduct vulnerability scanning, penetration testing, intrusion scanning, and other cybersecurity testing on its Systems; and
- (e) meet the recommendations of ESCO’s Recommended Cybersecurity Best Practices, available at <https://www.se.com/us/en/download/document/7EN52-0390/> and then-current industry standards.

4.8.3. Customer’s Use of the Deliverables. ESCO may release Updates and Patches for its Deliverables from time to time. Customer shall promptly install any Updates and Patches for such Deliverables as soon as they are available in accordance with ESCO’s installation instructions and using the latest version of the Deliverables, where applicable. Customer understands that failing to promptly and properly install Updates or Patches for the Deliverables may result in the Deliverables or Customer’s Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and ESCO shall not be liable or responsible for any losses or damages that may result.

4.8.4. Identification of Cyber Threats. If Customer identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Deliverables for which ESCO has not released a Patch, Customer shall promptly notify ESCO of such vulnerability or other Cyber Threat(s) via the ESCO Report a Vulnerability page (<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers>) and further provide ESCO with any reasonably requested information relating to such vulnerability (collectively, “Feedback”). ESCO shall have a non-exclusive, perpetual and irrevocable right to use, display, reproduce, modify, and distribute the Feedback (including any confidential information or intellectual property contained therein) in whole or part, including to analyze and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Deliverables, in any manner without restrictions, and without any obligation of attribution or compensation to Customer; provided, however, ESCO shall not publicly disclose Customer’s name in connection with such use or the Feedback (unless Customer

consents otherwise). By submitting Feedback, Customer represents and warrants to ESCO that Customer has all necessary rights in and to such Feedback and all information it contains, including to grant the rights to ESCO described herein, and that such Feedback does not infringe any proprietary or other rights of third parties or contain any unlawful information.

- 4.9. Export Control. The Deliverables provided by ESCO under this Contract may contain components and/or technologies from the United States of America (“US”), the European Union (“EU”) and/or other nations. Customer acknowledges and agrees that the supply, assignment and/or usage of Deliverables under this Contract must fully comply with applicable US, EU and/or other national or international export control laws and regulations (“Export Laws”). Unless applicable export licenses have been obtained from the relevant authority and ESCO has approved, the Deliverables shall not (i) be exported and/or re-exported to any destination or party restricted by applicable Export Laws; or (ii) be used for those purposes or fields restricted by any Export Laws. Customer also agrees that the Deliverables will not be used either directly or indirectly in any rocket systems, unmanned air vehicles, nuclear weapons delivery systems, and/or in any design, development, production or use of or related to weapons (which may include, without limitation, chemical, biological or nuclear weapons). ESCO shall be excused from performing any obligations under this Contract that would, in ESCO’s judgment, violate any Export Laws or expose ESCO to a risk of liability thereunder.

ARTICLE 5 – PROJECT TIME

- 5.1. Project Time. ESCO projects that it will take 912 days from the Date of Commencement to achieve Substantial Completion of the Project (as the same may be adjusted from time to time in accordance with the terms and conditions of the Contract, the “Project Time”).
- 5.2. Excusable Delay. If ESCO’s performance of Work is at any point delayed or obstructed by circumstances beyond ESCO’s reasonable control (including, without limitation, acts or omissions of Customer, epidemic, pandemic, quarantine restrictions, changes in applicable law, labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, unusually severe shortages in the available supply of and/or unusually severe increases in the cost of materials or equipment needed for performance of the Work, or delays of common carriers) then the parties agree to execute a Change Order allowing for an equitable extension of time for performance of ESCO’s Work to cover such delay.

ARTICLE 6 – COMPLETION AND FINAL PAYMENT

- 6.1. Substantial Completion of Work. ESCO will issue Customer one or more Substantial Completion Letters upon achieving Substantial Completion of discrete portion(s) of Work. Customer shall provide ESCO with written Notice within seven (7) days of ESCO’s issuance of a Substantial Completion Letter if Customer disputes the assertion that ESCO has achieved Substantial Completion of the applicable Work, and such Notice shall explain the basis for Customer’s dispute and the portion of the applicable Work to which it pertains. The parties shall meet promptly following Customer’s issuance of any such Notice of dispute and shall in good faith attempt to resolve the dispute and align on a path forward (i.e. any corrections or adjustments to be made to the Work, Scope of Work, or Project schedule, etc.). Unless timely disputed by Customer, the date on which ESCO issues any such Substantial Completion Letter shall be the “Date of Substantial Completion” with respect to the applicable Work.
- 6.2. Substantial Completion of the Project. ESCO will issue Customer a Substantial Completion Letter upon achieving Substantial Completion of the Project (the “Project Substantial Completion Letter”). Promptly following ESCO’s delivery of a Project Substantial Completion Letter, the parties shall schedule a walk-through to compile a list of Punch List Items that remain to be completed, if any.

- 6.3. Final Completion of the Project. When all Punch-List Items have been completed, ESCO shall inform Customer that the applicable Work is ready for inspection and shall provide an invoice for the outstanding balance of the Project Price along with a conditional release of all liens arising out of the Contract. Promptly following Customer's receipt thereof, the parties shall conduct a final walk-through and, upon confirming at the walk-through that all of the agreed Punch-List Items have been completed, Customer shall execute an acknowledgment stating that Final Completion has been achieved as of the date set forth therein (the "Project Completion Date").
- 6.4. Final Payment. Payment of the final invoice amount ("Final Payment") shall be due within thirty (30) days of the Project Completion Date. The making of Final Payment shall constitute a waiver of claims by the Customer except those arising from: (a) unsettled liens, security interests, or encumbrances arising out of the Contract; (b) the failure of the Work to comply with the requirements of the Contract; or (c) the terms and conditions of warranties expressly provided in the Contract. Upon receipt of Final Payment, ESCO shall deliver an unconditional and final release of all liens arising out of the Contract.

ARTICLE 7 – CHANGES

- 7.1. Change Request. Customer may request changes to the Scope of Work by submitting a description of the requested changes to ESCO in writing. In response to any such request, ESCO shall provide Customer a written proposal (the "Change Proposal") that describes, in reasonable detail, the proposed changes to the Scope of Work and any corresponding adjustments that would need to be made to the Project Time, the Project Price, the PASS Services, the PASS Fees, and/or the Performance Guarantee, as applicable. ESCO may also submit a Change Proposal to Customer in the event that this Contract authorizes or requires the parties to negotiate and/or execute a Change Order or in the event that ESCO otherwise wishes to request a Change Order in good faith, in which case such Change Proposal shall describe the proposed changes in reasonable detail, along with the contractual, legal or other basis for requesting such changes.
- 7.2. Change Order Process. Within five (5) business days following receipt of the Change Proposal, the parties shall meet and confer, acting reasonably and in good faith, to negotiate a mutually acceptable Change Order in accordance with the principles set forth herein. Promptly following agreement on the terms and conditions of the Change Order, the parties shall execute the same. If the parties do not agree upon the terms and conditions of the Change Order and the proposed change relates to circumstances in which a party is entitled to a Change Order under this Contract, then either party may submit the matter to dispute resolution pursuant to Section 11.6 (Disputes and Choice of Law).
- 7.3. Customer Delays. In the event of any failure by Customer to timely fulfill its obligations under Article 4 (Customer's Role and Responsibilities) or in the event of any other delay or Work stoppage due to the acts or omissions of Customer or Customer's agents, the Project Time shall be equitably adjusted to reflect such period of interruption and the Project Price shall be equitably adjusted to cover reasonable costs incurred by ESCO due to the delay or Work stoppage, including, without limitation, any demobilization and remobilization costs. ESCO will use commercially reasonable efforts to mitigate such costs.

ARTICLE 8 – SUSPENSION AND TERMINATION

- 8.1. Non-Appropriation or Non-Issuance of Debt Obligations. If Customer is a governmental entity, any applicable State or local law entitling Customer to terminate the Contract due to insufficient appropriation of funds is hereby incorporated in this Section 8.1 by reference. In the event of a termination pursuant to this Section 8.1 or Section 2.8, Customer shall provide ESCO written Notice of termination as soon as is reasonably possible, and in no event later than the effective date of termination. Upon receipt of such Notice of termination and payment for work performed at the direction of the Customer prior to termination, ESCO shall deliver an unconditional and final release of all liens arising out of the Contract
- 8.2. ESCO Default. Customer may terminate the Contract or suspend the performance of Work by providing written Notice to ESCO if: (i) ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract, (ii) Customer has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and (iii) within thirty (30) days of ESCO's receipt of such written Notice, ESCO has neither cured nor commenced and diligently continued efforts to cure such default.
- 8.3. Customer Default. ESCO may terminate the Contract or suspend the performance of Work or PASS Services, as applicable, by providing written Notice to Customer if: (i) Customer repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract or fails to make any payment(s) to ESCO as and when due hereunder, (ii) ESCO has provided written Notice of default to Customer detailing the alleged failure, refusal, neglect, or payment default, and (iii) within thirty (30) days of Customer's receipt of such written Notice, Customer has neither cured nor commenced and diligently continued efforts to cure such default.
- 8.4. Prolonged Stoppage of Work. ESCO may terminate the Contract by providing seven (7) days' written Notice to Customer if: (i) Work is stopped due to an act, omission, or request of Customer, other than pursuant to Section 8.2 (ESCO Default), (ii) the Work stoppage is not due to Contractor's negligence, misconduct, or breach of the Contract, and (iii) the Work stoppage is for more than ninety (90) consecutive days or one hundred twenty (120) aggregate days.
- 8.5. Insolvency. Either party may terminate the Contract by providing written Notice to the other party if the other party: (i) becomes insolvent, (ii) is generally unable to pay, or fails to pay, its debts as they become due, (iii) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, (iv) makes or seeks to make a general assignment for the benefit of its creditors, or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.
- 8.6. Payment upon Termination. In the event of any termination other than a termination for cause by Customer pursuant to Section 8.2 (ESCO Default) or Section 2.8 (non-issuance of Customer debt obligations, subject to the exclusion stated therein), Customer shall compensate ESCO: (i) in accordance with the Schedule of Values for Work performed and in progress prior to the effective date of termination, and (ii) for reasonable costs and damages incurred by reason of the termination, such as demobilization costs, termination fees, and restocking fees.
- 8.7. Effect of Termination. Subject to Section 11.7 (Survival; Statute of Limitations), termination of the Contract shall release ESCO of all remaining obligations under the Contract as of the effective date of such termination.
- 8.8. Other Remedies. Any remedies provided for in this Article 8 shall not be exclusive of any additional remedies available to a party pursuant to this Contract, in equity or in the law. Nothing in this Contract shall be deemed or construed as a waiver by either party of any rights it may have with respect to a wrongful termination by the other party.

ARTICLE 9 – INDEMNIFICATION AND ESCO LIABILITY

- 9.1. Indemnity. ESCO shall, at its own cost and expense, indemnify, defend and hold harmless Customer and Customer's officers, directors, employees and agents ("Indemnified Parties") from and against all damages, penalties, losses, costs and expenses (including reasonable attorneys' fees) arising out of any third-party claim for personal injury or tangible property damage, but only to the extent caused by the negligence or misconduct of ESCO or any of ESCO's agents (including Subcontractors of any tier) in connection with this Contract, and provided that the Indemnified Parties (i) give ESCO prompt written notice of any such claim, and (ii) provide such cooperation and information as ESCO may reasonably require in the defense or handling of any such claim. ESCO shall not be responsible for any settlement or consent to judgment made by or on behalf of an Indemnified Party without ESCO's prior written consent.
- 9.2. Limitations of Liability.
- 9.2.1. In no event shall either party or its officers, directors, affiliates, or employees be liable for any form of indirect, special, consequential, or punitive damages, whether such damages arise in contract or tort, and irrespective of fault, negligence or strict liability or whether such party has been advised in advance of the possibility of such damages.
- 9.2.2. The remedies of Customer set forth in the Contract are exclusive unless stated otherwise and ESCO's total liability with respect to damages arising out of this Contract shall not exceed the Project Price. However, the foregoing sentence shall not limit ESCO's liability with respect to (i) damages caused by ESCO's gross negligence or intentional misconduct, (ii) third-party claims for personal injury or tangible property damage to the extent caused by ESCO's negligence or misconduct, or (iii) any other claims or damages for which ESCO's liability cannot be limited pursuant to applicable law.
- 9.2.3. The provisions of this Section 9.2 apply only to the extent permitted by the Constitution and laws of the State and shall supersede any contrary provisions of the Contract.

ARTICLE 10 – INSURANCE AND BONDS

- 10.1. Required Insurance. ESCO shall, at its own cost and expense, maintain in effect the following policies of insurance (each a "Policy", and collectively the "Policies") for the applicable period(s) set forth in Section 10.2:
- 10.1.1. Commercial General Liability Insurance. A policy of commercial general liability insurance, written on an "occurrence" basis, with a liability limit of two million dollars (\$2,000,000) per occurrence ("General Liability Policy").
- 10.1.2. Automobile Liability Insurance. A policy of automobile liability insurance, written on an "occurrence" basis, with a combined single limit of one million dollars (\$1,000,000) per accident for bodily injury and property damage ("Auto Liability Policy"). The Auto Liability Policy must include coverage for owned, hired and non-owned automobiles.
- 10.1.3. Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance as required by State law, and employer's liability insurance, written on an "occurrence" basis, with a liability limit of two million dollars (\$2,000,000).
- 10.1.4. Professional Liability Insurance. Professional liability insurance, written on a claims-made (and reported) basis, with a liability limit of two million dollars (\$2,000,000) per claim ("Professional Liability Policy").

- 10.2. Duration of Insurance. The Policies shall be procured by ESCO prior to ESCO's commencement of the Project and, except for the Professional Liability Policy, shall be maintained in effect for at least one year following the earlier of the Project Completion Date or termination of this Contract. ESCO shall maintain the Professional Liability Policy in effect for at least three years following the earlier of the Project Completion Date or termination of this Contract.
- 10.3. Insurer Rating Standards. The insurance policies required pursuant to this Article must be issued by one or more insurers that are (i) licensed to do business in the State and (ii) have an A.M. Best Company rating of not less than "A-" and a financial size category of not less than "VII."
- 10.4. Additional Insureds. At Customer's request, ESCO shall include Customer and Customer's directors, officers, employees, and agents as additional insureds on ESCO's General Liability Policy and Auto Liability Policy. The additional insured endorsements will be on ESCO's most current versions of ISO Form CG 2010 and ISO Form CG 2037 or their substantial equivalents.
- 10.5. Waiver of Subrogation. Each of the General Liability Policy and the Auto Liability Policy shall provide a waiver of transfer of rights of recovery in favor of Customer.
- 10.6. ESCO Insurance is Primary. The General Liability Policy and the Auto Liability Policy shall be endorsed to provide that they are primary and non-contributory.
- 10.7. Premiums, Deductibles and Self-Insured Retentions. ESCO shall be solely responsible for paying deductibles and self-insured retentions applicable to the Policies.
- 10.8. Evidence of Coverage. At Customer's request, ESCO shall provide to Customer a duly authorized and executed certificate of insurance evidencing that the required Policies and endorsements are in effect (each a "Certificate of Insurance").
- 10.9. Notice of Change in Policies. ESCO shall notify Customer within thirty (30) days of its receipt of written notice from an applicable insurer that a Policy will expire without renewal or will be canceled, terminated, or materially reduced in coverage.
- 10.10. Review of Coverage. Customer's failure to identify any non-compliance with the requirements of this Article shall not be deemed as a waiver of such requirements.
- 10.11. Subcontractor Insurance. ESCO shall require each Subcontractor to maintain such levels and types of insurance coverage as are appropriate for the Work to be performed by such Subcontractor.
- 10.12. Bonds. ESCO shall provide payment and performance bonds for 100% of the Project Price to secure the faithful performance of the Work and to ensure the satisfaction of ESCO's payment obligations to its Subcontractors and suppliers related to the Work. Notwithstanding any provision to the contrary herein, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of the Contract and shall not be construed to guarantee the performance of: (1) any efficiency or energy savings guarantees, (2) any support or maintenance service agreement, or (3) any other guarantees or warranties with terms beyond one (1) year in duration from Substantial Completion Date.

ARTICLE 11 – MISCELLANEOUS

- 11.1. Notices. All written Notices required to be delivered pursuant to the Contract must be in writing and addressed to the other party at its address set forth below (or to such other address as the receiving party may designate from time to time by providing written notice to the other party in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Contract, a Notice is effective only (a) on receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

- (a) If to ESCO, to:

Schneider Electric Buildings Americas, Inc.
1650 W. Crosby Rd.
Carrollton, TX 75006
Attention: Corey Newby
E-mail: corey.newby@se.com

with copies to:

Schneider Electric Legal Department
70 Mechanic Street
Foxboro, MA 02035
Attention: Time-Sensitive Legal Notice for SEBA

- (b) If to the Customer, to:

City of Abilene Texas
555 Walnut Street
Abilene, TX 79601
Attention: City Manager
E-mail: robert.hanna@abilenetx.gov

- 11.2. Relationship of Parties. Nothing in this Contract creates any agency, joint venture, partnership or other form of joint enterprise, employment, or fiduciary relationship between the parties. ESCO is an independent contractor pursuant to this Contract. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.
- 11.3. Public Statements. Customer acknowledges that ESCO may provide information pertaining to this Project and this Contract when responding to requests for proposals, requests for qualifications, requests for references, and other requests from prospective customers and/or government agencies. However, ESCO will not disclose Customer information that has been marked confidential without Customer's prior written consent.
- 11.4. Ethics and Compliance with Law. Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party. In the event Customer has concerns related to ESCO's ethics or any potential violations of ESCO's Trust Charter (code of conduct), Customer is welcome to make use of ESCO's Trust Line. The Trust Line is a confidential channel through which customers can ask questions and raise concerns. Reports can be made using the following link: <https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>.

- 11.5. Applicable Law Deemed Included. Each and every provision required by applicable law to be included in this Contract is hereby deemed to be so included, and this Contract shall be construed and enforced as if all such provisions are so included. If, for any reason, any provision required by any applicable law is not expressly included herein, or is not correctly included herein, then, upon request of either Customer or ESCO, the parties shall amend this Contract to include or incorporate, or to correctly include or incorporate, such provision.

Without limiting the generality of the foregoing, the following provisions are hereby included at Customer's direction, to the extent legally required:

11.5.1. Not Applicable

- 11.6. Disputes and Choice of Law. To the extent allowed by applicable law, the parties shall attempt to resolve any controversy or claim arising out of or relating to this Contract or an alleged breach hereof by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Contract shall be governed by the laws of the State, and any litigation or arbitration proceeding shall take place in the county in which the Project is located.
- 11.7. Survival; Statute of Limitations. The obligations and rights of the parties under this Contract that by their nature would continue beyond expiration, termination, or cancellation of this Contract (including, without limitation, the warranties, indemnification obligations, limitation of liability, effect of suspension or termination, payment upon termination, and ownership and property rights) shall survive any such expiration, termination, or cancellation. For the avoidance of doubt, ESCO's obligations regarding the Performance Guarantee shall not continue beyond the expiration, termination, or cancellation of this Contract or the PASS Plan. As between Customer and ESCO, any applicable statute of limitation shall commence to run and any alleged cause of action shall be deemed to have accrued (1) not later than the Project Completion Date for acts or failures to act occurring prior to the Project Completion Date, or (2) not later than the date of the relevant act or failure to act by either party for acts or failures to act occurring after the Project Completion Date.
- 11.8. Entire Agreement. This Contract, inclusive of the schedules, exhibits, and other documents attached hereto and expressly incorporated herein, constitutes the sole and entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written and verbal understandings, agreements, representations, warranties, and covenants with respect to such subject matter.
- 11.9. Further Assurances. Upon either party's reasonable request, the other shall execute and deliver all such further documents and instruments, and take all such further acts, as are necessary to give full effect to this Contract and applicable legal requirements.
- 11.10. Amendment and Modification. No amendment to or modification of this Contract is effective unless it is in writing and signed by an authorized representative of each party.
- 11.11. Waiver. No waiver under this Contract is effective unless it is in writing and signed by an authorized representative of the party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion.

- 11.12. Assignment. Customer may not assign any of its rights or delegate any of its obligations under this Contract without the prior written consent of ESCO. ESCO may assign its rights and delegate its obligations to any affiliate or to any person acquiring all or substantially all of ESCO's assets. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Contract.
- 11.13. Third-Party Beneficiaries. This Contract benefits solely the parties to this Contract and their respective permitted successors and assigns, and nothing in this Contract confers on any other person any express or implied legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Contract.
- 11.14. Interpretation. Unless the context otherwise requires, references in this Contract: (i) to articles, sections, exhibits, schedules, and attachments mean the articles and sections of, and exhibits, schedules, and attachments attached to, this Contract; (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Contract is the result of negotiations between, and has been reviewed by, the parties and their respective legal counsel. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- 11.15. Headings. The headings in this Contract are for convenience only and do not affect the interpretation of this Contract.
- 11.16. Severability. If any term or provision of this Contract is deemed invalid, illegal, or unenforceable pursuant to applicable law, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Contract to affect the original intent of the parties to the greatest extent possible.
- 11.17. Counterparts. This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Contract.
- 11.18. Due Authority of Signatories. Each party represents and warrants that this Contract constitutes the legal, valid, binding, and enforceable obligation of such party, and that neither the execution nor performance of this Contract constitutes a breach of any agreement that such party has with any third party or violates any law, rule, regulation, or legal duty applicable to such party. Each party further represents and warrants that the execution of this Contract is within such party's legal powers, and that each individual executing this Contract on behalf of such party is duly authorized to do so by all necessary and appropriate action and does so with full legal authority.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties has caused this Energy and Construction Services Contract to be executed as of the Effective Date by its duly authorized representative below.

**The City of Abilene,
Abilene, TX**

**Schneider Electric Buildings
Americas, Inc.**

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE I SCOPE OF WORK

Customer hereby acknowledges and agrees that the scope of work shall be limited to, and ESCO shall only perform, the following:

Scope of Work Description:

BACKUP GENERATION SCOPE OF WORK

South Water Treatment Plant (Hargesheimer)

High Service Pump Building

- Diesel Enclosed Generator
- Concrete Pad to size
- Automatic Transfer Switch (ATS)
- 72-hour subbase fuel tank

Treatment Plant Building

- Diesel Enclosed Generator
- Concrete Pad to size
- Automatic Transfer Switch (ATS)
- 72-hour subbase fuel tank

Solids Handling

- Diesel Enclosed Generator
- Concrete Pad to size
- Automatic Transfer Switch (ATS)
- 72-hour subbase fuel tank

Backwash Site

- Diesel Enclosed Generator
- Concrete Pad to size
- Automatic Transfer Switch (ATS)
- 72-hour subbase tank

Northeast Water Treatment Plant

- Diesel Enclosed Generator
- Automatic Transfer Switch (ATS)
- Concrete Pad to size
- 72-hour subbase fuel tank

All Generators include:

- All electrical wiring and conduit needed to connect generators to ATS and client Main Distribution connection point is included
- Weather Protective Enclosure with internal exhaust system
- Sound attenuated enclosure Level I (73db @ 23ft)
- UL142 rated fuel tanks
- Initial fueling of the 3-day subbase tank
- Remote E-Stop with Clear Cover
- Remote Annunciator Panel
- 2-year Comprehensive Warranty
- Startup of generator and Automatic Transfer Switches (ATS)
- Onsite NFPA110 Testing (includes a 2-hour Building Load Transfer Test and a 2-hour Resistive Load Bank Test with resistive load bank and cables)
- 2-hour Owner's Training

ELEVATOR SCOPE OF WORK

ESCO will perform Elevator work at the following Customer facilities:

- Northeast Water Treatment Plant

Elevator is to upgraded/modernized with the following improvements:

<u>Machine Room</u>		
<u>Component</u>	<u>Scope</u>	<u>Associated Description</u>
Controller	New	Non-proprietary, micro-processor based
Hydraulic Pumping Unit	New	
Oil	New	
Oil Line	New	As needed
Landing System	New	
Shut Off Valve	New	Machine room & pit
<u>Door System</u>		
Car Door Operator	New	Convention and Rec Center Only, WTP - Refurbish
Car Door Clutch	New	
Car Gate Switch	New	
Car Door Track	New	
Car Door Sill	Retain	Clean and Polish or replace if necessary
Car Door Gibs	New	
Car Door Rollers	New	
Car Door Safety Edge	New	
Hoist Way Door Closures	New	
Hoist Way Interlocks	New	
Hoist Way Interlock Drive Rollers	New	
Landing Door Labeling	New	
Interlock Wiring	New	
Hoist Way Door Track	New	Convention and Rec Center only, WTP - refurbish
Hoist Way Door Rollers	Retain	Replace as needed
Hoist Way Door Panels	Retain	
Hoist Way Track Header	Retain	
Escutcheon Tubes	New	
Hoist Way Door Sill	Retain	Clean and polish or replace if necessary
Hoist Way Access	New	
<u>Signal Fixtures</u>		
Car Operating Panel	New	LED applied main car operating panel #4 SS
Hall Lantern/Position Indicator	New	Lanterns at typical floors
Car Position Indicator	New	In COP
Emergency Light	New	
Hall Push-Button Stations	New	Surface mount #4 SS
ADA Jamb Braille	New	

<u>Hoist Way</u>		
Limits/Slow Downs	New	
Car Top Inspection Station	New	
Guide Rails	Retain	Check for tightness and alignment
Duct	Retain	New as needed
Wiring	New	
Alarm Bell	New	
Entrances	Retain	
Cutting & Patching	N/A	Surface mount fixtures
Fascia	Reuse	Replace as needed
<u>Pit</u>		
Floor numbering	New	
Pit stop switch	New	
Buffers and channels	Retain	Clean & Paint. Replace if necessary
Shut Off Valve	New	
Painting	New	Car top, pit floor, pit channels, machine room floor will be cleaned and painted
<u>Cab</u>		
Shell	Retain	
Platform	Retain	
Cab Interiors	Retain	Can add cab allowance if required
Car Top Handrail	N/A	
Guides/wheels	New	
Fan	New	
Cab Door	New	

ELECTRICAL SCOPE OF WORK

ESCO will perform work to replace the following electric panels at the following Customer facilities:

Building Name	Asset Name	Asset Type	Voltage	Amps
Water & Sewer on Sandy	Old Federal Pacific Pnl	Panelboard (Elec Panel)	120/240	600
Water & Sewer on Sandy	Panel A	Panelboard (Elec Panel)	120/240	600
Water & Sewer on Sandy	Panel D	Panelboard (Elec Panel)	240	225
Water & Sewer on Sandy	Panel C	Panelboard (Elec Panel)	240	225
Water & Sewer on Sandy	Panel B	Panelboard (Elec Panel)	120/240	225
Water & Sewer on Sandy	Panel E	Panelboard (Elec Panel)	120/240	100
Northeast WTP	Panel C (Upstairs)	Panelboard (Elec Panel)	120/240	225
Northeast WTP	Panel LA (Basement)	Panelboard (Elec Panel)	120/240	100
Northeast WTP	Panel B (Upstairs)	Panelboard (Elec Panel)	120/240	225
Northeast WTP	Treatment bldg main pnl	Main panel	480	400
Northeast WTP	transformer near HVAC	Transformer 500kVA	480	
Northeast WTP	transformer near HVAC	Transformer 150kVA	480	
Water & Sewer Sandy	Disconnect	Disconnect	240	50

MECHANICAL SCOPE OF WORK

ESCO will perform work to replace HVAC equipment at the following Customer facilities:

Grimes Water Treatment Plant Split Systems Replacement

- Remove and dispose of six (6) existing split systems.
- Provide six (6) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Hargesheimer Water Treatment Plant Chiller Replacement

- Remove and dispose of two (2) existing air-cooled chillers.
- Provide two (2) new air-cooled chillers sized to meet the load in same location.
- Provide two (2) new chilled water isolation valves.
- Commission and Balance units to design specifications.

Hamby Treatment Plant Split Systems Replacement

- Remove and dispose of six (6) existing split systems.
- Provide six (6) new split systems sized to meet the load in same location.
- Existing smoke detectors will be reconnected to existing system where required by code.
- Commission and Balance units to design specifications.

Buck Creek Pump Station (2) New Ductless Split Systems

- Provide four (2) new roof top packaged units sized to meet the load in same location.
- New electrical and condensate drains as necessary.
- Commission and Balance units to design specifications,

BUILDING AUTOMATION SYSTEM

The existing Schneider Electric Building Automation Systems (BAS) at the facilities listed below will have their legacy hardware building automation system controllers replaced with newer EcoStruxure (or equivalent) hardware. Much of this scope is the removal of Continuum controller hardware and add newer EBO hardware (Space Logic & Viconics) to monitor and control the equipment on the existing BAS system. There are some mechanical changes which are noted below. The BAS will be controllable from the existing central workstation on the owner's WAN/LAN. The central workstation will be supplied by Schneider Electric (owned by the customer), providing continuous access to the system with a user-friendly graphical Windows interface – much of the existing graphical interface will appear similar for facilities below. A web-enabled interface will also be included to provide web access to the system for up to 3 simultaneous users. As part of this scope of work, the existing EBO version will be upgraded to EBO version 2024, which will allow the city to utilize more current Microsoft operating systems. Existing control zones and scheduling will be consistent with existing system, allowing for temperature setup, setback, and night dewpoint setup. Permanent scheduling, holiday scheduling, and exception scheduling capabilities for each control zone will be retained.

Schneider Electric will provide site-specific on-site training for BAS operation. The training will focus on new controller hardware and updated features with EBO upgrade, but can also include but is not limited to, system architecture, controller and override panel operation, control drawings, device replacement, product overview and demonstration, logging on and off, system passwords, screen layout, software toolbars and menus, graphic page navigation, and use scheduling (permanent, holiday, and exception), and basic troubleshooting.

The facilities included are:

- Hamby WTP
- Hargesheimer WTP

Schneider Electric will be responsible for all final design decisions, including controller selection, point configurations, and end device selection, and will base such decisions on Schneider Electric and City of Abilene current standards and operational. The owner's wide area network will provide communication from each building to the central workstation.

HAMBY TREATMENT PLANT

The existing controllers shall be utilized for the alterations of new mechanical equipment. These new four (4) units shall be replaced with new mechanical equipment and existing controllers are to be repurposed to control these systems with exception of AH-0501. Other aspects of this site are to remain unaffected. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today for the other three units. AH-0501 will also be replaced with new mechanical equipment for similar control, but due to being a variable air system the new equipment may be equipped with OEM controller interface which will be integrated into the larger SE BAS system. Final design and unit selection may alter existing points of monitoring and control. The other three new units will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new equipment while maintaining a similar user experience. AH-0501 will also be integrated into the system, programmed to support the downstream existing VAV controllers and available to the operator front end with time-of-day scheduling and temperature setpoint options.

HARGESHEIMER TREATMENT PLANT

The existing Continuum controllers will be decommissioned and replaced with new Schneider Electric EBO controllers. This scope of work is to remove these existing controllers within the BAS system and replace with new EBO hardware to control the HVAC equipment that is controlled by the existing BAS. Existing panels will either be replaced, reconfigured, or removed to accommodate the new EBO hardware, while the current input/output wiring will be retained and connected directly or through wire expansion. The programming in the new controllers shall be consistent with existing sequence of operation with same input/output points as existing today. Most of the field devices are compatible with new controllers and are not being replaced, with exception to new VAV controllers, new digital space sensors are required. The

systems will be wired, tested, and started up to ensure optimal BAS functionality, and the graphical interface will be updated to reflect the new controllers while maintaining a similar user experience.

With proposed new mechanical alterations, this facility, includes the replacement chillers and associated pumps (in-kind) with new chiller and associated pumps (on/off control). Control and monitoring parameters will be consistent with existing control scheme with these mechanical replacements. Pathway to chillers to be repurposed as new chillers will reside on existing pads; isolation valves for chillers are being replaced as part of this scope.

CLARIFICATIONS

- To the best of Schneider Electric's knowledge, the replacement of controllers and re-attachment of field devices will be consistent with existing system. BAS shall be printed out of points for pre/post input/output count. If any control or monitoring BAS points are changed, the scope of work shall be adjusted. If additional points are required to operate the systems, they will be incorporated under this scope of work.
- New mechanical scopes of work may impact the ability to replicate existing control parameters and graphical representation. Points associated with new mechanical equipment (if applicable) are subject to change based on those points available from the equipment ultimately furnished and the points deemed necessary for operation of the system.
- Schneider Electric may reuse existing equipment including (but not limited to) valves, variable frequency drives, relays, sensors, dampers, and actuators for the execution of this contract, and assumes the equipment or devices are in good working order. Should the equipment or devices require repair or replacement, this will be the responsibility of the owner unless specifically indicated otherwise in the scope of work. Schneider Electric will create an equipment deficiency report (EDR) to provide the owner with written notification if such equipment or devices are identified.
- Schneider Electric will only control equipment and/or devices shown in the Scope of Work or as referenced as existing BAS for what HVAC equipment is currently controlled. Equipment and devices not in the Scope of Work are excluded. Schneider Electric is not responsible for the functionality of such equipment even if such equipment is operated by an existing BAS.
- Matching of ceiling tile color and pattern shall be limited by current commercial availability should replacement tile be required. Similar or complementary tiles shall be provided where exact matches are not available.
- Demolition of the existing HVAC controls / building automation equipment will be performed as needed to implement the new DDC system installation (reuse of enclosures, wire, and end devices will be solely at the discretion of Schneider Electric). The total demolition of any remaining abandoned or obsolete control elements will be the responsibility of the owner, unless otherwise stated.
- Schneider Electric is not responsible for safeties on existing equipment including smoke detectors, fire alarm interlocks, and low or high temperature cut-outs or any life safety equipment. Pre and post testing of smoke, fire, and life safety systems will be the responsibility of the customer and the sequence will be provided to Schneider Electric. Where life safety equipment utilizes compressed air (pneumatics), the source of the air, logic, and actuators will not be removed or modified within the execution of the project.
- Exhaust fans controlled by occupancy sensors or local switches, that are process / life safety related, or that do not move air beyond the building envelope will not be integrated with the building management system.
- Schneider Electric will not be responsible for any modification or expansion of the owner's existing WAN/LAN for the execution of this project. Owner to provide Schneider Electric with designated open port(s) as required at existing network switches in all facilities within this scope of work. Schneider Electric to provide CAT5e Ethernet cable from control equipment to Owner network switch.
- Where new control panels are to be installed, Conduit will be installed from the panel knock-out to a height of 8' or the level of the finished ceiling if present – whichever is lower – for all low voltage wiring. Conduit will not be required in other applications unless otherwise indicated by the scope of work above. All wiring shall be in compliance with local codes and authorities having jurisdiction.

EXCLUSIONS

- Asbestos abatement of any kind is excluded.
- Costs of providing access, access control, or security escorts not specified in the Scope of Work are excluded.
- Hydronic / airflow testing and balancing on HVAC equipment will not be included as part of the controls scope of work.
- Repair of existing HVAC and control equipment beyond the scope of work above is excluded.
- Any repair patching of existing walls, sheetrock, plaster, brick, wood, etc due to the removal of existing thermostats (for retrofit with DDC Sensor or new thermostat) is excluded.
- Schneider Electric to provide first fueling f generators, customer to be responsible for all additional fueling.

GENERAL PROJECT EXCLUSIONS

- Anything not defined or stated in the scope of work is interpreted as excluded.
- Repairs, remedies, and any development of any such repairs or remedies due to unforeseen, undisclosed, and unidentified conditions
- Costs of providing access, access control, or security escorts not specified in the Scope of Work
- Cleanup beyond construction debris, such as dusting, or air scrubbers
- Structural modifications not specified in the Scope of Work
- Additional labor costs due to restriction of allowable work hours, provided however, ESCO is aware that Customer facilities are used as public facilities and has been provided the current operating schedules. Any additional cost hereunder shall be limited to costs arising from circumstances of which ESCO was not made aware during the development phase, and that are not reasonably anticipated at the time of this Contract.
- Additional labor costs due to limitations to access and keys
 - Customer shall provide facility access adequate to the requirements of ESCO and their subcontractors. Keys, security system codes, access cards, and/or escorts will be provided for all facilities involved in the Scope of Work in a quantity sufficient to facilitate execution of scopes at multiple locations with multiple trades. Customer is subject to change orders for delays resulting from limited or restricted access for scheduled or previously coordinated work. Keys, security system codes, and/or access cards will be issued to ESCO project personnel and subcontractor site foreman or lead personnel.
- Hazardous materials testing and abatement not specified in the Scope of Work
 - Customer will provide any hazardous materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing.
 - Customer will provide testing for suspected hazardous materials if current test reports are not available.
- Materials and labor associated with modifications to existing systems and equipment not identified as included in the Scope of Work
 - Patching of fire rated walls beyond area directly affected by Scope of Work
 - Maintenance of egress routes and signage
 - Existing open J boxes
 - Existing wiring resting on ceiling grid
 - Life safety interlocks
 - Floor repair not specified in the Scope of Work.
 - Patching or painting of an area where equipment was removed or altered
 - Screening to hide equipment

- Testing, adjusting, and balancing unless specified in the Scope of Work
- Commissioning of existing systems not identified in the Scope of Work
- The cost for utilities including natural or propane gas, fuel oil, electricity, potable or non-potable water during the construction period
- The cost for equipment, labor, and/or utilities to provide temporary heating or cooling of facilities during the construction period
- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction
- Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction
- Repair or replacement of ceiling beyond that required to accomplish the Scope of Work
- Electrical systems not related to disconnecting and reconnecting the new equipment.
- Equipment replacement and their components not specified above.
- Patching, painting, or repair of floor and wall surfaces not specified in the Scope of Work
- Fees and project costs for third party engineers acting as Customer agent
- All damage and performance limitations considered Acts of God
- Night/holiday work unless otherwise specified in the Scope of Work.
- Additional labor cost due to restriction of allowable work hours.
- Costs incurred due to lack of access to required areas or due to access to storage areas to which materials are to be delivered.
- Costs of providing access, access control, or security escorts not specified in the Scope of Work.
- Hazardous materials testing and abatement not specified in the Scope of Work.
- Materials and labor associated with modifications to existing systems and equipment not identified in these documents as included in the Scope of Work.
- Repair or replacement of ceiling beyond that required to accomplish the Scope of Work.
- Waste disposal other than that required to accomplish the Scope of Work.
- The cost for utilities including natural or propane gas, fuel oil, electricity, potable or non-potable water during the construction period.
- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction.
- Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction.
- All unforeseen Authorities Having Jurisdiction (AHJ) requirements & fees and third-party inspection, if not included in scope of work.
- All additional seismic and or structural support, engineering, and upgrades to systems or components outside of the scope of work outlined above.
- Costs for schedule delay for contract execution. After 90 days, Customer will be responsible for additional costs incurred by ESCO.
- All unforeseen conditions.
- All work not explicitly stated in the contract documents.

GENERAL PROJECT CLAIRIFICATIONS

- Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction.
- Unforeseeable conditions which impact the ability to proceed with this work shall be address by the customer

SCHEDULE II
ENERGY SERVICES SCHEDULES

See attached Schedules:

- Schedule II-A: Energy Services Definitions
- Schedule II-B: Performance Assurance Support Services Plan
- Schedule II-C: Performance Guarantee
- Schedule II-D: Measurement & Verification Plan
- Schedule II-E: Customer Responsibilities for Performance Guarantee

SCHEDULE II(A) ENERGY SERVICES DEFINITIONS

The terms listed in this Schedule II(A) shall have the respective meanings assigned to them below. Any other capitalized terms used but not defined in the Energy Services Schedules shall have the respective meanings assigned to them in the Contract.

- 1.1. "Actual Savings" means the total savings realized or stipulated to by Customer during a specified period of time, as determined in accordance with the provisions of Schedules II(C)-II(E).
- 1.2. "Excess Savings" means the amount (if any) by which Actual Savings exceed the Guaranteed Cumulative Savings to date, including any Actual Savings achieved prior to the Savings Guarantee Commencement Date.
- 1.3. "Guaranteed Annual Savings" means the amount of savings guaranteed by ESCO for a given Guarantee Year, as set forth in the Savings Table under Schedule II(C).
- 1.4. "Guaranteed Cumulative Savings" means, with respect to the entire Performance Period or any other specified period, the total amount of savings guaranteed by ESCO for such period, as set forth in the Savings Table under Schedule II(C).
- 1.5. "Guarantee Year" means any twelve (12) month period that begins on the Savings Guarantee Commencement Date or any anniversary thereof and that occurs during the Performance Period.
- 1.6. "Initial Term" has the meaning set forth in Schedule II(B).
- 1.7. "M&V" means measurement and verification.
- 1.8. "M&V Plan" means the Measurement & Verification Plan set forth in Schedule II(D).
- 1.9. "PASS Fee" means the annual dollar amount to be paid by Customer under the PASS Plan.
- 1.10. "PASS Plan" means the Performance Assurance Support Services Plan set forth in Schedule II(B).
- 1.11. "PASS Services" means the services to be provided by ESCO under the PASS Plan.
- 1.12. "Performance Guarantee" has the meaning set forth in Section 1 of the Contract. means ESCO's guarantee to Customer as set forth in Schedule II(C), as supplemented and/or modified by the terms and conditions of the Energy Services Schedules applicable thereto.
- 1.13. "Performance Period" has the meaning set forth in Schedule II(C).
- 1.14. "Renewal Term" has the meaning set forth in Schedule II(B).
- 1.15. "Savings Guarantee Commencement Date" means the first day of the Customer's first utility billing period following ESCO's.
- 1.16. "Savings Reconciliation" has the meaning set forth in Schedule II(C).
- 1.17. "Savings Shortfall" means the difference between the Guaranteed Annual Savings and the Actual Savings for a given Guarantee Year.

SCHEDULE II(B)
PERFORMANCE ASSURANCE SUPPORT SERVICES PLAN

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SCHEDULE II(C) PERFORMANCE GUARANTEE

Subject to the terms and conditions of this Schedule II(C) and the other Energy Services Schedules, ESCO hereby provides the Performance Guarantee described below.

1. TERM AND TERMINATION:

The Performance Guarantee shall commence on the Savings Guarantee Commencement Date and shall continue in effect for a period of 20 years thereafter, unless sooner terminated in accordance with the Contract Documents (the "Performance Period").

NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT THE CONTRACT OR THE PASS PLAN EXPIRES OR IS CANCELED OR TERMINATED FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN THIS SCHEDULE II(C) SHALL BE DEEMED TO HAVE BEEN SATISFIED AND FULFILLED AS OF THE EFFECTIVE DATE OF SUCH EXPIRATION, CANCELLATION OR TERMINATION, AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

2. SAVINGS RECONCILIATION:

Customer shall send ESCO all utility and energy data in accordance with the requirements of Schedule II(E). Within sixty (60) days of receipt of such information for the previous Guarantee Year, ESCO will determine the Actual Savings for such Guarantee Year in accordance with the M&V Plan set forth in Schedule II(D) (such determination, the "Savings Reconciliation").

If the Actual Savings for a Guarantee Year are less than the Guaranteed Annual Savings for such Guarantee Year, ESCO will pay Customer the Savings Shortfall, less any Excess Savings, within forty-five (45) days of completing that year's Savings Reconciliation.

Except as set forth in this Performance Guarantee, ESCO makes no express or implied representations, warranties, guarantees or covenants concerning the potential energy efficiency or cost savings benefits of the Work, and payment by ESCO for any Savings Shortfall(s) in accordance with this Performance Guarantee shall be Customer's sole and exclusive remedy for any alleged energy efficiency or cost savings deficiencies.

3. GUARANTEE:

Year	Phase 4			Phase 5		Phase 6			Annual Guaranteed Savings	Cumulative Guaranteed Savings
	Measured Savings	Non-Measured Savings	O&M Savings	Measured Savings	Non-Measured Savings	O&M Savings	Capital Cost Avoidance	Non-Measured Savings		
0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1	\$164,299	\$169,476	\$115,186						\$448,961	\$448,961
2	\$169,228	\$174,560	\$118,642						\$462,430	\$911,391
3	\$174,305	\$179,797	\$122,201						\$476,303	\$1,387,694
4	\$179,534	\$185,191	\$125,867						\$490,592	\$1,878,285
5	\$184,920	\$190,747	\$129,643						\$505,310	\$2,383,595
6	\$190,468	\$196,469	\$133,532	\$1,347	\$17,044	\$19,750	\$817,534		\$1,376,144	\$3,759,739
7	\$196,182	\$202,363	\$137,538	\$1,388	\$17,555	\$20,343	\$817,534	\$1,809	\$1,394,712	\$5,154,451
8	\$202,067	\$208,434	\$141,664	\$1,429	\$18,081	\$20,953	\$817,534	\$1,864	\$1,412,027	\$6,566,478
9	\$208,129	\$214,687	\$145,914	\$1,472	\$18,624	\$21,581	\$817,534	\$1,920	\$1,429,862	\$7,996,340
10	\$214,373	\$221,128	\$150,292	\$1,516	\$19,183	\$22,229	\$817,534	\$1,977	\$1,448,232	\$9,444,572
11	\$220,804	\$227,762	\$154,800	\$1,562	\$19,758	\$22,896	\$817,534	\$2,037	\$1,467,153	\$10,911,724
12	\$227,428	\$234,594	\$159,444	\$1,609	\$20,351	\$23,583	\$817,534	\$2,098	\$1,486,641	\$12,398,366
13	\$234,251	\$241,632	\$164,228	\$1,657	\$20,961	\$24,290	\$817,534	\$2,161	\$1,506,714	\$13,905,080
14	\$241,279	\$248,881	\$169,155	\$1,707	\$21,590	\$25,019	\$817,534	\$2,225	\$1,527,390	\$15,432,470
15	\$248,517	\$256,348	\$174,229	\$1,758	\$22,238	\$25,769	\$817,534	\$2,292	\$1,548,686	\$16,981,156
16	\$255,972	\$264,038	\$179,456	\$1,811	\$22,905	\$26,542	\$817,534	\$2,361	\$1,570,620	\$18,551,776
17	\$263,652	\$271,959	\$184,840	\$1,865	\$23,592	\$27,339	\$817,534	\$2,432	\$1,593,213	\$20,144,988
18	\$271,561	\$280,118	\$190,385	\$1,921	\$24,300	\$28,159	\$817,534	\$2,505	\$1,616,483	\$21,761,471
19	\$279,708	\$288,522	\$196,096	\$1,979	\$25,029	\$29,004	\$817,534	\$2,580	\$1,640,451	\$23,401,923
20	\$288,099	\$297,177	\$201,979	\$2,038	\$25,780	\$29,874	\$817,534	\$2,657	\$1,665,139	\$25,067,062
21				\$0	\$28,652	\$30,770	\$817,534	\$2,737	\$879,694	\$25,946,755
22				\$0	\$29,512	\$31,693	\$817,534	\$2,819	\$881,558	\$26,828,314
23				\$0	\$30,397	\$32,644	\$817,534	\$2,904	\$883,479	\$27,711,793
24				\$0	\$31,309	\$33,623	\$817,534	\$2,991	\$885,457	\$28,597,250
25				\$0	\$32,249	\$34,632	\$817,534	\$3,081	\$887,495	\$29,484,745
Total	\$4,414,776	\$4,553,884	\$3,095,091	\$25,059	\$469,111	\$530,690	\$16,350,687	\$45,448	\$29,484,745	

NOTES & CLARIFICATIONS:

1. The Performance Guarantee provided by ESCO in the Phase 5 Energy Services Contract shall be revised as outlined above.
2. The Phase 4 Guarantee began May 2021. It is anticipated that the Phase 5 scope of work will be completed at the beginning of Phase 4 Guarantee Year 6. However, the Phase 5 Guarantee above may be adjusted by prorating the Guarantee and using the applicable year's escalation in the year of the Phase 5 Substantial Completion to account for the misalignment of Phase 5 with the Phase 4 guarantee term.
3. It is anticipated that the Phase 6 scope of work will be completed at the beginning of Phase 4 Guarantee Year 7. However, the Phase 6 Guarantee above may be adjusted by prorating the Guarantee and using the applicable year's escalation in the year of the Phase 6 Substantial Completion to account for the misalignment of Phase 6 with the Phase 4 guarantee term.
4. The Guarantee associated with Phase 4 will end on April 30th, 2041. At that point, the savings associated with the Phase 5 ECMs, on meters already tracked as part of Phase 4, will be converted to Non-Measured at the guaranteed amount and the Phase 4 meters will no longer be tracked. The Phase 5 Guarantee will end 20 years after the Phase 5 Savings Guarantee Commencement Date.

**SCHEDULE II(D)
MEASUREMENT & VERIFICATION PLAN**

PROJECTED ANNUAL SAVINGS

The Performance Guarantee as established in Schedule II(C) shall consist of savings from multiple scopes of work. The projected savings from each scope of work is presented in the table below.

Facility	Annual Projected Savings		
	Consumption	Demand	Units
Airport Other	397,224	540	kWh, kW
Airport Terminal	502,272	684	kWh, kW
Armory Electric	1,121	0	kWh, kW
City Hall Electric	401,396	549	kWh, kW
City Hall Gas	17,690	0	CCF
City Link Electric	46,226	56	kWh, kW
City Link Gas	1,833	0	CCF
Civic Center Electric	577,971	475	kWh, kW
Civic Center Gas	-1,208	0	CCF
Cobb Rec Electric	44,279	96	kWh, kW
Cobb Rec Gas	1,907	0	CCF
Community Services Electric	32,601	64	kWh, kW
Community Services Gas	123	0	CCF
Environmental Lab Electric	28,631	49	kWh, kW
Environmental Lab Gas	210	0	CCF
Fire Station 1 Electric	18,278	0	kWh, kW
Fire Station 2 Electric	34,339	56	kWh, kW
Fire Station 2 Gas	132	0	CCF
Fire Station 3 Electric	4,517	0	kWh, kW
Fire Station 5 Electric	44,778	85	kWh, kW
Fire Station 5 Gas	209	0	CCF
Fire Station 6 Electric	37,690	89	kWh, kW
Fire Station 6 Gas	98	0	CCF
Fire Station 8 Electric	41,116	66	kWh, kW
Fire Station 8 Gas	116	0	CCF
Fire Training Academy Electric	14,908	52	kWh, kW
Fire Training Academy Gas	113	0	CCF
Grimes WTP Electric	100,500	177	kWh, kW
Grimes WTP Gas	-147	0	CCF
GV Rec Center Electric	42,444	60	kWh, kW
GV Rec Center Gas	-182	0	CCF
Hamby WWTP	95,800	3	kWh, kW
Har WTP	169,472	212	kWh, kW
Health Department Electric	193,586	296	kWh, kW
Health Department Gas	665	0	CCF
Maintenance Electric	146,141	281	kWh, kW
Maintenance Gas	5,540	0	CCF
NE WTP	119,397	89	kWh, kW
Park Lighting	203,106	8,765	kWh, kW
Police Academy Electric	2,793	0	kWh, kW
Police Station (New) Electric	66,853	0	kWh, kW
Rose Park Electric	311,922	450	kWh, kW
Rose Park Gas	2,376	0	CCF
Safety City Electric	713	0	kWh, kW
Sears Rec Electric	51,871	130	kWh, kW
Sears Rec Gas	1,642	0	CCF
T&P Culinary Electric	22,188	18	kWh, kW
T&P Culinary Gas	2,684	0	CCF
Winn Dixie Storage Electric	10,265	0	kWh, kW
Zoo Electric	86,527	80	kWh, kW
Zoo Gas	1,703	0	CCF

The projected savings in the table above are provided for reference only and are not intended to construe a savings guarantee by meter, facility, or energy unit. The savings guarantee is fully defined in Schedule II(C).

ENERGY, WATER, AND OPERATIONS & MAINTENANCE (O&M) RATE DATA

The cost of energy in any period will be determined by applying the rates as defined below with an annual escalation of 3% ("Baseline Energy Rates"), or the actual energy rates during the period, at the discretion of ESCO, to the energy used in a given period for each fuel type. The measured savings for Phase 5 will use the rate and escalation applied to Phase 4 meters at the time of Phase 5 Substantial Completion and both phases will continue with the same rates and escalation.

Utility Company:	Atmos		
Rate Schedule:	C020		
Component	Charge	Unit	Description
Customer Charge	\$41.92	per billing period	Applies each billing period
Consumption Charge	\$0.67426	per CCF	Applies to all CCF
Rider Tax/ MGRT	\$0.02037	per \$	Applies to all of the above \$ charges

Utility Company:	Reliant/ AEP		
Rate Schedule:	> 10 kW		
Component	Charge	Unit	Description
Fixed Charges	\$24.39	per billing period	Applies each billing period
Consumption Charges	\$0.041064	per kWh	Applies to all kWh
Billed Demand Charges	\$3.889589	per billed kW	Applies to all billed kW
Metered Demand Charges	\$3.30182	per metered kW	Applies to all metered kW
Gross Rec Tax Reim & PUC Assessment Charges	\$0.022117	per \$	Applies to all of the above \$ charges
Determination of Billed kW:	Billed kW is the maximum of the current month's metered kW and 80% of the maximum metered kW from the past 11 months.		

COMMON ECM ASSUMPTIONS

WEATHER DATA SOURCE

Data for weather compensation adjustments will be actual climate data obtained from the National Weather Service Station at Abilene Regional Airport (ABI). In the event the specified weather station is de-activated, weather data will be collected from the nearest weather station with suitable observations. If the data source becomes unavailable or a superior source is identified, ESCO may select an alternative data source with Customer's approval.

ANNUAL CALENDAR OF EVENTS

Provided below is a table summarizing the annual calendar of events that will be used as a basis in calculations, unless otherwise specified. In the event that there are any changes or deviations to this annual calendar, an appropriate adjustment will be made in accordance with the "Adjustment Schedule" set forth in Schedule II(E).

Date(s)	Event	Date(s)	Event
New Year	1-Jan	Labor Day	7-Sep
MLK Jr Day	19-Jan	Veteran's Day	11-Nov
Good Friday	14-Apr	Thanksgiving	26-Nov
Memorial Day	25-May	Christmas	25-Dec
Independence Day	4-Jul		

BUILDING OCCUPANCY SCHEDULES

Provided below is a table summarizing the building occupancy schedules used within the calculations,

unless otherwise specified. In the event that there are any changes or deviations to this occupancy schedule, an appropriate adjustment will be made in accordance with the Adjustment Schedule set forth in Schedule II(E).

Facility	Day Type	Daily Schedule
Airport	All Days	24/7
Citylink	Weekdays	6am-8pm
Citylink	Weekends/Holidays	Unoccupied
Cobb Rec	Mon, Tues, Thurs	7am-11pm
Cobb Rec	Weds, Fri	7am-8pm
Cobb Rec	Weekends/Holidays	Unoccupied
Community Services	Weekdays	7am-6pm
Community Services	Weekends/Holidays	Unoccupied
Environmental Lab	All Days	4am-10pm
Fire Stations 2, 5, 6, & 8	All Days	24/7
Fire Training Academy	All Days	7am-6pm
Grimes WTP	All Days	2am-10pm
GV Rec	Mon, Tues, Thurs	9am-10pm
GV Rec	Weds, Fri	9am-8pm
GV Rec	Weekends/Holidays	Unoccupied
Hamby WTP	All Days	4am-10pm
Hargesheimer WTP	All Days	2am-10pm
Health Department	Weekdays	6am-6pm
Health Department	Weekends/Holidays	Unoccupied
Maintenance	Weekdays	7am-8pm
Maintenance	Weekends/Holidays	Unoccupied
Rose Park, Rec, Senior Center	Weekdays	7am-10pm
Rose Park, Rec, Senior Center	Weekends/Holidays	Unoccupied
Sears Rec	Mon, Tues, Thurs	8am-10pm
Sears Rec	Weds, Fri	8am-7pm
Sears Rec	Weekends/Holidays	Unoccupied
Zoo	All Days	7am-7pm
Civic Center	Mon-Sat	7am-10pm
Civic Center	Sunday	7am-8pm
City Hall	Weekdays	7am-6pm
City Hall	Weekends/Holidays	Unoccupied
T&P Culinary School	Tues-Sat	9am-7pm
T&P Culinary School	Sunday/Holidays	Unoccupied
NE WTP	Weekdays	7am-6pm
NE WTP	Weekends/Holidays	Unoccupied
NE WTP Control Room	All Days	24/7

STANDARDS OF SERVICE AND COMFORT

Provided below is a table summarizing the temperature setpoints used within the calculations, unless otherwise specified. Customer agrees to operate the conditioned spaces in the facilities within the temperature ranges scheduled in the table below. In the event that there are any changes or deviations to these standards of service and comfort, an appropriate adjustment will be made in accordance with the Adjustment Schedule set forth in Schedule II(E).

	Heating	Cooling
Occupied	68°F	74°F
Unoccupied	55°F	85°F

OPTION A – LIGHTING EFFICIENCY AND CONTROLS

- A. Overview of M&V Plan, and Savings Calculation
- B. Energy Savings Calculations
- C. Key Parameter Measurement Strategy
- D. Parameter Estimates
- E. Cost Savings Calculations

A. Overview of M&V Plan, and Savings Calculation

Savings in this section are determined by using an “Option A: Retrofit Isolation – Key Parameter Measurement” approach as described in the International Performance Measurement & Verification Protocol (IPMVP Volume I, EVO 10000-1:2012). The remainder of this section describes the energy savings calculations, key parameter measurements that will be conducted, parameters that will be estimated and those values, and how cost savings will be calculated. The energy and cost savings that are determined using this approach will be the annual savings values used for each year of the Performance Period.

B. Energy Savings Calculations

Provided within this section is an explanation of the calculations that will be used to perform energy savings calculations for this verification method.

Equations and Analysis of Energy Savings

Savings are calculated as the difference in energy usage from the baseline conditions, and the Performance Period conditions.

For energy demand, the demand savings will be determined for each fixture and summed for all fixtures that will be retrofitted using the following formula:

Equation 1 – Energy Demand Savings

$$D_{save} = \sum_{i=1}^n [(E_{Pre} \times F - E_{Post} \times F) \times M]_i$$

Where,

D_{save} = Demand savings

n = Number of fixtures

E_{Pre} = Power usage of the baseline lighting conditions

E_{Post} = Power usage of the Performance Period lighting conditions

F = Demand diversity factor

M = Equivalent months of annual demand savings = 12

For energy consumption, the energy savings will be determined for each fixture and summed for all fixtures that will be retrofitted using the following formula:

Equation 2 – Energy Consumption Savings

$$E_{save} = \sum_{i=1}^n [E_{Pre} \times H - E_{Post} \times H]_i$$

Where,

E_{save} = Energy savings

H = Baseline burn hours

The energy usage of both the baseline and Performance Period lighting conditions are calculated utilizing the same equations. The measured parameters collected during the pre-implementation period will be used to compute the baseline fixture power use. The measured parameters collected during the post-implementation period will be used to compute the Performance Period fixture power use. The equations for a single fixture for both the baseline and Performance Period are shown below using the baseline calculations as an example.

Equation 3 – Total Fixture Power Use

$$E_{Pre} = E_{Fixt, Pre}$$

Where,

$E_{Fixt, Pre}$ = Pre-implementation direct power usage of light fixture

Equation 4 – Fixture Lighting Power Use

$$E_{Fixt, Pre} = P_{pre} \times Q$$

Where,

P_{pre} = Pre-implementation power draw of light fixture

Q = Quantity of associated light fixture

C. Key Parameter Measurement Strategy

This section outlines the measurements that will be conducted to determine the measured values in the equations provided above in Paragraph B. For this lighting project, the key parameters that will be measured are the power consumption of each fixture type and the burn hours for each occupancy type. Measurement and documentation strategies for each project phase are outlined below.

Pre-Implementation Measurements and Documentation

Power measurements will be taken on a sample set of baseline fixture types to determine the average power use for that fixture type. The minimum sample sizes and precision of results are different depending on the number of fixtures included in the project. The most common fixtures will have a high degree of certainty in the results, while the least common fixtures will have greater uncertainty in order to ensure measurement costs are commensurate with performance risk. Three different classes of measurement requirements are included:

1. Fixture types with less than 20 total fixtures will not be measured. The power shown in the table below will be used in all calculations.
2. Fixture types with 20 – 100 total fixtures will have at least 4 measurements taken. Measurements will continue to be taken until the 90% confidence interval for the true population mean spans no more than 10% above and below the mean of the sample.
3. Fixture types with more than 100 total fixtures will have at least 10 measurements taken. Measurements will continue to be taken until the 95% confidence interval for the true population mean spans no more than 5% above and below the mean of the sample.

The mean of a sample set will be treated as the power consumption for that fixture type for all savings calculations. The table below lists each fixture type to be measured, the estimated power of that fixture type, the total quantity of that fixture type, and the minimum amount to be measured prior to removing the fixtures to implement the retrofit. As stated above, more measurements may be needed if the sampled fixtures have too much variance.

Fixture Code	Estimated Power (W)	Total Fixtures	Minimum Sample
MH1500/1	1500	1380	10

MH400/1	400	64	4
MH175/1	175	5	0
MH250/1	250	15	0

Post-Implementation Measurements and Documentation

Power measurements will be taken on a sample set of Performance Period fixture types to determine the average power use for that fixture type. The minimum sample sizes and precision of results are different depending on the number of fixtures included in the project. The most common fixtures will have a high degree of certainty in the results, while the least common fixtures will have greater uncertainty in order to ensure measurement costs are commensurate with performance risk. Three different classes of measurement requirements are included:

1. Fixture types with less than 20 total fixtures will not be measured. The power shown in the table below will be used in all calculations.
2. Fixture types with 20 – 100 total fixtures will have at least 4 measurements taken. Measurements will continue to be taken until the 90% confidence interval for the true population mean spans no more than 10% above and below the mean of the sample.
3. Fixture types with more than 100 total fixtures will have at least 10 measurements taken. Measurements will continue to be taken until the 95% confidence interval for the true population mean spans no more than 5% above and below the mean of the sample.

The mean of each sample set will be treated as the power consumption for that fixture type for all savings calculations. The preferred locations for measurements for the new retrofit types will be locations where some previous measurement was taken. The number of post-retrofit samples measured is independent from the number of pre-retrofit samples taken. These measurements are taken to determine the average power use of each fixture type, not the reduction of power use in any specific locations. All measurements will be taken using the same equipment and will be calibrated. The table below lists each fixture type to be measured, the estimated power of that fixture type, the total quantity of that fixture type, and the minimum amount to be measured during the post-implementation period.

Fixture Code	Estimated Power (W)	Total Fixtures	Minimum Sample
LED500-FIXT	500	1359	10
LED200-FIXT	200	30	4
LED055-FIXT	55	5	0
LED080-FIXT	80	19	0
LED150-FIXT	150	30	4

Performance Period Measurements and Documentation

No additional measurements will be taken during the Performance Period of this M&V strategy.

D. Parameter Estimates

Of the parameters identified under the equations for energy savings in Section B, several of the parameters are estimates, and will not be measured during any period of the project. Of the variables identified, the parameters that will be estimated for this particular ECM and M&V strategy include: burn hours and demand diversity factors. This information is provided for each grouping of fixtures. Common information that applies to all fixtures groups is included below:

Building/Area	Room Description	Pre Fixture Code	Pre Wattage	Pre Quantity	Post Fixture Code	Post Wattage	Post Quantity	Demand Diversity	Burn Hours
Athletic	ROSE PARK ATHLETIC	MH1500/1	1500	165	LED500-FIXT	500	165	0.9	164
Athletic	LEE COMPLEX	MH1500/1	1500	58	LED500-FIXT	500	57	0.9	164
Athletic	COBB	MH1500/1	1500	30	LED500-FIXT	500	30	0.9	164
Athletic	NELSON	MH1500/1	1500	250	LED500-FIXT	500	245	0.9	164
Athletic	CAL YOUNG	MH1500/1	1500	42	LED500-FIXT	500	42	0.9	164
Athletic	MLK/JANE SESSIONS	MH1500/1	1500	52	LED500-FIXT	500	52	0.9	164
Athletic	LAKE KIRBY	MH1500/1	1500	231	LED500-FIXT	500	226	0.9	164

Athletic	RED BUD	MH1500/1	1500	209	LED500-FIXT	500	204	0.9	164
Athletic	JACKSON	MH1500/1	1500	60	LED500-FIXT	500	60	0.9	164
Athletic	SCARBOROUGH	MH1500/1	1500	105	LED500-FIXT	500	102	0.9	164
Athletic	SEARS	MH1500/1	1500	84	LED500-FIXT	500	82	0.9	164
Athletic	WILL HAIR	MH1500/1	1500	94	LED500-FIXT	500	94	0.9	164
Athletic	Rose Park Tennis	MH400/1	400	30	LED200-FIXT	200	30	0.9	205
Exterior	175w wallpacks	MH175/1	175	5	LED055-FIXT	55	5	0.75	4380
Exterior	250w wallpacks	MH250/1	250	15	LED080-FIXT	80	15	0.75	4380
Exterior	400w wallpacks	MH400/1	400	4	LED080-FIXT	80	4	0.75	4380
Athletic	Rose Park Tennis	MH400/1	400	30	LED150-FIXT	150	30	0.9	205

E. Cost Savings Calculations

Provided below are the methods and equations used to determine the cost savings associated with this particular methodology.

Cost Savings are calculated as the difference between the baseline and Performance Period energy costs using the utility rates as defined in Schedule II(D), Energy, Water, and O&M Rate Data. The applicable marginal utility rates will be applied to the baseline and Performance Period energy use as determined in Paragraph B. Equation 7 will be used to compute the total cost savings for each Guarantee Year. Savings will escalate annually at 3%.

Equation 7 – Total Cost Savings

$$\$_{save} = \sum_{i=1}^n (\$_{Baseline} - \$_{Performance})_i$$

Where,

$\$_{save}$ = Guarantee year cost savings

$\$_{Baseline}$ = Billing period k baseline utility cost for account i

$\$_{Performance}$ = Billing period k performance period utility cost for account i

n = Total number of utility types

\$/KW	\$5.22416
\$/KWH	\$0.04040

MEASUREMENT & VERIFICATION DETAILS

OPTION C – WHOLE TERM

- A. Overview of M&V Plan, and Savings Calculation
- B. Energy Savings Calculations
- C. Key Parameters Measurement Strategy
- D. Parameter Estimates
- E. Cost Savings Calculations

A. Overview of M&V Plan, and Savings Calculation

The method of determining energy savings described in this section uses “Option C – Whole Facility (Main Meter Measurement)” as described in the International Measurement and Verification Protocol (IPMVP Volume I, EVO 10000-1:2012). The remainder of this section provides the energy savings calculations, the key parameter measurements that will be conducted, the parameters that will be estimated and those values, and how cost savings will be calculated.

Guaranteed Meters

The following meters will be used to measure actual energy consumption for both the base year and guarantee periods.

Meter Name	Account	Utility Type	Utility Company	Rate	Units
Airport Parking Lights Electric	91734-290	Electric	Reliant/ AEP	> 10 kW	kWh, kW
City Hall Electric	91734-201	Electric	Reliant/ AEP	> 10 kW	kWh, kW
City Hall Gas	3038585664	Gas	Atmos	C020	CCF
Civic Center Electric 1	10204049731428510	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Civic Center Electric 2	10204049779157280	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Health Department Electric	10204049797324568	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Maintenance Electric	10204049729624400	Electric	Reliant/ AEP	> 10 kW	kWh, kW
Rose Park Electric	10204049761087660	Electric	Reliant/ AEP	> 10 kW	kWh, kW

Building Summary

The following table lists the buildings that were served by guarantee meters during the base year period.

Building Name	Area (ft ²)
Airport	48,800
City Hall	60,410
Civic Center	127,000
Health Department	20,800
Maintenance	29,218
Rose Park	40,899

B. Energy Savings Calculations

Provided within this section is an explanation of the calculations that will be used to perform energy savings calculations for this particular ECM.

Overview of Savings Methodology

Energy savings will be measured by comparing the Performance Period's total energy consumption and demand to the total energy consumption and demand for the same area in the base year period by utilizing energy meter data. Base year energy and demand will be adjusted for differences in weather, facility

operation and facility modifications to estimate how much energy would have been used in the guarantee period if the energy conservation measures had not been implemented. The energy saved is the difference between the adjusted base year consumption and the Performance Period consumption. The demand saved is the difference between the adjusted base year demand and the Performance Period demand. This process will be followed for each fuel type involved in the guarantee.

Equations and Analysis of Energy Savings

Savings are calculated as the difference in energy usage from the baseline conditions after adjusting for all necessary changes, and the Performance Period conditions. This is shown in Equation 1 below:

Equation 1 – Energy Consumption Savings

$$E_{save} = E_{Baseline} - E_{Performance}$$

Where,

E_{save} = Energy savings

$E_{Baseline}$ = Adjusted energy usage of facility equipment pre-implementation

$E_{Performance}$ = Energy usage of facility equipment post-implementation

The baseline is that set of parameters that describes both the energy consumed in the base year and the conditions that caused that consumption to occur. This set of parameters includes utility consumption, facility use information, weather data and other information as may be necessary to describe the base year conditions. In addition, the baseline includes certain mathematical values, calculated by a model, that are used to correlate the base year energy consumption with the factors that caused that consumption and is defined by Equation 2 below:

Equation 2 – Baseline Energy Use

$$E_{Baseline} = \sum_{i=1}^n C_D \times T_i + C_H \times HDD_i + C_C \times CDD_i + C_O \times OCC_i + CO_i + CM_i$$

Where,

n = Number of billing periods in year.

$E_{Baseline}$ = Adjusted baseline period consumption

C_D = A constant representing units of consumption per billing period day

T_i = Number of days in billing period

C_H = A constant representing units of consumption per heating degree day

HDD_i = Heating degree days in the current billing period

C_C = A constant representing units of consumption per cooling degree day

CDD_i = Cooling degree days in the current billing period

C_O = A constant representing units of consumption per occupied day

OCC_i = Occupied days in the current billing period

CO_i = Offset for the current billing period

CM_i = Other adjustments for the current billing period

Customer agrees to accept modifications to this baseline that are necessary to account for changes in the facilities and their use which may have occurred prior to the execution of this agreement but come to the attention of ESCO after the execution of this agreement. Typical adjustments are provided in detail in Schedule II(E).

Demand savings are computed similarly to the consumption savings, as shown by Equation 3 below:

Equation 3 – Peak Demand Savings

$$D_{save} = D_{Baseline} - D_{Performance}$$

Where,

D_{save} = Demand savings

$D_{Baseline}$ = Adjusted energy demand of facility equipment pre-implementation

$D_{Performance}$ = Energy demand of facility equipment post-implementation

Adjusted base year demand is calculated as demonstrated in Equation 4 below:

Equation 4 – Baseline Peak Demand

$$D_{Baseline} = \sum_{i=1}^n D_D + D_H \times \frac{HDD_i}{T_i} + D_C \times \frac{CDD_i}{T_i} + DO_i + DM_i$$

Where,

D_D = A constant representing units of demand per billing period

D_H = A constant representing units of demand per heating degree day per day

D_C = A constant representing units of demand per cooling degree day per day

DO_i = Offset for the current billing period

DM_i = Other adjustments for the current billing period

C. Key Parameters Measurement Strategy

Measurement and documentation strategies for each project phase are outline below.

Pre-Implementation Measurements and Documentation

Customer will provide ESCO with monthly utility bills and all delivery invoices for the accounts included in Paragraph A for a minimum of twenty-four (24) months worth of historical utility data that is to represent a complete span of two years worth of energy usage. Customer will also provide ESCO with monthly utility bills and all delivery invoices for the accounts included in Paragraph A from the end of that twenty-four (24) month data set through the Savings Guarantee Commencement Date within the timelines specified in Schedule II(E).

ESCO will collect daily high and low temperature data from the weather station defined in Schedule II(D), Common ECM Assumptions.

Post-Implementation Measurements and Documentation

No short term verification is performed using this method. All post-implementation measurements are conducting during the Performance Period.

Performance Period Measurements and Documentation

Throughout the Performance Period, Customer will provide ESCO with the monthly utility bills and all delivery invoices for the accounts included in Paragraph A within the timelines specified in Schedule II(E).

ESCO will collect daily high and low temperature data from the weather station defined in Schedule II(D), Common ECM Assumptions.

D. Parameter Estimates

The parameters defined in the equations outlined in Paragraph B that are estimated are determined through

engineering analysis of at least twelve (12) months worth of the pre-implementation measured utility data. This is done to establish the relationship between the weather, billing period length, any other independent factors, and the consumption and demand associated with a particular account. The end result of this analysis is the set of coefficients used in the equations defined in Paragraph B to fully define the baseline for each account. The values will be presented to Customer by ESCO before the Savings Guarantee Commencement Date and will be documented and agreed upon by both parties in the Meter Tuning Summary. Below are definitions of each of the estimated parameters included in Paragraph B;

- The values of CD and DD represent the base load consumption and demand of the utility usage of a particular meter and are equivalent to the weather independent energy usage and demand.
- The values of CH and DH represent the heating consumption and demand of the utility usage of a particular meter and are equivalent to the weather dependent energy usage and demand. They are associated with a consumption and demand heating balance point specific to that account.
- The values of CC and DC represent the cooling consumption and demand of the utility usage of a particular meter and are equivalent to the weather dependent energy usage and demand. They are associated with a consumption and demand cooling balance point specific to that account.
- The billing period values of COi and DOi represent the portion of the energy consumption and demand that cannot be accounted for with the weather independent and weather dependent consumption.

Each of these parameters will be determined based on the relationship of the baseline period energy and demand and the independent factors. During the Performance Period they will be used to estimate the energy use and demand that would have occurred if the project had not been performed. To accomplish this, COi and DOi will be pro-rated to the Performance Period billing periods for each account.

The terms CMi and DMi are included in the equations in Paragraph B to account for changes in the Performance Period energy use and demand from the baseline Period energy use and demand on the accounts in Paragraph A for any causes unrelated to the project as defined in Schedule II(E). The procedures for developing these estimates vary with the specific causes for the adjustments. The requirements for determining these values and any measurements necessary to support these estimates are defined in Schedule II(E).

E. Cost Savings Calculations

Provided below are the methods and equations used to determine the cost savings associated with this particular methodology.

Cost Savings are calculated as the difference between the baseline and Performance Period energy costs using the utility rates, escalated 3% annually, as defined in Schedule II(D), Energy, Water, and O&M Rate Data. The applicable utility rates will be applied to the baseline and Performance Period energy use for the accounts in Paragraph A. Equation 5 will be used to compute the total cost savings for each Guarantee Year.

Equation 5 – Total Cost Savings

$$\$_{save} = \sum_{i=1}^n \left[\sum_{k=1}^q (\$_{Baseline} - \$_{Performance})_k \right]_i$$

Where,

$\$_{save}$ = Guarantee year cost savings

$\$_{Baseline}$ = Billing period k baseline utility cost for account i

$\$_{Performance}$ = Billing period k performance period utility cost for account i

n = Total number of accounts

q = Total number of billing periods for account i

NON-MEASURED SAVINGS

A. Overview of M&V Plan, and Savings Calculation

B. Annual Non-Measured Savings

A. Overview of M&V Plan, and Savings Calculation

The Actual Savings associated with this methodology will be agreed upon as outlined herein and will not be verified by measurements after implementation has occurred. Customer and ESCO agree to accept the annual savings values included in Section B with no additional verification. In the event that verification steps are performed by Customer or ESCO, the annual savings values included in Section B will still be the reported savings and values used for reconciling the guarantee in Schedule II(C). Section B details the agreed upon savings by measure and by category.

B. Annual Non-Measured Savings

Utility Cost Savings

Once the construction of each of the measures below has reached Substantial Completion, the annual savings in the table below will be prorated monthly for each measure until the Savings Guarantee Commencement Date. The annual savings in the table below for each measure will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date with an annual escalation of 3%.

Utility Cost Savings Measure	Cost Savings
Phase 4	
Airport Other LED Lighting	\$9,876
Airport Other BERT	\$106
Airport Terminal LED Lighting	\$15,198
Airport Terminal Mechanical	\$2,787
Airport Terminal BAS	\$7,710
City Link LED Lighting	\$1,279
City Link BAS	\$1,860
City Link BERT	\$265
Civic Center LED Lighting	-\$706
Civic Center Mechanical	-\$351
Civic Center BAS	\$499
Civic Center BERT	\$1
Cobb Rec LED Lighting	\$1,488
Cobb Rec BAS	\$2,021
Cobb Rec BERT	\$69
Comm. Services LED Lighting	\$1,475
Comm. Services BAS	\$438
Comm. Services BERT	\$28
Env. Lab LED Lighting	\$597
Env. Lab BAS	\$657
Env. Lab BERT	\$23
FS2 LED Lighting	\$1,417
FS2 BAS	\$361
FS5 LED Lighting	\$1,999
FS5 BAS	\$607
FS6 LED Lighting	\$1,391

FS6 BAS	\$390
FS8 LED Lighting	\$1,858
FS8 BAS	\$392
Grimes WTP LED Lighting	\$3,485
Grimes WTP BAS	\$627
GV Rec Center BAS	-\$157
GV Rec Center Mechanical	\$787
GV Rec Center LED Lighting	\$1,654
GV Rec Center BERT	\$83
Hamby WWTP LED Lighting	\$1,838
Hamby WWTP BAS	\$2,002
Har WTP LED Lighting	\$6,132
Har WTP BAS	\$552
Health Dept. LED Lighting	-\$460
Health Dept. BAS	\$890
Maintenance LED Lighting	\$2,826
Maintenance BAS	\$4,730
Maintenance BERT	\$95
NE WTP Mechanical	\$1,208
NE WTP LED Lighting	\$2,294
NE WTP BAS	\$1,295
Rose Park LED Lighting	\$971
Rose Park BAS	\$3,453
Rose Park BERT	\$56
Sears Rec LED Lighting	\$1,840
Sears Rec BERT	\$71
Sears Rec BAS	\$2,136
T&P Culinary LED Lighting	\$684
T&P Culinary BAS	\$2,040
Zoo LED Lighting	\$2,438
City Hall LED Lighting	\$63,484
City Hall Water	\$8,687
Phase 6 Total	\$169,476
Phase 5	
Fire Station 6 HVAC Savings	\$476
Maintenance HVAC Savings	\$189
Fire Station 2 HVAC Savings	\$115
Rose Park Adapt Rec Center HVAC Savings	\$528
Zoo HVAC Savings	\$155
Armory HVAC Savings	\$106
Fire Station 1 HVAC Savings	\$1,733
Fire Station 3 HVAC Savings	\$428
New Police Station HVAC Savings	\$6,337
Police Academy HVAC Savings	\$265
Safety City HVAC Savings	\$68
Winn Dixie Storage HVAC Savings	\$973
Building Envelope Upgrades	\$5,817
Phase 5 Total	\$17,044

Phase 6	
Hamby WWTP HVAC Savings	\$42
Hargesheimer WTP HVAC Savings	\$904
Grimes WTP HVAC Savings	\$467
Environmental Lab HVAC Savings	\$397
Phase 6 Total	\$1,809

Any savings accrued prior to the Savings Guarantee Commencement Date will be considered Excess Savings.

Operation and Maintenance Savings

The annual savings in the table below for each measure will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date with an annual escalation rate of 3%.

Operation and Maintenance Savings Measure	Cost Savings
Phase 4	
Lighting	\$101,306
Mechanical	\$13,164
Water	\$716
Phase 4 Total	\$115,186
Phase 5	
HVAC O&M Savings	\$19,750

Avoided Capital Cost Savings

The annual savings in the table below are due to replacement of equipment at the end of its' useful life and will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date.

Avoided Capital Savings Measure	Cost Savings
Phase 5 Capital Cost Avoidance Savings	\$817,534

SCHEDULE II(E)

CUSTOMER RESPONSIBILITIES FOR PERFORMANCE GUARANTEE

GENERAL RESPONSIBILITIES

Customer acknowledges and agrees that proper maintenance is essential to any energy conservation program. Therefore, Customer agrees to undertake the following responsibilities:

Customer agrees to: (1) provide, or cause its suppliers to provide, periodic utility invoices to ESCO within ten (10) days of receipt, (2) execute all Customer responsibilities as outlined herein, and (3) provide to ESCO reasonable access to all Customer facilities and information necessary for ESCO to perform its responsibilities. Access will include, but is not limited to, the following items:

- All buildings listed within this Contract
- All buildings served by the meters listed within this Contract
- All mechanical equipment rooms in the buildings listed within this Contract
- Remote connection to all temperature control and energy management systems which control part or all of any of the buildings listed within this Contract. Remote connection will use a cyber secure access point approved by Schneider Electric.
- Personnel with responsibility for operating and/or managing any of the buildings listed within this Contract
- Monthly utility invoices and billing history for all of the meters listed within this Contract
- Construction documents, equipment inventories, and other documents that may be helpful in evaluating a cause for adjustment as listed within this Contract
- Any data from meters or sub-meters relevant to M&V associated with this Contract

Customer will solely be responsible for providing communications and/or network interface to all buildings for operation and PASS support.

Customer will perform daily facilities monitoring and promptly review any alarm summaries.

Customer will designate a "Primary Operator" of the system. The Primary Operator is defined as the individual who will be trained by ESCO during the installation period and will be responsible for daily operation and maintenance of the equipment and systems necessary to achieve the Performance Guarantee. Customer will notify ESCO within five (5) days after the departure or termination of the Primary Operator. Within ten (10) days of the departure of the current Primary Operator, Customer will designate a new Primary Operator and shall provide ESCO access to train the new Primary Operator. ESCO shall train a new Primary Operator at the sole expense of Customer on a time and materials basis.

MAINTENANCE RESPONSIBILITIES

Customer agrees to use its best efforts to maintain the ECMs in original operating condition ("Original Operating Condition") with allowance for normal wear and tear. If an ECM is operating at any state other than the Original Operating Condition as defined above ("Failed ECM"), Customer agrees to (1) repair or replace the ECM immediately, and (2) contact a PASS representative at 1-800-274-5551, within 24 hours of such event. ESCO reserves the right to adjust the amount of Performance Guarantee associated with the Failed ECM for the duration of the failure in the Annual Savings Guarantee.

Customer will agree to maintain all parts of the Project site(s) where the ECM(s) reside including but not limited to components, equipment, machinery, energy management systems, structure of the facility(s), computer hardware, network and IT systems, either existing or newly installed. Customer must comply with the general maintenance requirements specified by equipment manufacturers and the maintenance tasking guidelines included in the operating and maintenance manual. Customer will be responsible to provide to ESCO documentation that proper maintenance has been performed at ESCO'S request within fifteen (15) days of written request.

Notwithstanding anything to the contrary contained herein, all ECM(s) must be maintained in proper working condition in all cases where the performance of said ECM(s) affects or could affect the ability to achieve, measure or verify the Annual Savings Guarantee. Should Customer refuse to perform the required maintenance as required in this Contract, ESCO and Customer shall agree to one of the following means of recourse: (1) ESCO will adjust the Performance Guarantee associated with that ECM pursuant to Schedule II(E), or (2) ESCO may terminate this Performance Guarantee and any and all obligations and liabilities of ESCO associated therewith upon fifteen (15) days written notice.

ADJUSTMENT RESPONSIBILITIES

In addition to the responsibilities of Customer set forth in this Schedule, Customer also agrees to undertake the responsibilities set forth in the Adjustment Schedule Is necessary.

ADJUSTMENT SCHEDULE

Below is the procedure for accounting for non-routine adjustments for any of the utility meters included in Schedule II(D). A non-routine adjustment is required for any change outside of those explicitly defined in Schedule II(D) that will impact the energy use or the verified savings under this Contract. It is Customer's responsibility to notify ESCO of any changes that may necessitate a non-routine baseline adjustment and to perform the required non-routine baseline adjustment steps identified below at Customer's sole expense.

CUSTOMER REQUIRED NON-ROUTINE BASELINE ADJUSTMENT RESPONSIBILITIES

If the required non-routine baseline adjustment steps are not performed, and the change is greater than the threshold limit, savings will be determined with the Assumed Savings Procedure Adjustment, as defined below. Actual Savings will be determined using the Assumed Savings Procedure Adjustment for all billing periods until the required non-routine baseline adjustment steps have been completed, or until the change which necessitated the non-routine baseline adjustment is no longer in place. If Customer fails to notify ESCO of a change necessitating a non-routine baseline adjustment or fails to provide details of the change, savings will be determined with the Assumed Savings Procedure Adjustment.

If the required non-routine baseline adjustment steps are not performed, and the change is less than the threshold limit, savings will be determined with the "Estimated Savings Procedure Adjustment". Actual Savings will be determined using the Estimated Savings Procedure Adjustment for all billing periods until the required non-routine baseline adjustment steps have been completed, or until the change which necessitated the non-routine baseline adjustment is no longer in place.

1. Addition of New Building or New Energy User

- All utility services to the building or energy user which affect the energy use of any meter included in Schedule II(D) must be sub-metered at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

2. Addition to Existing Building

- All utility services to the addition which affect the energy use of any meter included in Schedule II(D) must be sub-metered at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

3. Renovation / Modification to Existing Building or Utility Service

- All utility services for the affected portion of the building must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

4. Demolition / Abandonment of Existing Building or Utility Service

- All utility services for the affected buildings must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

5. Re-commissioning of Out of Service Building

- All utility services for the affected buildings must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule II(D) or 20,000 ft².

6. Change in Occupancy

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the "Assumed Savings Procedure" listed below will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 5% of the total occupant count in the base year.

7. Change in Schedule

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 5% of the total scheduled hours for the meter as defined in Schedule II(D).

8. Change in Set-points

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: An average of 0.5° from the set-points defined in Schedule II(D).

9. Change in Operational Calendar

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 5% of the total scheduled hours for the meter as defined in Schedule II(D).

10. Change in Plug Load

- Customer must perform, or cause to be performed, at Customer's expense, a simulation of energy impact to account for the change. If the computed impact is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 1% of the base year peak 15-minute average kW for the affected meter.

11. Customer Initiated ECMs

- Customer must develop and execute an M&V plan at Customer's expense, which has been reviewed and approved by ESCO, to evaluate the impact of the change. If the impact determined by the M&V plan is greater than 20% of the projected savings on the meter, the Assumed Savings

Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.

- Threshold limit: 2% of the projected savings on any affected meter.

12. Missing Bills

- Customer is required to provide ESCO with utility bills for meters defined in Schedule II(D) within ten (10) days of receipt of each bill or provide ESCO direct access to retrieve the utility bills electronically. If utility bills are not received by ESCO within sixty (60) days of the end of the service date, the Assumed Savings Procedure will be used.

13. Failure to Operate ECMs According to Operational and Design Intent

- Customer agrees to operate the ECMs according to the Operational and Design Intent of the ECMs. Failure to do so will necessitate a baseline adjustment using the Assumed Savings Procedure.

14. Failure to Perform Project Specific Customer Responsibilities

- Customer agrees to perform the project specific Customer responsibilities as defined in Schedule II(E). Failure to do so will necessitate a baseline adjustment using the Assumed Savings Procedure.

15. Other Causes

- Any change that impacts the energy use on the meters defined in Schedule II(D) that does not fit into any of the other categories may still require a non-routine baseline adjustment. Customer will notify ESCO before any change is made so that an agreeable adjustment strategy can be determined. If no agreeable adjustment method can be reached, the Assumed Savings Procedure will be used.

ASSUMED SAVINGS PROCEDURE ADJUSTMENT

- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are greater than or equal to the projected savings for the affected meter(s), the Actual Savings from the prior Guarantee Year will be reported while savings are assumed for the affected meter(s).
- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are less than the projected savings for the affected meter(s) and there have been less than twenty-four (24) months since the commencement of the Performance Period, Actual Savings will be reported at the projected savings level while savings are assumed for the affected meter(s).
- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are less than the projected savings for the affected meter(s) and there have been twenty-four (24) months or more since the commencement of the Performance Period, Actual Savings will be reported as the average of the achieved savings over the two (2) most recent Guarantee Year plus half (1/2) of the difference between the projected savings and the average of the achieved savings over the two (2) most recent Guarantee Years.
 - If pursuant to the Assumed Savings Procedure, ESCO makes improvements to the Project beyond the original scope as defined in Schedule I., which results in an increase in the Actual Savings, an M&V plan accounting for those improvements will be executed and the resulting savings will be added to the Actual Savings.

ESTIMATED SAVINGS PROCEDURE ADJUSTMENT

- At ESCO'S sole discretion, ESCO will estimate the impact of the change using computerized building simulations, manual calculations, or other generally accepted estimating procedures and may ignore any changes which fall below the threshold limit.

SUPPLEMENT TO AGREEMENT BETWEEN THE CITY OF ABILENE, TEXAS AND
Schneider Electric Buildings Americas, Inc. (“Company”)

- (1) **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.
- (2) **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.
- (3) **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.
- (4) **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 company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company: (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.

Schnedier Electric Buildings Americas, Inc.
(printed name of company)

Matt Lombardo Matt Lombardo
(signature and printed name of signatory)

3/10/2025
(date of signature)

Enter Into a Contract with Schneider Electric Buildings America, Inc. for Phase 6 Improvements



Sustainability, Modernization & Innovation Phase 6 Mapping Workshop

City of Abilene

Maximizing a Successful Long-Term Partnership

Project at a Glance:

- Beginning in 2008, the City of Abilene wanted to improve operations, security, comfort and efficiency,. With the help of Schneider Electric, the City implemented a Phase I project that consisted of \$9 million in facility enhancements.
- This first phase turned into a long-term, four-phase plan that ensures public buildings are ready to meet the needs of the community today and for years to come.
- The upgrades were a crucial step in empowering The City of Abilene to address deferred maintenance as well as provide comfortable and safe facilities for its residents.



City of Abilene, Texas

- Abilene, Texas

Facilities:

- 37 upgraded buildings

Results:

- 27.5% reduction in utility usage



City of Abilene, Texas

- Abilene, Texas

Facilities:

- 37 upgraded buildings

Results:

- 27.5% reduction in utility usage

Maximizing a Successful Long-Term Partnership

Solution:

- The most recent phase of the projected reduced energy use and improved the appearance of City facilities and parks, as well as upgrading HVAC systems to improve occupant comfort.
- Other improvements included replacing water valves and fixtures to enhance conservation and adding electric power distribution equipment to provide visibility into reliability metrics. Additionally, the City Hall and the Convention Center received new fire alarms to provide critical occupant safety.
- Phase 6 - The City is proposing to issue Certificates of Obligation to fund the improvements, where water & sewer revenues will pay the debt service.

Phase 6 Scope of Work – Water Department Buildings and Backup Generators

Improvements:

- **Backup Generators at South Water Treatment Plant (Hargesheimer) & Northeast Water Treatment Plant**– A base component for providing back-up power when the utility supplied power is unavailable.
- Elevator upgrade/modernization at the Northeast Water Treatment Plant
- Electric gear/panel/transformer replacement at water department buildings
- HVAC replacement at water department buildings

Phase 6 Total Scope of Work \$15,860,710





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 11. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Design and Creation of the Giving Tree Sculpture as Part of Clear Fork Bank Sculpture Garden (*Lesli Andrews*)

GENERAL INFORMATION

The Abilene Cultural Affairs Council would like to commission the Giving Tree sculpture. Abilene Cultural Affairs Council is proposing the sculpture be located in the Clear Fork Bank Storybook Garden on the lawn of the Abilene Convention Center. The date of the unveiling has not yet been determined.

The Giving Tree is a book by Shel Silverstein originally published in 1964.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

There is not a fiscal impact.

STAFF RECOMMENDATION

Staff recommends approval of the acceptance of the donated sculpture.

BOARD OR COMMISSION RECOMMENDATION

The sculpture was approved by the Visual Arts Jury at the February 24, 2025 board meeting.

ATTACHMENTS:

1. 25_3_13 Resolution_2025_Design and Creation Giving Tree sculpture
2. Giving Tree Drawing
3. Presentation_ Acceptance of Design and Creation Giving Tree Sculpture for Public Display

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING THE DESIGN AND CREATION OF THE GIVING TREE SCULPTURE FOR PLACEMENT IN THE CLEAR FORK BANK SCULPTURE GARDEN ON THE LAWN OF THE ABILENE CONVENTION CENTER.

WHEREAS, the Abilene Cultural Affairs Council (ACAC) would like to commission the Giving Tree sculpture; and

WHEREAS, ACAC works to add one or more sculptures for public display; and

WHEREAS, the Visual Arts Jury approved the Giving Tree sculpture at their February 24, 2025 meeting.

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

Part 1: That the City Council approves acceptance of the design and creation of the Giving Tree sculpture for placement in the Clear Fork Bank Sculpture Garden on the lawn of the Abilene Convention Center.

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

ADOPTED this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



Resolution: Acceptance of Design and Creation of Sculpture for Public Display



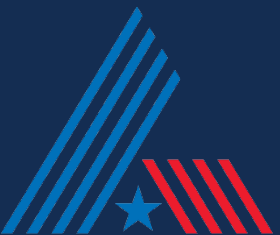
Request to Accept Design and Creation of Sculpture for Public Display

Sculpture by: Nick Noblique

Size: 20'(H) with 5' Bases

Material: Iron

Location: Clear Fork Bank Sculpture Garden





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 12. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Design and Creation of the Winnie the Pooh Series as Part of the Storybook Series (Lesli Andrews)

GENERAL INFORMATION

The Abilene Cultural Affairs Council would like to commission the Winnie the Pooh Series sculptures. Abilene Cultural Affairs Council is proposing the sculpture be located in the Clear Fork Bank Storybook Garden on the lawn of the Abilene Convention Center and that it be unveiled on the first evening of the Children's Art and Literacy Festival in 2026.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

There will not be a fiscal impact.

STAFF RECOMMENDATION

Staff recommends approval of the acceptance of the donated sculptures.

BOARD OR COMMISSION RECOMMENDATION

The sculptures were approved by the Visual Arts Jury at the February 24, 2025 board meeting.

ATTACHMENTS:

1. 25_3_13 Resolution_2025_Design and Creation Winnie the Pooh sculptures
2. Character Poses & Sponsors
3. Presentation_ Acceptance of Design and Creation Winnie the Pooh Scuplture Series
Sculpture for Public Display

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING THE DESIGN AND CREATION OF THE WINNIE THE POOH SCULPTURE SERIES FOR PLACEMENT IN THE CLEAR FORK BANK SCULPTURE GARDEN ON THE LAWN OF THE ABILENE CONVENTION CENTER.

WHEREAS, the Abilene Cultural Affairs Council (ACAC) would like to commission the Winnie the Pooh sculpture series; and

WHEREAS, ACAC works to add one or more sculptures for public display; and

WHEREAS, the Visual Arts Jury approved the Winnie the Pooh sculpture series at their February 24, 2025 meeting.

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

Part 1: That the City Council approves acceptance of the design and creation of the Winnie the Pooh sculpture series for placement in the Clear Fork Bank Sculpture Garden on the lawn of the Abilene Convention Center.

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

ADOPTED this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



Winnie the Pooh

Sponsors: John & Janet Garrison
Lale & BJ Estes Family Foundation
Funded: \$50,000

Piglet

Sponsors: Randy & Kay Spiva
Funded: \$13,000



Tigger

Sponsors: Douglass & Angie Robison
Alan & Tracie Hartmann
Funded: \$50,000



Kanga & Roo

Sponsors: Ralph & Jill Heaven

Funded: \$64,000



Eeyore

Sponsors: Bobby & Brenda Saling
Christy & Matthew Melbourne
Additional Sponsorships available for Eeyore
In \$5,000 increments and above



Rabbit

Sponsors: TBD depending on Eeyore fundraising success
\$25,000

Resolution: Acceptance of Design and Creation of Sculptures for Public Display



Request to Accept Design and Creation of Sculpture for Public Display

Sculpture by: Steve Neeves

Size: Ranges from 3' to 5' in height

Material: Bronze

Location: Clear Fork Bank Sculpture Garden





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Pamela Williams, Director

SUBJECT: 13. Resolution: Receive a Report, Hold a Discussion, and Take Action to Approve an Agreement with Empyrean Benefit Solutions to Provide an Online Benefits Administration Platform (*Pamela Williams*)

GENERAL INFORMATION

The City conducted a Request for Proposal for an Online Benefits Administration Platform (CB-2502) to partner with a third-party vendor for an Online Benefits Platform. We were looking for a qualified vendor with proven experience in delivering an online benefits platform that simplifies administration, enhances employee self-service, and integrates seamlessly with our Human Resources systems.

SPECIAL CONSIDERATIONS

The Human Resources department generated an RFP in October 2024. This notice was published on October 15, 2024, with a proposal deadline of November 15, 2024. Within that timeline, we received six responses to the RFP, which were evaluated by the Employee Benefits and Human Resources team.

FUNDING/FISCAL IMPACT

The Online Benefits Administration Platform will be funded using the Technology fund.

STAFF RECOMMENDATION

Staff recommends awarding the contract to Empyrean Benefit Solutions.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Empyrean Resolution
2. Online Benefits Admin Marketing Analysis
3. Empyrean Predicted Cost Tool
4. Sample Benefit Election Summary - Empyrean
5. Empyrean Master Services Agreement
6. Empyrean-City Council Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
APPROVING AN AGREEMENT WITH EMPYREAN BENEFIT SOLUTIONS TO
PROVIDE AN ONLINE BENEFITS ADMINISTRATION PLATFORM.**

WHEREAS, the Human Resources Department went out for an RFP on 10/15/24 seeking proposals for an Online Benefits Administration Platform. They received six responses and reviewed for the best-fit candidate.

WHEREAS, it is the staff's recommendation that the City accepts the proposal from Empyrean Benefit Solutions to perform the services of the Online Benefits Administration Platform. Additionally, we request the City Manager's endorsement to execute the final contract.

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

PART 1: The City Manager is authorized to negotiate and execute an agreement with Empyrean Benefit Solutions as set-forth above. Which is a three-year rate guarantee agreement with optional renewals. The cost for the first-year and implementation is \$241,159.80, with subsequent years costing \$184,359.80 during the initial contract terms and payments are made on a monthly basis.

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

ADOPTED this 13th day of March, 2025

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

City of Abilene

Online Benefits Administration Marketing

2025

Estimated Employee Count	920	920	1400	920	1400	1400	1400
	Businessolver Current Plan	Businessolver Renewal Plan	BenefitFirst Proposed Plan	Benistar Proposed Plan	Bentek Proposed Plan	Empyrean Proposed Plan	Selerix Proposed Plan
Core Services							
A. Set-Up Cost (One-time fee)	\$0.00	\$0.00	\$27,020.00	\$15,000.00	\$0.00	\$35,000.00	\$10,000.00
B. PEPM Cost (Annual Fee)	\$10.90	\$11.33	\$3.65	\$4.75	3.45 PEPM	\$5.75	\$4.50
C. Carrier Adm. Support Fee (6)	Included	Included	Included	Included	\$1,500 per file (initial set up)	Included	Included
D. Payroll File Fee	Included	Included	\$1.00	Included	\$1.00 PEPM	Included	Included
Estimated Monthly Cost	\$10,028.00	\$10,423.60	\$6,510.00	\$4,370.00	\$6,230.00	\$8,050.00	\$6,300.00
BASE Estimated First Year Cost	\$120,336.00	\$125,083.20	\$105,140.00	\$67,440.00	\$83,760.00	\$131,600.00	\$85,600.00
BASE Estimated Ongoing Fees	\$120,336.00	\$125,083.20	\$78,120.00	\$52,440.00	\$74,760.00	\$96,600.00	\$78,600.00
Rate Guarantee		1 Year (12/31/2026)	3 Years	1 Year (Year 2 & 3 Incremental Increases)	2 Years (\$3.75 Year 3 & 4)		
Optional Services							
Benefit Portal	Included	Included	Included	Included	Dedicated Resource Section	Included	Included
Call Center for EE Enrollments	Included	Included	\$2.00 PEPM	Included	Technical Support Only	\$1.25	Not available-third party
Communications	\$2.87 PEPM	\$2.98 PEPM	Electronic: \$1.00 PEPM / Print \$2.75 PEPM	Not Available	Not Available	A la carte pricing (Guide \$10,000, print campaign \$3,750, email campaign \$6,000)	Self-Service
Onsite Support Open Enrollment	n/a	n/a	Not Available	Included	Included	Pass Through	Not available-Third party
COBRA Admin	Included	Included	\$1.00 PEPM	\$0.60	n/a	\$0.70	\$0.95
FSA Admin	\$4.50	\$4.50	n/a	\$2.00	n/a	\$3.50	\$4.65
HSA Administration	\$2.50	\$2.50	n/a	\$2.25	n/a	\$0.75	\$3.60
Ability to upload EE documents	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Implementation Timeline	n/a	n/a	90 days	60 days	84 days	4-5 months	60 days
Variable Hour EE Tracking	Included	Included	\$1.00 PEPM	\$0.60	Not Available	\$0.70	Included
Included in ACA Fee							
Fulfillment an additional cost	Included Electronic Filing with IRS, 1095-C form electronically Fulfillment \$1.00 elect.	Included Electronic Filing with IRS, 1095-C form electronically Fulfillment \$1.00 elect.	ACA: 1095-C \$1.00 per form, Print: \$1.80 1094-C Filing: \$3,000	Not Available. (Will work with Third Party)	Third Party (Greatlane Tearli) ACA \$2.14 per form	Full Service (assumes 1 EIN/ 1,500 forms): \$10.00 per form Estimated \$15,000	Included Electronic Filing with IRS, 1095-C form electronically
All In Cost: Base Cost, Cobra, Call Center, EE Tracking, Communications, ACA	\$152,020.80	\$157,982.40	\$205,940.00	\$87,600.00	\$83,760.00	\$179,360.00	\$101,560.00

Dependent Verification: \$28.00 per event

Includes ACA

Dependent Verification: \$28.00 per event

Includes ACA

Set Up Fee is 2x monthly fees for all selected products

Pricing does not include ACA filing or communications

Pricing does not include ACA filing or communications

Pricing does not include call center & communications are self-service



Confirmation

Congratulations! Your benefit elections are confirmed and a confirmation number has been generated. Please print a copy of this summary for your records.



Employee	AARON WINFREY
Confirmation #	1981
Event	Open Enrollment
Requested Event Date	01/01/2026
Event Effective Date	01/01/2026

Your Cost Summary

	Semimonthly Cost (Elected)	Annual Cost (Elected)	Semimonthly Cost (Approved)	Annual Cost (Approved)
Wellness Credit	(\$20.83)	(\$500.00)	(\$20.83)	(\$500.00)
Employee Pre-Tax Amount	\$99.50	\$2,388.00	\$99.50	\$2,388.00
Employee Post-Tax Amount	\$26.66	\$639.80	\$26.66	\$639.80
Total Cost Of Benefits	\$105.33	\$2,527.80	\$105.33	\$2,527.80

YOUR TOTAL: **\$105.33** / Semimonthly Cost

Your Benefit Selections

Medical | Standard PPO | Effective 01/01/2026 | Tier: Employee Only

DEPENDENTS COVERED
None

\$109.50
Semimonthly Cost

COST BREAKDOWN
⓪ Pre-tax Cost: \$109.50

EMPLOYER COST: \$219.00

Prescription Plan | Coverage | Effective 01/01/2026 | Tier: Employee Only

DEPENDENTS COVERED
None

\$0.00
Semimonthly Cost

COST BREAKDOWN

EMPLOYER COST: \$4.17

Dental | Enhanced Plan | Effective 01/01/2026 | Tier: Employee Only

DEPENDENTS COVERED
None

\$6.25
Semimonthly Cost

COST BREAKDOWN
⓪ Pre-tax Cost: \$6.25

EMPLOYER COST: \$12.50

Vision | Vision Service Plan | Effective 01/01/2026 | Tier: Employee Only

DEPENDENTS COVERED
None

\$4.58
Semimonthly Cost

COST BREAKDOWN
⓪ Pre-tax Cost: \$4.58

EMPLOYER COST: \$9.17

Health Care FSA | Decline Coverage | Effective 01/01/2026

\$0.00
Semimonthly Cost

Dependent Care FSA | Decline Coverage | Effective 01/01/2026

\$0.00
Semimonthly Cost

Basic Life/AD&D \$30,000 Effective 01/01/2026		
Approved Amount: \$30,000.00 BENEFICIARIES None		\$0.00 Semimonthly Cost
Voluntary Employee Life 2x Pay Effective 01/01/2026		
Approved Amount: \$131,000.00 BENEFICIARIES None COST BREAKDOWN ① Post-tax Cost: \$26.66		\$26.66 Semimonthly Cost
Accident Insurance Decline Coverage Effective 01/01/2026		
		\$0.00 Semimonthly Cost
Hospital Indemnity Decline Coverage Effective 01/01/2026		
		\$0.00 Semimonthly Cost
Critical Illness Decline Coverage Effective 01/01/2026		
		\$0.00 Semimonthly Cost
Short Term Disability Coverage Effective 01/01/2026		
Approved Amount: \$750.87 COST BREAKDOWN	EMPLOYER COST: \$0.90	\$0.00 Semimonthly Cost
Voluntary Short Term Disability Decline Coverage Effective 01/01/2026		
		\$0.00 Semimonthly Cost
Long Term Disability Coverage Effective 01/01/2026		
Approved Amount: \$2,169.15 COST BREAKDOWN	EMPLOYER COST: \$2.87	\$0.00 Semimonthly Cost
Voluntary Long Term Disability Decline Coverage Effective 01/01/2026		
		\$0.00 Semimonthly Cost
Wellness Credit Wellness Credit Effective 01/01/2026		
Approved Amount: \$250.00 COST BREAKDOWN ① Pre-tax Cost: (\$20.83)	EMPLOYER COST: \$208.33	(\$20.83) Semimonthly Cost

This is a summary of your benefit elections. It does not take the place of or supersede official plan requirements including Evidence of Insurability (EOI) completion. Any coverage elections you make requiring EOI approval from an insurance carrier will not be effective until the insurance carrier provides confirmation of approval regardless of what may be displayed on this summary. In the event of a discrepancy between the information within this summary and official plan documents, the plan documents will prevail.

EMPYREAN BENEFIT SOLUTIONS, INC. MASTER SERVICES AGREEMENT

Empyrean Benefit Solutions, Inc., a Delaware corporation with a principal place of business at 2103 CityWest Blvd, Suite 200, Houston, TX 77042 ("**Empyrean**"), and City of Abilene, Texas, a Texas corporation with a principal place of business at 555 Walnut Street, Abilene, TX 79601 ("**Client**"), hereby enter into this Master Services Agreement (the "**MSA**"), effective as of February 26, 2025 (the "**Effective Date**") and hereby incorporate the Statement of Work attached as Exhibit A (the "**SOW**"), the Combined Data Protection Addendum (the "**Data Addendum**") attached as Exhibit B, and any other exhibits, addendum or attachments to the foregoing. This MSA, the SOW, the Data Addendum and all other such exhibits, addendums and/or attachments are collectively referred to herein as "the **Agreement**". Empyrean and Client may be referred to herein as a "**Party**" and together as the "**Parties**".

WHEREAS Client is the plan sponsor and/or administrator of certain employee benefit plans/programs for its employees; and

WHEREAS Empyrean provides certain administrative, analytical and/or other professional services (the "**Professional Services**") and maintains and operates a proprietary, internet-based, eligibility and enrollment technology platform (the "**Platform**") that together permit Empyrean to assist client employers and plan sponsors in administering their health and welfare benefit plans (collectively, including the Platform and as described in the SOW, the "**Services**"); and

WHEREAS Client has decided to purchase the Services to assist Client in the administration of its benefit programs.

NOW THEREFORE, in exchange for valuable consideration, the Parties agree to the following terms:

1. SERVICES.

1.1. Provision of Services. Provided Client complies with the terms and conditions of this Agreement, Empyrean will make the Services available to Client during the Term (as defined herein) in accordance with the terms and conditions of this Agreement.

1.2. Access and Use. Subject to the terms and conditions of this Agreement, Empyrean hereby grants to Client a non-exclusive, non-sublicensable and non-transferable (except as permitted under Section 11.6) right to permit Client's Authorized Users to access and use the features and functions of the Platform (including all updates and modifications incorporated therein) and to display and use all documentation and materials describing the Services that are made available to Client and Authorized Users ("**Documentation**") during the Term solely as permitted by the functionality of the Platform. As used in this Agreement, an "**Authorized User**" means any individual who is an employee of Client or a beneficiary of such employee who participates in Client's benefits plans, any individual who is an employee of Client who performs administrative functions for Client, and any third party vendor of Client who requires access to the Platform to assist or advise Client in the administration of Client's benefits plans, in each case as authorized by Client.

1.3. Subcontractors. Subject to the additional terms of the Data Addendum, Empyrean may delegate its obligations under this Agreement to its affiliates and to third-party subcontractors to provide the Services. All such subcontractors shall be subject to obligations of confidentiality consistent with those set forth in Section 5 and, if applicable, to the requirements of the Data Addendum. Empyrean will remain responsible for the performance by its subcontractors of any obligations under this Agreement.

2. FEES

2.1. Fees. Client shall pay to Empyrean, without offset or deduction, the fees stated in the SOW (the "**Fees**") when due. Unless otherwise stated, Empyrean shall issue invoices to Client for the Services on a monthly basis. Client shall pay all Fees or provide written notice of any reasonable dispute regarding such Fees within thirty (30) calendar days after Client's receipt of the invoice. Any invoice dispute shall be resolved by the Parties no later than within 30 days after Empyrean receives such invoice dispute. Unpaid but undisputed Fees will accrue interest at the lesser of 1.5% per month or the legal maximum rate, until paid. All invoices shall be issued in paid in US Dollars.

2.2. Taxes. Client shall be solely responsible for the payment of any and all federal, state and local taxes applicable to the Service(s) or products provided under this Agreement, including, without limitation, any and all sales, use, excise, ad valorem, or value-added taxes, other than taxes based on Empyrean's income.

2.3. Suspension of Services and Termination for Failure to Pay Fees. If Client fails to pay all undisputed amounts by the applicable due date, in addition to any other rights or remedies it may have, Empyrean may suspend Client's and Client's Authorized Users access to and/or use of the Services until such Fees due under this section are paid in full and/or Empyrean may terminate this Agreement for material breach pursuant to Section 9.2. Client shall reimburse Empyrean for all costs of collection, including reasonable attorneys' fees, incurred by Empyrean as a result of its failure to make payments in accordance with this Agreement.

3. CONFIDENTIALITY

3.1. Definition of Confidential Information. During the Term, each Party will have access to information, data or knowledge concerning the other Party that is not otherwise publicly available, including, without limitation, a Party's Intellectual Property or any other information that may be disclosed that a person would reasonably expect should be kept confidential ("**Confidential Information**"). For purposes of this Agreement, Confidential Information does not include Personal Information (as defined in the Data Addendum), which is governed by the terms and conditions of the Data Addendum.

3.2. Confidentiality Obligations. Each Party agrees: (i) to use Confidential Information disclosed by the disclosing Party only for the purpose of performing its obligations and exercising its rights under this Agreement; (ii) not to reproduce Confidential Information the other Party discloses, and to hold in confidence and protect such Confidential Information from dissemination to, and use by, any third party; (iii) to restrict access to the other Party's Confidential Information to its and its affiliates' personnel, agents, and/or consultants ("**Representatives**"), who have a need to have access and who have been advised of and have agreed in writing to treat such information according to this Agreement's terms.

3.3. Confidentiality Exceptions. Notwithstanding the foregoing, Confidential Information does not include information that (i) is publicly available or in the public domain when disclosed; (ii) is publicly available without the receiving Party's fault; (iii) is rightfully given to the receiving Party by persons without confidentiality obligations; (iv) the receiving Party already possesses free of any confidentiality obligations when disclosed; (v) the receiving Party independently develops; or (vi) the disclosing Party approved for unrestricted release. Parties may disclose Confidential Information to comply with court, governmental order, or law, provided disclosing Party agrees to notify the other Party as soon as is reasonably practicable to allow the other Party to attempt to obtain a protective order.

3.4. Return of Confidential Information. The receiving Party shall return or destroy all Confidential Information disclosed by the disclosing Party that is in the receiving Party's possession when this Agreement terminates or expires. Notwithstanding the foregoing, the Parties acknowledge that Confidential Information provided in electronic format (including but not limited to e-mail) may be copied by the Receiving Party as part of its normal back-up procedures and as such copies cannot be readily destroyed or returned to the Disclosing Party. Further, the receiving Party shall be permitted to retain one copy of the Confidential Information for the purpose of complying with any internal document retention policies and establishing compliance with any applicable laws or regulations. The obligations of the receiving Party under this Agreement with respect to any such electronically stored Confidential Information that is not destroyed or returned to the disclosing Party following a request under this Section 3.4 will continue for as long as such information continues to be Confidential Information. Except as provided in the previous sentence, each Party's obligations of confidentiality as the receiving Party with respect to the disclosing Party's Confidential Information shall survive termination or expiration of this Agreement for a period of five (5) years.

3.5. Exceptions. The entirety of this section 3, and of the Agreement, is subject to the requirements of the Texas Public Information Act and document retention laws applicable to a Texas municipality.

4. CLIENT RESPONSIBILITIES.

4.1. Plan Administration. Client shall be responsible for overseeing the operations and administration of the employee benefit plans for its employees as listed in the applicable SOW (individually, a "**Plan**" and collectively, the "**Plans**"). Client acknowledges and agrees that the Services to be performed by Emyrean are being performed on behalf of the Client as an employer and plan sponsor and/or plan administrator and that such Services are ministerial in nature. All Services are performed by Emyrean (or its subcontractors where applicable) within the framework of policies, interpretations, rules, practices and procedures made or established by Client and specified in one or more SOWs, requirements documents, processing documents, and/or other written documentation or directions that Client provides to Emyrean during the Term ("**Client Directions**"). Emyrean shall not have any discretionary authority with respect to the administration, management or operation of the Plans and will operate only in accordance with the Client Directions. Emyrean is not a "plan sponsor" "plan administrator" or fiduciary" within the meaning of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Plans or Services. Emyrean also shall not have any control or authority with respect to any assets of any Plan, including the investment or disposition thereof.

4.2. Client Data. Client shall timely provide and shall cause each third-party service provider and each carrier that Client may engage or use, as applicable, to timely provide all such data that is necessary for Emyrean to properly perform the Services ("**Client Data**") in the form and format specified in the SOW or as otherwise reasonably requested by Emyrean. Client Data includes data relating to the Plans and Personal Information relating to Client's employees and their beneficiaries, whether provided by Client or by such employees and beneficiaries. Client assumes full responsibility for the Client Data, including, but not limited to, the condition, content, format, usability and accuracy of the Client Data. Emyrean shall be excused from its performance obligations to the extent that Client fails to provide Client Data as required by this Section 4.2.

4.3. Client Reports. Emyrean will, from time to time, prepare certain summaries, reports, analyses, as provided in any SOW or Change Order and deliver such documents to Client

("Client Reports"). Client agrees to review such Client Reports within 30 days of receipt and notify Empyrean in writing of any errors or objections contained therein.

4.4. Passwords. Client shall be solely responsible for determining the individuals who will receive credentials to create accounts to access the Services, for ensuring that all passwords set by Authorized Users to access such accounts remain confidential and for all activities that occur in such accounts. Client shall notify Empyrean immediately if it learns or reasonably suspects that any Authorized User account or password has been compromised.

4.5. No Reverse Engineering. Client shall not, and shall ensure that no Authorized Users or other third party who receives access to the Platform or Services is permitted to, decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms of the Services by any means whatsoever.

4.6. Restrictions on Use. Client shall use the Services, and shall ensure that Authorized Users use the Services only for lawful purposes and in compliance with this Agreement. Client shall not, and shall ensure that its Authorized Users do not, use the Platform or the Services to: (i) violate any applicable local, state, national or international statute, regulation, or law; (ii) impersonate or use the identity of another person; (iii) misuse the Services; (iv) disrupt, interfere with or attempt to disrupt or interfere with the Services or Empyrean's networks and systems, or disable or attempt to disable Empyrean's firewalls or security software; (v) attempt to gain access to the Services or its related systems or networks in a manner not set forth in the Documentation; (vi) disseminate any information or content, including by e-mail, that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, or information or content that could otherwise be considered to be objectionable; (vii) introduce any "malware," such as, but not limited to, viruses, worms, and Trojan horses; (viii) modify or create derivative works of the Services; (ix) grant or permit access to the Services to any third party not authorized to receive such access; or (x) use, evaluate or view the Services for the purposes of designing or creating any product of services, in whole or in part, with features or functions similar to the features or functions of any of the Services.

4.7. Suspension of Services. Empyrean may suspend the Services if Empyrean reasonably suspects that Client or its Authorized Users are in breach of Section 4.5 or Section 4.6, that any password or account of Authorized Users has been compromised or that continued access to the Services may result in harm to Empyrean, Client, Authorized Users or any other third party. Empyrean shall use reasonable efforts to notify Client in advance of any such suspension and will limit the suspension in duration and scope to the extent Empyrean determines is reasonably appropriate. Any such suspension shall be without liability to Client or to any third party.

5. OWNERSHIP AND RIGHTS IN INTELLECTUAL PROPERTY

5.1. Empyrean Intellectual Property. Empyrean retains all right, title and interest in and to (i) the Services, including the Platform and Documentation; (ii) all templates, forms, formulas, tools, analytics and other materials, written and electronic, developed by or for Empyrean for use in the Services; (iii) all data used or generated in connection with or made available through the Services other than Client Data, (iv) all reports generated by the Services other than Client Reports; (v) the registered and unregistered trademarks and service marks of Empyrean; (vi) Confidential Information disclosed by or on behalf of Empyrean; (vii) any improvements, modifications, enhancements or derivative works to the foregoing; and (viii) all intellectual property rights in the foregoing (collectively, "**Empyrean Intellectual Property**"). All rights in Empyrean Intellectual Property not expressly granted hereunder are reserved to Empyrean.

5.2. Client Intellectual Property. Client retains all right, title and interest in and to (i) Client Data; (ii) Client Reports; (iii) the registered and unregistered trademarks and service marks supplied by Client to Empyrean for display in the Platform and in connection with the Services; (iv) Confidential Information disclosed by or on behalf of Client; and (v) all intellectual property rights in the foregoing (collectively, "**Client Intellectual Property**"). All rights in Client Intellectual Property not expressly granted hereunder are reserved to Client.

5.3. Feedback. Any feedback provided by Client or Authorized Users with respect to the Services ("**Feedback**") is voluntary and without any consideration owing to Empyrean. Client hereby assigns to Empyrean all of Client's right, title and interest in and to the Feedback for all purposes.

6. REPRESENTATIONS AND WARRANTIES.

6.1. Mutual Representations. Each Party represents and warrants that (i) it is duly organized, validly existing, and in good standing under the applicable laws of its jurisdiction of incorporation or organization; (ii) the execution and performance of this Agreement will not conflict with or violate any provision of any law having applicability to such Party; and (iii) this Agreement, when executed and delivered, constitutes a valid and binding obligation, and will be enforceable against such Party in accordance with its terms.

6.2. Service Levels. Empyrean warrants the Services will materially conform to the Service Level Performance Standards as set forth in the SOW. Client agrees that its sole and exclusive remedy for Empyrean's breach of the foregoing warranty are the Service Level Performance Standards Credits against Fees as set forth in the SOW.

6.3. Workmanlike Manner. Empyrean warrants that the Services will be performed in a professional and workmanlike manner consistent with industry standards for personnel with the skills and training appropriate for the assigned tasks. Client's sole and exclusive remedy for any breach of the foregoing warranty, including errors by Empyrean in the performance of the Services, is the re-performance of the non-conforming Service.

6.4. Client Representations. Client represents and warrants that it owns and is lawfully authorized to provide to Empyrean, and that Empyrean may lawfully use, all Client Data for the purposes of providing Services under this Agreement.

6.5. No Express or Implied Warranties. Except as expressly set forth in this Section 6, Empyrean disclaims all warranties, express or implied, in fact or by operation of law or otherwise, with respect to this Agreement and/or the Services provided hereunder, including but not limited to any implied warranties of merchantability, fitness for a particular purpose or non-infringement of the intellectual property rights of third parties. Empyrean does not warrant that the Services will be uninterrupted or error-free.

7. INDEMNIFICATION.

7.1. Indemnification by Empyrean. Subject to Section 7.2 and Section 7.4, Empyrean, at its own expense, shall defend, indemnify and hold Client, its affiliates and their respective employees, agents and representatives harmless from and against any cost or expense (including reasonable attorneys' fees and costs) incurred by a Client indemnitee as a result of any claim or demand by a third party ("**Client Indemnification Claim**") to the extent arising from:

(a) Failure by Empyrean to cure a material breach of any term or provision in this Agreement;

(b) Empyrean's violation of any applicable law;

(c) Any Breach (as defined in the Data Addendum) involving Personal Information of Client that is caused by Empyrean's failure to comply with the terms and conditions of the Data Addendum;

(d) Empyrean's fraud, misrepresentation, gross negligence or willful misconduct; and

(e) An allegation that the Services infringe, misappropriate or violate the intellectual property rights of the third party making the claim or demand (a **Client Infringement Claim**).

7.2. Indemnification by Client. To the fullest extent allowed by Texas laws, and Subject to Section 7.4, Client, at its own expense, shall defend, indemnify and hold Empyrean and its affiliates and their respective employees, agents and representatives harmless from and against any cost or expense (including reasonable attorneys' fees and costs) incurred by an Empyrean indemnitee as a result of any claim or demand by a third party ("**Empyrean Indemnification Claim**") to the extent arising from:

(a) Failure by Client to cure a material breach of any term or provision in this Agreement;

(b) Client's violation of any applicable law;

(c) Empyrean's use of Client Data and/or Confidential Information in compliance with the terms of this Agreement;

(d) Empyrean's use of Client Directions and any performance of the Services in accordance with Client Directions;

(e) Client's fraud, misrepresentation, gross negligence or willful misconduct; and

(f) An allegation that materials and/or Client Confidential Information furnished to Empyrean infringe, misappropriate, or violate the intellectual property rights of the third party making the claim or demand (an "**Empyrean Infringement Claim**").

7.3. Infringement Claim Remedy. If a Client Infringement Claim or an Empyrean Infringement Claim (as applicable, an "**Infringement Claim**") is threatened against an Empyrean indemnitee or a Client indemnitee or appears reasonably likely to occur, then, in addition to the Party's respective obligations under Section 7.1 and Section 7.2 (as applicable), the indemnifying Party shall modify or replace the infringing materials and/or services with a non-infringing service or procure the right of for the indemnified Party to continue its utilization of the materials and/or services. In the event that the foregoing remedy is not possible after reasonable efforts and removal of the infringing material is not reasonable, either Party may terminate the Agreement. **The Parties' respective obligations under Section 7.1, Section 7.2 and this Section 7.3 state each Party's sole and exclusive liability and the other Party's sole and exclusive remedy for any Infringement Claim.**

7.4. Cooperation. In the event of any occurrence which may constitute a Client Indemnification Claim or an Empyrean Indemnification Claim (as applicable, an "**Indemnification Claim**"), the party seeking indemnification (the "**Indemnified Party**") shall:

(i) promptly notify the Party obligated to provide indemnification (the "**Indemnifying Party**") in writing of any occurrence with respect to which indemnification is sought, provided that any delay shall only relieve the Indemnifying Party of its obligations hereunder to the extent that the

defense of such Indemnification Claim is materially prejudiced by such delay; (ii) cooperate with the Indemnifying Party in the defense of any Indemnification Claim with respect to which indemnification is sought; (iii) tender to the Indemnifying Party the right to assume and control the defense of any Indemnification Claim with respect to which indemnification is being sought, provided that the Indemnifying Party may not settle a Indemnification Claim unless it unconditionally releases the Indemnified Parties of all liability; and (iv) not to cause or contribute to any occurrence, nor to take any action, or fail to take any action, which causes, contributes to or increases the Indemnifying Party's liability hereunder. The Indemnified Party shall have the right to be represented by its own counsel at its own cost in any Indemnification Claim controlled by the Indemnifying Party.

8. LIMITATIONS OF LIABILITY.

8.1. Exclusion of Certain Damages. Neither Party shall be liable for third party fines or penalties except to the extent caused by a breach of the Data Addendum, and neither Party shall be liable for any indirect, incidental, consequential, special, exemplary, or punitive damages, excise taxes, loss of use, data, business, revenue or profits, or for the cost of procuring substitute products or services, arising out of or in connection with this Agreement, (including, without limitation, any service or work product rendered hereunder or the non-performance or breach of this Agreement), regardless of the form of action, including without limitation breach of warranty, breach of contract, tort (including negligence), strict liability or statutory liability, and whether or not the Party has been informed of or might otherwise have anticipated the possibility of such damages.

8.2. Base Cap on Damages. EXCEPT WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 7 AND A PARTY'S BREACH OF THE DATA ADDENDUM, IN NO EVENT WILL THE AGGREGATE LIABILITY FOR EITHER PARTY AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS OR REPRESENTATIVES FOR ANY LOSSES, DAMAGES, AND/OR CLAIMS ARISING UNDER THIS AGREEMENT EXCEED TWO (2) TIMES THE FEES PAID BY CLIENT FOR THE APPLICABLE SERVICE IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

8.3. Elevated Cap on Damages. NOTWITHSTANDING SECTION 8.2, IN NO EVENT WILL THE AGGREGATE LIABILITY FOR EITHER PARTY AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS OR REPRESENTATIVES FOR ALL LOSSES, DAMAGES, AND/OR CLAIMS ARISING UNDER THIS AGREEMENT, INCLUDING WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 7 AND A PARTY'S BREACH OF THE DATA ADDENDUM, EXCEED FIVE (5) TIMES THE FEES PAID BY CLIENT FOR THE APPLICABLE SERVICE IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

9. TERM AND TERMINATION.

9.1. Term. This Agreement shall be effective on the Effective Date and shall continue in effect until 8/24/2028 (the "**Initial Term**"). Upon conclusion of the Initial Term, the Parties may mutually agree to extend the term of the Agreement for one or more fixed periods of time by entering into a written addendum that references this Agreement and that is signed by the Parties (each, a "**Renewal Term**" and, together with the Initial Term, the "**Term**").

9.2. Termination for Breach. Either Party may terminate this Agreement if the other Party materially breaches this Agreement, subject to the additional terms of this Section 9.2. The

terminating Party must notify the breaching Party in writing, identifying the breach(es), and the breaching Party shall be given the opportunity cure such breach(es) within thirty (30) days after delivery of the written notice (or within such longer period as may be agreed to by the Parties). If the breaching Party fails to cure the identified breach(es) within the cure period to the reasonable satisfaction of the non-breaching Party, this Agreement will terminate at the end of the cure period without further action by the Parties.

9.3. Termination Upon Bankruptcy or Insolvency. Either Party may terminate this Agreement immediately upon written notice to the other Party, if (i) the other Party is insolvent or unable to pay its debts when due; (ii) the other Party files a bankruptcy or similar petition, or, if filed against, the petition is not removed within ninety (90) days; or (iii) the other Party's business discontinues; a receiver is appointed, or an assignment made.

9.4. Termination for Convenience. Provided Client is not in default under this Agreement, beginning no less than 12 months from the Go-Live Date, should Client fail to receive the necessary appropriations to further fund this Agreement, Client may terminate this Agreement by providing at least ninety (90) days prior written notice to Empyrean and paying to Empyrean thirty-five percent (35%) of the Monthly Average Payment (as defined below) for each calendar month remaining in the then-current Term.

"Monthly Average Payment" means the total amount of fees for all services paid or payable by Client under this Agreement from the Effective Date through the end of the whole calendar month immediately preceding the date of the early termination, divided by the number of whole calendar months from the Effective Date to the date of the early termination.

This payment is not a penalty but reflects the payment due by Client for Implementation Services rendered and such costs and fees deferred over the Initial Term.

10. DISPUTE RESOLUTION.

10.1. Informal Dispute Resolution; Mediation. The Parties will make initial, informal efforts in good faith to resolve any claim or controversy arising out of or relating to this Agreement or an alleged breach thereof (a "**dispute**") in accordance with this Section 10.1. Promptly after written notice of any dispute by a Party (but in any event within fifteen (15) days after delivery of such written notice), an executive or officer of each Party with authority to resolve the dispute will meet informally, and such designated individuals will negotiate in good faith to resolve the dispute. If the informal meeting fails to resolve the dispute on terms acceptable to both Parties within thirty (30) days after the initial meeting (or such longer period as may be agreed upon by the Parties) or if no informal meeting occurs within forty five (45) days after delivery of the written notice of the dispute, the dispute shall be submitted to non-binding mediation upon written notice given by either Party to the other Party. The mediation process will be administered by the American Arbitration Association (the "**AAA**") under the AAA's then-current Mediation Procedures. If the Parties cannot agree on a mediator, a mediator will be designated by the AAA at the request of a Party. The mediation shall be conducted in Houston, Texas. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either Party in any later proceeding relating to the dispute. Each Party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.

10.2. Arbitration. If the mediation does not result in a settlement within thirty (30) days after service of the request for mediation upon all of the parties to the dispute, the dispute shall be settled by binding arbitration administered by the AAA in accordance with its Commercial Arbitration Rules (the "**AAA Rules**"), and judgment on the award rendered by the arbitrator may

be entered in any court having jurisdiction thereof. The place of arbitration shall be Houston, Texas, and the number of arbitrators shall be one (1). Subject to Empyrean's rights under Section 2.3, each Party shall bear its own costs and expenses of the arbitration and one-half (1/2) of the fees and costs for the arbitrator, unless the arbitrator determines the fees and costs should be borne in whole or in part by one of the Parties. The arbitrator may not award or assess punitive damages against either Party.

10.3. Limitation on Actions. Any action related to a dispute under this Agreement must be commenced in accordance with Section 10.1 within one (1) year of the date of the breach or the date the breach reasonably should have been discovered, whichever is later. Any action against a Party arising under this Agreement not brought within such one (1) year time period will be barred without regard to any other limitations period set forth by law or statute.

11. MISCELLANEOUS.

11.1. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflict of law principles. Any action regarding the arbitrability of any dispute shall be brought exclusively in the federal and state courts located in Harris County, Texas, and each Party hereby (i) waives any claim that such courts are an inconvenient forum and (ii) consents to the personal jurisdiction of such courts.

11.2. Notices. Whenever written notice is required or permitted to be given under the terms of this Agreement, such notice shall be deemed to have been delivered upon receipt if delivered personally, by confirmed e-mail or facsimile, by overnight mail via the United States Postal Service or a commercial courier service with confirmed delivery, or by certified mail (return receipt requested) addressed to the Party to whom it is to be given at the address set forth below:

Empyrean Benefit Solutions, Inc.
2103 CityWest Blvd, Suite 200
Houston, Texas 77042
ATTN: Compliance & Contracts
dL-Contracts@goempyrean.com

City of Abilene
555 Walnut Street
Abilene, Texas 79601
ATTN: Pamela Williams
pamela.williams@abilenetx.gov

11.3. Force Majeure. Except for Client's obligation to pay Fees due for Services rendered, either Party shall be excused from performance under this Agreement and the time for the performance will be extended for the period of delay or inability to perform resulting from causes beyond such Party's reasonable control, including but not limited to: Acts of God, acts of nature, man-made disasters, fire, casualty, delay or disruption in transportation, flood, war, strike, lockout, epidemic, pandemic, destruction or shut-down of facilities, shortage or curtailment, riot, insurrection, governmental acts or directives, any full or partial electrical failures, any full or partial failures of communications or computer networks (including successful attacks on the Internet infrastructure) and any other full or partial failure of utilities, power, internet services, cellular services or other communications services (a "**Force Majeure Event**"). Both Parties shall use reasonable efforts to minimize the consequences of any Force Majeure Event.

11.4. Severability. In the event any provision or part of this Agreement is held to be unenforceable, the remainder of this Agreement shall continue in effect.

11.5. Relationship of the Parties. The Parties acknowledge that Empyrean is an independent contractor, and that the Parties are not joint venturers, partners, or employees of

each other by virtue of this Agreement. Neither Party is an agent of the other or has control over the manner or method by which the other meets its obligations under this Agreement.

11.6. Assignment. Neither Party may assign this Agreement or any rights hereunder without the prior written approval of the other Party, which approval will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party may assign this Agreement (a) to any subsidiary or affiliate under such Party's control or (b) to a successor in interest of the Party as part of the sale of all or substantially all of the Party's assets, pursuant to any merger or consolidation or in connection with the sale of all or substantially all of the Party's equity interests, without the other Party's consent, provided that such assigning Party shall provide notice to the other Party within thirty (30) days of such assignment and the assignee agrees to execute any such amendments or other documents necessary to acknowledge such assignment and its obligations under this Agreement. To the extent that there are successors or assigns permitted under this Section 11.6, this Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns.

11.7. Order of Precedence. Except as otherwise specifically set forth in an exhibit, addendum, or attachment to this MSA and made a part of this Agreement, the terms of this MSA shall take govern and control over any conflicting term contained in such exhibit, amendment, or attachment thereto.

11.8. Amendments. To be effective, any amendments to this Agreement must be in writing and signed by an authorized representative of the Parties.

11.9. Headings. The headings of this Agreement are solely for the convenience of the parties and do not affect the meaning or interpretation of any provision of this Agreement.

11.10. Survival. The provisions of Sections 3, 5-8, 10 and 11 shall survive the expiration or termination of this Agreement.

11.11. No Third-Party Beneficiaries. Except as provided in Section 7, the Parties agree that this Agreement is for the benefit of the Parties hereto only and is not intended to confer any legal rights or benefits on any third party, and that there are no third party beneficiaries to this Agreement or any part or specific provision of this Agreement.

11.12. Entire Agreement. This Agreement constitutes the entire understanding and complete agreement between the Parties with respect to the subject matter hereof and supersedes in all respects, all prior proposals, negotiations, conversations, discussions and agreements between the Parties concerning the subject matter hereof.

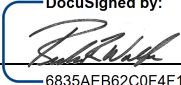
11.13. Execution. This Agreement may be executed in multiple counterparts, and each signed copy, including those generated via e-signature platform shall be deemed an original, but all signed copies together shall be deemed one and the same instrument.

<<SIGNATURE PAGE TO FOLLOW>>

IN WITNESS WHEREOF, the Parties have executed and agreed to the terms and conditions set forth in this Agreement, and the terms and conditions set forth in all related documents, including but not limited to, the SOW and the Data Addendum, by their authorized representatives as of the Effective Date.

Empyrean Benefit Solutions, Inc.

City of Abilene, Texas:

By:  _____
Name: Richard L. Wolfe
Title: Chief Executive Officer
Date: 3/4/2025

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A
STATEMENT OF WORK

EXHIBIT B COMBINED DATA PROTECTION ADDENDUM

THIS COMBINED DATA PROTECTION ADDENDUM ("Addendum") is an integral part of the foregoing Empyrean Benefit Solutions, Inc. Master Services Agreement between Client and Empyrean.

WHEREAS Processing Personal Information in a secure, fair, legally compliant, and transparent way is important to the Parties;

WHEREAS the Parties understand that Client is required to comply with Data Protection Laws that apply to Personal Information, including Protected Health Information, and to ensure that its Service Providers, including Empyrean, also comply with these laws;

WHEREAS the data that Provider will Process for Client under the Agreement will include Personal Information; and

WHEREAS the Services will require Empyrean to Process Personal Health Information as a Business Associate to Client in accordance with HIPAA;

WHEREAS the Parties intend for this Addendum to serve as their Business Associate Agreement for purposes of compliance with HIPAA;

NOW THEREFORE, this Addendum sets out the additional terms, requirements, and conditions on which the Provider will Process Personal Information when providing Services under the Agreement;

1. Definitions and Interpretation.

1.1. Definitions: In this Addendum, the below terms shall have the meanings set forth below. Any other capitalized terms shall have the meanings set forth in the Agreement.

- (a) **"Agreement"** means the Empyrean Benefit Solutions, Inc. Master Services Agreement to which this Addendum is attached, including the Statement of Work, this Addendum and any other exhibits, addenda or attachments.
- (b) **"Business Associate"** has the meaning set forth in 45 C.F.R. § 160.103.
- (c) **"Business"** or **"Controller"** refers to Client as the Party that determines the purposes and means of Processing of Personal Information.
- (d) **"Business Purpose"** has the meaning given in Section 4.3 of this Addendum.
- (e) **"California Consumer Privacy Act"** or **"CCPA"** means Title 1.81.5 California Consumer Privacy Act of 2018 (California Civil Code §§ 1798.100–1798.199), as amended by the "California Privacy Rights Act" or "CPRA" along with its implementing regulations.
- (f) **"Client PHI"** means Personal Information that is Protected Health Information.
- (g) **"Covered Entity"** has the meaning set forth in 45 C.F.R. § 160.103.

- (h) **"Data Security Incident"** means any breach of security that impairs the ability to deliver the Services to Client, or the unauthorized Processing of Personal Information or other Client Data in Empyrean's possession, custody or control. "Data Security Incidents" shall not include unsuccessful attempts or activities that do not compromise (a) the security of Personal Information or Client Data or (b) Empyrean's ability to deliver the Services to Client.
- (i) **"Data Protection Laws"** means state, or federal laws, statutes, regulations, rules, executive orders, directives, or other official guidance relating to data protection, privacy, data security, electronic communications, or Data Incidents that are applicable to a Party or Personal Information Processed under the Agreement. For clarity, the term Data Protection Laws includes HIPAA, as defined below.
- (j) **"Designated Record Set"** has the meaning set forth at 45 C.F.R. § 164.501.
- (k) **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder and the HITECH Act, Subtitle D of the American Recovery and Reinvestment Act of 2009 along with any regulations promulgated thereunder.
- (l) **"Personal Information"** means information that Empyrean Processes on behalf of Client and that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual. For clarity, the term "Personal Information" includes Protected Health Information that Empyrean Processes on behalf of Client, as defined below.
- (m) **"Process"** and **"Processing"** refer to any operation or set of operations performed on Personal Information, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, use, disclosure, transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction.
- (n) **"Processor"** refers to a party that Processes Personal Information on behalf of a Controller.
- (o) **"Protected Health Information"** or **"PHI"** has the meaning set forth in 45 C.F.R. § 160.103.
- (p) **"Service Provider"** has the meaning set forth in Cal. Civ. Code § 1798.140(ag).

2. Relationship with the Agreement.

- 2.1.** This Addendum supersedes any conflicting or inconsistent provisions in the Agreement related to data privacy and protection or compliance with Data Protection Laws, and in the event of ambiguity, this Addendum shall prevail. The Agreement, as amended and modified by this Addendum, otherwise remains in full force and effect.
- 2.2.** Any claims brought under or in connection with this Addendum shall be subject to the terms and conditions, including but not limited to, the exclusions and limitations set forth in the Agreement.
- 2.3.** Only Parties to this Addendum, its successors, and permitted assignees shall have any right to enforce its terms.

2.4. This Addendum shall be governed by and construed in accordance with the governing law and jurisdiction provisions in the Agreement, unless otherwise required by Data Protection Laws.

2.5. Both Parties agree that this Addendum shall be interpreted in favor of their intent to comply with Data Protection Laws and, therefore, any ambiguity shall be resolved in favor of a meaning consistent with Data Protection Laws.

3. Scope of this Addendum. This Addendum applies only to the extent that Empyrean Processes Personal Information subject to Data Protection Laws on behalf of Client in the course of providing the Services pursuant to the Agreement.

4. Data Protection.

4.1. Roles and Responsibilities. With respect to the CCPA, Client has engaged Empyrean to perform the Services as detailed in the Agreement, under which Empyrean collects and Processes Personal Information for the Business Purpose. With respect to HIPAA, Empyrean is a Business Associate of Client. With respect to other Data Protection Laws, Client shall be considered a Controller that has engaged Empyrean as a Processor to perform the Services described in the Agreement. Empyrean is responsible for its compliance with its obligations under this Addendum and for compliance with its obligations as a Service Provider under the CCPA, as a Business Associate under HIPAA, and as a Processor under other Data Protection Laws. Empyrean shall also comply with any other contract requirements for Service Providers and Contractors set forth in CCPA's implementing regulations at 11 Cal. Code Regs. §§ 7050-7051 as if such requirements were set forth herein. In the event of any conflict between such implementing regulations and the express terms of this Addendum, the terms of this Addendum shall prevail. Client shall remain responsible for compliance with its own obligations as a Business under the CCPA, as a Covered Entity or Business Associate, as the case may be, under HIPAA, and as a Controller under Data Protection Laws.

4.2. Personnel. Empyrean shall ensure that each person it allows to Process Personal Information is under a duty of confidentiality with respect to the Personal Information.

4.3. Business Purpose. Empyrean shall only collect and Process Personal Information (a) upon lawful documented instructions from Client, as provided for under the Agreement, which shall include, but not be limited to Appendix 1 as well as any addenda, requirements documents, change orders, emails, or other documentation and/or as otherwise necessary to provide the Services or carry out its responsibilities under the Agreement (the "**Business Purpose**") or (b) as otherwise required or permitted by law. Empyrean shall not Process Personal Information for any other purposes. Empyrean shall not be liable for Processing of Personal Information in a manner instructed by Client as long as such Processing would not violate Data Protection Laws if done by Client. With regard to Client PHI, Empyrean may also Process such PHI to provide Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B) and to report violations of law to appropriate Federal and State authorities in accordance with 45 C.F.R. § 164.502(j)(1).

4.4. Empyrean Certification. Empyrean certifies that it shall not: (a) Process the Personal Information for any purpose other than for the Business Purpose; (b) sell or share the Personal Information for behavioral advertising purposes; (c) Process the Personal Information outside of the direct business relationship between Empyrean and Client; (d) combine the Personal Information in contradiction of the requirements set forth in Cal. Civ. Code

§ 1798.140(ag)(1)(D). Empyrean shall promptly notify Client of any changes that may adversely impact its performance under the Agreement or this Addendum, as well as any situation in which Empyrean can no longer meet its obligations under this Addendum or Data Protection Laws.

4.5. Assistance to Client. Empyrean will, upon Client's request and instructions, and at Client's sole expense, reasonably assist Client in meeting Client's obligations to individuals who exercise rights relating to Personal Information pertaining to them under Data Protection Laws. Empyrean will notify Client promptly if it receives an individual's request relating to Client's Personal Information and will not respond to such request except upon direction or instruction from Client. Empyrean shall also provide, at Client's expense, such information as may be necessary to enable Client to conduct data protection assessments required under Data Protection Laws or to enable Client to demonstrate its compliance with Data Protection Laws. Such information shall include the report of an independent external auditor that shall perform an audit, to be conducted under generally accepted auditing procedures, of Empyrean's information security no less than once annually. Empyrean will, at Client's expense, allow and cooperate with reasonable assessments of Empyrean's policies, procedures, and safeguards for complying with this Addendum and Data Protection Laws. Empyrean shall also facilitate, at Client's expense, Client's on-site audit of its premises and personnel relating to any issue with Empyrean's compliance with Data Protection Laws that cannot be reasonably addressed otherwise. In connection with any such audit, Empyrean may reasonably limit the access provided to maintain the confidentiality of data of Empyrean's other clients. If Empyrean's costs to respond to Client's requests for assistance under this paragraph do not exceed ten hours of labor time in any twelve-month period, Empyrean shall waive the right to seek reimbursement for such expenses.

4.6. Subcontracting. Empyrean may use subcontractor(s) to provide the Services under the Agreement pursuant to a written agreement that complies with Data Protection Laws and that ensures that the subcontractors comply with the applicable requirements of this Addendum. In addition, Empyrean will ensure that any subcontractor it uses qualifies as a Service Provider or contractor under the CCPA, a Business Associate under HIPAA, and as a Processor under other Data Protection Laws. Empyrean will not disclose Personal Information to subcontractors if such disclosure would constitute a sale as defined under Data Protection Laws. Empyrean remains fully liable to Client for each subcontractor's performance of its obligations pursuant to this Addendum. Before engaging a subcontractor, Empyrean will provide Client with notice and an opportunity to object to such engagement.

4.7. Aggregation. If Data Protection Laws permit, Empyrean may aggregate, de-identify, or anonymize Personal Information so that it no longer meets the definitions of Personal Information (or PHI) and may use such aggregated, de-identified, or anonymized data for its own research and development purposes to improve its Services as provided under the Agreement. Empyrean will not attempt to or actually re-identify any previously aggregated, de-identified, or anonymized data and will contractually prohibit downstream recipients (if any) from attempting to or actually re-identifying such data.

4.8. Minimum Disclosures. To the extent Empyrean discloses Personal Information to third parties for a purpose permitted under Section 4.3, the Personal Information disclosed shall be the minimum necessary to achieve such purpose.

5. Personal Information Breach.

- 5.1. In the event of a use or disclosure of Personal Information in a manner inconsistent with this Addendum (a "**Breach**"), Empyrean will notify Client no later than 10 business days after learning of the Breach. Empyrean will provide as much information known at the time, including a description of the categories and approximate number of data subjects affected, as well as the categories and approximate number of records affected by the Breach.
- 5.2. Empyrean will assist and cooperate in the furtherance of any correction, remediation, or investigation of any Breach and/or the mitigation of any damage in accordance with the terms of this Agreement. If the Breach is due solely to the actions of Empyrean, and Data Protection Laws require notice of the Breach to be provided to affected individuals or others, Empyrean will, if requested by Client, reimburse Client for the reasonable costs of such notifications.
- 5.3. In the event of a Breach caused by Empyrean involving Client PHI, if requested by Client, Empyrean shall, at its own cost, notify the individuals whose PHI was involved in the Breach within sixty (60) days of discovery (or such earlier date, as agreed upon by the Parties), in accordance with HIPAA, provided that Client shall approve the content, timing, method and all other aspects of any such notification. Notwithstanding, Empyrean reserves the right to charge reasonable, cost-based fees to Client for mitigation and notification related costs should a Breach be due to the actions or omissions of Client, Plan, or another entity associated with Client.
- 5.4. In the event of a Breach caused by Empyrean involving Client PHI, if requested by Client, Empyrean shall mitigate, to the extent practicable, any harmful effect that is known to Empyrean resulting from any use or disclosure of Client PHI by Empyrean in violation of the requirements of this Addendum or HIPAA.

6. **Security.** Empyrean shall implement and maintain reasonable administrative, technical, and physical security safeguards appropriate to the nature of the Personal Information it Processes that shall be designed to protect against any unauthorized Processing or a Data Security Incident. Such safeguards shall be materially consistent with a generally accepted information security framework, such as ISO 27001, the NIST Cybersecurity Framework, the CIS Controls, or the AICPA's Security Trust Services Criteria as used in SOC 2 examinations. With regard to all Protected Health Information, Empyrean shall ensure that the applicable administrative, physical, and technical safeguards comply with HIPAA, including HIPAA's Security Rule as set forth at 45 C.F.R. § 164.302 et seq.

7. HIPAA Specific Obligations.

- 7.1. **Empyrean's Obligations.** Empyrean shall (a) provide access to Client PHI maintained in a Designated Record Set at the request of Client, or as directed by Client, to an individual or individual's delegate as provided to Empyrean by Client as necessary for Client to satisfy its obligation under 45 C.F.R. § 164.524; (b) make amendments to Client PHI maintained in a Designated Record Set as directed by Client as necessary for Client to satisfy its obligations under 45 C.F.R. § 164.526; (c) document and make available disclosures of Client PHI and information relating to the disclosures of Client PHI as would be required for Client to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528; and (d) subject to attorney-client or other legal privileges applicable, make

Empyrean's internal practices, books and records relating to the use and disclosure of Client PHI available to the Secretary of the United States Department of Health and Human Services for purposes of determining Client's compliance with HIPAA.

7.2. Client Obligations. Client agrees that it shall: (a) notify Empyrean of any limitation(s) in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Empyrean's use or disclosure of Client PHI; (b) not request that Empyrean use or disclose Client PHI in any manner that would not be permissible under applicable laws; (c) notify Empyrean of any changes in, or revocation of, permission by an individual to use or disclose Client PHI to the extent that such changes may affect Empyrean's use or disclosure of Client PHI; (d) notify Empyrean of any restriction to the use or disclosure of Client PHI that Client has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Empyrean's use or disclosure of Client PHI; (e) in the event that Client cannot or is unwilling to meet the security standards for electronic transmission as required under HIPAA and Empyrean's policies for encrypted transmissions, Client shall hold Empyrean harmless and without liability for any Data Security Incident or Breach that occurs due to Client's inability to meet these standards as long as Empyrean operated within Client's directions and this Addendum.

7.3. Material Breach. Client may terminate the Agreement in accordance with Section 9.2 thereof if Empyrean materially breaches this Addendum and fails to cure the breach in accordance with Section 9.2.

8. Termination. Empyrean shall retain the Personal Information for a legal compliance retention period of ten (10) years after the termination of the Agreement. During the retention period, this Addendum shall continue to apply, and Empyrean shall Process the Personal Information only for the purpose of legal compliance and to protect the Personal Data as set forth in this Addendum. After the legal compliance retention period ends, Empyrean will, at Client's option, delete or return all Personal Information to Client. If such destruction or return is not feasible as to all or some Personal Information (as may be the case with encrypted, archived data files), Empyrean shall extend the protection of this Addendum to such Personal Information until it is destroyed or returned and limit further uses and disclosures to those purposes that make the destruction or return of such Personal Information infeasible or as required by law. At Client's request, Empyrean will certify in writing its compliance with this section.

Appendix 1: Details of Processing

Specific Business Purposes for Processing: Consistent with Section 4.3, above, Personal Information is Processed to enable Client's personnel to enroll in health and welfare related benefits as well as to provide support services in aid of personnel engaged in benefits enrollment. Personal Information is also Processed for quality assurance and system administration purposes. Personal Information shall not be sold.

Types of Personal Information subject to Processing: Name and contact information, eligibility information, employer affiliation, location, dates of employment, employment status, salary, payroll information such as cost of benefits/deductions taken, social security number, age/date of birth, dates of coverage, email address, information system credential information, contents of correspondence, inquiries, and other messages, usage data, system administration data, and other data as Client may provide to Empyrean to perform the contracted Services.

Duration of Processing: Until termination, according to Section 8 of this Addendum.

Exhibit A

Statement of Work and Performance Guarantees

Benefits Administration Outsourcing Solution Implementation

This Statement of Work (SOW) more particularly describes the Services Empyrean is to provide to Client under the Agreement. In the event that Client wishes to change the scope or priority of the Services, the Parties may agree to such scope and/or cost changes via a separate document called a Change Order. No Change Order will be effective unless Client provides written instructions to begin the work associated with any such Change Order and Empyrean agrees in writing to begin such work, or both Parties execute a written amendment to the relevant SOW, as needed.

Empyrean will manage all aspects of requirements definition and system setup in support of an effective transition of services to Empyrean. The implementation will require Client resources to interact with the Empyrean team to effectively transition services to Empyrean, including meeting agreed upon implementation milestones. During the implementation, the following resources and services will be provided to Client:

- **Project Management**

Client is assigned a Client team from day one of our relationship. A Client Service Manager will be assigned to Client to manage the day-to-day relationship and service delivery starting with the implementation and continuing through ongoing service delivery. An Implementation Manager will also be assigned to Client at the same time. The Implementation Manager is the subject matter expert for all requirements definition and build out of Empyrean's platform per the specifications of the Client for the benefit plans and the administration thereof as defined within the Requirements Document. Additional personnel will be assigned as well in support of ongoing delivery of services to Client.

■ Requirements Documents

Documents will be created and managed by Empyrean that define all client-specific requirements relating to the Services provided by Empyrean (collectively the “Requirements Documents”). Client must provide written sign-off on the accuracy of Requirements Documents. As changes are made to the Requirements Documents, additional Client sign-offs will be required. Changes made after the initial Client sign-off may require additional fees and/or result in delayed deliverables and/or timelines.

■ Testing

Empyrean will test the system upon completion of setup, prior to Client Acceptance Testing, to ensure expected functionality. Client will be required to participate in Client Acceptance Testing and to sign-off on test results to ensure that the setup was done correctly and accurately reflects the requirements as captured within the Requirements Documents. All testing will take place in a test environment and will occur prior to the system provisions being migrated to the production environment.

Client Responsibilities

Client will share in the responsibilities and workflows with Empyrean in the following areas:

- Provide indicative data to Empyrean in a timely manner in a mutually agreeable format and free of errors;
- Process payroll deductions based on data provided by Empyrean;
- Assist and support Empyrean with Client’s carrier/third party relationships;
- Perform acceptance testing of the system prior to live date, including review of participant self-service site and related materials;
- Support service center training, including annual Client culture training; and
- Provide sign-off on Requirements Documents, Change Orders, Testing and other deliverables in a timely manner.

Benefits Administration Fees

The fees for the Services are as follows and are valid as of the Agreement Effective Date:

Implementation Fees	Volume	Fee
Implementation Fee <i>Billed in full at project kickoff.</i>	N/A	\$35,000
Benefits Administration Fees ¹	Volume	Fee
Fees Per Eligible Participant Per Month (PEPM) Includes all benefits-eligible participants, including active employees, retirees, direct billed, COBRA participants once elected in COBRA, etc.	1,330	\$5.75
Call Center Services (PEPM) <i>The annual call volume is capped at the number of benefit eligible participants. Calls over this threshold will be reviewed and subject to fees as agreed to by both Parties.</i>	1,330	\$1.25

¹ Ongoing fees for all services are billed monthly with payment terms as provided for under the Agreement. Fees for all services will begin on the earlier of the first month in which Empyrean receives a production conversion file or services begin.

1094/1095 Reporting and State Individual Mandate Reporting - Full Service (Option 3), including online forms access - State Mandate Reporting – in all states where required (optional) All annual fees are billed in September each year. Print/fulfillment, postage, and tax are pass through costs. <i>*Per form fee is billed annually in September (pre-filing) based on estimated forms volume and trued up in February or March based on actual forms volume.</i> See Caveats and Assumptions – ACA Administration.	Estimated # of Forms: <u> 1,500 </u> # of FEINs: <u> 1 </u>	Option: <u> 3 </u> Annual Per Form Fee: \$ <u>10.00</u> * Exchange Appeal (Per case): \$250 State Individual Mandate Reporting Per Filing Fee: \$2,500 per state
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Ancillary Administration Services	Volume	Fee
SAFEHARBOR License Fee (Per Tracked Employee Per Month)	1,220	\$0.70
Precision Benefits (claims-based decision support and engagement)	N/A	Flat fee \$20,000 – Annually Billed in four equal quarterly installments
COBRA Administration - Implementation Fee - Takeover Fee (per account transitioned – estimated at XX) - Monthly Minimum Fee - PEPM Fee – per eligible participant per month (applies to entire benefits-eligible population, including active employees, retirees, COBRA participants once elected in COBRA, etc.) - Empyrean retains 2% administrative fee	Implementation: N/A Takeover accounts: 30 PEPM Population: 1,400	\$0.00 \$0.00 \$500 \$0.70
FSA/HRA Administration through Preferred Partner HSA Bank - Implementation Fee - Per Account Per Month - Non-discrimination testing (Section 129 testing) - Plan document creation	Total FSA accounts: 256	included \$3.50 \$450 per test \$400 per plan
Health Savings Account Administration through Preferred Partner HSA Bank - Implementation Fee - Per Account Per Month - Non-discrimination testing (Section 125 testing for HSA contributions through cafeteria plan)	Health Savings Accounts: 265	Included \$0.75 \$450 per test
Qualified Medical Child Support Orders (QMCSO) – System Functionality - Platform will have available appropriate QMCSO code designed to restrict changes - Online QMCSO report	N/A	Included
Single Sign-On (SSO; assumes SAML 2.0)	Number of SSOs: 2	2 included Additional: \$7,500 each

Ancillary Administration Services	Volume	Fee
Dependent Verification <i>Pends the coverage for new dependents on a per benefit level.</i>	Annual volume estimate: 209	\$15.00 per dependent <i>No charge when the client owns the review and approval/denial process.</i>
Closed Loop for Spending/Savings Accounts with True-up Process <i>Client will send actual payroll contributions to Empyrean to be used in quarterly true-up process. See Caveats and Assumptions section for further details.</i>	N/A	Included
Retroactive Payroll Adjustment File <i>Empyrean will calculate retroactive deduction amounts and send to Client along with regular payroll instructions. See Caveats and Assumptions section for further details.</i>	N/A	Included
Identity Theft Protection through NortonLifeLock – Employee Paid Coverage Per Employee Per Month Credit ¹	N/A	(\$0.05)
Identity Theft Protection through NortonLifeLock – Employer Paid Coverage Per Employee Per Month Credit	N/A	(\$0.25)

¹ Provided certain NortonLifeLock criteria are met, NortonLifeLock has agreed to pay a technology fee directly to Empyrean in exchange for the administrative efficiencies Empyrean provides on the NortonLifeLock product. Provided Empyrean receives this fee, Empyrean agrees to offset the Core Per Employee Per Month Ongoing Fee based upon \$0.05 per employee per month for employee paid coverage and \$0.25 per employee per month for employer paid coverage. Carrier technology fees are at the discretion of the Carrier and may be discontinued or modified without notice at any time.

Pass-through Items	Cost
Language Support	Pass-through
Toll-free Charges	Pass-through
Banking Fees	Pass-through
Print/Fulfillment, Shipping, Assembly, & Postage	Pass-through
Text Messages to Participants	Pass-through
Travel	Pass-through
Other Pass-through Costs ¹	Pass-through

¹ Other pass-through costs and expenses for which Client will reimburse Empyrean in connection with the delivery of the Services include but are not limited to reasonable travel expenses (which may include the cost for remote Empyrean team members to travel to an Empyrean office for meetings with Client present), long distance charges, third party subpoenas related to Client's benefit plans, fees for Client's required use of third party invoicing system, etc.

Caveats and Assumptions

Item	Description
Project Scope	Project scope is fixed according to the terms of the Agreement between Client and Empyrean. Deviation from scope or activity exceeding estimated volumes will require review and may result in additional fees to adequately support Client.
Project Dates	Project initiation is scheduled upon the execution of an agreement for Empyrean Benefits Administration services. - Services go "live" on August 25, 2025 for annual enrollment and January 1, 2026 for ongoing
Minimum Billable Population	The minimum billable population is assumed to be the Eligible Headcount stated above less 15%. Client will be billed ongoing PEPM fees at no less than Eligible Headcount less 15%.
Empyrean Billable Hourly Rate	Empyrean may charge Client out-of-scope fees for project work not covered within the fees and assumptions presented within this SOW. Client will be informed of the fees and must approve the applicable Change Order prior to Empyrean starting work. The hourly rate is \$200 per hour.
Annual Client Conference	Empyrean invites all clients to attend our annual client conference, EVOLVE, the location of which changes each year. Clients are responsible for their own travel expenses for the annual conference; however, Empyrean will include the cost of 1 hotel room for 1 client conference for the initial duration of this agreement.
Inbound Electronic Conversion Interfaces	Empyrean agrees to accept data in a mutually agreed upon format from a single data source to include all necessary data (such as employee indicative data, employee elections, dependent indicative data, dependent elections, and ACA forms and/or hours data) to support the conversion process. Data provided to Empyrean is expected to be accurate, error free, and in a consistent format. Bad data will not be loaded. Errors will be provided to Client for review. Client will be responsible for resolving any errors found through this process. Significant additional work required by Empyrean to clean incoming data will be billed at Empyrean's billable hourly rate.
Inbound Electronic HRIS Interface	Empyrean agrees to accept 1 incoming HRIS data file(s) in a mutually agreed upon format, preferably Empyrean's standard format, from the Client's HR system(s) no more than three times a week. The data will be received in a full-file format. Data provided to Empyrean is expected to be accurate and error free. Bad data will not be loaded. Errors will be provided to Client for review. Client will be responsible for resolving any errors found through this process within an agreed-upon timeframe. Significant additional work required by Empyrean to clean incoming data will be billed at Empyrean's billable hourly rate. If the number of incoming HRIS files exceeds the number above, Empyrean and Client will work in good faith to determine the appropriate ongoing fee(s) adjustment to support the additional file processing, if necessary. Empyrean assumes that all data necessary to load employees into the Benefits Administration platform will be included in the ongoing incoming data file from Client. Necessary data elements will be defined within the administrative requirements. In the event not all data is included and additional programming/calculations are required, additional programming and/or manual data cleanup hours will apply.

Item	Description
Outbound Eligibility Interfaces	Empyrean agrees to provide election data to 12 carriers/third parties through electronic eligibility interfaces in a mutually agreed upon format. Interfaces are full files and sent weekly via secure transmission. Expected number of files is 12. Empyrean includes the development of initial electronic interfaces for carriers identified at the start of implementation. Additional interfaces required, but not included in the SOW, will require out-of-scope costs and may result in revised project timelines. The cost of new interfaces or modification of existing interfaces after Go Live will be provided to Client in a Change Order. If the number of outbound files exceeds the number above, Empyrean and Client will work in good faith to determine the appropriate ongoing fee(s) adjustment to support the additional file processing, if necessary.
Outbound Electronic Payroll Interface	Empyrean agrees to provide 1 payroll interface(s) in a mutually agreed upon format, preferably Empyrean's standard format, to Client or Client's Payroll Provider(s) per the payroll schedule. The file is a full file at Open Enrollment and will be a changes only file throughout the year. Client/Payroll Provider is responsible for end-dating all deductions in the payroll system at plan year end in preparation for the full Open Enrollment file. Empyrean will provide change effective dates along with the per pay period deduction amount to aid Client with retroactive payroll. If the number of outbound payroll files exceeds the number above, Empyrean and Client will work in good faith to determine the appropriate ongoing fee(s) adjustment to support the additional file processing, if necessary.
Closed Loop for Spending/Savings Accounts with True-up Process	Client is responsible for sending payroll actuals confirming deductions taken for spending and savings accounts only in Empyrean's standard file format. Empyrean will store contributions from each paycheck in the employee's account to accumulate a year-to-date total. The loaded data is then used to calculate employee pay period amounts in two situations: 1) When an employee experiences a life event and makes an election change to the spending or savings account, the YTD contributions will be used to calculate the per pay period cost for the remaining pay periods in the calendar year. 2) On a quarterly basis, Empyrean will run a true-up process ensuring that employees are on schedule to meet their annual goal amount elected. <u>Any adjustments are made to the per pay period costs and sent on the next payroll file.</u>
Retroactive Payroll Adjustment File	At the time of event completion, Empyrean will calculate the number of pay periods that were missed (if any) based on the effective date of the deduction, the date it was written to Empyrean's system, and the employee's payroll calendar. If pay periods were missed, Empyrean will dynamically calculate the number of missed pay periods and the deduction or credit amount that is retroactive. Empyrean will send the retroactive deduction or credit amount to the Client on the next payroll file using Empyrean's standard payroll file format, inclusive of all other deduction changes for the given pay period. Significant customization of the payroll file may incur additional fees. Client can choose to have Empyrean's system amortize retroactive deduction amounts via a single amortization method across all deductions.

Item	Description
Data Reconciliation Processes	Client and any of its third parties, whether other third party administrators or carriers, are expected to supply Empyrean with necessary data as may be applicable and engage in data reconciliation processes as Empyrean may prescribe as needed to support the services under this SOW. Client understands and agrees that for any Client plan or program requiring Evidence of Insurability (EOI), (1) Empyrean will require Client's carrier to support Empyrean processes to reconcile both EOI and "in-force" coverage amounts to ensure that Empyrean and Client's carrier(s) systems match with respect to such items, and (2) that if Client's carrier will not support such routine auditing described in (1) above, Empyrean cannot properly support EOI/in-force coverage processing as provided for in this SOW and will not be held liable for EOI/in-force coverage errors. The language in this Data Reconciliation Processes section will supersede conflicting language in the Agreement, if any, to ensure this section is given full effect.
Data Transmission Standard	Empyrean will provide data to Client and third parties in support of the services described within this SOW. Unless otherwise agreed upon, all data file transmissions, whether Client to Empyrean or Empyrean to Client or other third party must be made using PGP encryption via a United States based FTP or SFTP site. FTP/SFTP site may be Empyrean's, Client's, and/or a third party's based on the transmission file. If Client or Client's third party carriers/partners cannot agree to these transmissions standards, Client will be expected to execute a security release before Empyrean will agree to use alternate standards. Notwithstanding, Empyrean will not transfer data files to an FTP/SFTP outside of the United States (or otherwise upload Client data to a Client or Client third party portal located outside of the United States) even with a security release.
FSA Claims Run-out	When Client contracts with Empyrean's Preferred Partner HSA Bank for FSA services as of the beginning of the plan year, the prior administrator shall support the run-out for the prior year FSA accounts.
FSA, HSA, HRA Calculations	Empyrean collects, at the time of election, the annual goal amount associated with spending/savings and reimbursement accounts and reports this amount to the Client via the outbound electronic payroll interface. Using the Client's payroll calendar, Empyrean will determine the number of pay periods for each election and the estimated per-pay-period amount to be deducted from participants based on their election and payroll cycles provided to Empyrean by Client.
Participant Communications	Empyrean includes the development of basic participant communications and notices needed to support transaction processes. Basic communications include confirmation statements (standard template must be used – customization may require additional fees), COBRA General Notice (if applicable) and electronic email alerts. Pass through fees apply for any mailing costs.
Required Participant Actions	It is the participant's sole responsibility to understand and follow the required terms of the plan. Empyrean will not be liable for actions required of the participant by the plan that have not been taken, such as enrolling by required deadlines or submitting evidence of insurability applications, etc. The language in this Required Participant Actions section will supersede conflicting language in the Agreement, if any, to ensure this section is given full effect.
Reports	Empyrean will provide the Client with access to information with the use of standard reports. Standard reports are created and reviewed during the implementation. Custom reports required by the Client will be discussed during the implementation and may require additional fees. Premium reports are also included as standard reports. These reports are available to the Client to run on a monthly basis.

Item	Description
Annual Enrollment	Empyrean agrees to provide support for a two-week annual enrollment period annually, for each year of the agreement. Annual Enrollment is not in scope for plan years Empyrean is not contracted to support under the Agreement. Empyrean includes the additional service center staffing to support a standard, passive Annual Enrollment call volume expectation within fees. Out of Scope fees may be incurred for additional service center staffing required to support an increase in the expected call volume based on Client's Annual Enrollment strategy. Annual enrollment changes included in the scope of services include rates, zip codes, minor benefit updates (such as changes to deductibles, co-pays), updating Annual Enrollment specific participant communications, and adding new URLs or PDFs to the self-service site. Additional changes such as new/modified eligibility rules, plan design changes, implementing new carriers or the addition of new plans or options will be considered out-of-scope and provided to Client in a Change Order utilizing the rate listed in the Empyrean Billable Hourly Rate section above.
Compliance	General core system changes required to address applicable U.S. federal legislative changes that can be applied uniformly across the Empyrean system are included in the scope of services. Fees may apply for the client-specific implementation of such changes. Empyrean's platform and related services support administration of benefits in accordance with the U.S. federal regulations. Fees may apply for support of state and/or local specific rules.
Call Center Services	A full service call center will be deployed for Client. The call center will be open Monday through Friday except for Empyrean holidays. The call center hours will be available for a nine-hour window between 7 AM to 7 PM Central Standard Time. Client specific window will be defined during the implementation process. Calls into the call center will be through a toll-free number procured by Empyrean.
Language Support	Empyrean provides direct English language services to callers. Additional language support for callers is available through a translation service. The Empyrean online tool and related enrollment materials are provided to benefit eligible participants in English.

Caveats and Assumptions – ACA Administration

Item	Description
Final Regulations	- Any changes in guidance will be evaluated as released, and the impact on reporting for the applicable year will be determined on a change by change basis.
Data/Populations Maintained Outside Empyrean Systems	- Data and/or populations (e.g., retirees, unions, COBRA, etc.) not maintained on Empyrean systems which must be reported are not in scope. Where Empyrean is providing COBRA Administration, COBRA is considered to be in scope. - It is assumed that the benefits administrators/record keepers of this data will handle the reporting requirement for these populations and/or will supply the data to Client's chosen forms provider if not Empyrean. - Empyrean will incorporate these populations into the process with Thomson Reuters (if Client selects to use Empyrean) as long as data is supplied in forms ready format to Empyrean. It is expected that any third party data sources will contain the information necessary (in the required format) to meet state reporting obligations. - Empyrean is not responsible or liable for any non-Empyrean provided data.
Acquisitions	- For acquisitions, Empyrean will assume support for the acquired company from the effective date of administration on Empyrean's systems and the previous company/ administrator will be responsible for issuing 1095s for the previous period of ownership.
Divestitures	- For divestitures, Empyrean will include the divesting entity in its reporting as required up through the time of the divestiture and will supply data, if required, to the client and/or their 3rd party forms provider for any applicable time periods through the time of divestiture in the Empyrean standard raw data file format (for additional fees).
Mid-Year Implementations	- For mid-year implementations, the prior administrator is expected to supply the required data to the 3rd party forms provider for the prior administration period. Empyrean will supply data for the remaining administration period of the year as noted above in Empyrean's standard reporting format. - Optionally, Empyrean can take a forms ready data file in Empyrean's required forms ready file layout for the period of administration prior to Empyrean becoming the record keeper from the prior record keeper to support Empyrean performing the full year of reporting. - Conversion of data from/to another third party system is not in scope given the highly variable nature of the third party reporting systems and resulting data requirements.
Affordability Determination	- Assumes Client or their consultant performs the affordability determination and that Empyrean will derive the proper code(s) for the tax form file based on the Client's chosen method (which applies uniformly to all classes of participants on the file).
State Individual Mandate Filings (Optional)	- Any state that has indicated the reporting requirement will utilize the Federal Forms 1094/1095 filed with the IRS to satisfy ACA requirements will be reported by Empyrean. - Based on 1095 forms created for the federal filing process, Empyrean will determine if a filing is required in an applicable state. If a filing is not required, there will not be a filing for that state and no fee will be assessed. This will also be true for corrections filings. - To the extent that states deviate from these requirements, additional fees may apply.
Pass-through Items	Pass-through fees will be based on actual forms volume and include: - Print/fulfillment per printed form, or e-statement fee per form with electronic delivery for those who consent - Postage (for printed forms) and taxes pass through

Item	Description
Additional Assumptions	- Changes to the Client's plans, affordability safe harbor, overall reporting method, or other requirements may result in additional fees and will be managed via the change order process. - Additional scope considerations relevant to this reporting (e.g., dependent SSN solicitation, etc.) will be addressed and managed as part of the overall implementation process. - These fees do not include hours tracking/full-time eligibility determination services provided via Empyrean's SAFEHARBOR solution. - These fees do not include additional call center staffing/support related to ACA forms inquiries. Additional fees may apply.

Statement of Work Approval

Client: City of Abilene

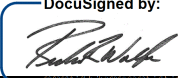
Signature

(Date)

Printed Name, Title

Empyrean:

DocuSigned by:



3/4/2025

Richard Wolfe, CEO

(Date)

Empyrean Benefit Solutions, Inc.

Benefits Administration Responsibilities Matrix

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Benefits Administration Detailed Scope Matrix

Section 1: Health and Welfare Administration

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.1	Covered Populations		■ Provide H&W administration support as required for the following populations: — Active employees — Spouses, domestic partners, and dependents — Inactive employees — Retirees — COBRA continuants — Severance employees — Surviving spouses/dependents	
1.2	Covered Plans	■ Plan design ■ Fiduciary responsibility ■ Eligibility determination	■ Enrollment and participant support for: — Health care plans (medical, dental, vision, prescription drug, etc.) — Insurance plans (life Insurance, AD&D) — Disability plans (STD, LTD) — Account based plans (FSA, HSA, HRA, commuter) — Other plans such as business travel accident, prepaid legal, etc.	■ Claims adjudication and payment ■ Provide debit cards ■ Account administration
1.3	Eligibility Determination	■ Send required data elements on HRIS file to Empyrean to support eligibility determination	■ Determine eligibility for participation in H&W plans ■ Support waiting periods ■ Support zip code eligibility	
1.4	Enrollment Support	■ Provide options and prices	■ Capture enrollment elections ■ Monitor elections requiring evidence of insurability and communicate to participants accordingly ■ Accept and retain beneficiary designations ■ Send summary of enrollment elections to carrier (via electronic files) ■ Collect supporting documentation for qualified status changes	■ Process evidence of insurability ■ Provide approvals and denials ■ Process eligibility updates (health and welfare plans) ■ Support Empyrean's routine data reconciliation processes comparing EOI approvals/denials and in-force coverage amounts to ensure carrier and Empyrean systems for such items match

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.5	Payroll Deduction Processing	■ Provide payroll calendars for each pay frequency ■ Apply deductions against payroll	■ Calculate payroll deductions based on enrollment elections ■ Calculate imputed income amounts for health benefits and life insurance ■ Notify Client of employee elections and deductions via secure file transmission	
1.6	Closed Loop for Spending / Savings Accounts Payroll Processing	■ Provide actual payroll contributions for spending/savings account plans via electronic file ■ Review and approve (if desired) true-up amounts for each employee account	■ Accumulate actual payroll contributions for each spending/savings account plans ■ Provide “dry run” analysis and reporting to Client on a quarterly basis of employees who are not on track to meet annual goal amounts ■ Adjust per pay period deduction amounts for any employees outside of the variance threshold agreed upon with Client ■ Send new recurring instruction to payroll system reflecting updated per pay period amount and effective date	
1.7	Retroactive Payroll Adjustment File Processing	■ Apply retroactive deductions and credits to payroll system ■ Create and manage arrears balance created by instructed deductions not taken	■ Calculate retroactive deduction or credit – using new recurring amount, prior recurring amount, and number of missed pay periods – at the time that an event is completed on an employee’s account ■ Amortize retroactive deduction amount (if needed per requirements) ■ Report retroactive deduction or credit amount per amortization rules via payroll instruction file in Empyrean’s standard format	
1.8	Premium Reporting	■ Transmit premium payments to carriers ■ Generate premium report(s) monthly through Empyrean’s online reporting tool	■ Calculate premiums based on current eligibility ■ Configure premium calculation rules ■ Provide Client access to standard summary-level and participant-level detail reports available via the online reporting tool	■ Accept premiums ■ Reconcile premiums against eligibility file

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.9	Event Processing	■ Notify Empyrean of employee events	■ Process the following events: — New hire / rehire — Family status change — Change of residence — Leave of absence — HSA Change — Eligibility Change — Termination — Disability — Death — Retirement — Qualified Medical Child Support Orders (QMCSOs) based on instructions received from Client — Salary updates — Age-based coverage updates (e.g. age-based life insurance reductions) ■ Notify Client of changes to payroll deductions ■ Notify carrier of changes in status	■ Process eligibility updates
1.10	Participant Communications		■ Generate email alerts ■ Generate Confirmation Statements ■ Generate additional communications (letters, reminders, etc.) as defined for ongoing administration	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.11	QMCSO Administration	■ Qualify orders and provide enrollment instructions to Empyrean ■ Insurance coverage information request processing ■ Wage/state withholding verification ■ Handle participant/agency communications and interactions	■ Manage enrollment in accordance with Client requirements and QMCSO rules	

Section 2: Compliance

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
2.1	Notification of Legislative Changes	■ Identify legislative changes not specifically impacting health and welfare benefits administration ■ Make decisions and provide direction to Empyrean regarding Client's benefits administration	■ Identify and notify Client of federal legislative changes that directly impact health and welfare benefits administration	
2.2	Discrimination Testing	■ Section 79 testing ■ Section 105(h) testing ■ Section 125 testing	■ A single Section 129 preliminary test is included when Empyrean performs full account based administration; additional fees may apply for actual testing	
2.3	Communications	■ Creation of notice content	■ Post online and/or print and mail the following notices: — Summaries of Benefits and Coverage (SBCs) — Women's Health and Cancer Rights Annual Notice — CHIP Notice — Marketplace Notice — Notice of Creditable Coverage for Medicare Additional fees apply for print and fulfillment	
2.4	Reporting		■ Support PCORI reporting via premium reports ■ Support W-2 reporting via payroll file; separate reports can be provided for additional fees	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
2.5	ACA Reporting	■	■ Select applicable support model: — Non-print-ready data file (Option 1): Empyrean will track data necessary for reporting and create a “raw” data file in Empyrean’s standard format that includes all of the data elements necessary to create the 1095 Forms — Form-ready data file (Option 2): Empyrean will track data necessary for reporting, derive applicable codes for the 1095 Forms, and create a form-ready data file in Empyrean’s standard format — Selected - Full service (Option 3): Empyrean will track data necessary for reporting, derive applicable codes for the 1095 Forms, create a print-ready data file, coordinate with Thomson Reuters to generate and distribute the 1095 Forms, provide participant online 1095 view/print access via Compass/mobile app, and submit the 1094 transmittal form(s) to the IRS ■ Reporting for any year during which the Client transitions out shall be the Non-print ready data file Option 1, unless otherwise agreed to in writing by the Parties. ■ State mandate reporting: Empyrean will track data necessary for reporting by state by month as required per individual state rules, and coordinate with Thomson Reuters to generate and submit the state’s 1094 transmittal and associated 1095-C form(s) to each state.	■ Reporting as required for participants enrolled in fully insured plans

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
2.6	SAFEHARBOR Hours Tracking	■ Provide hours data in Empyrean standard format	■ Load hours data ■ Perform determination calculations in accordance with requirements ■ Load SAFEHARBOR outbound determination file to Empyrean benefits administration platform ■ Trigger benefit events (including enrollments and terminations) based on determination file ■ Provide suite of SAFEHARBOR reports, including: ○ Determination Changes ○ Determination History ○ Current Determination Status ○ 12 Month Summary ○ Mid-Measurement Period ○ Measurement Period Forecast ○ Mid-Measurement Period Summary ○ Hours Aggregation ○ Hours Extract ○ Group and Episode Support ○ Permissions Roster	

Section 3: Data, Reports and Interfaces

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
3.1	Data Sources – Health and Welfare Plans Eligibility and Enrollment	■ Maintain employee basic data ■ Provide participant data and changes to Empyrean ■ Process payroll data from Empyrean	■ Load employee and dependent data and changes to enable IVR, Internet, and Customer Service support ■ Provide eligibility and enrollment data to carriers and third parties ■ Provide payroll data changes to Client or Client's payroll administrator	■ Maintain indicative data per employer instructions ■ Maintain coverage and enrollment data per Empyrean instructions ■ Process Empyrean file within agreed upon timeframe ■ Report errors to Empyrean for clarification or resolution ■ Engage in routine data reconciliation processes with Empyrean
3.2	Premium Generation and Reports	■ Run premium reports on demand per premium schedule	■ Generate premium and adjustment data per Client requirements ■ Provide premium reports for Client to run on-demand	
3.3	COBRA Administration	■ Notify Empyrean of employee terminations	■ Process terminations and send to COBRA administrator ■ Process life event changes and send dependent data to COBRA administrator, as applicable	■ Initiate COBRA processing
3.4	Management Dashboard Reports		■ Provide operating volume statistics, including call volumes, Internet usage, and enrollment status changes	
3.5	Administrative Reports	■ Generate and download reports and demand when desired	■ Provide standard eligibility reports for Client to run on-demand ■ Provide online ad-hoc report generation capabilities	

Section 4: Internet Services

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
4.1	General		Participant and HR User access: ■ Responsive design allows users to access it from mobile devices as well as computers ■ Protected with Transport Layer Security (TLS) 1.2 (or greater) utilizing RSA2048 encryption with SHA256 signatures ■ Supports all current versions of modern browsers as well as the previous two versions	
4.2	Availability		Participant and HR User access: ■ Available 24x7x365 with 99% availability outside of scheduled maintenance windows	
4.3	Security		Employee self-service: ■ Includes Username and Password along with security questions ■ Password reset available HR User access: ■ Role-based security for access for self-service users and administrative users ■ Includes Username and Password along with security questions ■ Password reset available	
4.4	Inquiry Support		■ Provide general plan information ■ Provide participant demographic information ■ Provide administrative rules ■ Provide links to relevant third party web sites (i.e. carriers) ■ Provide Client specific third party contact information, including URLs, phone numbers, and group numbers ■ Provide online chat (during service center hours) and secure participant messaging ■ Provide video library	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
4.5	Transaction Support		■ Support password changes ■ Support H&W plan enrollment and elections ■ Support life event processing ■ Support beneficiary maintenance ■ Provide EOI support ■ Support dependent/event verification	
4.6	Employee Communications		■ Provide Client-specific messaging capability specific to population ■ Provide alerts for employees	
4.7	MAP Reports	■ Generate reports	■ Allow on-demand report generation 24 x 7, 365 days a year ■ Restrict access to reports and population in reports per Client requirements ■ Provide a library of standard reports for ongoing administration ■ Provide a library of standard reports for open enrollment ■ Provide a library of standard premium reports	

Section 5: IVR and Customer Service Center

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
5.1	IVR Services		■ Provide toll-free number ■ Provide call routing system with client specific greeting ■ Includes user identification ■ Available 24x7x365, except for scheduled maintenance	
5.2	Call Handling		■ Provide call routing system (when applicable) available 24x7x365 ■ Provide customer service representatives (CSR's) ■ Create and use a web-based Knowledge Base	
5.3	Online Inquiry Support		■ Support online chat from authenticated participants during service center hours ■ Support secure participant messaging, allowing authenticated participants to submit inquiries/requests at all hours ■ Handle inquiries and if necessary, request participant to call to handle transaction ■ Available outside of Annual Enrollment window	
5.4	Security Maintenance		■ Identify caller's employer via authentication process ■ Verify caller's identity ■ Follow Client-specific alternate security procedures, including dependent security procedures	
5.5	Service Center Hours		■ Available for a 9 hour window between the hours of 7:00 a.m. – 7:00 p.m. CT, Monday through Friday	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
5.6	Representative Supported Actions		Examples of supported actions include: ■ Inquiries — Internet navigation support — General plan information — Eligibility determination — Current coverage — Plan rates — Administrative rules — Claim filing procedures — Appeal procedures ■ Transactions — Enrollment support — Life event processing ■ Transfers to third parties	■ Accept transfers
5.7	Call Monitoring	■ Review quality monitoring results with Empyrean	■ Quality monitoring and evaluation of customer service representatives ■ Provide Client with call monitoring results	
5.8	Case Management		■ Log any unresolved calls for additional research and/or processing ■ Log all incoming correspondence ■ Interact with participant, employer and carrier as required to resolve open item ■ Date and time stamp all cases upon establishment and resolution	
5.9	Performance Reporting		■ Provide summary of performance, including call handling and case management ■ Provide call quality reporting quarterly	
5.10	Ongoing Training	■ Participate in annual Culture Training	■ Participate in and organize annual Culture Training	

Section 6: COBRA Administration

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
6.1	Covered Populations		■ Provide COBRA administration support as required for the following populations: — Active employees — Terminated employees — COBRA continuants	
6.2	COBRA Rights Notification	■ Notify Empyrean of change in employment	■ Identify COBRA-eligible participants due to change in employment or family status ■ Provide initial COBRA rights notification to participant, covered spouse, and/or dependents	
6.3	COBRA Enrollment	■ Notify Empyrean of employee terminations	■ Capture data and initiate COBRA processing ■ Support COBRA decision-making process ■ Process COBRA elections	
6.4	COBRA Administration		■ Perform COBRA direct billing and collections ■ Track and remit collected premiums to employer monthly ■ Process annual enrollment and coverage changes ■ Track COBRA coverage periods and process COBRA coverage terminations	

Section 7: Account Administration via Preferred Partner, HSA Bank

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
7.1	Covered Populations		■ Coordinate HSA, FSA, and Commuter account administration support through Preferred Partner, HSA Bank, as required for the following account types: — Health Care — Dependent Care — HSA — Transit/Commuter	
7.2	Debit Card			■ Produce and distribute debit cards to all applicable participants ■ Provide access to the MasterCard/VISA network merchant network to support auto adjudication of claims/swipes ■ Produce and distribute replacement cards as needed with the cost of the replacement card charged to participant
7.3	HSA, FSA, and Commuter Account Enrollment		■ Support HSA, FSA, and Commuter decision-making process ■ Process HSA, FSA, and Commuter elections ■ Send enrollment data files to HSA Bank	
7.4	Account Administration			■ Adjudicate claims ■ Process and remit approved reimbursement to employee ■ Distribute reimbursements via check or ACH ■ Complete non-discrimination testing and/or plan documents as requested
7.5	Invoicing		■ Ongoing per-account fees for HSA Bank will be included on the monthly invoice Empyrean sends to client	

Section 8: Precision Benefits

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
8.1	Enrollment decision support		Provide enrollment decision support with recommended personalized benefit packages using your employees' medical and pharmacy claims data and consumer data, powered by predictive analytics, for the following benefits: ■ Medical / pharmacy plan ■ Health savings account ■ Healthcare flexible spending account ■ Hospital indemnity insurance ■ Critical illness insurance ■ Accident insurance	■ Provide historic and ongoing claims data that is timely and accurate
8.2	Plan review feature		Provide plan review feature showing feedback on the fit of current benefits upon claims review in mobile experience and within enrollment events as part of decision support features. ■ Current year plan features and current year enrollment data must be loaded to the Empyrean system to support.	
8.3	Standard mobile engagement features		Provide standard engagement features via mobile experience, including: ■ Healthcare expense navigation grouping related claims into medical events and presenting user's expected out of pocket costs. ■ Care planning features to promote in-network providers as the most cost-effective care option, using the carrier's provider network data.	■ Provide historic and ongoing claims data that is timely and accurate ■ Provide ongoing provider network data that is timely and accurate
8.4	Client-specific mobile engagement features	■	Engagement via mobile experience to highlight opportunities to reduce costs based on review of individual claims. Examples include: ■ Payout opportunity alerts for supplemental health carrier products as part of healthcare expense navigation ■ Notifications of savings potential by using in network providers or urgent care.	■ Provide historic and ongoing claims data that is timely and accurate ■ Provide ongoing provider network data that is timely and accurate

			■ Notifications of opportunity to appeal charges on incoming claims.	
8.5	Communications		Provide full communications suite to employees educating members and promoting usage of the tools during enrollment events and through the mobile experience for year-round benefits engagement: ■ Empyrean open enrollment campaign promotes the use of decision support during enrollment ■ Empyrean year-round engagement launch campaign promotes mobile experience	
8.6	Reporting Package		Deliver Client reporting package: ■ Decision support outcomes reporting usage, benefits adoption and plan migration ■ Year round engagement and member utilization metrics ■ Client and member performance analytics	

Performance Guarantees

Purpose

The purpose of the Empyrean Subjective Service Level Agreements (SLAs) is to identify the specific performance standards that will be applied to evaluate the performance of Empyrean's administration of Client's H&W plans. Due to the subjectivity of the SLAs by definition, this policy will help both Parties understand the framework for these SLAs.

Description

This policy is broken down into components to help define how to report, monitor and manage SLAs for both Empyrean and Client. The performance of Empyrean in its duties and how Client views this performance is based on a 1-5 rating scale on a quarterly basis (5 being best). Both Client and Empyrean will be expected to review and grade Empyrean's performance with respect to each of the identified measures. The results are used to facilitate a focused and constructive discussion, to calibrate any differences, to document Client's perceptions of Empyrean's service, and to develop an action plan that specifically addresses Client's feedback.

Empyrean has agreed to place up to 10% of ongoing administration fees at risk based on Client's evaluation of Empyrean's performance in a quarterly review. In no event will the total amount of performance based penalties exceed the amount specified above. For purposes of determining when services are not meeting Client's expectations, a score of 3 will be considered the minimum acceptable level of performance. A score of 1 or 2 will indicate that Empyrean's performance for the period was not acceptable. For any performance area where Empyrean receives a score of less than 3, Empyrean will, within 2 weeks of the quarterly review, present Client with a written plan for correcting the identified issues and restoring service performance to an acceptable level. If Client rates Empyrean's performance as unacceptable for the following quarter, Client may request, after the performance review meeting, payment of the performance based fee penalty which will appear as a credit on the next month's invoice. These fees at risk will apply beginning six months after the ongoing services live date.

Survey

The survey questions and statements that will be sent to Client each quarter are below. The Client will be asked to rate Empyrean on a scale of 1 to 5 in response to the statements.

- How satisfied are you with Empyrean?
- Communications: The Empyrean team communicates proactively, timely, and clearly on all aspects of our benefits administration partnership.
- Responsiveness: The Empyrean team is responsive to my requests, shows a sense of urgency, and demonstrates creativity in meeting our business needs.
- Quality: The level of quality delivered consistently meets my expectations.
- Issue Resolution: When issues occur, I am notified timely and my Empyrean team drives the issue to resolution such that root cause is identified, documented, and I am confident they will not reoccur.
- Participant Service: Participants have the resources they need and are treated with the quality of care and respect we'd provide ourselves, and I am not spending my time on issues that should be handled by the service center. I am enabled with the support required if we do not leverage the Empyrean service center.
- Technology: The technology is dependable and supports our business goals/objectives.
- Team/Staffing: The Empyrean team is effectively and consistently resourced to meet my needs.



- Fees/Value: We receive appropriate value for the fees we pay.
- Innovative/Thought Leadership: Empyrean is a valuable partner that offers creative solutions, continues to ensure processes and tools are proactive, innovative, and strategic in the benefits administration space. They provide recommendations to solve our unique business needs and challenges regardless of their source.
- Empyrean Experience: Based on your experience, would you recommend Empyrean to a friend or colleague?

Scoring

Each member of the team will be surveyed independently and respond using a 1-5 scale. Individual scores are averaged and feedback themes are summarized. Scores of 4 and 5 reflect good/excellent (green) performance. A score of 3 is average (yellow). Scores of 2 or 1 reflect below average to poor (red) performance. The survey contains a place for written feedback which will be essential to support the discussion and action plan development. A sub-standard performance on one portion of the survey does not constitute a penalty. The scores are totaled and then averaged. A total average score below 3 will trigger escalation to the assigned client sponsor and be subject to a penalty payout if the agreed upon action plan is not fully completed to the client's satisfaction. Results are submitted to an independent resource for collation.

Quarterly Meetings

Quarterly meetings are held to review the results, as well as to review other aspects of our delivery and relationship. These review sessions also allow Empyrean and Client to reconcile the results in comparison to the desired state and to implement any action plan that may be necessary.

This Performance Guarantees section is intended to comply with the Master Services Agreement and this Statement of Work. If at any time the MSA and/or the SOW have conflicting terms to those provided in this Performance Guarantees section, the provisions of this Performance Guarantees section shall prevail.

SUPPLEMENT TO AGREEMENT BETWEEN THE CITY OF ABILENE, TEXAS AND
Empyrean Benefit Solutions, Inc. (“Company”)

- (1) **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.

- (2) **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.

- (3) **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.

- (4) **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 company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company: (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.

Empyrean Benefit Solution, Inc.

(printed name of company)

DocuSigned by:



Richard L. Wolfe

(signature and printed name of signatory)

2/14/2025

(date of signature)

Online Benefits Administration Platform

March 13, 2025





Background

Why an Online Benefits Platform?

- Automates enrollment, tracking, and reporting
- Lowers costs and reduces errors with HRIS integration

Need for Improvement

- Current processes are inefficient, prone to errors, and disrupted by high vendor personnel turnover
- Ongoing challenges created the need for a more reliable solution

Key Goals

- Implement a user-friendly, secure, and scalable solution
- Reduce administrative burden and streamline processes
- Ensure regulatory compliance (ACA, COBRA, etc.)
- Scales with workforce growth





Selection Process

Notices were published for RFP CB-2502 on October 15, 2024, with six companies responding.

- Our rating evaluation criteria consisted of:
 - Service(s) rendered, ease of use, breadth and strength of support offered during open enrollment and throughout the plan year - 40%
 - Capabilities in regard to personnel, technology, account management, and vendor compatibility- 30%
 - Pricing - 20%
 - Experience in the industry and in serving governmental entities/professional references - 10%





Vendor Evaluation

Criteria	Max Points	Empyrean Benefit Solutions
Service(s) rendered, ease of use, breadth and strength of support offered during open enrollment and throughout the plan year	10	10
Capabilities in regard to personnel, technology, account management, and vendor compatibility	40	35
Pricing	20	15
Experience in the industry and in serving governmental entities/professional references	30	28
Total	100	88





Why Empyrean Benefit Solutions?

Comprehensive Support & Integration

- Personalized benefits experience with Precision Benefits
- Comprehensive administrative support
- Advanced analytics for data-driven insights
- Seamless integration with HRIS
- Management of FSA and HSA accounts
- Provides a user-friendly app, training materials, and guidance for a smooth employee transition

Optimized Benefits Administration

- Flexible, scalable, and secure benefits solution
- Simplifies benefits administration tasks
- Enhances employee and administrator experience





Empyrean's Experience

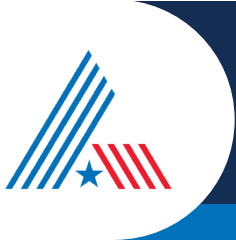
Empyrean's extensive experience and expertise:

- Over 18 years of experience in benefits solutions
- Supports 400+ clients and 4.6 million participants with advanced systems, top-tier service, and maintains a 98% client retention rate
- 800 U.S.-based employees providing reliable, localized support
- Implementation team with 10+ years of experience
- Dedicated Client Service Manager and Support Team for the City of Abilene
- Specialized public sector team

Completed similar projects for:

- City of Fort Worth, TX
- City of Tulsa, OK
- Laguna Beach, CA
- Artesia, NM





Recommendation - Empyrean Benefit Solutions

Recommendation

Three-Year Rate Guarantee Service Agreement
With optional renewals





Annual Ongoing Cost Evaluation

Services	Current Vendor Pricing - Businessolver	Recommended Vendor Pricing - Empyrean Benefit Solutions
Annual Fee (PEPM)	\$126,986.64 (\$11.33 PEPM x 12)	\$83,904 (\$5.75 PEPM x 12)
Carrier Change Fee	-	\$400
Carrier Admin Support Fees	Included	Included
Precision Benefits	-	\$20,000
Payroll File Fee (PEPM)	Included	Included
Call Center	4200 service center minutes included per year	\$12,000
Communication Campaign to Include Print	\$43,053.71	\$29,750
COBRA Administration	-	\$10,214.40
FSA Administration	\$13,824	\$10,752
HSA Administration	\$7,950	\$2,385
ACA Variable Hour Tracking	Included in Core Fees	\$10,214.40
ACA IRS Fulfillment Obligation	-	\$1,500
Dependent Verification	\$6,480	\$3,240

Annual Ongoing Cost

**Current Vendor Pricing - Businessolver:
\$198,294.35**

**Recommended Vendor Pricing - Empyrean:
\$184,359.80**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Cande Flores, Fire Chief

SUBJECT: **14. Resolution: Receive a Report, Hold a Discussion and Take Action To Authorize the City Manager to Execute an Agreement with MES Service Company, LLC for the Purchase of Dual Certified Firefighting Protective Gear for the Abilene Fire Department (*Cande Flores*)**

GENERAL INFORMATION

The Abilene Fire Department (AFD) operates a personal protective equipment (PPE) program that provides and maintains PPE for all AFD firefighters. Dual Certified PPE includes firefighting coats, pants, and boots.

All dual certified protective gear must comply with NFPA 1971 – Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting and NFPA 1977 – Standard on Protective Clothing and Equipment for Wildland Fire Fighting.

SPECIAL CONSIDERATIONS

MES Service Company, LLC is an approved vendor with the City of Abilene and an approved distributor for Veridian dual certified firefighting PPE. Dual certified PPE is a specialty product that is primarily utilized for wildland firefighting but also for other emergency incident types.

FUNDING/FISCAL IMPACT

The total cost of this purchase is \$92,400.00. Funding will come from the AFD FY25 budget for Protective Equipment.

This quote is through Sourcewell, which ensures best pricing.

STAFF RECOMMENDATION

Staff recommends approval of the Resolution to authorize the City Manager to execute an agreement with MES Service Company, LLC for the purchase of dual certified firefighting protective gear for the Abilene Fire Department.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution - MES PPE Purchase 2025
2. Abilene FD Veridian Wildland-Tech Rescue Gear Quote 02-27-2025 (Sourcewell Contract)
3. Veridian PPE Presentation

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH MES SERVICE COMPANY, LLC FOR THE PURCHASE OF VERIDIAN DUAL CERTIFIED TECH RESCUE GEAR FOR THE ABILENE FIRE DEPARTMENT.

WHEREAS, the Abilene Fire Department (AFD) utilizes dual certified firefighting protective gear for wildland firefighting and other emergency incidents for the health and safety of AFD personnel; and

WHEREAS, MES Service Company, LLC is an approved vendor for the City of Abilene and an approved distributor for Veridian Fire Protective Gear; and

WHEREAS, the AFD replaces structural firefighting gear on an annual and as needed basis each year; and

WHEREAS, \$92,400.00 will be funded through the AFD Protective Equipment budget for Fiscal Year 2025.

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

Part 1: The City Manager is hereby authorized to execute an Agreement with MES Service Company, LLC for the purchase of dual certified firefighting protective gear.

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

ADOPTED and approved by the City Council on the 13th of March, 2025.

ATTEST:

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

APPROVED:

Stanley Smith
City Attorney



(877) 637-3473

Quote

Quote # QT1909903
Date 02/27/2025
Expires 03/31/2025
Sales Rep Herron, Jason R
Shipping Method FedEx Ground
Customer ABILENE, CITY OF (TX)
Customer # C41636

Bill To

Accounts Payable
ABILENE, CITY OF
P.O. Box 60
Abilene TX 79604
United States

Ship To

ATTN: Chief Michael Burden
ABILENE, CITY OF
Fire -Station #1
250 Grape Street
Abilene TX 79601
United States

Item	Alt. Item #	Units	Description	QTY	Unit Price	Amount
CUSTOM TECH RESCUE COAT	CTRU-D34-000-92-TBT		CTRU-D34-000-92-TBT CUSTOM TECH RESCUE COAT Sigma, Tan, Reflexite Trim & Lettering - Abilene Spec	80	\$585.00	\$46,800.00
CUSTOM TECH RESCUE PANT	CTRU-D34-000-92-TBT		CTRU-D34-000-92-TBT CUSTOM TECH RESCUE PANT Sigma, Tan, Reflexite Trim, With Suspenders - Abilene Spec	80	\$570.00	\$45,600.00

Chief Michael Burden 325-668-4293

City of Abilene Member ID: 101784
Sourcewell Contract ID: 010424-MES

Subtotal \$92,400.00
Shipping Cost \$0.00
Tax Total \$0.00
Total \$92,400.00

This Quotation is subject to any applicable sales tax and shipping and handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1909903

Dual Certified PPE Purchase

ABILENE FIRE DEPARTMENT



DUAL CERTIFIED PROTECTIVE GEAR

- Includes:

- Protective Coat
- Protective Pants
- Wildland Boots



- All AFD Firefighting Gear must meet the requirements of:

- NFPA 1971 – Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting
- NFPA 1977 – Standard on Protective Clothing and Equipment for Wildland Fire Fighting



PROTECTIVE GEAR REPLACEMENT

- NFPA 1977
 - Recommends replacing wildland PPE after 10 years, or
 - If PPE is contaminated or is no longer safe to use:
 - Gear is visibly degraded or worn
 - Gear has holes or is beyond its safe serviceable life
 - Gear has soil buildup or other contaminants that cannot be removed
- AFD Protective Gear
 - AFD PPE is tested annually
 - Gear is replaced each year according to:
 - Expiring gear
 - Damaged gear or gear that does not pass annual testing
 - New hires



DUAL CERTIFIED PPE USES

- AFD Dual Certified PPE is used for:
 - Wildland Firefighting (Primary Use)
 - Vehicle Accidents and Extrications
 - Technical Rescues
- Veridian Tech Rescue Utility PPE
 - Dual Certified Tech Rescue Gear
 - Safer to wear in non-structural firefighting environments
 - Does not possess a thermal layer
 - Reduced heat stress
 - Does not contain concerning PFAs materials
 - Lightweight, enhanced freedom of movement
 - Reinforced elbows and knee pads



PURCHASE DETAILS

- MES Service Company, LLC
 - City-Approved firefighting equipment and uniform vendor
 - Local Representative – Llano, TX
- Total quote of \$92,400.00
 - 80 sets of dual certified protective coats and pants
 - Sourcewell pricing
- Funds will come from the AFD Protective Clothing budget for Fiscal Year 2025.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Matthew Dane, Assistant Director

SUBJECT: 15. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving Change Order No. 1 to the Contract with Dowtech Specialty Contractors for the Sodium Hydroxide Bulk Storage and Dry Polymer Feed Improvements (Matthew Dane)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council approve Change Order No. 1 to the contract with Dowtech Specialty Contractors, Inc. (Dowtech) for the Sodium Hydroxide Bulk Storage & Dry Polymer Feed Improvements. Change Order No. 1 adds \$124,857.00 to the contract, resulting in a new contract total of \$1,596,096.00. This change order incorporates the provision and installation of a new bulk sulfuric acid tank at the Hargesheimer Water Treatment Plant (HWTP). The original contract provides for the installation of a new additional sodium hydroxide bulk storage tank and a new additional dry polymer feed system at the Northeast Water Treatment Plant, and a new additional sodium hydroxide bulk storage tank at the Hargesheimer Water Treatment Plant.

SPECIAL CONSIDERATIONS

The Hargesheimer Water Treatment Plant (HWTP) is one of three water treatment plants operated by the City. It uses advanced filtration methods, microfiltration and reverse osmosis, to provide safe drinking water. To keep these filtration membranes working properly, sulfuric acid is used for periodic cleaning. This helps remove mineral buildup and other particles that could clog the membranes, ensuring they continue to filter water efficiently.

The plant's sulfuric acid storage tank, which was built in 2003, is showing signs of wear. The protective fiberglass coating around the outlet flange has failed, exposing the metal underneath to corrosion. As a result, the tank has started leaking. If not addressed, this could lead to operational challenges and safety concerns.

The proposed change order will add the removal of the existing damaged tank and the installation of a new sulfuric acid storage tank to the contract scope. This replacement will help ensure the continued reliability and safety of the water treatment process at HWTP.

FUNDING/FISCAL IMPACT

Change Order No. 1 will increase the contract amount by \$124,857.00, bringing the new contract total to \$1,596,096.00. The additional funding will be covered by the project's Owners allowance and the Water Utilities Operating Budget.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve Change Order No. 1 to the contract with Dowtech Specialty Contractors, Inc. for the provision and installation of a new bulk sulfuric acid tank at the Hargesheimer Water Treatment Plant.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Written Resolution-CO#1 Sulfuric Acid Tank
2. Abilene Chemical Change Order 01
3. Presentation-CO#1 Sulfuric Acid Tank

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH DOWTECH SPECIALTY CONTRACTORS, INC. (DOWTECH) FOR THE PROVISION AND INSTALLATION OF A NEW BULK SULFURIC ACID STORAGE TANK AT THE HARGESHEIMER WATER TREATMENT PLANT.

WHEREAS, the City of Abilene owns and operates the Hargesheimer Water Treatment Plant (HWTP) as part of its Public Water Supply System; and

WHEREAS, HWTP utilizes microfiltration and reverse osmosis to treat drinking water, both of which require sulfuric acid for periodic cleaning to prevent mineral buildup and maintain filtration efficiency; and

WHEREAS, the existing sulfuric acid storage tank, constructed in 2003, has developed a leak due to corrosion caused by the failure of its protective fiberglass coating, creating operational and safety concerns; and

WHEREAS, Change Order No. 1 adds \$124,857.00 to the contract with Dowtech Specialty Contractors, Inc., increasing the total contract amount to \$1,596,096.00, to include the removal of the existing damaged tank and the installation of a new sulfuric acid storage tank at HWTP; and

WHEREAS, the additional funding required for this change order will be covered by the project's Owners allowance and the Water Utilities Operating Budget.; and

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

That the City Manager is authorized to execute Change Order No. 1 to the contract with Dowtech Specialty Contractors, Inc., for the provision and installation of a new bulk sulfuric acid storage tank at the Hargesheimer Water Treatment Plant, increasing the contract amount by \$124,857.00, for a total revised contract amount of \$1,596,096.00.

ADOPTED this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley E. Smith, City Attorney

CHANGE ORDER



CITY OF ABILENE

CHANGE ORDER NUMBER: 01

1. CONTRACTOR: Dowtech Specialty Contractors
2. Change Order Work Limits: Sta. _____ to Sta. _____
3. Type of Change: Minor (Major/Minor)
4. Reasons: Replacement of Sulfuric Acid Tank at Hargesheimer WTP
5. Describe the work being revised: _____
The replacement of a sulfuric acid tank.

Project: _____

Street: _____

Contract Number: _____

6. New or revised plan sheet(s), sketch(es), and estimates are attached:

Each signatory hereby warrants that each has the authority to execute this Change Order (CO).

The contractor must sign the Change Order and, by doing so, agrees to waive any and all claims for additional compensation due. THE CONTRACTOR Date <u>1/20/2025</u> <u>Clint Carlile</u> (Signature) Typed/Printed Name <u>Clint Carlile</u> Typed/Printed Title <u>Vice President</u>	The following information must be provided: <table><tr><td>Change in contract time:</td><td><u>N/A</u></td></tr><tr><td>Original contract price:</td><td><u>\$1,471,239.00</u></td></tr><tr><td>Existing contract price: *</td><td><u>\$1,471,239.00</u></td></tr><tr><td>Amount added or subtracted by this CO:</td><td><u>\$124,857.00</u></td></tr><tr><td>Revised contract price:</td><td><u>\$1,596,096.00</u></td></tr></table> * Includes previous CO's	Change in contract time:	<u>N/A</u>	Original contract price:	<u>\$1,471,239.00</u>	Existing contract price: *	<u>\$1,471,239.00</u>	Amount added or subtracted by this CO:	<u>\$124,857.00</u>	Revised contract price:	<u>\$1,596,096.00</u>
Change in contract time:	<u>N/A</u>										
Original contract price:	<u>\$1,471,239.00</u>										
Existing contract price: *	<u>\$1,471,239.00</u>										
Amount added or subtracted by this CO:	<u>\$124,857.00</u>										
Revised contract price:	<u>\$1,596,096.00</u>										

RECOMMENDED FOR EXECUTION:

Inspection Services Manager Date

City Engineer's Seal:

City Engineer Date

Director Date

John S. Hill

01/20/2025



**CONTRACT CHANGE ORDER
NUMBER: 001**

DATE OF ISSUE: January 20, 2025 EFFECTIVE DATE: Owner Approval Date

OWNER: City of Abilene, TX
CONTRACTOR: Dowtech Specialty Contractors
PROJECT: Dry Polymer Feed and Caustic Tanks
EHT PROJECT #: 8215

We direct you to make the following changes in the Contract Documents; replacement of Sulfuric Acid Tank at the Hargesheimer WTP.

Description:

1. Material	\$4,423.00
2. Tank Disposal	\$2,875.00
3. Labor	\$6,960.00
4. New Tank	\$76,000.00
5. Equipment	\$5,950.00
6. Reinsulate (Misc.)	\$4,425.00
7. Electrical	\$2,800.00
8. Misc.	\$2,117.00
9. OH&P	<u>\$19,307.00</u>
	+124,857.00

Justification:

1. City directed.

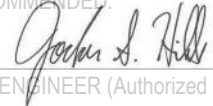
Summary of Change Order:

Net Change in Contract Price: +\$124,857.00

CHANGE IN CONTRACT PRICE:	
Original Contract Price	\$ 1,471,239.00
Net (Increase) (Decrease) (No Change) from previous Change Orders:	\$ 0.00
Contract Price prior to this Change Order:	\$ 1,471,239.00
Net (Increase) (Decrease) (No Change) of this Change Order:	\$ 124,857.00
Contract Price with all approved Change Orders:	\$ 1,596,096.00

CHANGE IN CONTRACT TIMES:	
Original Contract Time: 250 working days	
NTP Issued: TBD	
Substantial Completion:	
Ready for final payment:	
Net (Increase) (Decrease) (No Change) from previous Change Orders:	
Substantial Completion: 0 days	
Ready for final payment: 0 days	
Contract Times prior to this Change Order:	
Substantial Completion:	
Ready for final payment:	
Net (Increase) (Decrease) (No Change) of this Change Order:	
Substantial Completion: 0 days	
Ready for final payment: 0 days	
Contract Times with all approved Change Orders:	
Substantial Completion:	
Ready for final payment:	

RECOMMENDED:

By: 
ENGINEER (Authorized Signature)

Date: 01/20/2025

APPROVED:

By: _____
OWNER (Authorized Signature)

Date: _____

ACCEPTED:

By: 
CONTRACTOR (Authorized Signature)

Date: 1/20/2025

From: clint@dowtechspecialty.com <clint@dowtechspecialty.com>

Sent: Tuesday, December 31, 2024 2:29 PM

To: Jordan Hibbs <jordan.hibbs@e-ht.com>

Subject: Sulfuric Acid Tank Replacement

Caution: This is an external email that originated outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Material:	4,423.00
Tank Disposal:	2,875.00
Labor:	6,960.00
New Tank:	76,000.00
Equipment:	5,950.00
Reinsulate (Misc.)	4,425.00
Electrical:	2,800.00
Misc.	2,117.00
Subtotal:	105,500.00
OH&P:	19,307.00
Total:	124,807.00

The math came out a little different, so they can use this number. I have to get the contract to get it entered, then I can enter a change order through Redteam.

Clint Carlile

Vice-President @ Dowtech
Specialty Contractors

Phone 325-893-4684 **Mobile** 325-
370-1561

Email clint@dowtechspecialty.com

4703 CR 527

Baird Tx, 79504

Approve Change Order No. 1 to the contract with Dowtech Specialty Contractors, Inc. for the provision and installation of a new bulk sulfuric acid tank at the Hargesheimer Water Treatment Plant.





Change Order No. 1 - Sulfuric Acid Tank

- Change Order No. 1 adds \$124,857.00 to the contract.
- Resulting in a new contract total of \$1,596,096.00.
- Change order incorporates the provision and installation of a new bulk sulfuric acid tank at the Hargesheimer Water Treatment Plant (HWTP).
- Sulfuric acid is used for periodic membrane cleaning to remove mineral buildup and maintain efficiency.





Change Order No. 1 - Sulfuric Acid Tank

- Existing sulfuric acid storage tank was built in 2003.
- The protective fiberglass coating around the outlet flange has failed.
- Corrosion has developed, causing a leak in the tank.
- If left unaddressed, it could lead to operational challenges and safety concerns.



Approve Change Order No. 1 to the contract with Dowtech Specialty Contractors, Inc. for the provision and installation of a new bulk sulfuric acid tank at the Hargesheimer Water Treatment Plant.

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager
Mindy Patterson, Deputy City Manager

FROM: Annette Lerma, Director

SUBJECT: 16. Resolution: Receive a Report, Hold a Discussion and Take Action to Approve an Amendment to the City's Tyler Technologies Contract to add the Environmental Health Enterprise Module to Replace the Sunsetting Digital Health Department Electronic System (*Annette Lerma*)

GENERAL INFORMATION

Because the current Digital Health Department system for environmental health is sunsetting 12/31/25, we will no longer have access to the system or the information in it. We had over two years' notice that this was going to happen, but due to budget constraints, we'd not been able to allocate the funding previously.

SPECIAL CONSIDERATIONS

This new EHE module will increase the public's ability to interact with the system and improve efficiency for staff. Due to the self-serving feature for payments, permits can be paid online using this module and the hope is that it will be linked to the finance module within Tyler to be routed to accounts more efficiently.

FUNDING/FISCAL IMPACT

The first year's cost will be paid out of the health services fund. Future years annual service fee will be allocated in the Tech Fund and per the IT Director, there should be some cost savings with the transition to a Microsoft platform so I am told it is expected to be budget neutral.

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

This is not something that was presented to our Health Advisory Board as there was no decision needed since the current system will no longer be available.

ATTACHMENTS:

1. 2025 Resolution-Tyler Technologies EHE
2. Abilene, TX Amend 030425 DHD Migration_3.4.25
3. City Council Presentation_EHE Implementation_March 13.2025

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO APPROVE A CONTRACT AMENDMENT FOR TYLER TO PROVIDE THE ENVIRONMENTAL HEALTH ENTERPRISE MODULE FOR INSPECTIONS AND PERMITTING.

WHEREAS, the Local Public Health Reorganization Act, Chapter 121, Texas Health and Safety Code, Allows municipalities, counties, or hospital districts to establish and operate public health departments to serve the community's health needs.

WHEREAS, the City of Abilene, Texas and Taylor County, Texas, have created the Abilene-Taylor County Public Health District to provide public health services in this region; and

WHEREAS, the Abilene-Taylor County Public Health District provides Environmental Health Services to include food establishment inspections, public pool and spa inspections, nuisance complaints that impact public health and safety, and

WHEREAS, the Environmental Health Division is currently using an electronic system that will be sunsetting on December 31, 2025 and will no longer be available for use, and

WHEREAS, the City of Abilene has entered into an agreement with Tyler Technologies, Inc. to employ the use of various electronic systems to facilitate the work of multiple city departments to allow interconnectedness of workflows; and

WHEREAS, Tyler Technologies, Inc. has an electronic system designed for Environmental Health Departments to conduct inspections; and

WHEREAS, the City of Abilene wishes to continue to expand interconnectedness between Tyler Technologies, Inc electronic system; and

WHEREAS, Tyler Technologies, Inc. has provided a Sourcewell-compliant quote to add the Environmental Health Enterprise software to the City of Abilene's current Tyler Technologies, Inc. contract.

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

PART 1. That the Abilene-Taylor County Public Health District is authorized to amend the City of Abilene's current Tyler Technologies, Inc. agreement to add the Environmental Health Enterprise software.

PART 2. That the Abilene-Taylor County Public Health District along with the City of Abilene Information Technology Department, will facilitate the transfer of data from the current Digital Health Department software to the new Environmental Health Enterprise software to maintain historical data related to previous inspections.

PART 3. That the funding to pay for the Environmental Health Enterprise software will be taken from the Health Services Fund for the first year of the contract and budgeted in the City of Abilene's Information Technology budget for subsequent years.

.

PART 4. That this Resolution shall be effective immediately upon adoption.

ADOPTED this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney



AMENDMENT

This amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the City of Abilene, with offices at 555 Walnut Street, Abilene, Texas 79604-0060 ("Client").

WHEREAS, Client is a member of Sourcwell (formerly known as National Joint Powers Alliance) ("Sourcwell") under member number 101784;

WHEREAS, Tyler participated in the competitive bid process in response to Sourcwell RFP #060624 by submitting a proposal, on which Sourcwell awarded Tyler a Sourcwell contract, numbered 060624-TTI (hereinafter, the "Sourcwell Contract");

WHEREAS, documentation of the Sourcwell competitive bid process, as well as Tyler's contract with and pricing information for Sourcwell is available at <https://www.sourcwell-mn.gov/cooperative-purchasing/060624-TTI>; and

WHEREAS, Client desires to purchase off the Sourcwell Contract to procure certain software functionality indicated in the Investment Summary from Tyler, which Tyler agrees to deliver pursuant to the Sourcwell Contract and under the terms and conditions set forth below.

WHEREAS, Tyler and the Client are parties to an agreement dated July 15, 2022 ("Agreement"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and the Client agree as follows:

1. The items set forth in the sales quotation attached as Exhibit 1 to this Amendment are hereby added to the Agreement as of the first day of the first month following the Amendment Effective Date and, notwithstanding anything to the contrary in Exhibit 1, ending coterminous with the SaaS Term as defined in the Agreement. Payment of fees and costs for such items shall conform to the following terms:
 - a. The annual SaaS fees payable under the Agreement shall be increased in the amount of \$25,094, for the Tyler Software added herein. The first year's annual SaaS Fees shall be invoiced on the first day of the first month following the Amendment Effective Date, prorated for the time period commencing on such date and ending concurrently with the Client's annual SaaS Term under the Agreement. Subsequent SaaS Fees shall be invoiced in accordance with the terms of the Agreement.
 - b. Credit for Prepaid Maintenance and Support Fees for Migration Modules. Client will receive a credit for the maintenance and support fees prepaid for the Migration Modules for the time period commencing on the first day of the initial term, as set forth

in Section 1 of this Amendment. Migration Modules are listed at Exhibit 1, Schedule 1.

- c. Unless otherwise provided herein, services identified at Exhibit 1 and added to the Agreement pursuant to this Amendment, along with applicable expenses, shall be invoiced as provided and/or incurred.
2. Support of Migration Modules. Beginning on the commencement of the initial term as set forth in Section 1 of this Amendment, and contingent upon Client's timely payment of annual SaaS Fees for Tyler Evergreen Modules, Client is entitled to receive, at no additional charge, maintenance and support for the Migration Modules until Tyler makes the Tyler Evergreen Modules available for use in live production.
3. License Rights Terminate Upon Migration. When Tyler makes Tyler Software identified in the Investment Summary (the "Evergreen Modules") and licensed pursuant to this Agreement available to the Client for use in live production, the license to the Tyler software listed in Exhibit 1, Schedule 1 (hereafter, "Migration Modules") terminates, as do Tyler's maintenance, support, and/or update obligations for such software.
4. Statement of Work (SOW) is hereby attached as Exhibit 2 to this Amendment.
5. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
6. Except as expressly indicated in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

Tyler Technologies, Inc.

City of Abilene, Texas

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Exhibit 1

Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date.

Tyler sales quotation inserted on the following pages.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK



Quoted By:
 Quote Expiration:
 Quote Name:

Craig Dixon
 10/31/25
 Tyler EH upgrade proposal,
 Abilene TX 2025

Sales Quotation For:

City of Abilene
 555 Walnut St
 Abilene TX 79604-0060
 Phone: +1 (325) 676-6405

Tyler SaaS

Description	Term	Monthly Fee	Users/Units	Annual Fee
Environmental Health Core Software				
Enterprise Environmental Health		\$ 123	10	\$ 14,790
Enterprise Permitting & Licensing Core Software				
Enterprise Permitting & Licensing Foundation		\$ 580	1	\$ 6,959
Civic Services				
Civic Access - Environmental Health		\$ 511	1	\$ 6,135
Sub-Total:				\$ 27,884
<u>Less Discount</u>				<u>\$ 2,790</u>
TOTAL	3.00			\$ 25,094

Professional Services

Description	Quantity	Unit Price	Extended Price	Maintenance
Professional Services				
Custom Forms/Letters	4	\$ 3,000	\$ 12,000	\$ 0
Custom Reports/Outputs	1	\$ 5,000	\$ 5,000	\$ 0
End User Training - Onsite	40	\$ 225	\$ 9,000	\$ 0
Process Validaton Training - Remote	32	\$ 200	\$ 6,400	\$ 0
Professional Implementation Services - Onsite	80	\$ 225	\$ 18,000	\$ 0
Professional Implementation Services - Remote	225	\$ 200	\$ 45,000	\$ 0
Project Management Services - Remote	120	\$ 200	\$ 24,000	\$ 0
Solutions Orientation Training - Remote	32	\$ 200	\$ 6,400	\$ 0
TOTAL:			\$ 125,800	\$ 0

Summary

Total SaaS

Total Services

Total Third-Party Hardware, Software, Services

Summary Total

Contract Total

Estimated Travel Expenses

One Time Fees

\$ 125,800

\$ 0

\$ 125,800

\$ 201,082

\$ 8,000

Recurring Fees

\$ 25,094

\$ 0

\$ 0

\$ 25,094

Comments

SaaS Monthly Fees are rounded to the nearest dollar. The Annual Fee value represents the cost to the customer.

Enterprise Permitting & Licensing Foundation includes GIS for EPL Users, Core Foundation Bundle, Advanced Automation Bundle, Data & Reporting Access, Report Toolkit, EPL API Toolkit and 1 TB of Storage

Custom reports are ground up module level custom report based on client specification. A custom report returns data from multiple records based on selection criteria.

Custom Forms/Letters are ground up single record custom report based on client specifications. A form/letter returns data from a single record in EnerGov (permit, code case, etc).

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler's pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than four (4) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses

Environmental Health Implementation:

This will be a shared services implementation where Tyler leads and owns the configuration of 4 Environmental Health programs and the program's violation library content and 1 code case type to serve as an example with the remaining configuration to be completed by the client. Unique case types implemented by Tyler are estimated at 25-30 hours per process for definition, configuration, and validation. Tyler will enable the standard Geo Rules and standard automation events included in the application. Configuration elements beyond this are

owned by the client.

Tyler will lead and own the configuration of the following programs:

- Retail Food Service Permit
- Restaurant Alcohol Sales Permit
- Swimming Pool Permit
- Daycare Permit

Tyler's implementation team is primarily responsible for the following tasks:

- Training Environmental Health functionality
- Training, best practice, and guidance in software configuration and maintenance for Environmental Health and Civic Access applications
- Establishing Environmental Health and Civic Access connections to the client-published GIS map services and configuration of Environmental Health's Live Link component
- System configuration of Payments for Environmental Health and Civic Access or enablement of electronic payments based on client supplied payment gateway information (as applicable, based on contract and client having secured an approved payment gateway)
- System configuration and validation of Tyler-to-Tyler product integrations (Enterprise ERP, Cashiering, Content Manager, Enterprise Service Requests, others as applicable based on contract).

The client's subject matter experts (SMEs) should be available approximately 25-50% (dependent on the number of processes) each week throughout the project to perform configuration and validation in addition to time scheduled with the Tyler team. The client configuration team should expect to dedicate 30-45 hours per process following completion of configuration training.

The client's SMEs are primarily responsible for the following tasks:

- Case Type and Work Class configuration, including all associated module components
- System Setup configuration (Holidays, Zones, Hold Types, Hearing Types, etc.)
- Report Setup's dynamic custom fields
- User and User Role configuration
- Workflow component and Workflow Template configuration (Steps, Actions, Submittal Types, Item Reviews, etc.)
- Civic Access customization and administration (allowed Case Types, Application instructions, Geo Rules, Themes, Headers, Menus, Security Settings, etc.)
- Automation Events (Intelligent Objects, standard Intelligent Queries). This covers automation tasks like emails, Tasks, Geo Rules, etc.
- Other configuration as desired by client

Training Notes

Training Engagements – For each 40-hour training engagement, the client receives and is billed four (4) 8-hour days of direct instruction and up

to 8 hours of preparatory and administrative time to allow trainers to familiarize themselves with client needs, develop schedules, prepare

software environments, and complete documentation.

The following training engagements are included in the scope of this implementation:

- Solutions Orientation Training: Introductory training course designed to expose the end user to the software.
- Configuration Training: Advanced training in end user functionality, configuration, and system administration.
- End User Training: Software functionality training for all end users designed to prepare all users for transitioning production processing to EPL.

Data conversion fees are waived for Tyler DHD to Tyler EH upgrade.



**Exhibit 1
Schedule 1
Migration Modules**

- Digital Health Department



Exhibit 2

Statement of Work

Statement of Work inserted on the following pages.

City of Abilene

SOW from Tyler Technologies, Inc.

1/31/2025

Presented to:
Mary Martinez
633 Walnut Street
Abilene, TX 79601

Contact:
Craig Dixon
Email: Craig.Dixon@TylerTech.com
2530 Sever Road NW, Lawrenceville, GA 30043

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Part 1: Executive Summary

1. Project Overview

1.1 Introduction

Tyler Technologies (“Tyler”) is the largest and most established provider of integrated software and technology services focused solely on the public sector. Tyler’s end-to-end solutions empower public sector entities including local, state, provincial and federal government, to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler’s solutions transform how clients gain actionable insights that solve problems in their communities.

1.2 Project Goals

This Statement of Work (“SOW”) documents the methodology, implementation stages, activities, and roles and responsibilities, and project scope listed in the Investment Summary of the Agreement between Tyler and the Abilene (collectively the “Project”).

The overall goals of the project are to:

- Successfully implement the contracted scope on time and on budget
- Increase operational efficiencies and empower users to be more productive
- Improve accessibility and responsiveness to external and internal customer needs
- Overcome current challenges and meet future goals
- Providing a user-friendly user interface to promote system use and productivity
- Streamline business processes through automation, integration, and workflows
- Eliminate redundant data entry
- Provide a single, comprehensive, and integrated solution to manage business functions

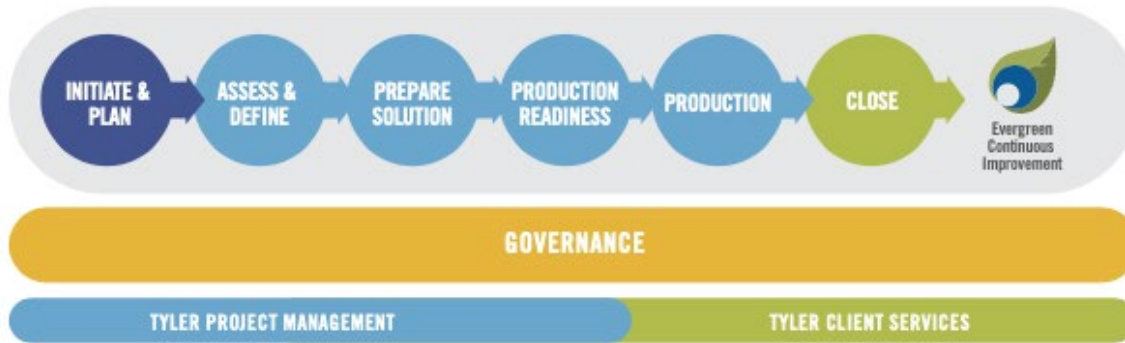
1.3 Methodology

This is accomplished by the Abilene and Tyler working as a partnership and Tyler utilizing its depth of implementation experience. While each Project is unique, all will follow Tyler’s six-stage methodology. Each of the six stages is comprised of multiple work packages, and each work package includes a narrative description, objectives, tasks, inputs, outputs/deliverables, assumptions, and a responsibility matrix.

Tailored specifically for Tyler’s public sector clients, the project methodology contains Stage Acceptance Control Points throughout each Phase to ensure adherence to scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently across Phases, and is scaled to meet the Abilene’s complexity and organizational needs.



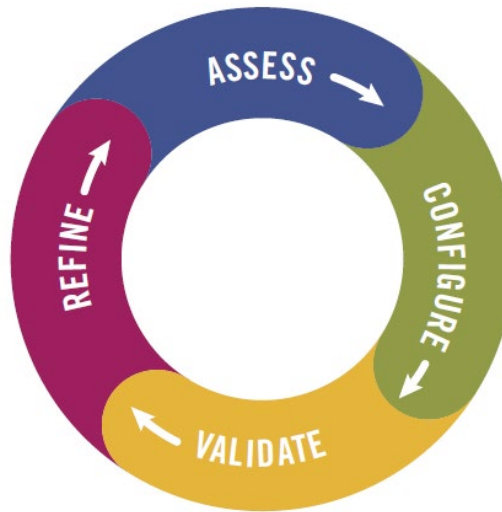
Tyler's Six Stage Project Methodology



The methodology adapts to both single-phase and multiple-phase projects.

To achieve Project success, it is imperative that both the Abilene and Tyler commit to including the necessary leadership and governance. During each stage of the Project, it is expected that the Abilene and Tyler Project teams work collaboratively to complete tasks. An underlying principle of Tyler's Implementation process is to employ an iterative model where the Abilene's business processes are assessed, configured, validated, and refined cyclically in line with the project budget. This approach is used in multiple stages and work packages as illustrated in the graphic below.

Iterative Project Model



The delivery approach is systematic, which reduces variability and mitigates risks to ensure Project success. As illustrated, some stages, along with work packages and tasks, are intended to be overlapping by nature to complete the Project efficiently and effectively.



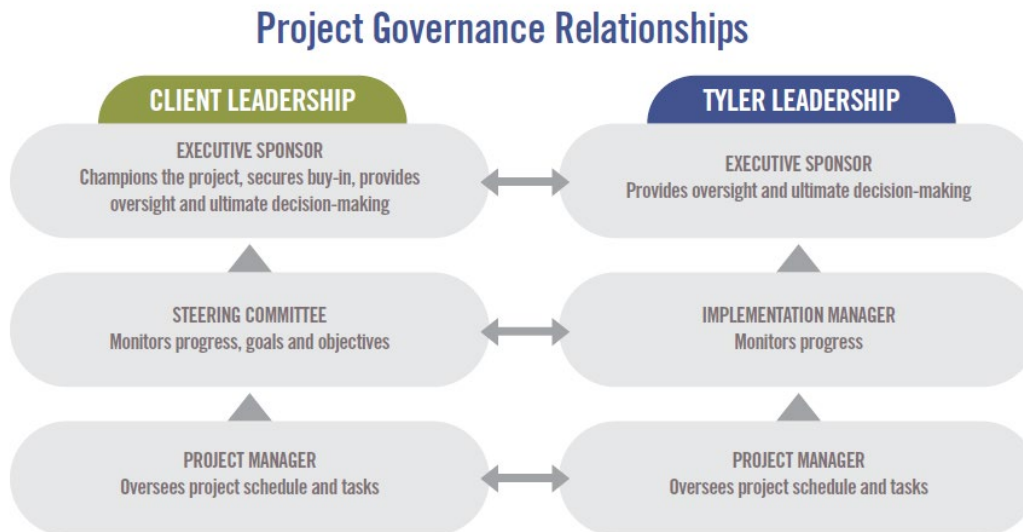
Part 2: Project Foundation

2. Project Governance

Project governance is the management framework within which Project decisions are made. The role of Project governance is to provide a decision-making approach that is logical, robust, and repeatable. This allows organizations to have a structured approach for conducting its daily business in addition to project related activities.

This section outlines the resources required to meet the business needs, objectives, and priorities for the Project, communicate the goals to other Project participants, and provide support and guidance to accomplish these goals. Project governance defines the structure for escalation of issues and risks, Change Control review and authority, and Organizational Change Management activities. Throughout the Statement of Work Tyler has provided RACI Matrices for activities to be completed throughout the implementation which will further outline responsibilities of different roles in each stage. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

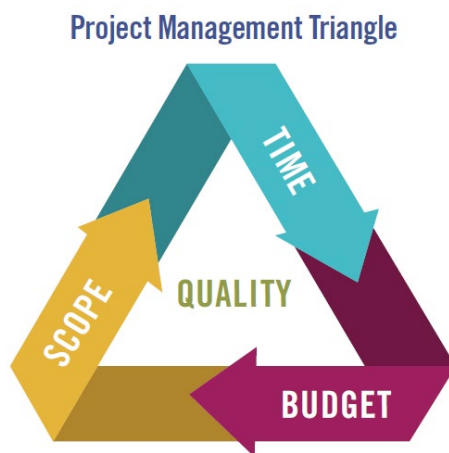
The chart below illustrates an overall team perspective where Tyler and the Abilene collaborate to resolve Project challenges according to defined escalation paths. If project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and the Abilene Steering Committee become the escalation points to triage responses prior to escalation to the Abilene and Tyler executive sponsors. As part of the escalation process, each Project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. The Abilene and Tyler executive sponsors serve as the final escalation point.



3. Project Scope Control

3.1 Managing Scope and Project Change

Project Management governance principles contend that there are three connected constraints on a Project: budget, timeline, and scope. These constraints, known as the “triple constraints” or project management triangle, define budget in terms of financial cost, labor costs, and other resource costs. Scope is defined as the work performed to deliver a product, service or result with the specified features and functions, while time is simply defined as the schedule. The Triple Constraint theory states that if you change one side of the triangle, the other two sides must be correspondingly adjusted. For example, if the scope of the Project is increased, cost and time to complete will also need to increase. The Project and executive teams will need to remain cognizant of these constraints when making impactful decisions to the Project. A simple illustration of this triangle is included here, showing the connection of each item and their relational impact to the overall Scope.



A pillar of any successful project is the ability to properly manage scope while allowing the appropriate level of flexibility to incorporate approved changes. Scope and changes within the project will be managed using the change control process outlined in the following section.

3.2 Change Control

It may become necessary to change the scope of this Project due to unforeseeable circumstances (e.g., new constraints or opportunities are discovered). This Project is being undertaken with the understanding that Project scope, schedule, and/or cost may need to change to produce optimal results for stakeholders. Changes to contractual requirements will follow the change control process specified in the final contract, and as described below.

3.3 Change Request Management

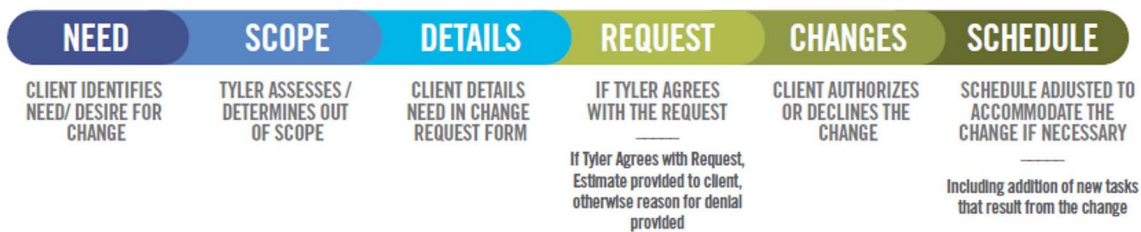
Should the need for a change to Project scope, schedule, and/or cost be identified during the Project, the change will be brought to the attention of the Steering Committee and an assessment of the change will occur. While such changes may result in additional costs and delays relative to the schedule, some changes may result in less cost to the Abilene; for example, the Abilene may decide it no longer needs a deliverable originally defined in the Project. The Change Request will include the following information:



- The nature of the change.
- A good faith estimate of the additional cost or associated savings to the Abilene, if any.
- The timetable for implementing the change.
- The effect on and/or risk to the schedule, resource needs or resource responsibilities.

The Abilene will use its good faith efforts to either approve or disapprove any Change Request within ten (10) Business Days (or other period as mutually agreeable between Tyler and the Abilene). Any changes to the Project scope, budget, or timeline must be documented and approved in writing using a Change Request form. These changes constitute a formal amendment to the Statement of Work and will supersede any conflicting term in the Statement of Work.

Change Request Process



4. Acceptance Process

The implementation of a Project involves many decisions to be made throughout its lifecycle. Decisions will vary from higher level strategy decisions to smaller, detailed Project level decisions. It is critical to the success of the Project that each Abilene office or department designates specific individuals for making decisions on behalf of their offices or departments.

Both Tyler and the Abilene will identify representative project managers. These individuals will represent the interests of all stakeholders and serve as the primary contacts between the two organizations.

The coordination of gaining Abilene feedback and approval on Project deliverables will be critical to the success of the Project. The Abilene project manager will strive to gain deliverable and decision approvals from all authorized Abilene representatives. Given that the designated decision-maker for each department may not always be available, there must be a designated proxy for each decision point in the Project. Assignment of each proxy will be the responsibility of the leadership from each Abilene department. The proxies will be named individuals that have the authorization to make decisions on behalf of their department.

The following process will be used for accepting Deliverables and Control Points:

- The Abilene shall have five (5) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept each Deliverable or Control Point. If the Abilene does not provide acceptance or acknowledgement within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.
- If the Abilene does not agree the Deliverable or Control Point meets requirements, the Abilene shall notify Tyler project manager(s), in writing, with reasoning within five (5) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The Abilene shall then have two (2) business days from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the Abilene does not provide acceptance within two (2) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

5. Roles and Responsibilities

The following defines the roles and responsibilities of each Project resource for the Abilene and Tyler. Roles and responsibilities may not follow the organizational chart or position descriptions at the Abilene, but are roles defined within the Project. It is common for individual resources on both the Tyler and Abilene project teams to fill multiple roles. Similarly, it is common for some roles to be filled by multiple people.

5.1 Tyler Roles & Responsibilities

Tyler assigns a project manager prior to the start of each Phase of the Project (some Projects may only be one Phase in duration). Additional Tyler resources are assigned as the schedule develops and as needs arise.



5.1.1 Tyler Executive Manager

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the Project team and collaborates with other Tyler department managers as needed to escalate and facilitate implementation Project tasks and decisions.

- Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying the Abilene's overall organizational strategy.
- Authorizes required Project resources.
- Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.
- Acts as the counterpart to the Abilene's executive sponsor.

5.1.2 Tyler Implementation Manager

- Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. The Tyler project managers consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler Project Manager or with Abilene management as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level.
- Assigns Tyler Project personnel.
- Provides support for the Project team.
- Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors Project progress including progress towards agreed upon goals and objectives.

5.1.3 Tyler Project Manager

- The Tyler project manager(s) provides oversight of the Project, coordination of Tyler resources between departments, management of the Project budget and schedule, effective risk, and issue management, and is the primary point of contact for all Project related items. As requested by the Abilene, the Tyler Project Manager provides regular updates to the Abilene Steering Committee and other Tyler governance members. Tyler Project Manager's role includes responsibilities in the following areas:

5.1.3.1 Contract Management

- Validates contract compliance throughout the Project.
- Ensures Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions.
- Prepares and presents contract milestone sign-offs for acceptance by the Abilene project manager(s).
- Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.

5.1.3.2 Planning

- Delivers project planning documents.
- Defines Project tasks and resource requirements.
- Develops initial Project schedule and Project Management Plan.
- Collaborates with the Abilene project manager(s) to plan and schedule Project timelines to achieve on-time implementation.



5.1.3.3 Implementation Management

- Tightly manages Scope and budget of Project to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
- Establishes and manages a schedule and Tyler resources that properly support the Project Schedule and are also in balance with Scope/budget.
- Establishes risk/issue tracking/reporting process between the Abilene and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to the Abilene any items that may impact the outcomes of the Project.
- Collaborates with the Abilene 's project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the project.
- Collaborates with the Abilene 's project manager(s) to set a routine communication plan that will aide all Project team members, of both the Abilene and Tyler, in understanding the goals, objectives, status, and health of the Project.

5.1.3.4 Resource Management

- Acts as liaison between Project team and Tyler manager(s).
- Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.
- Provides direction and support to Project team.
- Manages the appropriate assignment and timely completion of tasks as defined in the Project Schedule, task list, and Go-Live Checklist.
- Assesses team performance and adjusts as necessary.
- Consulted on in Scope 3rd party providers to align activities with ongoing Project tasks.

5.1.4 Tyler Implementation Consultant

- Completes tasks as assigned by the Tyler project manager(s).
- Documents activities for services performed by Tyler.
- Guides the Abilene through software validation process following configuration.
- Assists during Go-Live process and provides support until the Abilene transitions to Client Services.
- Facilitates training sessions and discussions with the Abilene and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.
- May provide conversion review and error resolution assistance.

5.1.5 Tyler Sales

- Supports Sales to Implementation knowledge transfer during Initiate & Plan.
- Provides historical information, as needed, throughout implementation.
- Participates in pricing activities if additional licensing and/or services are needed.

5.1.6 Tyler Technical Services

- Maintains Tyler infrastructure requirements and design document(s).
- Involved in system infrastructure planning/review(s).
- Provides first installation of licensed software with initial database on servers.
- Supports and assists the project team with technical/environmental issues/needs.
- Deploys Tyler products.



- Conducts GIS Planning.
- Reviews GIS data and provides feedback to the Abilene.
- Loads Abilene provided GIS data into the system.

5.2 Abilene Roles & Responsibilities

Abilene resources will be assigned prior to the start of each Phase of the Project. One person may be assigned to multiple Project roles.

5.2.1 Abilene Executive Sponsor

The Abilene executive sponsor provides support to the Project by providing strategic direction and communicating key issues about the Project and its overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated Project issues. The executive sponsor engages in the Project, as needed, to provide necessary support, oversight, guidance, and escalation, but does not participate in day-to-day Project activities. The executive sponsor empowers the Abilene steering committee, project manager(s), and functional leads to make critical business decisions for the Abilene.

- Champions the project at the executive level to secure buy-in.
- Authorizes required project resources.
- Actively participates in organizational change communications.

5.2.2 Abilene Steering Committee

The Abilene steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation for the Project's value throughout the organization. The steering committee oversees the Abilene project manager and Project through participation in regular internal meetings. The Abilene steering committee remains updated on all Project progress, Project decisions, and achievement of Project milestones. The Abilene steering committee also serves as primary level of issue resolution for the Project.

- Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.
- Attends all scheduled steering committee meetings.
- Provides support for the project team.
- Assists with communicating key project messages throughout the organization.
- Prioritizes the project within the organization.
- Ensures the project staffed appropriately and that staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.
- Has the authority to approve or deny changes impacting the following areas:
 - Cost
 - Scope
 - Schedule
 - Project Goals
 - Abilene Policies
 - Needs of other client projects



5.2.3 Abilene Project Manager

The Abilene shall assign project manager(s) prior to the start of this project with overall responsibility and authority to make decisions related to Project Scope, scheduling, and task assignment. The Abilene Project Manager should communicate decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When the Abilene project manager(s) do not have the knowledge or authority to make decisions, he or she engages the necessary resources to participate in discussions and make decisions in a timely fashion to avoid Project delays. The Abilene project manager(s) are responsible for reporting to the Abilene steering committee and determining appropriate escalation points.

5.2.3.1 Contract Management

- Validates contract compliance throughout the project.
- Ensures that invoicing and Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions. Collaborates on and approves Change Requests, if needed, to ensure proper scope and budgetary compliance.

5.2.3.2 Planning

- Reviews and accepts project planning documents.
- Defines project tasks and resource requirements for the Abilene project team.
- Collaborates in the development and approval of the project schedule.
- Collaborates with Tyler project manager(s) to plan and schedule project timelines to achieve on-time implementation.

5.2.3.3 Implementation Management

- Tightly manages project budget and scope.
- Collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure that scope changes and budget (planned versus actual) are transparent and handled effectively and efficiently.
- Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the project schedule as a whole and is also in balance with scope and budget.
- Collaborates with Tyler project manager(s) to establish risk and issue tracking and reporting process between the Abilene and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to Tyler any items that may impact the outcomes of the project.
- Collaborates with Tyler project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to ensure a quality outcome of the project.
- Routinely communicates with both the Abilene staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the project by all team members.
- Manages the requirements gathering process and ensure timely and quality business requirements are being provided to Tyler.

5.2.3.4 Resource Management

- Acts as liaison between project team and stakeholders.
- Identifies and coordinates all Abilene resources across all modules, phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.
- Provides direction and support to project team.



- Builds partnerships among the various stakeholders, negotiating authority to move the project forward.
- Manages the appropriate assignment and timely completion of tasks as defined.
- Assesses team performance and takes corrective action, if needed.
- Provides guidance to Abilene technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams to ensure timely response and appropriate resolution.
- Owns the relationship with in-Scope 3rd party providers and aligns activities with ongoing project tasks.
- Ensures that users have appropriate access to Tyler project toolsets as required.
- Conducts training on proper use of toolsets.
- Validates completion of required assignments using toolsets.

5.2.4 Abilene Functional Leads

- Makes business process change decisions under time sensitive conditions.
- Communicates existing business processes and procedures to Tyler consultants.
- Assists in identifying business process changes that may require escalation.
- Contributes business process expertise for Current & Future State Analysis.
- Identifies and includes additional subject matter experts to participate in Current & Future State Analysis.
- Validates that necessary skills have been retained by end users.
- Provides End Users with dedicated time to complete required homework tasks.
- Acts as an ambassador/champion of change for the new process and provide business process change support.
- Identifies and communicates any additional training needs or scheduling conflicts to the Abilene project manager.
- Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:
 - Task completion
 - Stakeholder Meeting
 - Project Management Plan development
 - Schedule development
 - Maintenance and monitoring of risk register
 - Escalation of issues
 - Communication with Tyler project team
 - Coordination of Abilene resources
 - Attendance at scheduled sessions
 - Change management activities
 - Modification specification, demonstrations, testing and approval assistance
 - Data analysis assistance
 - Decentralized end user training
 - Process testing
 - Solution Validation

5.2.5 Abilene Power Users

- Participate in project activities as required by the project team and project manager(s).
- Provide subject matter expertise on the Abilene business processes and requirements.
- Act as subject matter experts and attend Current & Future State Analysis sessions as needed.
- Attend all scheduled training sessions.



- Participate in all required post-training processes as needed throughout project.
- Test all application configuration to ensure it satisfies business process requirements.
- Become application experts.
- Participate in Solution Validation.
- Adopt and support changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Demonstrate competency with Tyler products processing prior to Go-live.
- Provide knowledge transfer to the Abilene staff during and after implementation.
- Participate in conversion review and validation.

5.2.6 Abilene End Users

- Attend all scheduled training sessions.
- Become proficient in application functions related to job duties.
- Adopt and utilize changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Utilize software to perform job functions at and beyond Go-live.

5.2.7 Abilene Technical Lead

- Coordinates updates and releases with Tyler as needed.
- Coordinates the copying of source databases to training/testing databases as needed for training days.
- Coordinates and adds new users, printers and other peripherals as needed.
- Validates that all users understand log-on process and have necessary permission for all training sessions.
- Coordinates interface development for Abilene third party interfaces.
- Develops or assists in creating reports as needed.
- Ensures on-site system meets specifications provided by Tyler.
- Assists with software installation as needed.
- Extracts and transmits conversion data and control reports from the Abilene's legacy system per the conversion schedule set forth in the project schedule.

5.2.7.1 Abilene GIS

- Participates in GIS planning activities.
- Responsible for management and maintenance of Abilene GIS infrastructure and data.
- Ensures GIS data/service endpoints are in alignment with Tyler software requirements.
- Provides Tyler implementation team with GIS data/service access information.

5.2.7.2 Abilene Upgrade Coordination

- Becomes familiar with the software upgrade process and required steps.
- Becomes familiar with Tyler's releases and updates.
- Utilizes Tyler resources to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage the Abilene's software upgrade process.
- Assists with the software upgrade process during implementation.
- Manages software upgrade activities post-implementation.
- Manages software upgrade plan activities.
- Coordinates software upgrade plan activities with Abilene and Tyler resources.



- Communicates changes affecting users and department stakeholders.
- Obtains department stakeholder acceptance to upgrade production environment.

5.2.8 Abilene Change Management Lead

- Validates that users receive timely and thorough communication regarding process changes.
- Provides coaching to supervisors to prepare them to support users through the project changes.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively.
- Identifies areas of resistance and develops a plan to reinforce the change.
- Monitors post-production performance and new process adherence.



Part 3: Project Plan

6. Project Stages

Work Breakdown Structure

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called “Stages” and the second level components are called “Work Packages”. The work packages, shown below each stage, contain the high-level work to be done. The detailed Project Schedule, developed during Project/Phase Planning and finalized during subsequent stages, lists the tasks to be completed within each work package. Each stage ends with a “Control Point”, confirming the work performed during that stage of the Project has been accepted by the Abilene.

Work Breakdown Structure (WBS)

1. Initiate & Plan	2. Assess & Define	3. Prepare Solution	4. Production Readiness	5. Production	6. Close
1.1 Initial Coordination	2.1 Solution Orientation	3.1 Initial System Deployment	4.1 Solution Validation	5.1 Go Live	6.1 Phase Close Out
1.2 Project/Phase Planning	2.2 Current & Future State Analysis	3.2 Configuration	4.2 Go Live Readiness	5.2 Transition to Client Services	6.2 Project Close Out
1.3 Infrastructure Planning	2.3 Modification Analysis	3.3 Process Refinement	4.3 End User Training	5.3 Post Go Live Activities	
1.4 Stakeholder Meeting	2.4 Conversion Assessment	3.4 Conversion Delivery			
1.5 GIS Planning*	2.5 Data Assessment	3.5 Data Delivery			
		3.6 Modifications*			

**Items noted with an asterisk in the graphic above relate to specific products and services. If those products and services are not included in the scope of the contract, these specific work packages will be noted as “This work package is not applicable” in Section 6 of the Statement of Work.*



6.1 Initiate and Plan

The Initiate and Plan stage involves Project initiation, infrastructure, and planning. This stage creates a foundation for the Project by identifying and establishing sequence and timing for each Phase as well as verifying scope for the Project. This stage will be conducted at the onset of the Project, with a few unique items being repeated for the additional Phases as needed.

6.1.1 Initial Coordination

Prior to Project commencement, Tyler management assigns project manager(s). Additional Project resources will be assigned later in the Project as a Project schedule is developed. Tyler provides the Abilene with initial Project documents used to gather names of key personnel, their functional role as it pertains to the Project, as well as any blackout dates to consider for future planning. the Abilene gathers the information requested by the provided deadline ensuring preliminary planning and scheduling can be conducted moving the Project forward in a timely fashion. Internally, the Tyler Project Manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with the Abilene's team. During this step, Tyler will work with the Abilene to establish the date(s) for the Project and Phase Planning session.

Objectives:

- Formally launch the project.
- Establish project governance.
- Define and communicate governance for Tyler.
- Identify Abilene project team.

STAGE 1	Initial Coordination																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Tyler project team is assigned	A	R	C	I	I	I	I		I		I						
Abilene project team is assigned									A	I	R	I	I	I			
Provide initial project documents to the Abilene		A	R	C			C		I		I						
Gather preliminary information requested			I						A		R	C		C		C	C
Sales to implementation knowledge transfer		A	R	I	I	I	I				I						
Create Project Portal to store project artifacts and facilitate communication		A	R								I						



Inputs	Contract documents
	Statement of Work
Outputs/Deliverables	Working initial project documents
	Project portal

Work package assumptions:

- Project activities begin after the agreement has been fully executed.

6.1.2 Project/Phase Planning

Project and Phase planning provides an opportunity to review the contract, software, data conversions and services purchased, identify applications to implement in each Phase (if applicable), and discuss implementation timeframes.

During this work package Tyler will work with the Abilene to coordinate and plan a formal Project planning meeting(s). This meeting signifies the start of the Project and should be attended by all Abilene Project team members and the Tyler Project Manager. The meeting provides an opportunity for Tyler to introduce its implementation methodology, terminology, and Project management best practices to the Abilene's Project Team. This will also present an opportunity for project managers and Project sponsors to begin to discuss Project communication, metrics, status reporting and tools to be used to measure Project progress and manage change.

Tyler will work with the Abilene Project Team to prepare and deliver the Project Management Plan as an output of the planning meeting. This plan will continue to evolve and grow as the Project progresses and will describe how the project will be executed, monitored, and controlled.

During project planning, Tyler will introduce the tools that will be used throughout the implementation. Tyler will familiarize the Abilene with these tools during project planning and make them available for review and maintenance as applicable throughout the project. Some examples are Solution validation plan, issue log, and go-live checklist.

STAGE 1	Project/Phase Planning																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Schedule and conduct planning session(s)		A	R						I		C	C	I				



Develop Project Management Plan		A	R						I		C	C	I				
Develop initial project schedule		A	R	I	I	I	I		I	I	C	C	I	I	C		I

Inputs	Contract documents
	Statement of Work
	Guide to Starting Your Project

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Project Management Plan	Delivery of document
	Project Operational Plan	Delivery of document
	Initial Project Schedule	Abilene provides acceptance of schedule based on resource availability, project budget, and goals.

Work package assumptions:

- Abilene has reviewed and completed the Guide to Starting Your Project document.

6.1.3 Infrastructure Planning

Procuring required hardware and setting it up properly is a critical part of a successful implementation. Tyler will be responsible for building the environments for a hosted/SaaS deployment, unless otherwise identified in the Agreement. . The Abilene is responsible for the installation, setup and maintenance of all peripheral devices.

Objectives:

- Ensure the Abilene's infrastructure meets Tyler's application requirements.
- Ensure the Abilene's infrastructure is scheduled to be in place and available for use on time.

STAGE 1	Infrastructure Planning																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Initial Infrastructure Communication		A	R		C		C				C						C
Schedule Environment Availability		A	R				C				I						



Inputs	Initial Infrastructure Requirements	
Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Completed Infrastructure Requirements	Delivery of Requirements

6.1.4 Stakeholder Meeting

Communication of the Project planning outcomes to the Abilene Project team, executives and other key stakeholders is vital to Project success. The Stakeholder meeting is a strategic activity to inform, engage, gain commitment, and instill confidence in the Abilene team. During the meeting, the goals and objectives of the Project will be reviewed along with detail on Project scope, implementation methodology, roles and responsibilities, Project timeline and schedule, and keys to Project success.

Objectives:

- Formally present and communicate the project activities and timeline.
- Communicate project expectations.

STAGE 1	Stakeholder Meeting																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Create Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C		I				
Review Stakeholder Meeting Presentation		I	C						A		R		C				
Perform Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C	I	I	I	I	I	I

Inputs	Agreement
	SOW
	Project Management Plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Stakeholder Meeting Presentation	

Work package assumptions:



- None

6.1.5 GIS Planning

GIS data is a core part of many Tyler applications. Other Abilene offices/products may also use this data and have different GIS requirements. A key focus of this preparation will be the process for developing the GIS data for use with Tyler applications. This can be an iterative process, so it is important to begin preparation early.

Objectives:

- Identify all Abilene GIS data sources and formats.
- Tyler to understand the Abilene's GIS needs and practices.
- Ensure the Abilene's GIS data meets Tyler product requirements.

STAGE 1	GIS Preparation																
	Tyler							Abilene									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Initial GIS Planning Meeting		A	R				C				C						C
Determine all GIS Data Sources			I				I		A		R						C
Provide Source GIS Data			I				I		A		R						C
Review GIS Data and Provide Feedback		A	R				C				I						C

Inputs	GIS Requirements Document
--------	---------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Production Ready Map Data	Meets Tyler GIS Requirements.

Work package assumptions:

- GIS data provided to Tyler is accurate and complete.
- GIS data provided to Tyler is current.
- Abilene is responsible for maintaining the GIS data.

6.1.6 Control Point 1: Initiate & Plan Stage Acceptance

Acceptance criteria for this stage includes completion of all criteria listed below.



Note: Advancement to the Assess & Define stage is not dependent upon Tyler's receipt of this stage acceptance.

Initiate & Plan Stage Deliverables:

- Project Management Plan
- Initial Project Schedule

Initiate & Plan stage acceptance criteria:

- All stage deliverables accepted based on acceptance criteria previously defined
- Project governance defined
- Project portal made available to the Abilene
- Stakeholder meeting complete
- GIS Data Production Ready
- Completed Infrastructure Requirements and Design Document
- System Passes Infrastructure Audit (as applicable)

6.2 Assess & Define

The Assess & Define stage will provide an opportunity to gather information related to current Abilene business processes. This information will be used to identify and define business processes utilized with Tyler software. The Abilene collaborates with Tyler providing complete and accurate information to Tyler staff and assisting in analysis, understanding current workflows and business processes.

6.2.1 Solution Orientation

The Solution Orientation provides the Project stakeholders a high-level understanding of the solution functionality prior to beginning the current and future state analysis. The primary goal is to establish a foundation for upcoming conversations regarding the design and configuration of the solution.

Tyler utilizes a variety of tools for the Solution Orientation, focusing on Abilene team knowledge transfer such as: eLearning, documentation, or walkthroughs. The Abilene team will gain a better understanding of the major processes and focus on data flow, the connection between configuration options and outcome, integration, and terminology that may be unique to Tyler's solution.

Objectives:

- Provide a basic understanding of system functionality.
- Prepare the Abilene for current and future state analysis.

STAGE 2	Solution Orientation	
	Tyler	Abilene



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Provide pre-requisites			A	R							I	I		I	I		I
Complete pre-requisites											A	R		C			C
Conduct orientation			A	R							I	I		I	I		I

Inputs	Solution orientation materials
	Training Plan

6.2.2 Current & Future State Analysis

The Current & Future State Analysis provides the Project stakeholders and Tyler an understanding of process changes that will be achieved with the new system.

The Abilene and Tyler will evaluate current state processes, options within the new software, pros and cons of each based on current or desired state and make decisions about the future state configuration and processing. This may occur before or within the same timeframe as the configuration work package. The options within the new software will be limited to the scope of this implementation and will make use of standard Tyler functionality.

The Abilene will adopt the existing Tyler solution wherever possible to avoid project schedule and quality risk from over customization of Tyler products. It is the Abilene's responsibility to verify that in-scope requirements are being met throughout the implementation if functional requirements are defined as part of the contract. The following guidelines will be followed when evaluating if a modification to the product is required:

- A reasonable business process change is available.
- Functionality exists which satisfies the requirement.
- Configuration of the application satisfies the requirement.
- An in-scope modification satisfies the requirement.

Requirements that are not met will follow the agreed upon change control process and can have impacts on the project schedule, scope, budget, and resource availability.

STAGE 2	Current & Future State Analysis	
	Tyler	Abilene



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Current State process review			A	R	I	I	I				C	C	C	C			C
Discuss future-state options			A	R	C	C	C				C	C	C	C			C
Make future-state decisions (non-COTS)			C	C	C	C	C				A	R	I	C			C
Document anticipated configuration options required to support future state			A	R	C	C	C				I	I	I	I			I

Inputs	Abilene current state documentation
	Solution Orientation completion

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Documentation that describes future-state decisions and configuration options to support future-state decisions.	Delivery of document

Work package assumptions:

- Abilene attendees possess sufficient knowledge and authority to make future state decisions.
- The Abilene is responsible for any documentation of current state business processes.
- The Abilene can effectively communicate current state processes.

6.2.3 This work package is not applicable.

6.2.4 Conversion Assessment

Data Conversions are a major effort in any software implementation. Tyler's conversion tools facilitate the predictable, repeatable conversion process that is necessary to support a successful transition to the Tyler system. The first step in this process is to perform an assessment of the existing ("legacy") system(s), to better understand the source data, risks, and options available. Once the data has been analyzed, the plan for data conversion is completed and communicated to the appropriate stakeholders.

Objectives:

- Communicate a common understanding of the project goals with respect to data.
- Ensure complete and accurate source data is available for review/transfer.
- Map the data from the source to the Tyler system.



- Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Extract Data from Source Systems			I		C						A						R
Review and Scrub Source Data			I	I	I						A	R		C			I
Build/Update Data Conversion Plan			R	C	C						C	I	I	I			I

Inputs	Abilene Source data
	Abilene Source data Documentation (if available)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated	Abilene Acceptance of Data Conversion Plan, if Applicable

Work package assumptions:

- Tyler will be provided with data from the Legacy system(s) in a mutually agreed upon format.
- Tyler will work with the Abilene representatives to identify business rules before writing the conversion.
- Abilene subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

6.2.5 Control Point 2: Assess & Define Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Note: Advancement to the Prepare Solution Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Assess & Define Stage Deliverables:

- Documentation of future state decisions and configuration options to support future state decisions.
- Modification specification document.
- Assess & Define Stage Acceptance Criteria:



- All stage deliverables accepted based on criteria previously defined.
- Solution Orientation is delivered.
- Conversion data extracts are received by Tyler.
- Data conversion plan built.

6.3 Prepare Solution

During the Prepare Solution stage, information gathered during the Initiate & Plan and Assess & Define stages will be used to install and configure the Tyler software solution. Software configuration will be validated by the Abilene against future state decisions defined in previous stages and processes refined as needed to ensure business requirements are met.

6.3.1 Initial System Deployment

The timely availability of the Tyler Solution is important to a successful Project implementation. The success and timeliness of subsequent work packages are contingent upon the initial system deployment of Tyler Licensed Software on an approved network and infrastructure. Delays in executing this work package can affect the project schedule.

Objectives:

- All licensed software is installed and operational.
- The Abilene can access the software.

STAGE 3	Initial System Deployment (Hosted/SaaS)*																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Prepare hosted environment			A				R				I						C
Install Licensed Software for Included Environments			A				R				I						C
Install Licensed Software on Abilene Devices (if applicable)			I				C				A						R
Tyler System Administration Training (if applicable)			A				R				I						C



Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Licensed Software is Installed on the Server(s)	Software is accessible
	Licensed Software is Installed on Abilene Devices (if applicable)	Software is accessible
	Installation Checklist/System Document	

Work package assumptions:

- The most current available version of the Tyler Licensed Software will be installed.
- The Abilene will provide network access for Tyler modules, printers, and Internet access to all applicable Abilene and Tyler Project staff.

6.3.2 Configuration

The purpose of Configuration is to prepare the software product for validation.

Tyler staff collaborates with the Abilene to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. The Abilene collaborates with Tyler staff iteratively to validate software configuration.

Objectives:

- Software is ready for validation.
- Educate the Abilene Power User how to configure and maintain software.
- Prepare standard interfaces for process validation (if applicable).

STAGE 3	Configuration																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Conduct configuration training			A	R							I	C		C			
Complete Tyler configuration tasks (where applicable)			A	R							I	I		I			
Complete Abilene configuration tasks (where applicable)			I	C							A	R		C			
Standard interfaces configuration and training (if applicable)			A	R			C				I	C		C			C



Updates to Solution Validation testing plan			C	C							A	R		C			C
--	--	--	---	---	--	--	--	--	--	--	---	---	--	---	--	--	---

Inputs	Documentation that describes future state decisions and configuration options to support future state decisions.
--------	--

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Configured System	

Work package assumptions:

- Tyler provides guidance for configuration options available within the Tyler software. The Abilene is responsible for making decisions when multiple options are available.

6.3.3 Process Refinement

Tyler will educate the Abilene users on how to execute processes in the system to prepare them for the validation of the software. The Abilene collaborates with Tyler staff iteratively to validate software configuration options to support future state.

Objectives:

- Ensure that the Abilene understands future state processes and how to execute the processes in the software.
- Refine each process to meet the business requirements.
- Validate standard interfaces, where applicable.
- Validate forms and reports, where applicable.

STAGE 3	Process Refinement																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Conduct process training			A	R							I	C	I	C			
Confirm process decisions			I	C						A	R	C	I	C			
Test configuration			I	C							A	R		C			
Refine configuration (Abilene Responsible)			I	C							A	R		C			



Refine configuration (Tyler Responsible)			A	R							I	I		I			
Validate interface process and results			I	C				C			A	R		C			C
Update Abilene-specific process documentation (if applicable)			I	C							A	R		C			
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Initial Configuration
	Documentation that describes future state decisions and configuration options to support future state decisions.
	Solution validation test plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated solution validation test plan	
	Completed Abilene-specific process documentation (completed by Abilene)	

Work package assumptions:

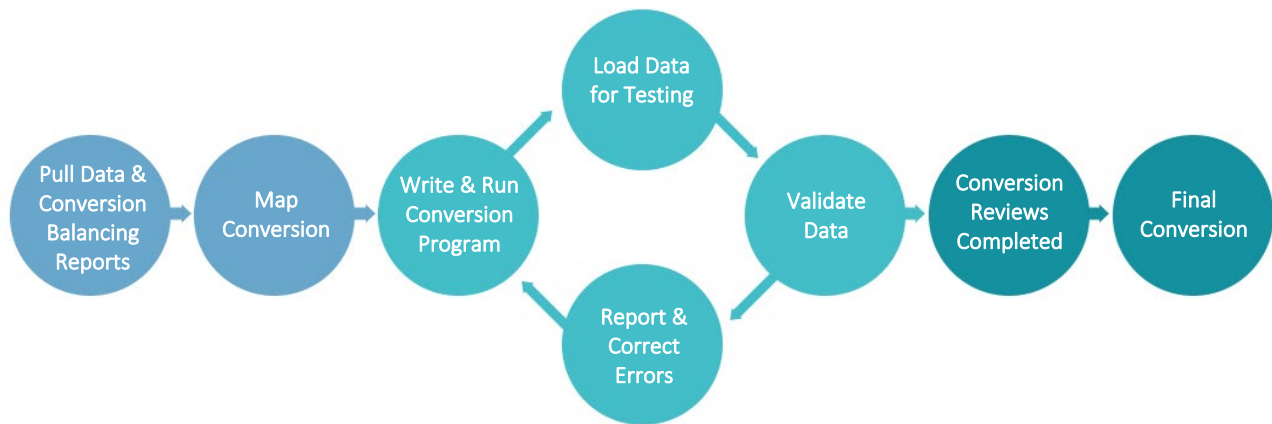
- None

6.3.4 Conversion Delivery

The purpose of this task is to transition the Abilene's data from their source ("legacy") system(s) to the Tyler system(s). The data will need to be mapped from the legacy system into the new Tyler system format. A well-executed data conversion is key to a successful cutover to the new system(s).

With guidance from Tyler, the Abilene will review specific data elements within the system and identify / report discrepancies. Iteratively, Tyler will collaborate with the Abilene to address conversion discrepancies. This process will allow for clean, reconciled data to transfer from the source system(s) to the Tyler system(s). Reference Conversion Appendix for additional detail.





Objectives:

- Data is ready for production (Conversion).

STAGE 3	Data Delivery & Conversion																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Provide data crosswalks/code mapping tool			A	C	R						I	I		I			
Populate data crosswalks/code mapping tool			I	C	C						A	R		C			
Iterations: Conversion Development			A	C	R						I						I
Iterations: Deliver converted data			A		R		I				I						I
Iterations: Proof/Review data and reconcile to source system			C	C	C						A	R		C			C



Inputs	
	Data Conversion Plan
	Configuration

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Code Mapping Complete / Validated	
	Conversion Iterations / Reviews Complete	Conversion complete, verified, and ready for final pass

Work package assumptions:

- The Abilene will provide a single file layout per source system as identified in the investment summary.
- The Abilene subject matter experts and resources most familiar with the current data will be involved in the data conversion effort.
- The Abilene project team will be responsible for completing the code mapping activity, with assistance from Tyler.

6.3.5 This work package is not applicable.

6.3.6 Control Point 3: Prepare Solution Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below in each Work Package.

Note: Advancement to the Production Readiness Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Prepare Solution Stage Deliverables:

- Licensed software is installed.
- Installation checklist/system document.
- Conversion iterations and reviews complete.

Prepare Solution Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Software is configured.
- Solution validation test plan has been reviewed and updated if needed.

6.4 Production Readiness

Activities in the Production Readiness stage will prepare the Abilene team for go-live through solution validation, the development of a detailed go-live plan and end user training. A readiness assessment will be conducted with the Abilene to review the status of the project and the organizations readiness for go-live.

6.4.1 Solution Validation

Solution Validation is the end-to-end software testing activity to ensure that the Abilene verifies all aspects of the Project (hardware, configuration, business processes, etc.) are functioning properly, and validates that all features and functions per the contract have been deployed for system use.



Objectives:

- Validate that the solution performs as indicated in the solution validation plan.
- Ensure the Abilene organization is ready to move forward with go-live and training (if applicable).

STAGE 4	Solution Validation																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Update Solution Validation plan			A	R	C						C	C		C			
Update test scripts (as applicable)			C	C	C						A	R		C			
Perform testing			C	C	C						A	R		C			
Document issues from testing			C	C	C						A	R		C			
Perform required follow-up on issues			A	R	C						C	C		C			

Inputs	Solution Validation plan
	Completed work product from prior stages (configuration, business process, etc.)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Solution Validation Report	Abilene updates report with testing results

Work package assumptions:

- Designated testing environment has been established.
- Testing includes current phase activities or deliverables only.

6.4.2 Go-Live Readiness

Tyler and the Abilene will ensure that all requirements defined in Project planning have been completed and the Go-Live event can occur, as planned. A go-live readiness assessment will be completed identifying risks or actions items to be addressed to ensure the Abilene has considered its ability to successfully Go-Live. Issues and concerns will be discussed, and mitigation options documented. Tyler and the Abilene will jointly agree to move forward with transition to production. Expectations for final preparation and critical dates for the weeks leading into and during the Go-Live week will be planned in detail and communicated to Project teams.

Objectives:

- Action plan for go-live established.
- Assess go-live readiness.
- Stakeholders informed of go-live activities.

STAGE 4	Go-Live Readiness																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Perform Readiness Assessment	I	A	R	C	C	I	C	I	I	I	I		I				I
Conduct Go-Live planning session		A	R	C							C	C	C	C	C		C
Order peripheral hardware (if applicable)			I							A	R						C
Confirm procedures for Go-Live issue reporting & resolution		A	R	I	I	I	I				C	C	I	I	I	I	I
Develop Go-Live checklist		A	R	C	C						C	C	I	C			C
Final system infrastructure review (where applicable)			A				R				C						C

Inputs	Future state decisions
	Go-live checklist

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated go-live checklist	Updated Action plan and Checklist for go-live delivered to the Abilene

Work package assumptions:

- None

6.4.3 End User Training

End User Training is a critical part of any successful software implementation. Using a training plan previously reviewed and approved, the Project team will organize and initiate the training activities.

Tyler Led: Tyler provides training for all applicable users. One or multiple occurrences of each scheduled training or implementation topic will be covered.

Tyler will provide standard application documentation for the general use of the software. It is not Tyler's responsibility to develop Abilene specific business process documentation. Abilene-led training labs using



Abilene specific business process documentation if created by the Abilene can be added to the regular training curriculum, enhancing the training experiences of the end users.

Objectives:

- End users are trained on how to use the software prior to go-live.
- The Abilene is prepared for on-going training and support of the application.

STAGE 4	End User Training																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Update training plan		A	R	C							C		I		C		
End User training (Tyler-led)		A	R	C							C	C	I	C	C	C	
Train-the-trainer		A	R	C							C	C	I	C			
End User training (Abilene-led)			C	C							A	R	I	C	C	C	

Inputs	Training Plan														
	List of End Users and their Roles / Job Duties														
	Configured Tyler System														

Outputs / Deliverables								Acceptance Criteria [only] for Deliverables							
	End User Training							Abilene signoff that training was delivered							

Work package assumptions:

- The Abilene project team will work with Tyler to jointly develop a training curriculum that identifies the size, makeup, and subject-area of each of the training classes.
- Tyler will work with the Abilene as much as possible to provide end-user training in a manner that minimizes the impact to the daily operations of Abilene departments.
- The Abilene will be responsible for training new users after go-live (exception—previously planned or regular training offerings by Tyler).

6.4.4 Control Point 4: Production Readiness Stage Acceptance

Acceptance criteria for this stage includes all criteria listed below. Advancement to the Production stage is dependent upon Tyler's receipt of the stage acceptance.

Production Readiness stage deliverables:



- Solution Validation Report.
- Update go-live action plan and/or checklist.
- End user training.

Production Readiness stage acceptance criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live planning session conducted.

6.5 Production

Following end user training the production system will be fully enabled and made ready for daily operational use as of the scheduled date. Tyler and the Abilene will follow the comprehensive action plan laid out during Go-Live Readiness to support go-live activities and minimize risk to the Project during go-live. Following go-live, Tyler will work with the Abilene to verify that implementation work is concluded, post go-live activities are scheduled, and the transition to Client Services is complete for long-term operations and maintenance of the Tyler software.

6.5.1 Go-Live

Following the action plan for Go-Live, defined in the Production Readiness stage, the Abilene and Tyler will complete work assigned to prepare for Go-Live.

The Abilene provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final conversion iteration, if applicable. If defined in the action plan, the Abilene manually enters any data added to the Legacy System after final data extract into the Tyler system.

Tyler staff collaborates with the Abilene during Go-Live activities. The Abilene transitions to Tyler software for day-to-day business processing.

Some training topics are better addressed following Go-Live when additional data is available in the system or based on timing of applicable business processes and will be scheduled following Go-Live per the Project Schedule.

Objectives:

- Execute day to day processing in Tyler software.
- Abilene data available in Production environment.

STAGE 5	Go-Live	
	Tyler	Abilene



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Provide final source data extract, if applicable			C		C						A						R
Final source data pushed into production environment, if applicable			A	C	R						I	C		C			C
Proof final converted data, if applicable			C	C	C						A	R		C			
Complete Go-Live activities as defined in the Go-Live action plan			C	C	C					A	R	C	I	C			
Provide Go-Live assistance			A	R	C	C		I			C	C	I	C		I	C

Inputs	Comprehensive Action Plan for Go-Live
	Final source data (if applicable)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data is available in production environment	Abilene confirms data is available in production environment

Work package assumptions:

- The Abilene will complete activities documented in the action plan for Go-Live as scheduled.
- External stakeholders will be available to assist in supporting the interfaces associated with the Go-Live live process.
- The Abilene business processes required for Go-Live are fully documented and tested.
- The Abilene Project team and subject matter experts are the primary point of contact for the end users when reporting issues during Go-Live.
- The Abilene Project Team and Power User's provide business process context to the end users during Go-Live.

6.5.2 Transition to Client Services

This work package signals the conclusion of implementation activities for the Phase or Project with the exception of agreed-upon post Go-Live activities. The Tyler project manager(s) schedules a formal transition of the Abilene onto the Tyler Client Services team, who provides the Abilene with assistance following Go-Live, officially transitioning the Abilene to operations and maintenance.

Objectives:



- Ensure no critical issues remain for the project teams to resolve.
- Confirm proper knowledge transfer to the Abilene teams for key processes and subject areas.

STAGE 5	Transition to Client Services																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Transfer Abilene to Client Services and review issue reporting and resolution processes	I	I	A	I	I			R	I	I	C	C		C			
Review long term maintenance and continuous improvement			A					R			C	C		C			

Inputs	Open item/issues List
--------	-----------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Client Services Support Document	

Work package assumptions:

- No material project issues remain without assignment and plan.

6.5.3 Post Go-Live Activities

Some implementation activities are provided post-production due to the timing of business processes, the requirement of actual production data to complete the activities, or the requirement of the system being used in a live production state.

Objectives:

- Schedule activities that are planned for after Go-Live.
- Ensure issues have been resolved or are planned for resolution before phase or project close.

STAGE 5	Post Go-Live Activities															
	Tyler								Abilene							



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Schedule contracted activities that are planned for delivery after go-live		A	R	C	C	C	C	I			C	C	I	C			C
Determine resolution plan in preparation for phase or project close out		A	R	C	C	C		I			C	C	I	C			

Inputs	List of post Go-Live activities
--------	---------------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated issues log	

Work package assumptions:

- System is being used in a live production state.

6.5.4 Control Point 5: Production Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below:

- Advancement to the Close stage is not dependent upon Tyler's receipt of this Stage Acceptance.
- Converted data is available in production environment.

Production Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live activities defined in the Go-Live action plan completed.
- Client services support document is provided.

6.6 Close

The Close stage signifies full implementation of all products purchased and encompassed in the Phase or Project. The Abilene transitions to the next cycle of their relationship with Tyler (next Phase of implementation or long-term relationship with Tyler Client Services).



6.6.1 Phase Closeout

This work package represents Phase completion and signals the conclusion of implementation activities for the Phase. The Tyler Client Services team will assume ongoing support of the Abilene for systems implemented in the Phase.

Objectives:

- Agreement from Tyler and the Abilene teams that activities within this phase are complete.

STAGE 6	Phase Close Out																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Reconcile project budget and status of contract Deliverables	I	A	R						I	I	C						
Hold post phase review meeting		A	R	C	C	C	C				C	C	C	C			C
Release phase-dependent Tyler project resources	A	R	I								I						

Participants	Tyler	Abilene
	Project Leadership	Project Manager
	Project Manager	Project Sponsor(s)
	Implementation Consultants	Functional Leads, Power Users, Technical Leads
	Technical Consultants (Conversion, Deployment, Development)	
	Client Services	

Inputs	Contract
	Statement of Work
	Project artifacts

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Final action plan (for outstanding items)	
Reconciliation Report	
Post Phase Review	



Work package assumptions:

- Tyler deliverables for the phase have been completed.

6.6.2 Project Closeout

Completion of this work package signifies final acceptance and formal closing of the Project.

At this time the Abilene may choose to begin working with Client Services to look at continuous improvement Projects, building on the completed solution.

Objectives:

- Confirm no critical issues remain for the project teams to resolve.
- Determine proper knowledge transfer to the Abilene teams for key processes and subject areas has occurred.
- Verify all deliverables included in the Agreement are delivered.

STAGE 6	Project Close Out																
	Tyler								Abilene								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Conduct post project review		A	R	C	C	C	C				C	C	C	C			C
Deliver post project report to Abilene and Tyler leadership	I	A	R						I	I	C						
Release Tyler project resources	A	R	I								I						

Inputs	Contract
	Statement of Work

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Post Project Report	Abilene acceptance; Completed report indicating all project Deliverables and milestones have been completed

Work package assumptions:

- All project implementation activities have been completed and approved.



- No critical project issues remain that have not been documented and assigned.
- Final project budget has been reconciled and invoiced.
- All Tyler deliverables have been completed.

6.6.3 Control Point 6: Close Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Close Stage Deliverables:

- Post Project Report.

Close Stage Acceptance Criteria:

- Completed report indicating all Project deliverables and milestones have been completed.

7. General Assumptions

Tyler and the Abilene will use this SOW as a guide for managing the implementation of the Tyler Project as provided and described in the Agreement. There are a few assumptions which, when acknowledged and adhered to, will support a successful implementation. Assumptions related to specific work packages are documented throughout the SOW. Included here are general assumptions which should be considered throughout the overall implementation process.

7.1 Project

- Project activities will begin after the Agreement has been fully executed.
- The Abilene Project Team will complete their necessary assignments in a mutually agreed upon timeframe to meet the scheduled go-live date, as outlined in the Project Schedule.
- Sessions will be scheduled and conducted at a mutually agreeable time.
- Additional services, software modules and modifications not described in the SOW or Agreement will be considered a change to this Project and will require a Change Request Form as previously referenced in the definition of the Change Control Process.
- Tyler will provide a written agenda and notice of any prerequisites to the Abilene project manager(s) ten (10) business days or as otherwise mutually agreed upon time frame prior to any scheduled on-site or remote sessions, as applicable.
- Tyler will provide guidance for configuration and processing options available within the Tyler software. If multiple options are presented by Tyler, the Abilene is responsible for making decisions based on the options available.
- Implementation of new software may require changes to existing processes, both business and technical, requiring the Abilene to make process changes.
- The Abilene is responsible for defining, documenting, and implementing their policies that result from any business process changes.

7.2 Organizational Change Management

Unless otherwise contracted by Tyler, Abilene is responsible for managing Organizational Change. Impacted Abilene resources will need consistent coaching and reassurance from their leadership team to embrace and accept the changes being imposed by the move to new software. An important part of change is ensuring that impacted Abilene resources understand the value of the change, and why they are being asked to change.



7.3 Resources and Scheduling

- Abilene resources will participate in scheduled activities as assigned in the Project Schedule.
- The Abilene team will complete prerequisites prior to applicable scheduled activities. Failure to do so may affect the schedule.
- Tyler and the Abilene will provide resources to support the efforts to complete the Project as scheduled and within the constraints of the Project budget.
- Abbreviated timelines and overlapped Phases require sufficient resources to complete all required work as scheduled.
- Changes to the Project Schedule, availability of resources or changes in Scope will be requested through a Change Request. Impacts to the triple constraints (scope, budget, and schedule) will be assessed and documented as part of the change control process.
- The Abilene will ensure assigned resources will follow the change control process and possess the required business knowledge to complete their assigned tasks successfully. Should there be a change in resources, the replacement resource should have a comparable level of availability, change control process buy-in, and knowledge.
- The Abilene makes timely Project related decisions to achieve scheduled due dates on tasks and prepare for subsequent training sessions. Failure to do so may affect the schedule, as each analysis and implementation session is dependent on the decisions made in prior sessions.
- The Abilene will respond to information requests in a comprehensive and timely manner, in accordance with the Project Schedule.
- The Abilene will provide adequate meeting space or facilities, including appropriate system connectivity, to the project teams including Tyler team members.
- For on-site visits, Tyler will identify a travel schedule that balances the needs of the project and the employee.

7.4 Data

- Data will be converted as provided and Tyler will not create data that does not exist.
- The Abilene is responsible for the quality of legacy data and for cleaning or scrubbing erroneous legacy data.
- Tyler will work closely with the Abilene representatives to identify business rules before writing the conversion. The Abilene must confirm that all known data mapping from source to target have been identified and documented before Tyler writes the conversion.
- All in-scope source data is in data extract(s).
- Each legacy system data file submitted for conversion includes all associated records in a single approved file layout.
- The Abilene will provide the legacy system data extract in the same format for each iteration unless changes are mutually agreed upon in advance. If not, negative impacts to the schedule, budget and resource availability may occur and/or data in the new system may be incorrect.
- The Abilene Project Team is responsible for reviewing the converted data and reporting issues during each iteration, with assistance from Tyler.
- The Abilene is responsible for providing or entering test data (e.g., data for training, testing interfaces, etc.)



7.5 Facilities

- The Abilene will provide dedicated space for Tyler staff to work with Abilene resources for both on-site and remote sessions. If Phases overlap, Abilene will provide multiple training facilities to allow for independent sessions scheduling without conflict.
- The Abilene will provide staff with a location to practice what they have learned without distraction.



8. Glossary

Word or Term	Definition
Acceptance	Confirming that the output or deliverable is suitable and conforms to the agreed upon criteria.
Accountable	The one who ultimately ensures a task or deliverable is completed; the one who ensures the prerequisites of the task are met and who delegates the work to those responsible. [Also see RACI]
Application	A computer program designed to perform a group of coordinated functions, tasks, or activities for the benefit of the user.
Application Programming Interface (API)	A defined set of tools/methods to pass data to and received data from Tyler software products
Agreement	This executed legal contract that defines the products and services to be implemented or performed.
Business Process	The practices, policy, procedure, guidelines, or functionality that the client uses to complete a specific job function.
Business Requirements Document	A specification document used to describe Client requirements for contracted software modifications.
Change Request	A form used as part of the Change Control process whereby changes in the scope of work, timeline, resources, and/or budget are documented and agreed upon by participating parties.
Change Management	Guides how we prepare, equip and support individuals to successfully adopt change in order to drive organizational success & outcomes
Code Mapping [where applicable]	An activity that occurs during the data conversion process whereby users equate data (field level) values from the old system to the values available in the new system. These may be one to one or many to one. Example: Old System [Field = eye color] [values = BL, Blu, Blue] maps to New Tyler System [Field = Eye Color] [value = Blue].
Consulted	Those whose opinions are sought, typically subject matter experts, and with whom there is two-way communication. [Also see RACI]
Control Point	This activity occurs at the end of each stage and serves as a formal and intentional opportunity to review stage deliverables and required acceptance criteria for the stage have been met.
Data Mapping [where applicable]	The activity determining and documenting where data from the legacy system will be placed in the new system; this typically involves prior data analysis to understand how the data is currently used in the legacy system and how it will be used in the new system.
Deliverable	A verifiable document or service produced as part of the Project, as defined in the work packages.
Go-Live	The point in time when the Client is using the Tyler software to conduct daily operations in Production.
Informed	Those who are kept up-to-date on progress, often only on completion of the task or deliverable, and with whom there is just one-way communication. [Also see RACI]



Infrastructure	The composite hardware, network resources and services required for the existence, operation, and management of the Tyler software.
Interface	A connection to and potential exchange of data with an external system or application. Interfaces may be one way, with data leaving the Tyler system to another system or data entering Tyler from another system, or they may be bi-directional with data both leaving and entering Tyler and another system.
Integration	A standard exchange or sharing of common data within the Tyler system or between Tyler applications
Legacy System	The software from which a client is converting.
Modification	Custom enhancement of Tyler's existing software to provide features or functions to meet individual client requirements documented within the scope of the Agreement.
On-site	Indicates the work location is at one or more of the client's physical office or work environments.
Organizational Change	The process of changing an organization's strategies, processes, procedures, technologies, and culture, as well as the effect of such changes on the organization.
Output	A product, result or service generated by a process.
Peripheral devices	An auxiliary device that connects to and works with the computer in some way. Some examples: scanner, digital camera, printer.
Phase	A portion of the Project in which specific set of related applications are typically implemented. Phases each have an independent start, Go-Live and closure dates but use the same Implementation Plans as other Phases of the Project. Phases may overlap or be sequential and may have different Tyler resources assigned.
Project	The delivery of the software and services per the agreement and the Statement of Work. A Project may be broken down into multiple Phases.
RACI	A matrix describing the level of participation by various roles in completing tasks or Deliverables for a Project or process. Individuals or groups are assigned one and only one of the following roles for a given task: Responsible (R), Accountable (A), Consulted (C), or Informed (I).
Remote	Indicates the work location is at one or more of Tyler's physical offices or work environments.
Responsible	Those who ensure a task is completed, either by themselves or delegating to another resource. [Also see RACI]
Scope	Products and services that are included in the Agreement.



Solution	The implementation of the contracted software product(s) resulting in the connected system allowing users to meet Project goals and gain anticipated efficiencies.
Stage	The top-level components of the WBS. Each Stage is repeated for individual Phases of the Project.
Standard	Software functionality that is included in the base software (off-the-shelf) package; is not customized or modified.
Statement of Work (SOW)	Document which will provide supporting detail to the Agreement defining Project-specific activities, services, and Deliverables.
System	The collective group of software and hardware that is used by the organization to conduct business.
Test Scripts	The steps or sequence of steps that will be used to validate or confirm a piece of functionality, configuration, enhancement, or Use Case Scenario.
Training Plan	Document(s) that indicate how and when users of the system will be trained relevant to their role in the implementation or use of the system.
Validation (or to validate)	The process of testing and approving that a specific Deliverable, process, program, or product is working as expected.
Work Breakdown Structure (WBS)	A hierarchical representation of a Project or Phase broken down into smaller, more manageable components.
Work Package	A group of related tasks within a project.



Part 4: Appendices

9. Conversion

9.1 Data Conversion Process for Enterprise Permitting & Licensing Enterprise Server

9.1.1 Overview

This document is an introduction to the SQL Server EG_Template database and how to populate it. The Full Conversion is the same process, as the Templated. However, with the Full Conversion option, Tyler is responsible for the data import instead of the client.

9.1.2 Modularized Design

As with the Enterprise Permitting & Licensing software, the EG_Template db is sectioned into modules. Each contains one master table at the top of the chain (ex. 'permit' for the Permit module). Within each module, various child tables branch below the master table for the associated module (ex. 'permit_address', 'permit_note', etc.).

Some tables cross multiple modules. The most notable of these involve inspections and payment transactions.

The EG_Template database includes database diagrams, which indicate the tables and their relationships to each module.

9.1.3 Required Fields

In the Enterprise Permitting & Licensing software, some fields are "Required Fields," and the associated columns must be populated for records to be written to the Enterprise Permitting & Licensing db. On occasion, these required fields will not be available in the legacy source data, so a simple default value can be written to the EG_Template db to fulfill any NOT NULL constraint.

Dropdown picklist columns restrict the user from entering certain values in the Enterprise Permitting & Licensing db. Conversely, drop-down fields do not have a restriction on values written to the EG_Template db. Therefore, exact spelling or careful matching to the Enterprise Permitting & Licensing configured values is not a requirement for fields intended for Enterprise Permitting & Licensing drop-down fields. Tyler maps the values through a separate table to translate the values to the appropriate Enterprise Permitting & Licensing value during conversion and collaborates with the Abilene to validate the resulting mappings during the development phase of the conversion.

9.1.4 Custom Fields (any fields not available in the master table for the module in question)

Most legacy systems have some attribute fields that are not specified in the corresponding master table within EG_Template. Tyler refers to these as custom fields. Within each module exists a child table for such custom fields. Since these fields are specific to the legacy system(s), the Abilene may add columns to these



tables in EG_Template to accommodate any needed custom fields in the migration. For example, 'permit_additional_fields' is the table for extra fields relating to the 'permit' records.

9.1.5 Gap Handling (where legacy data doesn't fit anywhere within EG_Template)

On occasion, legacy systems contain special features for which Enterprise Permitting & Licensing does not account in the EG_Template db. As a result, the need may arise to develop a modified solution to address special cases.

9.1.6 Contacts

Contacts generally fall into two categories:

1. Those managed with each person/company having one contact record, kept up to date over time. With this model, there is generally no duplication of contact records (except when created by mistake).
2. Contacts where the user enters the contact attribute info on each permit, case, license, etc. With this model, there is no single master record representing the contact itself and there is likely considerable duplication of contacts.

Enterprise Permitting & Licensing stores contacts as in category 1 above. Tyler migrates contacts put into EG_Template without a master 'contact' record link (category 2 above) into custom field memo boxes to avoid duplication of contacts within the Enterprise Permitting & Licensing contact repository. For example, when populating the permit contacts, for contacts in category 1, input the record into the 'permit_contact' table. Input contacts for category 2 into the 'permit_contact_no_key' table.

9.1.7 Multiple Legacy Data Sources

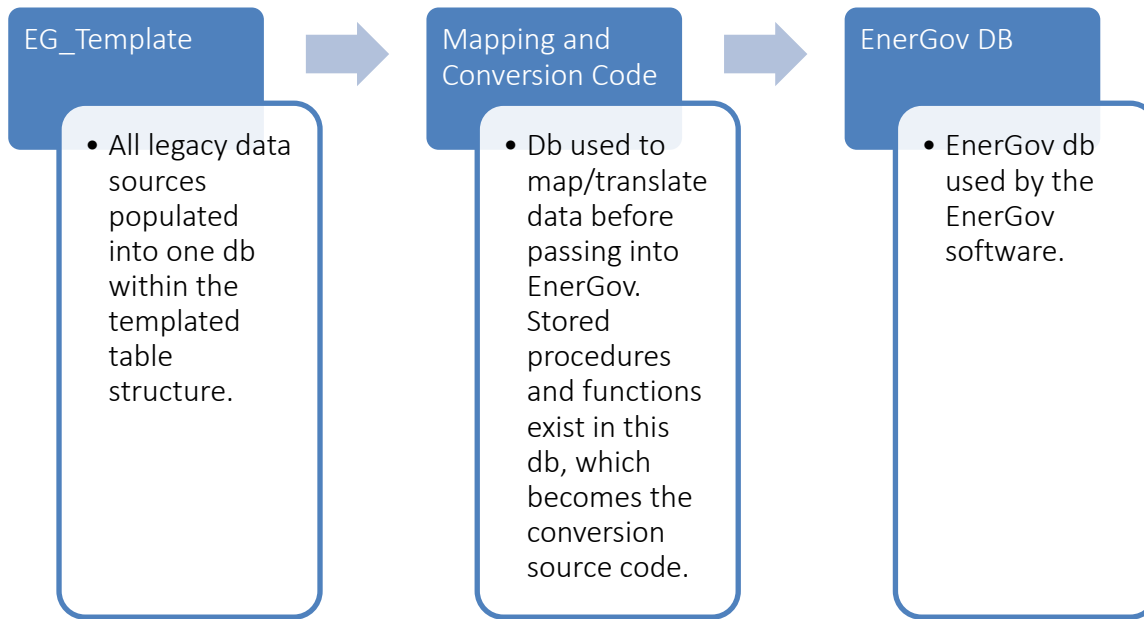
When presenting multiple data sources, ensure population of EG_Template for all data sources. At the main table level, an optional column exists for the legacy data source. Tyler provides this column to easily count or research records originating from a particular legacy data source.

9.1.8 Overall Architecture of Conversion

There are 3 SQL Server databases involved in the conversion process.

1. EG_Template (for legacy data)
3. Enterprise Permitting & Licensing (the production Enterprise Permitting & Licensing db)
4. A database containing all conversion processes and mapping tables; maintained by Tyler's data conversion team. This db translates the data from EG_Template into the Enterprise Permitting & Licensing db.





9.1.9 Progression of Conversion Development Process

Step	Step Name	Responsible Party	Notes
1	Provide empty EG_Template database to client	Tyler	Database format will be SQL Server
2	Load legacy data into template database	Abilene	If there are multiple legacy data sources, all should be loaded into the one template SQL database.
3	Mapping process	Tyler /Abilene	Dependent on completed Enterprise Permitting & Licensing configuration Spreadsheets will be used to communicate mapping values. Mapping questions may arise and both parties may need to discuss these until answers are agreed upon.
4	Import-specific configuration changes to Enterprise Permitting & Licensing	Tyler	Certain fields or values may need to exist for imported records only. These usually require some minor Enterprise Permitting & Licensing configuration changes.
5	Customize conversion scripts	Tyler	Minor customization can be expected for many conversions, based on special requests from client. Any special requests would also be added into the conversion scripts at this time.
6	Conversion execution	Tyler	Resulting Enterprise Permitting & Licensing database will be provided to the Abilene team for
7	Review and either sign-off or request changes	Abilene	Abilene team will review the data and the interaction with it in the Enterprise Permitting & Licensing software. If it meets the client's needs, sign-off will occur. If not, certain steps above may need to be repeated until the Abilene signs off on the conversion.



9.1.10 Progression of Final Conversion Cutover Process (Go-Live)

Step	Step Name	Responsible Party	Notes
1	Load legacy data into template database	Client	This should just be an up-to-date extract of the legacy data into the template db.
2	Conversion execution	Tyler	Resulting Enterprise Permitting & Licensing database will be provided to Abilene team. This will be the production Enterprise Permitting & Licensing db.
3	Go-Live	Tyler /Client	Verification of Enterprise Permitting & Licensing db and site functionality - Data Conversion sign-off Move to production phase

9.1.11 Data Import Areas

9.1.11.1 Business Management

- Business entity (Only for Business Licensing)
- License master basic information
- License Contacts
- Contacts – Unique (keyed) contacts converted to global contacts
- Non-keyed contacts converted to a Memo Custom Field or a standard note Parcel and Addresses
- Reviews and Approvals – Converted to Activity
- Fees
- Bonds and Escrow
- Activities and Actions
- Conditions
- Notes
- Holds
- Initialized Workflows
- Attachments
- Contractors
- Business Types & NAICS codes
- Payment and Fee History

9.1.11.2 Community Development: Code Cases

- Code Case master basic information
- Code Case Contacts and Properties
- Contacts – Unique (keyed) contacts converted to global contacts
- Non-keyed contacts converted to a Memo Custom Field or a standard note
- Parcels and Addresses
- Reviews and Approvals – Converted to Activity Active Fees
- Activities and Actions
- Notes
- Holds
- Initialized Workflows
- Attachments



- Violations
 - Fees
 - Payments
 - Notes
- Meetings and Hearings
- Zones
- Requests
- Payment and Fee history

9.1.11.3 Community Development: Permits

- Permit master basic information
- Permit Contacts
- Contacts – Unique (keyed) contacts converted to global contacts
- Non-keyed contacts converted to a Memo Custom Field or a standard note
- Parcels and Addresses
- Reviews and Approvals – Converted to Activity
- Inspections and Inspection Cases
- Sub-Permit Associations – Visible in workflow and attached records section
- Fees
- Meetings and Hearings
- Bonds and Escrow
- Activities and Actions
- Conditions
- Notes
- Zones
- Holds
- Renewals
- Initialized Workflows
- Attachments
- Contractors
- Projects
- Payment and Fee History

9.1.11.4 Community Development: Plans

- Plan master basic information
- Plan Contacts
- Contacts – Unique (keyed) contacts converted to global contacts
- Non-keyed contacts converted to a Memo Custom Field or a standard note
- Parcels and Addresses
- Reviews and Approvals – Converted to Activity
- Inspections and Inspection Cases
- Fees
- Meetings and Hearings
- Bonds and Escrow
- Activities and Actions
- Conditions



- Notes
- Zones
- Holds
- Initialized Workflows
- Attachments
- Projects
- Payment and Fee history



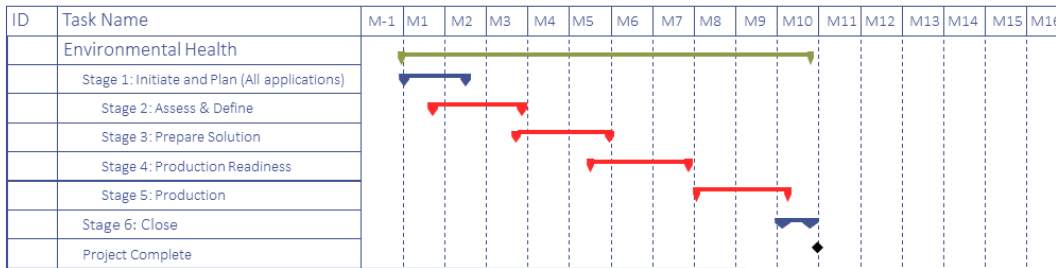
10. Additional Appendices

10.1 This work package is not applicable.



11. Project Timeline

11.1 Environmental Health Implementation Timeline



example

This timeline is an example. Please use it as a general guide...ONLY. Its purpose is to demonstrate the order in which various products are typically implemented and the potential overlap of stages for each phase. The exact timing of each deliverable depends on many factors including, but not limited to, the client's ability to commit resources to the project, client blackout dates, and the alignment of client business practices with Tyler implementation methodology. Tyler makes no guarantees that implementation schedules will align with this example.



Environmental Health Enterprise

March 13, 2025





Sunsetting of DHD

- Tyler Technologies to sunset the Digital Health Department (DHD) platform used by Environmental Health for permitting and inspection documentation of all food establishments, mobile food units, pools/spas, and nuisance complaints
- Data in DHD will not be available past sunset – December 31, 2025
- Tyler Technologies currently offering data conversion from DHD to the new Environmental Health Enterprise (EHE)





Benefits of Environmental Health Enterprise

- Cloud-based software that will provide a more reliable environment due to increased security, automated backups, and server redundancy
- Online portal available to operators to submit applications, apply/renew permits, and view inspection results
- Payments may be made on-line 24/7/365 adding convenience for our customers
- Both standard and customizable reports available
- Inspection results searchable by the public
- Mobile app available for field staff
- Enhanced GIS integration





Cost Breakdown

- Cost for year 1 to be paid using a Health Services Fund Transfer:
 - Implementation: \$125,800
 - Year 1 subscription: \$25,094
 - Travel for Tyler implementation team: \$8,000
 - Total cost for year 1: \$158,894
- Cost for year 2 & 3 to be paid by the Tech Fund:
 - Annual subscription fee: \$25,094
- Total estimated cost of the 3-year contract:
 - \$209,082

*Quote is Sourcewell-compliant





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Annette Lerma, Director

SUBJECT: **17. Resolution: Receive a Report, Hold a Discussion and Take Action to Approve a Resolution Authorizing the Child Advocacy Center to Apply for an Other Victims Assistance Grant (OVAG) (*Annette Lerma*)**

GENERAL INFORMATION

Under the OAG's eligibility criteria, we are eligible to apply as we fall under the category of a "local unit of government". The purpose of this grant is to provide victim-related services such as counseling, victim advocacy and professional training. This grant is a substantial boost to our budget in order to continue providing the same level of service currently being offered.

SPECIAL CONSIDERATIONS

There is no city match required.

FUNDING/FISCAL IMPACT

If we did not apply for and receive this funding, we would have to reduce the number of FTEs at the CAC which would negatively impact critical services to children and their families.

STAFF RECOMMENDATION

approval

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. OVAG Resolution of Governing Body (3)
2. City Council Presentation_CAC OVAG_March 13.2025

RESOLUTION OF GOVERNING BODY
REQUIRED TO BE SUBMITTED WITH THE APPLICATION BY
5:00 P.M. CDT, FRIDAY, MARCH 14, 2025.

IF THE TIMING OF THE APPLICATION DUE DATE AND REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT OR OTHER REQUIREMENTS PREVENT THE GOVERNING BODY FROM REVIEWING AND APPROVING THE RESOLUTION, THEN IT MAY BE SUBMITTED TO THE OAG AFTER THE DUE DATE.

LEGAL NAME OF APPLICANT ENTIRY: Abilene/Taylor County Child Advocacy Center

- Nonprofits should list their Legal Name as registered with Secretary of State Office.
- Governmental entities should list their name as designated by the OAG in GOALS.

APPLICATION REFERENCE ID NUMBER FROM GOALS: 2026-8115829454

Be it known as follows:

WHEREAS, the Abilene/Taylor County Child Advocacy Center has applied or wishes to apply to the Office of the Attorney General (OAG) for the following grant program (initialone):

BG Other Victim Assistance Grant (OVAG)
 Victim Coordinator and Liaison Grant (VCLG)

WHEREAS, the Abilene City Council
has considered and supports the Application filed or to be filed with the OAG;

WHEREAS, the Abilene/Taylor County Child Advocacy Center
has designated or wishes to designate the following individual as the “Authorized Official” who is given or has been given the power to apply for, accept, reject, alter, or terminate that certain grant with the OAG, as well as given the authority to sign all grant adjustment requests, inventory reports, progress reports and financial reports or any other official documents related to the grant on behalf of the grantee:

Name of Person Designated as “Authorized Official”: Mindy Patterson

Position Title: _____

NOW THEREFORE, BE IT RESOLVED that this governing body approves the submission of the Application to the OAG, as well as the designation of the Authorized Official.

Signature

Printed Name and Title

Date

Other Victims Assistance Grant (OVAG) on Behalf of the Child Advocacy Center

March 13, 2025





OVAG Funding

- State grant provided through the OAG
- Intended to meet needs of victims by maintaining or increasing access to quality services
- Two-year grant cycle totaling \$99,000 split equally by year
- No city match required
- Grantor requires resolution by the governing body to authorize application for funding.





OVAG

- Funding supports victim advocacy staff who assist families in applying for Crime Victim Compensation, accompanying victims to court, among other support services.
- Supports the collaboration of multi-disciplinary teams throughout the investigative process.
- Supports forensic interviews of child victims which serves as the child's statement in criminal and civil cases.
- Reduces the risk of re-traumatizing the child by minimizing the number of times the victim must recount their trauma.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Mari Cockerell, Communications Manager

SUBJECT: 18. Resolution: Receive a Report, Hold a Discussion and Take Action on the Continuation of Services for a 3 Year Term with Granicus, LLC for the Swagit Live Switching, Broadcast, Streaming, and Archiving of Public Meetings (*Mari Cockerell*)

GENERAL INFORMATION

The City of Abilene contracted with Swagit Productions, LLC for video streaming services in 2015. Granicus, LLC has obtained ownership of Swagit (Granicus/Swagit). The City seeks to continue services with Granicus/Swagit for video streaming services.

The contract under consideration is for a 3 year term with Granicus/Swagit for the provision of services that allow for the live broadcast and remote switching of public meetings from the Abilene City Hall Council Chamber through a remote controlled camera system that includes integration with the Chamber's audio/visual system, along with the streaming, archiving, and on-demand viewing of public meetings on the City's website. Services also include post-meeting transcription, video indexing, and human transcription in English.

At a total cost of \$187,170.74 for the three-year term, Granicus/Swagit will provide remote switching for up to 100 meetings per year, along with up to 100 indexed meetings per year with media on-demand, 24/7 live stream, up to 120 hours of additional specialty content per year, live and video-on-demand closed captioning, and video on-demand captions turn around time of 4-5 business days from the end of the meeting.

Funding for this item comes from the City's Public, Educational, and Government (PEG) fund, which is funded by a municipality's local cable company (Optimum) through a percentage of the company's gross revenue collected as a franchise fee.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

At a total cost of \$187,170.74 for the three-year term from the City's Public, Educational, and Government (PEG) fund.

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Swagit_Granicus Resolution 2025
2. Granicus Quote
3. Granicus-Swagit Slides

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH GRANICUS
TO EXTEND SERVICES FOR SWAGIT SYSTEM**

WHEREAS, through the use of Granicus and its Swagit systems, the City of Abilene's Communications and Marketing Department will be able to manage the live broadcast and directing of City Council, commission, and board meetings;

WHEREAS, Granicus and its Swagit systems manages the streaming of public meetings from the Abilene City Hall Council Chambers to the City's website, along with the archiving and retrieval of all public meetings, agendas, and supporting documents along with full transcription services; and

WHEREAS, the City of Abilene and Granicus will enter into a three-year service agreement to provide these services.

**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 Granicus to extend services for Swagit live switching, broadcast, streaming and archiving of public meetings.

PART 2: That the agreement is in the total amount of \$187,170.74 for the three year period beginning March 14, 2025.

PART 3: That this Resolution is effective immediately upon adoption.

ADOPTED this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

Granicus Proposal for Abilene, TX

ORDER DETAILS

Prepared By: Justine Torres
Phone:
Email: justine.torres@granicus.com
Order #: Q-390463
Prepared On: 27 Feb 2025
Expires On: 28 Feb 2025

ORDER TERMS

Currency: USD
Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Subscription End Date: 28 Feb 2025
Initial Order Term End Date: 29 Feb 2028
Period of Performance: 01 Mar 2025 - 28 Feb 2026

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Avior™ 100	Annual	1 Each	\$59,372.16
EASE™ 100	Annual	1 Each	\$0.00
CaptionLive Premium	Annual	1 Hours	\$0.00
SUBTOTAL:			\$59,372.16

FUTURE YEAR PRICING

Solution(s)	Period of Performance	
	01 Mar 2026 - 28 Feb 2027	01 Mar 2027 - 29 Feb 2028
Avior™ 100	\$62,340.77	\$65,457.81
EASE™ 100	\$0.00	\$0.00
CaptionLive Premium	\$0.00	\$0.00
SUBTOTAL:	\$62,340.77	\$65,457.81

PRODUCT DESCRIPTIONS

Solution	Description
Avior™ 100	AVIOR™ 100 Managed Service SaaS: Remote Switching for up to 100 meetings per year.
EASE™ 100	EASE™ 100 Managed Service SaaS: Up To 100 Indexed Meetings per year (EASE™) - Includes Media On- Demand, 24/7 LIVE Stream and up to 120 hours of additional specialty content per year (No staff involvement—Hands Free).
CaptionLive Premium	CaptionLive Premium - Human Transcription Service in English, per hour. Live and video on- demand closed captioning, with a VOD captions turnaround time of 4 - 5 business days from the end of the meeting.

TERMS & CONDITIONS

- This quote, and all products and services delivered hereunder are governed by the terms located at <https://granicus.com/legal/licensing>, including any product-specific terms included therein (the "License Agreement"). If your organization and Granicus has entered into a separate agreement or is utilizing a contract vehicle for this transaction, the terms of the License Agreement are incorporated into such separate agreement or contract vehicle by reference, with any directly conflicting terms and conditions being resolved in favor of the separate agreement or contract vehicle to the extent applicable.
- If submitting a Purchase Order, please include the following language: The pricing, terms and conditions of quote Q-390463 dated 27 Feb 2025 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Abilene, TX to provide applicable exemption certificate(s).
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.

BILLING INFORMATION

Billing Contact:		Purchase Order Required?	☐ - No ☐ - Yes
Billing Address:		PO Number: <i>If PO required</i>	
Billing Email:		Billing Phone:	

If submitting a Purchase Order, please include the following language:

The pricing, terms, and conditions of quote Q-390463 dated 27 Feb 2025 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.

AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Abilene, TX	
Signature:	
Name:	
Title:	
Date:	

Continuation of Services with Granicus/Swagit for Public Meeting Broadcast and On-Demand Services





Meeting Broadcast & VOD Services

The contract under consideration is for a 3 year term with Granicus/Swagit for the live broadcast and remote switching of public meetings from the Abilene City Hall Council Chamber.

Granicus/Swagit uses a remote control camera system that integrates with the Chamber's audio/visual system and voting system to live direct and switch all public meetings in Council Chamber.

Granicus/Swagit's services also include live streaming, archiving, and on-demand viewing of public meetings on the City's website, post-meeting transcription, video indexing, and human transcription in English.





Meeting Broadcast & VOD Services

At a total cost of \$187,170.74, the three-year term includes:

- Remote switching for up to 100 meetings per year
- Up to 100 indexed meetings per year with media on-demand, 24/7 live stream
- Up to 120 hours of additional specialty content per year
- Live and video-on-demand closed captioning
- Video on-demand captions turn around time of 4-5 business days from the end of the meeting.

Funding for this item comes from the City's Public, Educational, and Government (PEG) fund.





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **19. Resolution: Receive a Report, Hold a Discussion and Take Action on Entering into an Economic Development Agreement with Brick and Mortar Properties for the Major Renovation of 2826 Roberts St. *(Tim Littlejohn)***

GENERAL INFORMATION

Brick and Mortar Properties is performing a Major Renovation on 2826 Roberts Street as part of the Rebuild Abi program.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

\$20,000

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Brick and Mortar RESOLUTION

2. Exhibit A
3. 2826_Roberts_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 13th day of March 2025 (“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.

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 2826 Roberts 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 13th day of March, 2025.

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 13th day of March 2025 ("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 2826 Roberts 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.

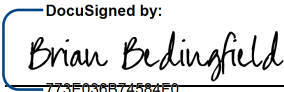
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement 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: 23211 Gate Creek Ct
Address: Katy, Texas 77494
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.

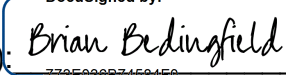


By signing below, you acknowledge and agree to adhere to the Rebuild ABI Infill Development Program Major Renovation criteria outlined below.

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.

Address: 2826 Roberts Abilene Tx

By (signature): 773E000B74504F0...

Name (printed): Brian Bedingfield

Title: Principal

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

ABILENETX.GOV/PLANNINGANDDEVELOPMENT



City Council Meeting

Economic Development Agreement





- Brick and Mortar Properties is proposing to Major Renovate 2826 Roberts 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: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **20. Resolution: Receive a Report, Hold a Discussion and Take Action on Entering into an Economic Development Agreements with Thornton Custom Homes for 5433 and 5441 N 10th St. (Tim Littlejohn)**

GENERAL INFORMATION

Enter into an economic development agreement with Thornton Custom Homes for 5433 and 5441 N 10th Street for new single-family homes built under the guidelines of Rebuild Abi.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

up to \$30,450 each

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Thornton RESOLUTION NO

2. 5441 N 10th-Thornton Custom Homes New Construction Ch 380 agreement
3. 5433 N 10th_Thornton Custom Homes New Construction Ch 380 agreement
4. Exhibit A
5. City Council Presentation Thornton Homes

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPROVING CHAPTER 380 AGREEMENTS BETWEEN THE CITY OF ABILENE AND THORNTON HOMES REGARDING 5433 and 5441 N 10TH St.

WHEREAS, the Economic Development Agreements (“Agreements”) are effective as of the 13th day of March, 2025, by and between Thornton Homes, ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below; and

WHEREAS, the City of Abilene adopted Resolution 142-2024 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 5433 and 5441 N 10th St. in Abilene, Taylor County, Texas (the “Project Areas”); and

WHEREAS, the City desires to enter into these Agreements 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 Areas will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that these Agreements embody 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 agreements upon the terms and conditions as set forth in the attached agreements hereto.

PART 2: That this Resolution becomes effective immediately upon adoption.

ADOPTED on the 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

**NEW CONSTRUCTION ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF ABILENE AND**

Thornton Custom Homes

This Economic Development Agreement ("Agreement") is effective as of the 13th day of March, 2025 ("Effective Date"), by and between Thornton Custom Homes ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer has acquired, fee simple ownership of 5441 N. 10th in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited Chapter 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer's execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Thornton Custom Homes its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) 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 interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.

- b. Payable at the time of closing of the final buyer, a five (5%) percent completion grant will be paid to the Developer, such grant being equal to five(5%) percent of the amount of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00,
 - c. In addition to the equity contribution and completion grant authorized above, the City shall provide without cost to the Developer, at the sole discretion of the City, one or more the following: (1) waiver of construction-related City permits and fees, (2) utility taps, (3) sidewalks, (4) roll-off containers and two tips, and (4) demolition of existing structures.
- 4.02 In the event the Developer chooses not to use a participating eligible lender, the Developer is eligible to receive a fifteen (15%) percent incentive, payable at the time of closing of the final buyer. Additionally, the Developer is eligible to receive the incentives listed in 4.01(c).

V. DEVELOPER'S OBLIGATIONS AND DUTIES

The Developer shall perform or cause to be performed, the construction of the improvements set forth in **Exhibit A- "Public and Private Improvements"** on or before the expiration of this agreement. Additionally::

- 5.01 The Developer shall be a 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 construct, at its expense, the improvements identified on **Exhibit A - "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
- 5.03 The Developer shall purchase all building materials from a business located within the corporate boundaries of the City of Abilene, and pay all applicable local sales and use taxes to the City of Abilene. Upon request of the City, Developer shall promptly provide written documentation of compliance with this requirement, such written documentation being receipts or other documentation as agreed to by the City.
- 5.04 The Developer shall require the final buyer of the residence to sign an affidavit at closing that the buyer intends to occupy the residence as their legal homestead in the State of Texas and that it shall serve as their primary residence for a period of Two years following closing.

- 5.05 The Developer shall construct the new construction within the existing Neighborhood Empowerment Zones of the City, or shall receive written approval from the City Manager, or his or her designee to build the home on a specific lot north of South 27th Street.

VI. CITY OBLIGATIONS AND DUTIES

- 6.01 Pay the Economic Incentives to Developer pursuant to the terms and conditions of this Agreement.

VII. DEFAULT

- 7.01 If any party should default upon any terms or obligations with respect to this Agreement ("**Defaulting Party**"), the other party ("**Complaining Party**") shall provide written notice of the default and shall reasonably include the actions required to cure such default. If the Defaulting Party cures the default within thirty (30) days after notice of default is received ("**Cure Period**"), or commences to cure default within said thirty (30) days and diligently pursues the cure to its conclusion then this Agreement shall continue as if no default occurred.
- 7.02 In the event that the Defaulting Party fails to cure the default as required by Section 7.01 above, the Complaining Party may, by action or proceeding at law or in equity, be awarded damages and/or specific performance for such default, including reasonable attorney's fees and costs.

VIII. GENERAL PROVISIONS

- 8.01 DEVELOPER COVENANTS AND AGREES TO AND DOES HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS. IN ADDITION, DEVELOPER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM THE**

FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.

- 8.02 If any provision of this Agreement, or a portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.
- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of any other of said parties.
- 8.06 Except as otherwise expressly provided herein, this Agreement may only be amended, modified or terminated by a declaration in writing, executed and acknowledged by all the parties to this Agreement.
- 8.07 This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and supersedes all prior discussions and agreements between the parties.
- 8.08 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.09 In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

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SIGNATURE PAGE FOLLOWS.]*

AGREED:

DEVELOPER

Thornton Custom Homes
60 Pinehurst
Abilene, TX 79606
325.669.4227
thorntoncustomhomes@gmail.com

By (signature):  DocuSigned by:
BECF42A653B847F...

Name (printed): Trey Thornton

Title: Principal

CITY OF ABILENE

ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

**NEW CONSTRUCTION ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF ABILENE AND**

Thornton Custom Homes

This Economic Development Agreement ("Agreement") is effective as of the 13th day of March, 2025 ("Effective Date"), by and between Thornton Custom Homes ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer has acquired, fee simple ownership of 5433 N. 10th in Abilene, Taylor County, Texas (the "Project Area"); and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 and Resolution 129-2023 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 192-2023 and has created Rebuild ABI as an infill development incentive for new residential construction in certain target areas throughout the City; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the Rebuild ABI economic development program developed by the City to enhance and expand the City's commercial, economic and employment base to the long-term interest and benefit of the City and the State of Texas; and

WHEREAS, it is anticipated that the development of the Project Area will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible "project" and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited Chapter 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer's execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Thornton Custom Homes its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) 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 interim construction financing to the participating eligible lender, on behalf of the Developer, a ten (10%) percent equity contribution of the total interim financing needed for the single-family construction. Lender eligibility is based solely on City accepting the lender into the Rebuild ABI program.

- b. Payable at the time of closing of the final buyer, a five (5%) percent completion grant will be paid to the Developer, such grant being equal to five(5%) percent of the amount of the sales price of the home, and the home sales price shall not exceed a maximum price of \$203,000.00,
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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::

- 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 construct, at its expense, the improvements identified on **Exhibit A - "Public and Private Improvements"** in accordance with all applicable laws and regulations, including but not limited to the City's current residential building code and residential energy code.
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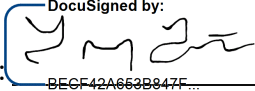
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*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS.]*

AGREED:

DEVELOPER

Thornton Custom Homes
60 Pinehurst
Abilene, TX 79606
325.669.4227
thorntoncustomhomes@gmail.com

By (signature):  _____

Name (printed): Trey Thornton

Title: Principal

CITY OF ABILENE

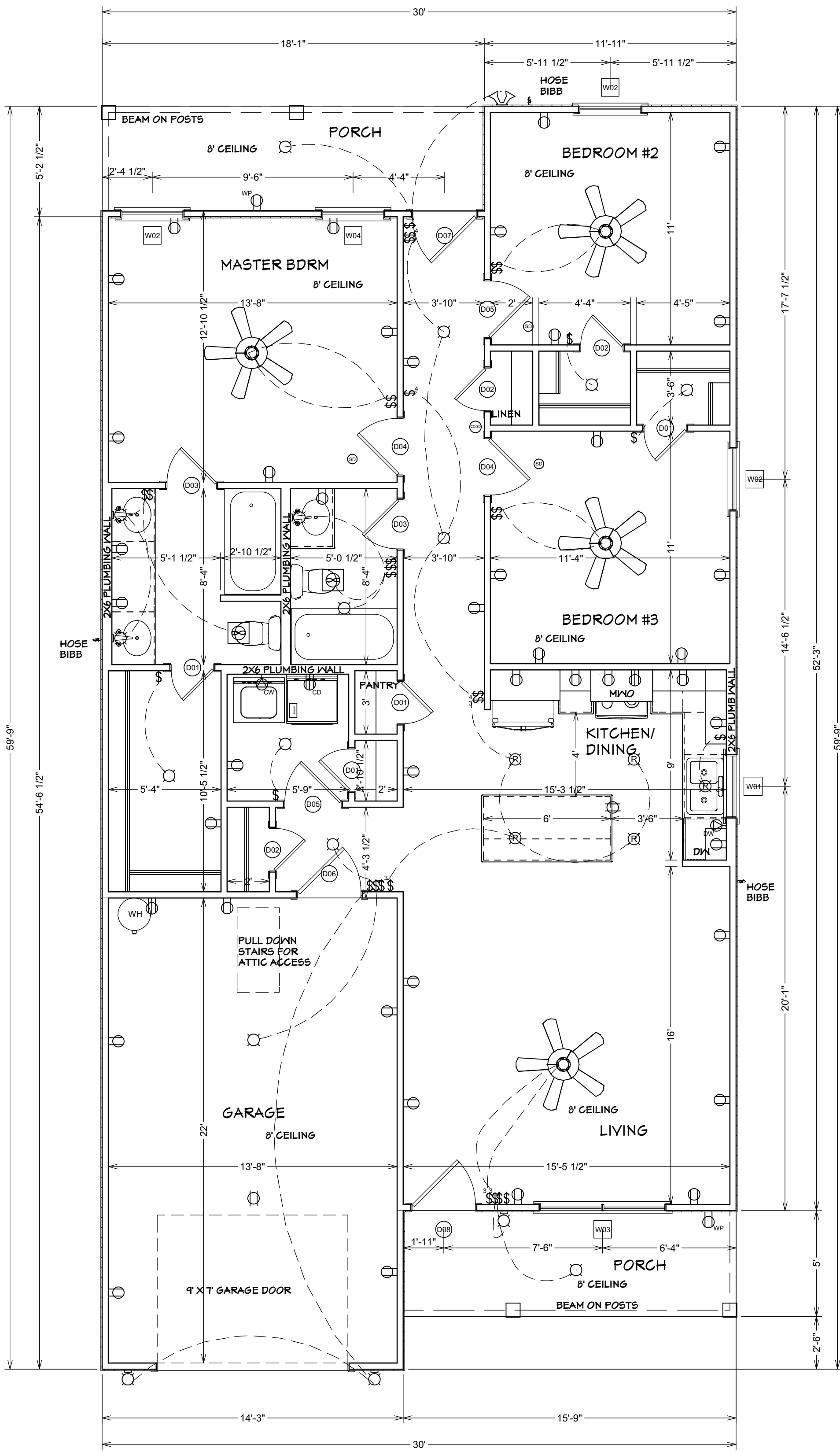
ATTEST:

City Manager

City Secretary

APPROVED AS TO FORM:

City Attorney

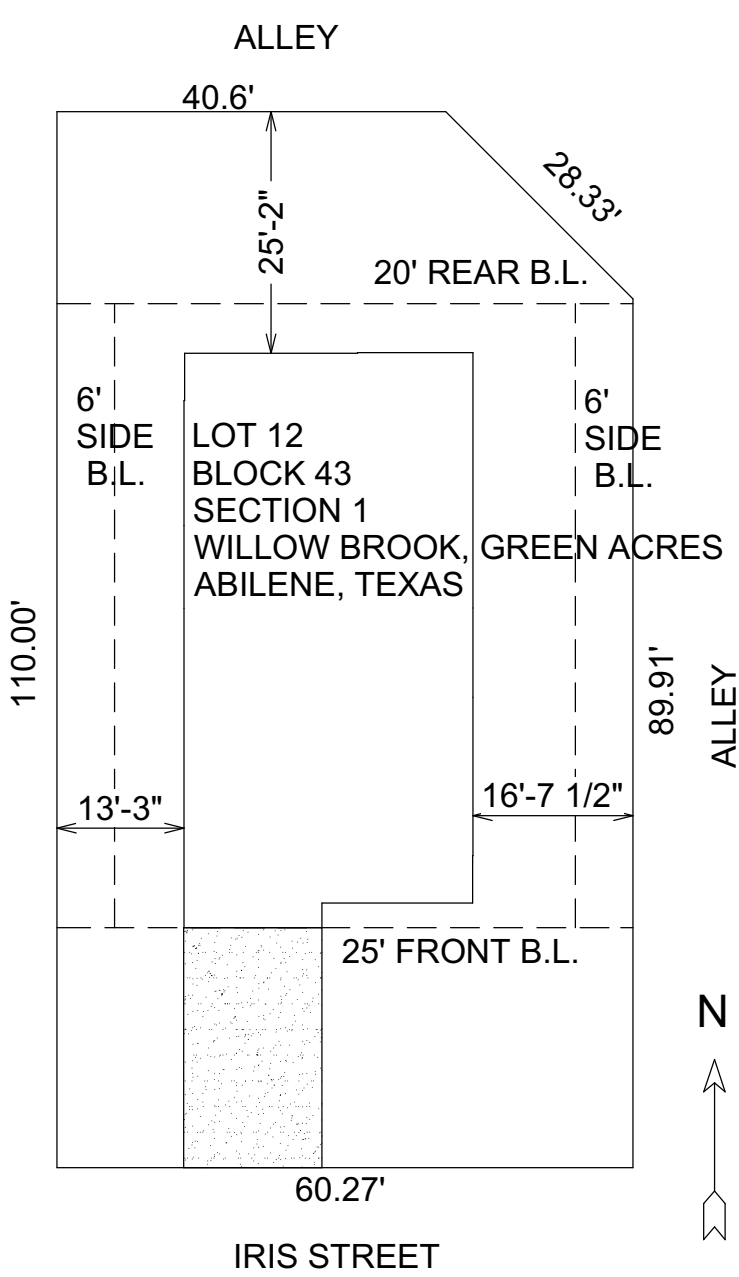


DOOR SCHEDULE					
LABEL	SIZE	TYPE	THICKNESS	COMMENTS	QTY
D01	2068 L IN	HINGED	1 3/8"		4
D02	2068 R IN	HINGED	1 3/8"		3
D03	2468 R IN	HINGED	1 3/8"		2
D04	2868 L IN	HINGED	1 3/8"		2
D05	2868 R IN	HINGED	1 3/8"		2
D06	3068 L EX	HINGED	1 3/4"	FIRE-RATED	1
D07	3068 L EX	HINGED	1 3/4"	GLASS	1
D08	3068 L EX	HINGED	1 3/4"	FRONT ENTRY	1

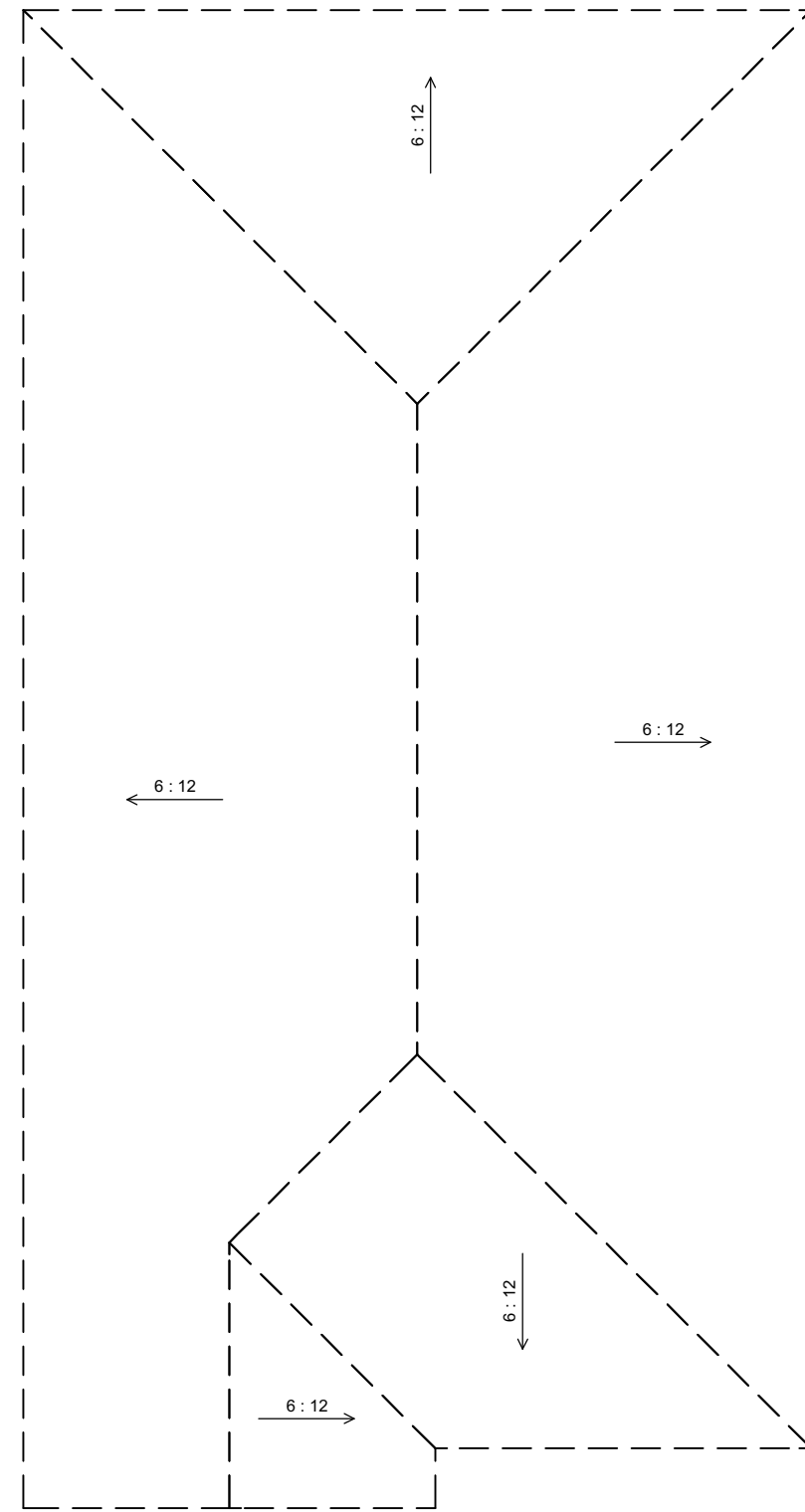
WINDOW SCHEDULE					
LABEL	QTY	SIZE	TOP	COMMENTS	TYPE
W01	1	3030	84"		SINGLE HUNG
W02	3	3050	84"		SINGLE HUNG
W03	1	6050	84"		MULLED UNIT
W04	1	3050	84"		TEMPERED SINGLE HUNG

- NOTES:
1. ALL 8' PLATES.
 2. HVAC IN ATTIC.
 3. VERIFY ALL DIMENSIONS, NOTATIONS, AND DESIGN FOR ACCURACY BEFORE BEGINNING CONSTRUCTION.
 4. STUD WALLS DIMENSIONED AT 3-1/2".

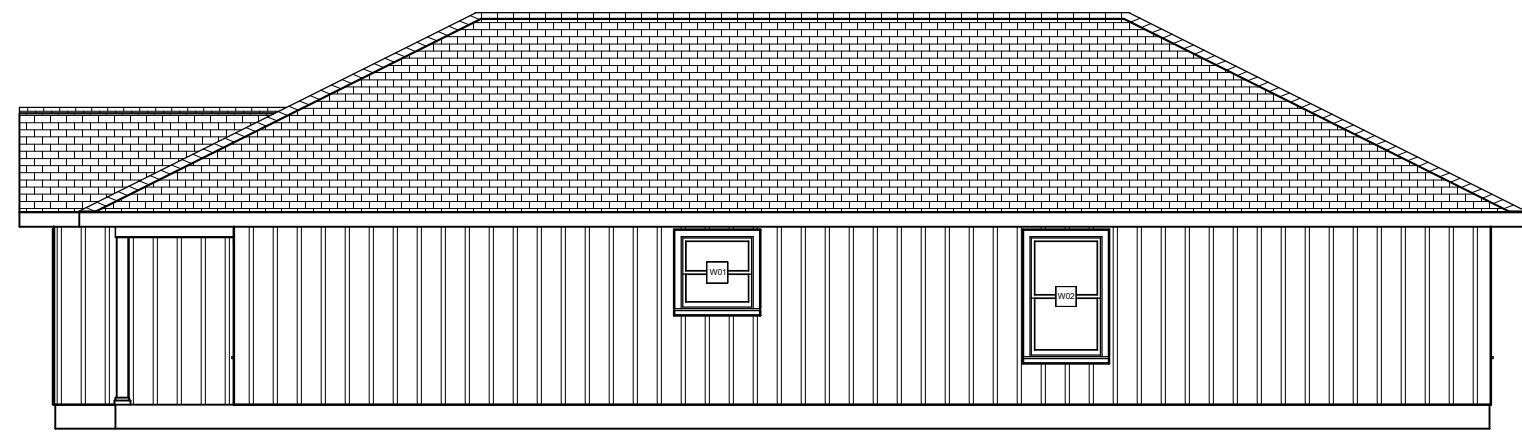
LIVING SQ FT: 1270
PORCHES: 169
GARAGE: 314
TOTAL SLAB SQ FT: 1753



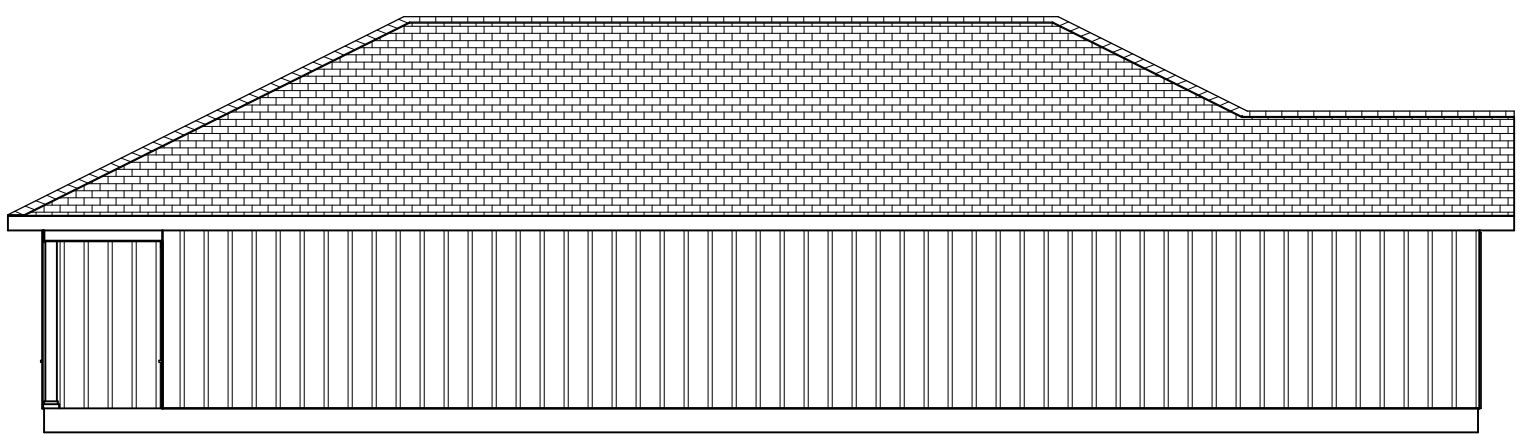
PLOT PLAN 1 in = 20 ft



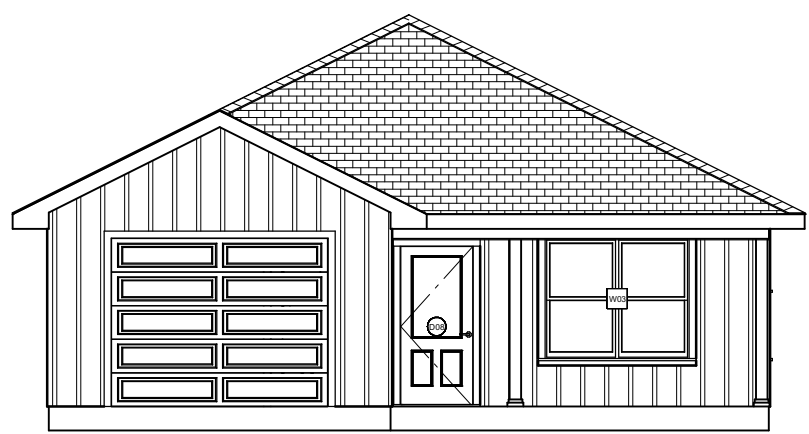
ROOF PLAN 1/8 in = 1 ft



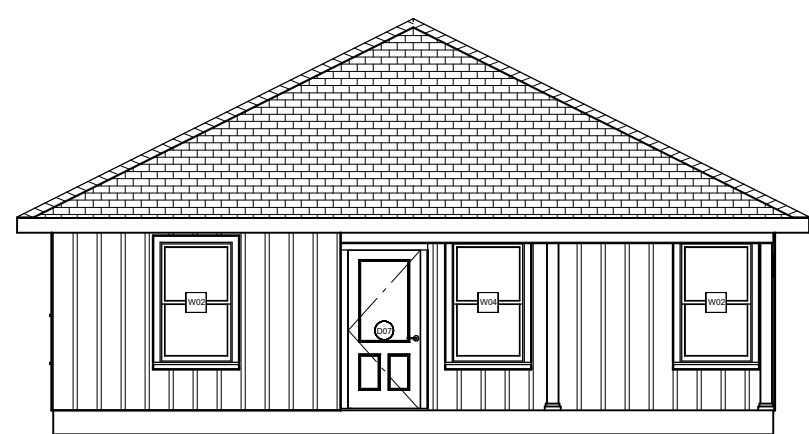
RIGHT ELEVATION



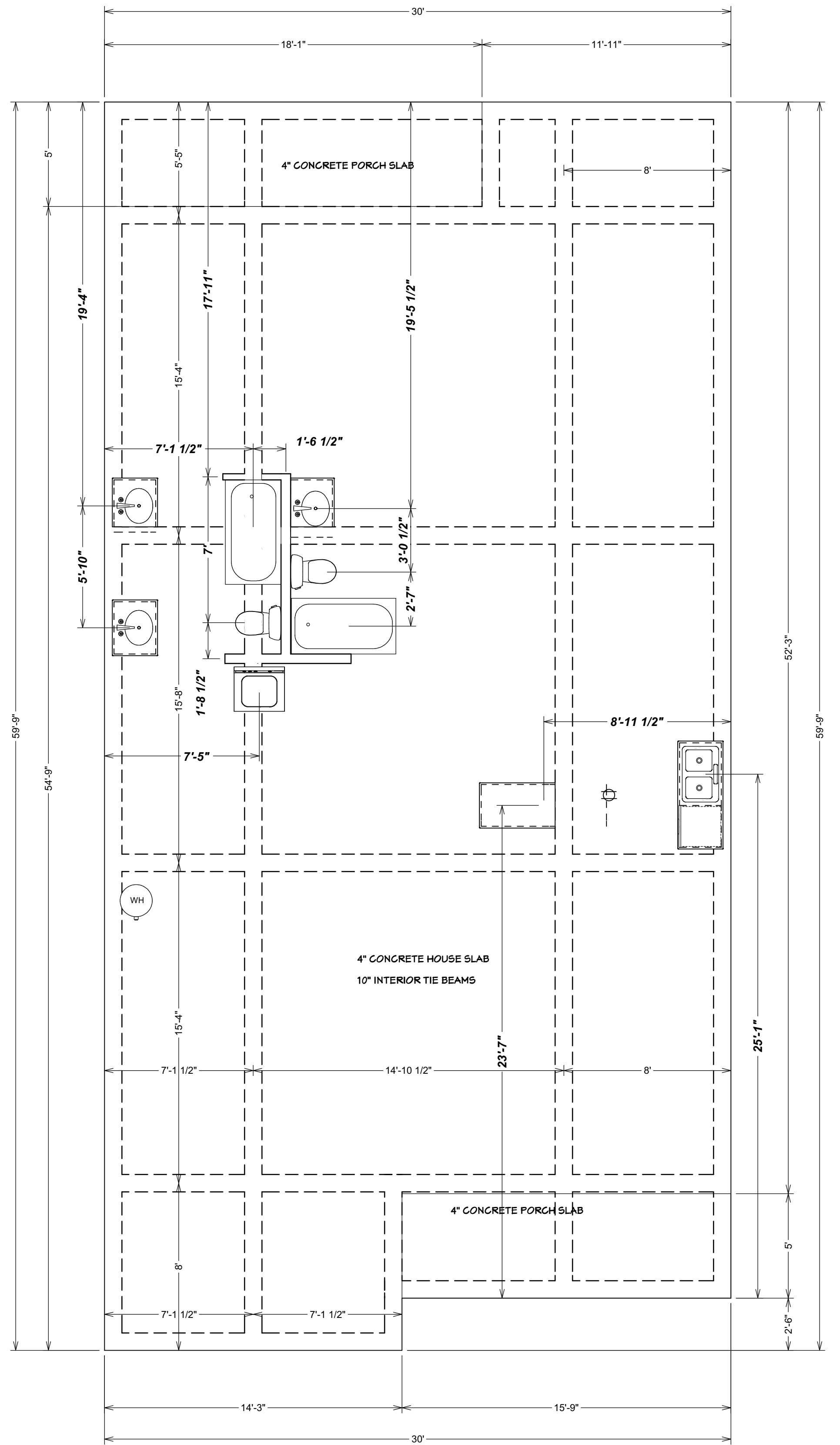
LEFT ELEVATION



FRONT ELEVATION 1/8 in = 1 ft



REAR ELEVATION



CONCRETE AREA
1753 SQ FT

3218 IRIS STREET

THORNTON CUSTOM HOMES			
Date: MAY 2023	Scale: 1/4" = 1'	1270 Sq. Ft.	gpr
FLOOR, PLOT, ROOF, FOUNDATION, AND ELEVATIONS			
Page #: 1 OF 1		Drawing #: THORNTON-23-1270	

FLOOR PLAN 1/4 in = 1 ft

City Council Meeting

Economic Development Agreement





- Thornton Custom Homes is proposing to build a newly constructed affordable home located at 5433, 5441 N 10th St.
- Homes are approximately 1270 sq.ft.
- 3 bedroom, 2 bathroom, and 1 car garage
- Estimated sales price will not be above \$203,000





QUESTIONS





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 21. Resolution: Receive a Report, Hold a Discussion and Take Action on Allowing the City Manager to Enter into a Contract with BVNA for Inspection Services located at the Lancium Project (*Tim Littlejohn*)

GENERAL INFORMATION

Contract with BVNA to provide inspection services for the Lancium project. This service will be reimbursed by the Lancium group in order to meet the high demands of the project.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approve

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. RESOLUTION Lancium inspection services
2. Lancium Client Setup & Project Approval modified_2.27.2025

3. Presentation Lancium inspections

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES
CONTRACTS WITH BUREAU VERITAS NORTH AMERICA INC (BVNA) FOR
LANCIUM INSPECTION SERVICES.**

WHEREAS, the City of Abilene is looking for an inspection service to fill the need of adopted code inspections requirements when the demands exceeds staff capabilities.

WHEREAS, BVNA is a national third party inspection company consisting of code compliance experts.

WHEREAS the City of Abilene is required to provide inspection services in order to protect the health and life safety of its citizens.

WHEREAS, this service contract will provide inspection services specifically to be used on the Lancium project.

WHEREAS, the contract will be reimbursed to the city through an agreement with Lancium Corporation.

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

Pait 1: The City Manager is hereby authorized to execute a Professional Services Contracts with BVNA to provide inspection services on the Lancium project.

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

ADOPTED and approved by the City Council on the 13th of March 2025.

ATTEST:

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

APPROVED:

Stanley Smith
City Attorney



Client Setup Form

Billing Information			
Company Name: City of Abilene		☐ New Client ☒ Existing Client	
Billing Contact:			
Billing Address:	City:	State:	Zip:
Phone # :	Email :	Cellular # : -	
Email Address for Invoice Delivery:			
Accounts Payable Contact:			
Phone # :	Email :	Cellular # :	
Client referenced Project Number / Name			
Purchase Order Number:	☐ Not Required		
Tax Exempt Status ☒ Exempt ☐ Not Exempt Tax ID #			
Is portal access required to submit invoices? If yes, provide URL:			
Is a vendor package required to be completed before payment? If yes, provide package			
Billing Terms			
☐ Plan Review ☐ Plan Review and Inspections		Please send remittance to: Arremittance@bureauveritas.com	
☐ Installments		If Installments – Describe: Will use hourly rates as described below.	
Remit ACH Transfers to: ABA Routing Number 121000358 Account Number 14594-11058	Courier/Overnight Address: Bank of America Lockbox Services Lockbox # 841566 1950 N Stemmons Freeway, Suite 5010, Dallas, TX 75207	Remit Checks To: Bureau Veritas North America, Inc. PO Box 841566 Dallas, TX 75284-1566	Remit Wire Transfers to: Routing Number 026009593 Account Number 14594-11058 SWIFT Code BOFAUS3N
Bureau Veritas Internal use Only			
Project Type:	☐ Time & Material ☐ Flex Project only ☐ TMS Project		
Payment Terms:	☐ Net 30 ☐ Net 60		
Project Manager:			
Project Accountant:			
Sales manager:		Contact Phone # :	
Prepared By: Ty Chapman CBO/MCP			

Applicants Approval Signature/Date: _____



Client Project Approval

Project Name: Abilene Lancium Campus Data Center		Date: 2/19/2025
Project Street Address:		
Project Development / Subdivision Project Ludicrous		
City:		State TX Zip:
Construction Area (Square Feet):	Total Valuation: \$	☒ New ☐ Remodel ☐ Addition
Project Contact Information		
Company Name: City of Abilene		
Project Contact Tim Littlejohn		Contact Phone # : (325) 676-6486
Email Address tim.littlejohn@abilenetx.gov		
Client referenced Project Number / Name Project Ludicrous		
Complete Client Setup Form to add / update Billing Information		Payment Amount: \$ Ck #
<i>See Attached Bureau Veritas Terms and Conditions</i>		Bureau Veritas Fee
Third Party Plan Review and Inspection Services		Client Initial
☐ Plan Review ☐ Single Family Residence ☒ Commercial		\$
☒ Inspection		
☐ Consultation ☐ Single Family Residence ☐ Commercial		\$
☐ Permit Submittal		
Fire Services		\$
☐ Fire Alarm ☐ Plan Review ☐ Inspections		
☐ Fire Sprinkler ☐ Plan Review ☐ Inspections		\$
Optional Services		
Scope of Services: Code Assurance Building and MEP Inspections for new Data Center Facility. Inspections to be conducted on a daily basis as requested and needed by the client. Fees for said work will be charged at \$150 per hour for lead inspector and \$140 per hour for additional inspector if needs require. Timesheets to be maintained weekly by BV lead inspector and provided to City at end of week. BV scope of service does not include any special inspections that may be required by Chapter 17 of the IBC. Inspection reports will be provided daily to contractor and City designated personnel.		
Prepared By: Ty Chapman CBO/MCP		

Applicants Approval Signature/Date: _____



THIRD PARTY INSPECTION AGREEMENT

STANDARD TERMS AND CONDITIONS

1. **Initiation of Services:** During the term of this Agreement, Client may call upon BVNA to perform specific work from the scope to be defined per project in accordance with the agreed upon fees. Individual projects may be delineated via a specific proposal in accordance with the terms and conditions set forth in this Agreement. BVNA agrees to furnish services in conformity with the terms hereof and the following documents which are incorporated by reference and made a part hereof. No subsequent amendment to this Agreement shall be binding on either BVNA or Client unless reduced to writing and signed by an authorized Representative of BVNA and Client. Any pre-printed forms including, but not limited to: purchase orders, shipping instructions, or sales acknowledgment forms of either party containing terms or conditions at variance with or in addition to those set forth herein shall not in any event be deemed to modify or vary the terms of this Agreement.
2. **Scope of Services:** BVNA shall provide its services at the time, place, and in the manner specified in the proposal.
3. **Term.** This Agreement shall remain in effect from the effective date of the Agreement unless terminated by written notice to the other party at least thirty (30) days prior to termination. Fees may be adjusted annually.
4. **Time of Performance:** The services of BVNA are to commence upon execution of this Agreement and shall continue until all authorized work is completed. BVNA shall use commercially reasonable best efforts in performing services under these Terms and Conditions, and the Companion Documents ("Agreement"). Companion Documents shall mean any documents accompanying BVNA's Proposal, including but not limited to the Scope of Work, Fee Schedules or any other Exhibits specific to the project. BVNA shall not be responsible for failure to perform its services if i) there is a failure or delay by Client or its contractors in providing BVNA with the necessary access to properties, documentation, information, or materials; ii) Client or its contractors fail to approve or disapprove BVNA's work; or iii) if Client causes delays in any way whatsoever. In any of these events, BVNA's time for completion of its service shall be extended accordingly. BVNA shall not be responsible for failure to perform if such failure is due to any act of God, labor trouble, fire, inclement weather, act of governmental authority, failure of transportation, accident, power failure or interruption, or any other cause reasonably beyond BVNA's control. In any of these events, BVNA's time for completion of its services shall be extended accordingly.
5. **Compensation:** Compensation to be paid to BVNA shall be in accordance with the Schedule of Fees set forth in accordance with the agreed upon fee schedule per project.
6. **Method of Payment:** BVNA shall submit monthly billings to Client describing the work performed during the preceding month. Client shall pay BVNA no later than forty-five (45) days after receipt of the monthly invoice by Client's staff. If the invoice is not paid within such period, Client shall be liable to BVNA for a late charge accruing from the date of such invoice to the date of payment at the lower of eighteen (18) percent per annum or the maximum rate allowed by law. Further, if the invoice is not paid within such period, BVNA may, at any time, and without waiving any other rights or claims against Client and without thereby incurring any liability to Client, elect to terminate performance of services immediately following written notice from BVNA to Client. Notwithstanding any such termination of services, Client shall pay BVNA for all services rendered by BVNA up to the date of termination of services plus all interest, termination costs and expenses incurred by BVNA. Client shall reimburse BVNA for all costs and expenses of collection, including reasonable attorney's fees. For work requiring a construction permit to be issued, the total fee will be billed when the permit is issued by the Jurisdiction.
7. **Construction Monitoring:** If BVNA is engaged by Client to provide a site representative for the purpose of monitoring specific portions of any construction work, as set forth in the proposal, then this Section 7 shall apply. If BVNA's engagement does not include such construction monitoring, then this Section shall be null and void. In connection with construction monitoring, BVNA will report observations and professional opinions to Client. BVNA shall report to Client any observed work which, in BVNA's opinion, does not conform to plans and specifications. BVNA shall have no authority to reject or terminate the work of any agent or contractor of Client. No action, statements, or communications of BVNA, or BVNA's site representative, can be construed as modifying any agreement between Client and others. BVNA's presence on the Project site in no way guarantees the completion or quality of the performance of the work of any party retained by Client to provide construction related services. Neither the professional activities of BVNA, nor the presence of BVNA or its employees, representatives, or subcontractors on the Project Site, shall be construed to impose upon BVNA any responsibility for methods of work performance, superintendence, sequencing of construction, or safety conditions at the Project site. Client acknowledges that Client or its general contractor is solely responsible for job site safety, and warrants and agrees that such responsibility shall be made evident in any Project owner's agreement with the general contractor. In the event BVNA expressly assumes any health and safety responsibilities for hazardous materials or other items specified in this Agreement, the acceptance of such responsibility does not and shall not be deemed an acceptance of responsibility for any other health and safety requirements, such as, but not limited to, those relating to excavation, trenching, drilling or backfilling.
8. **Ownership of Documents:** Subject to the Texas Public Information Act, all plans, studies, documents and other writings prepared by BVNA, its officers, employees and agents and subcontractors in the course of implementing this Agreement shall remain the property of BVNA. The Client acknowledges that all intellectual property rights related to the performance of the Agreement, including but not limited to the names, service marks, trademarks, inventions, logos and copyrights of BVNA and its affiliates, (collectively, the "**Rights**") are and shall remain the sole property of BVNA or its affiliates and shall not be used by the Client, except solely to the extent that the Client obtains the prior written approval of BVNA and then only in the manner prescribed by BVNA. If BVNA terminates the Agreement in accordance with the provisions of Article 29 below, any such license granted by BVNA to the Client shall automatically terminate.

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100 East 15th Street, Suite 100
Fort Worth, TX 76102

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Fax: (877) 837-8859



9. **Use of Data or Services:** BVNA shall not be responsible for any loss, liability, damage, expense or cost arising from any use of BVNA's analyses, reports, certifications, advice or reliance upon BVNA's services, which is contrary to, or inconsistent with, or beyond the provisions and purposes set forth therein or included in these Terms and Conditions, or in the Companion Documents. Client understands and agrees that BVNA's analyses, reports, certifications and services shall be used solely by the Client, and only Client is allowed to rely on such work product. If a third party relies on the services, analyses, reports or certifications without BVNA's written permission, then Client agrees to defend and indemnify BVNA from any claims or actions that are brought as a result of such reliance.

10. **Independent Contractor:** It is understood that BVNA, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the Client. BVNA shall obtain no rights to retirement benefits or other benefits which accrue to Client's employees, and BVNA hereby expressly waives any claim it may have to any such rights.

11. **Standard of Care:** **BVNA REPRESENTS THAT THE SERVICES, FINDINGS, RECOMMENDATIONS AND/OR ADVICE PROVIDED TO CLIENT WILL BE PREPARED, PERFORMED, AND RENDERED IN ACCORDANCE WITH PROCEDURES, PROTOCOLS AND PRACTICES ORDINARILY EXERCISED BY PROFESSIONALS IN BVNA'S PROFESSION FOR USE IN SIMILAR ASSIGNMENTS AND PREPARED UNDER SIMILAR CONDITIONS AT THE SAME TIME AND LOCALITY. CLIENT ACKNOWLEDGES AND AGREES THAT BVNA HAS MADE NO OTHER IMPLIED OR EXPRESSED REPRESENTATION, WARRANTY OR CONDITION WITH RESPECT TO THE SERVICES, FINDINGS, RECOMMENDATIONS OR ADVICE TO BE PROVIDED BY BVNA PURSUANT TO THIS AGREEMENT.**

12. **Indemnity:** Subject to the Limitation of Liability included in this Agreement, BVNA shall indemnify and hold harmless Client from and against losses, liabilities, and reasonable costs and expenses (for property damage and bodily injury, including reasonable attorney's fees), to the extent directly and proximately caused by BVNA's negligent performance of services or breach of warranty under this Agreement.

BVNA shall not be obligated to defend the Client until there is an actual finding of negligence or if the parties agree otherwise. To the fullest extent permitted by law, Client shall defend, indemnify and hold harmless BVNA, its employees, directors, officers, and agents, from and against claims, losses, liabilities, and reasonable costs and expenses (including reasonable attorney's fees) that are: i) related to, or caused by the negligence or willful misconduct of Client, its employees, or agents; ii) related to this Agreement or the work to be performed by BVNA for which BVNA is not expressly responsible; or iii) the expressed responsibility of the Client under this Agreement.

13. **Limitation of Liability:** To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, the total aggregate liability of BVNA, its affiliates, employees, officers, directors and agents (Collectively referred to in this paragraph as "BVNA") for all claims for negligent professional acts, errors or omissions arising out of this Agreement is limited to \$50,000 or the amount of the total fees hereunder, whichever is greater.

14. **Insurance:** BVNA, at BVNA's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies with insurers possessing a Best's rating of no less than A:VII:

- a. **Workers' Compensation Coverage:** BVNA shall maintain Workers' Compensation and Employer's Liability Insurance for its employees in accordance with the laws of the state where the services are being performed. Any notice of cancellation or non-renewal of all Workers' Compensation policies will be sent to the Client in accordance with the policy provisions.
- b. **General Liability Coverage:** BVNA shall maintain Commercial General Liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- c. **Automobile Liability Coverage:** BVNA shall maintain Automobile Liability insurance covering bodily injury and property damage for activities of BVNA employee arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- d. **Professional Liability Coverage:** BVNA shall maintain Professional Errors and Omissions Liability for protection against claims alleging negligent acts, errors or omissions which may arise from BVNA's services under this Agreement. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis.

BVNA shall name Client as additional insured and other parties that it deems appropriate to be additionally insured under BVNA's Commercial General Liability policy and Automobile Liability policy, if requested to do so by Client. The Client, on its own behalf and on the behalf of any others that are named as additionally insured at Client's request, agrees that providing such insurance or the additional insured endorsement shall in no way be construed as an assumption by BVNA of any liability for the negligence or willful misconduct or any wrongful behavior on the part of Client or others that are named additionally insured.

15. **Consequential and Punitive Damages:** Neither BVNA nor Client shall be liable under any circumstances for loss of profits, loss of product, consequential damages of any kind, indirect damages of any kind or special damages of any kind to the other party, or to any third party. No punitive or exemplary damages of any kind shall be recoverable against either party under any circumstances.

16. **Cause of Action:** If Client makes a claim against BVNA, for any alleged error, omission, or other act arising out of the performance of its professional services and to the extent the Client fails to prove such claim, then the Client shall pay all costs including attorney's fees incurred by BVNA in defending the claim. Any cause of action brought against BVNA shall be brought within one (1) year of the work or services performed under this Agreement.

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17. **Compliance with Laws:** BVNA shall use the standard of care in its profession to comply with all applicable federal, state and local laws of the State of Texas.

18. **Resolution of Disputes:** All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, except those disputes which arise out of or are related to collection matters or fees alone under this Agreement, (collectively "Disputes") shall be submitted to mediation before and as a condition precedent to pursuing any other remedy. Upon written request by either party to this Agreement for mediation of any dispute, Client and BVNA shall select a neutral mediator by mutual agreement. Such selection shall be made within ten (10) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable or unwilling to serve and a replacement mediator cannot be agreed upon by Client and BVNA within ten (10) calendar days, a mediator shall be chosen as specified in the Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree.

Should either party to this Agreement commence any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

19. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the state where the BVNA office originating the work or proposal is located.

20. **Releases:** All lien releases will be limited to payment issues; no additional terms and conditions may be added to a release of lien.

21. **Waiver of Jury Trial:** Each party waives its right to a jury trial in any court action arising between the parties, whether under this Agreement or otherwise related to the work being performed under this Agreement.

22. **Third Party Beneficiary:** It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the Client and BVNA. Nothing contained in the Agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the Client and BVNA that any such person or entity, other than Client or BVNA, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

23. **Written Notification:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth in the proposal. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

24. **Confidential Information:** Subject to the Public Information Act, neither party shall disclose information identified as confidential to anyone except those individuals who need such information to perform the Services; nor should either party use such confidential information, except in connection with the Work, the performance of the Services or as authorized by the other party in writing. Regardless of the term of this Agreement, each party shall be bound by this obligation until such time as the confidential information shall become part of the public domain. Confidential information shall not include information which is either: (i) known to the public; (ii) was known to the receiving party prior to its disclosure; or (iii) received in good faith from a third party. If either party is required to produce information by valid subpoena or Court order, parties agree to first provide prompt notice to other party in order to allow the party to seek a protective order or other appropriate remedy. This shall not prevent either party from disclosing information to the extent reasonably necessary to substantiate a claim or defense in any adjudicatory proceeding. Client agrees that BVNA shall be permitted to use Client's name and logos in BVNA's marketing materials unless advised or prohibited against it by the Client in writing. The technical and pricing information contained in any proposal or other documents submitted to the Client by BVNA shall be considered confidential and proprietary and shall not be released or disclosed to a third party without BVNA's written consent.

25. **Assignment:** Neither party may assign this Agreement or any right or obligation hereunder without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that no consent shall be necessary in the event of an assignment to a successor entity resulting from a merger, acquisition or consolidation by either party or an assignment to an Affiliate of either party if such successor or Affiliate assumes all obligations under this Agreement. Any attempted assignment, which requires consent hereunder, shall be void and shall constitute a material breach of this Agreement if such consent is not obtained.

26. **Non-Solicitation/Hiring of Employees:**

(a) To promote an optimum working relationship, the Client agrees in good faith that for the term of this Agreement and one year after the completion or termination of the Agreement not to directly or indirectly employ or otherwise engage any current employee of BVNA or any former employee of BVNA who left the employ of BVNA within the six (6) months prior to and including the date of the execution of the Agreement. The loss of any such employee would involve considerable financial loss of an amount that could not be readily established by BVNA. Therefore, in the event that Client should breach this provision and without limiting any other remedy that may be available to BVNA, the Client shall pay to BVNA a sum equal to the employee's current annual salary plus twelve (12) additional months of the employee's current annual salary for training of a new employee as liquidated damages.

(b) BVNA's employees shall not be retained as expert witnesses except by separate written agreement. Client agrees to pay BVNA's legal expenses, administrative costs and fees pursuant to BVNA's then current fee schedule for BVNA to respond to any subpoena.

27. **Prevailing Wage:** This Agreement and any proposals hereunder specifically exclude compliance with any project labor agreement or other union or apprenticeship requirements. In addition, unless explicitly agreed to in the body of the proposal, this Agreement and any proposals hereunder specifically exclude compliance with any State or Federal prevailing wage law or associated requirements, including the Davis Bacon Act. Due to the professional nature of its services BVNA is generally exempt from the Davis Bacon Act and other prevailing wage schemes. It is agreed that no applicable prevailing wage classification or wage rate has been provided to BVNA, and that all wages and cost estimates contained herein are based solely upon standard, no-prevailing wage rates. Should it later be determined by the Client or any applicable agency that in fact prevailing wage applies, then it is agreed that the contract value of this agreement shall be equitably adjusted to account for such changed circumstance. These exclusions shall survive the completion of the project and shall be merged into any subsequently

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executed documents between the parties, regardless of the terms of such agreement. Client will reimburse, defend, indemnify and hold harmless BVNA from any liability resulting from a subsequent determination that prevailing wage regulations cover the Projects, including all costs, fines and reasonable attorney's fees.

28. **Waiver:** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

29. **Amendments:** This Agreement may be modified or amended only by a written document executed by both BVNA and Client.

30. **Entire Agreement:** This Agreement constitutes the complete and exclusive statement of Agreement between the Client and BVNA. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

31. **Termination:** This Agreement may be terminated immediately for cause or by either party without cause upon fifteen (15) days written notice of termination. Upon termination, BVNA shall be entitled to compensation for services performed up to the effective date of termination.

(a) Termination by Client: If the Client terminates this agreement without cause, the Client shall have two options concerning work and assignments that are in-progress. The Client shall select from: (1) Allowing BVNA the opportunity to complete all work and assignments in-progress that may be completed by another provider after the effective date of BVNA's termination; or (2) Providing BVNA with a complete and unconditional release from any and all liability and indemnification requirements regarding all work and assignments that remain in-progress upon BVNA's termination effective date. In the event that Client is silent on termination or does not make an affirmative selection, option (2) providing BVNA with a complete and unconditional release from any and all liability and indemnification requirements will be the default and active selection.

(b) Termination by BVNA: If BVNA terminates without cause, BVNA will provide client with a thirty (30) day transition period from the notice of termination to allow Client sufficient time to secure a new Service Provider. During this transition period, BVNA and Client's responsibilities under this agreement will remain in full force and effect. At the end of the thirty (30) day transition period BVNA will cease all activities. In the event Client shall request BVNA to continue to provide any Services beyond the expiration of the transition period, including any extensions, then BVNA and Client may negotiate in good faith terms of any such extension, including the pricing of Services.

32. **Interpretation of Agreement:** This Agreement shall be interpreted as though prepared by all parties and shall not be construed unfavorably against either party.

33. **Severability of Agreement:** If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the laws of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be effected and shall remain in full force and effect.

34. **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. Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

35. **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. Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company 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.

36. **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. Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company does not boycott energy companies, and will not boycott energy companies during the term of this Agreement.

37. **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 company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the 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.

Bureau Veritas North America, Inc.



Client Setup Form

Billing Information			
Company Name: City of Abilene		☐ New Client ☒ Existing Client	
Billing Contact:			
Billing Address:	City:	State:	Zip:
Phone # :	Email :	Cellular # :	
Email Address for Invoice Delivery:			
Accounts Payable Contact:			
Phone # :	Email :	Cellular # :	
Client referenced Project Number / Name Project Ludicrous			
Purchase Order Number:		☐ Not Required	
Tax Exempt Status		☒ Exempt ☐ Not Exempt	Tax ID #
Billing Terms			
☐ Plan Review		Payment Terms	
☐ Plan Review and Inspections		Please send remittance to:	
☐ Installments		☐ Net 30 ☐ Net 60	Arremittance@bureauveritas.com
If Installments – Describe:			
Remit ACH Transfers to: ABA Routing Number 121000358 Account Number 14594- 11058	Courier/Overnight Address: Bank of America Lockbox Services Lockbox # 841566 1950 N Stemmons Freeway, Suite 5010 Dallas, TX 75207	Remit Checks To: Bureau Veritas North America, Inc. PO Box 841566 Dallas, TX 75284- 1566	Remit Wire Transfers to: Routing Number 026009593 Account Number 14594- 11058 SWIFT Code BOFAUS3N
Bureau Veritas Internal use Only			
Project Manager:			
Project Accountant:			
Sales Manager:		Contact Phone # : (325) 676-6486	
Prepared By: Ty Chapman CBO/MCP			

Applicants Approval Signature/Date: _____

City Council

03/13/2025





Resolution

- Contract for inspection services with BVNA
- Service will be used specifically for the Lancium project
- Contract reimbursed by Lancium Corporation
- Will ensure the protection of the public health and life safety





QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: 22. Resolution: Receive a Report, Hold a Discussion and Take Action on Allowing the City Manager to Enter Into a Contract with BVNA for City Backup Inspection Services *(Tim Littlejohn)*

GENERAL INFORMATION

Contract for BVNA to provide backup inspection services for the city of Abilene to be used only as needed when staffing is short handed or the demand is to high.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

\$150/ hour

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. RESOLUTION Backup Inspection Service
2. Clean back up contract

3. Presentation backup inspections

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES
CONTRACTS WITH BUREAU VERITAS NORTH AMERICA INC (BVNA) FOR BACKUP
BUILDING INSPECTION SERVICES.**

WHEREAS, the City of Abilene is looking for an inspection service to fill the need of adopted code inspections requirements when the demands exceeds staff capabilities.

WHEREAS, BVNA is a national third party inspection company consisting of code compliance experts.

WHEREAS the City of Abilene is required to provide inspection services in order to protect the health and life safety of its citizens.

WHEREAS, this service contract will provide a backup inspection service to be used on an as needed basis.

WHEREAS, this contract will be funded through permit revenues collected.

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

Pait 1: The City Manager is hereby authorized to execute a Professional Services Contracts with BVNA to provide annual backup inspection services on an as needed basis.

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

ADOPTED and approved by the City Council on the 13th of March 2025.

ATTEST:

Shawna Atkinson
City Secretary

Weldon Hurt
Mayor

APPROVED:

Stanley Smith
City Attorney



**BUREAU VERITAS NORTH AMERICA, INC.
STANDARD PROFESSIONAL SERVICES AGREEMENT**

This STANDARD PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2025, by and between Bureau Veritas North America, Inc., ("BVNA"), and the City of Abilene, Texas, ("Client").

These Terms and Conditions govern the work to be performed by Bureau Veritas North America, Inc. ("BVNA"), as specified in the proposal prepared by BVNA of which these Terms and Conditions are a part thereof.

WHEREAS, the Client desires that BVNA provide independent professional services for Client under the terms of a Standard Professional Services Agreement;

WHEREAS, BVNA represents that it is a professional independent consulting firm and is willing and able to perform such services upon terms and conditions hereinafter set forth;

WHEREAS, all services will be conducted in accordance with these terms and conditions and the agreed upon Scope of Services and Fee Schedule the forms of which are attached as Attachments "A" and "B" respectively.

NOW, THEREFORE, in consideration of the foregoing and of the benefits to each of the parties accruing, the parties hereto do mutually agree as follows:

AGREEMENT

1. **Initiation of Services:** During the term of this Agreement, Client may call upon BVNA to perform specific work from the scope to be defined per project in accordance with the agreed upon fees. Individual projects may be delineated via a specific proposal in accordance with the terms and conditions set forth in this Agreement. BVNA agrees to furnish services in conformity with the terms hereof and the following documents which are incorporated by reference and made a part hereof. No subsequent amendment to this Agreement shall be binding on either BVNA or Client unless reduced to writing and signed by an authorized Representative of BVNA and Client. Any pre-printed forms including, but not limited to: purchase orders, shipping instructions, or sales acknowledgment forms of either party containing terms or conditions at variance with or in addition to those set forth herein shall not in any event be deemed to modify or vary the terms of this Agreement.

2. **Scope of Services:** BVNA shall provide its services at the time, place, and in the manner specified in the proposal.

3. **Term.** This Agreement shall remain in effect from the effective date of the Agreement unless terminated by written notice to the other party at least thirty (30) days prior to termination. Fees may be adjusted annually.

4. **Time of Performance:** The services of BVNA are to commence upon execution of this Agreement and shall continue until all authorized work is completed. BVNA shall use commercially reasonable best efforts

in performing services under these Terms and Conditions, and the Companion Documents ("Agreement"). Companion Documents shall mean any documents accompanying BVNA's Proposal, including but not limited to the Scope of Work, Fee Schedules or any other Exhibits specific to the project. BVNA shall not be responsible for failure to perform its services if i) there is a failure or delay by Client or its contractors in providing BVNA with the necessary access to properties, documentation, information, or materials; ii) Client or its contractors fail to approve or disapprove BVNA's work; or iii) if Client causes delays in any way whatsoever. In any of these events, BVNA's time for completion of its service shall be extended accordingly. BVNA shall not be responsible for failure to perform if such failure is due to any act of God, labor trouble, fire, inclement weather, act of governmental authority, failure of transportation, accident, power failure or interruption, or any other cause reasonably beyond BVNA's control. In any of these events, BVNA's time for completion of its services shall be extended accordingly.

5. Compensation: Compensation to be paid to BVNA shall be in accordance with the Schedule of Fees set forth in accordance with the agreed upon fee schedule per project.

6. Method of Payment: BVNA shall submit monthly billings to Client describing the work performed during the preceding month. Client shall pay BVNA no later than forty-five (45) days after receipt of the monthly invoice by Client's staff. If the invoice is not paid within such period, Client shall be liable to BVNA for a late charge accruing from the date of such invoice to the date of payment at the lower of eighteen (18) percent per annum or the maximum rate allowed by law. Further, if the invoice is not paid within such period, BVNA may, at any time, and without waiving any other rights or claims against Client and without thereby incurring any liability to Client, elect to terminate performance of services immediately following written notice from BVNA to Client. Notwithstanding any such termination of services, Client shall pay BVNA for all services rendered by BVNA up to the date of termination of services plus all interest, termination costs and expenses incurred by BVNA. Client shall reimburse BVNA for all costs and expenses of collection, including reasonable attorney's fees. For work requiring a construction permit to be issued, the total fee will be billed when the permit is issued by the Jurisdiction.

7. Construction Monitoring: If BVNA is engaged by Client to provide a site representative for the purpose of monitoring specific portions of any construction work, as set forth in the proposal, then this Section 7 shall apply. If BVNA's engagement does not include such construction monitoring, then this Section shall be null and void. In connection with construction monitoring, BVNA will report observations and professional opinions to Client. BVNA shall report to Client any observed work which, in BVNA's opinion, does not conform to plans and specifications. BVNA shall have no authority to reject or terminate the work of any agent or contractor of Client. No action, statements, or communications of BVNA, or BVNA's site representative, can be construed as modifying any agreement between Client and others. BVNA's presence on the Project site in no way guarantees the completion or quality of the performance of the work of any party retained by Client to provide construction related services. Neither the professional activities of BVNA, nor the presence of BVNA or its employees, representatives, or subcontractors on the Project Site, shall be construed to impose upon BVNA any responsibility for methods of work performance, superintendence, sequencing of construction, or safety conditions at the Project site. Client acknowledges that Client or its general contractor is solely responsible for job site safety, and warrants and agrees that such responsibility shall be made evident in any Project owner's agreement with the general contractor. In the event BVNA expressly assumes any health and safety responsibilities for hazardous materials or other items specified in this Agreement, the acceptance of such responsibility does not and shall not be deemed an acceptance of responsibility for any other health and safety requirements, such as, but not limited to, those relating to excavation, trenching, drilling or backfilling.

8. Ownership of Documents: Subject to the Texas Public Information Act, all plans, studies, documents and other writings prepared by BVNA, its officers, employees and agents and subcontractors in the course of implementing this Agreement shall remain the property of BVNA. The Client acknowledges that all intellectual property rights related to the performance of the Agreement, including but not limited to the

names, service marks, trademarks, inventions, logos and copyrights of BVNA and its affiliates, (collectively, the “**Rights**”) are and shall remain the sole property of BVNA or its affiliates and shall not be used by the Client, except solely to the extent that the Client obtains the prior written approval of BVNA and then only in the manner prescribed by BVNA. If BVNA terminates the Agreement in accordance with the provisions of Article 29 below, any such license granted by BVNA to the Client shall automatically terminate.

9. Use of Data or Services: BVNA shall not be responsible for any loss, liability, damage, expense or cost arising from any use of BVNA’s analyses, reports, certifications, advice or reliance upon BVNA’s services, which is contrary to, or inconsistent with, or beyond the provisions and purposes set forth therein or included in these Terms and Conditions, or in the Companion Documents. Client understands and agrees that BVNA’s analyses, reports, certifications and services shall be used solely by the Client, and only Client is allowed to rely on such work product. If a third party relies on the services, analyses, reports or certifications without BVNA’s written permission, then Client agrees to defend and indemnify BVNA from any claims or actions that are brought as a result of such reliance.

10. Independent Contractor: It is understood that BVNA, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the Client. BVNA shall obtain no rights to retirement benefits or other benefits which accrue to Client’s employees, and BVNA hereby expressly waives any claim it may have to any such rights.

11. Standard of Care: **BVNA REPRESENTS THAT THE SERVICES, FINDINGS, RECOMMENDATIONS AND/OR ADVICE PROVIDED TO CLIENT WILL BE PREPARED, PERFORMED, AND RENDERED IN ACCORDANCE WITH PROCEDURES, PROTOCOLS AND PRACTICES ORDINARILY EXERCISED BY PROFESSIONALS IN BVNA’S PROFESSION FOR USE IN SIMILAR ASSIGNMENTS AND PREPARED UNDER SIMILAR CONDITIONS AT THE SAME TIME AND LOCALITY. CLIENT ACKNOWLEDGES AND AGREES THAT BVNA HAS MADE NO OTHER IMPLIED OR EXPRESSED REPRESENTATION, WARRANTY OR CONDITION WITH RESPECT TO THE SERVICES, FINDINGS, RECOMMENDATIONS OR ADVICE TO BE PROVIDED BY BVNA PURSUANT TO THIS AGREEMENT.**

12. Indemnity: Subject to the Limitation of Liability included in this Agreement, **BVNA** shall indemnify and hold harmless Client from and against losses, liabilities, and reasonable costs and expenses (for property damage and bodily injury, including reasonable attorney’s fees), to the extent directly and proximately caused by BVNA’s negligent performance of services or breach of warranty under this Agreement.

BVNA shall not be obligated to defend the Client until there is an actual finding of negligence or if the parties agree otherwise. To the fullest extent permitted by law, Client shall defend, indemnify and hold harmless BVNA, its employees, directors, officers, and agents, from and against claims, losses, liabilities, and reasonable costs and expenses (including reasonable attorney’s fees) that are: i) related to, or caused by the negligence or willful misconduct of Client, its employees, or agents; ii) related to this Agreement or the work to be performed by BVNA for which BVNA is not expressly responsible; or iii) the expressed responsibility of the Client under this Agreement.

13. Limitation of Liability: To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, the total aggregate liability of BVNA, its affiliates, employees, officers, directors and agents (Collectively referred to in this paragraph as “BVNA”) for all claims for negligent professional acts, errors or omissions arising out of this Agreement is limited to \$50,000 or the amount of the total fees hereunder, whichever is greater.

14. Insurance: BVNA, at BVNA’s own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies with insurers possessing a Best’s rating of no less than A:VII:

- a. **Workers' Compensation Coverage:** BVNA shall maintain Workers' Compensation and Employer's Liability Insurance for its employees in accordance with the laws of the state where the services are being performed. Any notice of cancellation or non-renewal of all Workers' Compensation policies will be sent to the Client in accordance with the policy provisions.
- b. **General Liability Coverage:** BVNA shall maintain Commercial General Liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- c. **Automobile Liability Coverage:** BVNA shall maintain Automobile Liability insurance covering bodily injury and property damage for activities of BVNA employee arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- d. **Professional Liability Coverage:** BVNA shall maintain Professional Errors and Omissions Liability for protection against claims alleging negligent acts, errors or omissions which may arise from BVNA's services under this Agreement. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis.

BVNA shall name Client as additional insured and other parties that it deems appropriate to be additionally insured under BVNA's Commercial General Liability policy and Automobile Liability policy, if requested to do so by Client. The Client, on its own behalf and on the behalf of any others that are named as additionally insured at Client's request, agrees that providing such insurance or the additional insured endorsement shall in no way be construed as an assumption by BVNA of any liability for the negligence or willful misconduct or any wrongful behavior on the part of Client or others that are named additionally insured.

15. Consequential and Punitive Damages: Neither BVNA nor Client shall be liable under any circumstances for loss of profits, loss of product, consequential damages of any kind, indirect damages of any kind or special damages of any kind to the other party, or to any third party. No punitive or exemplary damages of any kind shall be recoverable against either party under any circumstances.

16. Cause of Action: If Client makes a claim against BVNA, for any alleged error, omission, or other act arising out of the performance of its professional services and to the extent the Client fails to prove such claim, then the Client shall pay all costs including attorney's fees incurred by BVNA in defending the claim. Any cause of action brought against BVNA shall be brought within one (1) year of the work or services performed under this Agreement.

17. Compliance with Laws: BVNA shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinance and regulations in effect as of the date services are provided.

18. Resolution of Disputes: All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, except those disputes which arise out of or are related to collection matters or fees alone under this Agreement, (collectively "Disputes") shall be submitted to mediation before and as a condition precedent to pursuing any other remedy. Upon written request by either party to this Agreement for mediation of any dispute, Client and BVNA shall select a neutral mediator by mutual agreement. Such selection shall be made within ten (10) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable

or unwilling to serve and a replacement mediator cannot be agreed upon by Client and BVNA within ten (10) calendar days, a mediator shall be chosen as specified in the Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree.

Should either party to this Agreement commence any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

19. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the state of Texas.

20. Releases: All lien releases will be limited to payment issues; no additional terms and conditions may be added to a release of lien.

21. Waiver of Jury Trial: Each party waives its right to a jury trial in any court action arising between the parties, whether under this Agreement or otherwise related to the work being performed under this Agreement.

22. Third Party Beneficiary: It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the Client and BVNA. Nothing contained in the Agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the Client and BVNA that any such person or entity, other than Client or BVNA, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

23. Written Notification: Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth in the proposal. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Client:

City Manager
PO Box 60
Abilene, Texas 79604

If to BVNA:

Bureau Veritas North America, Inc.
Attn: Contract Processing
1000 Jupiter Road, Suite 900
Plano, TX 75074

With cc to:

Bureau Veritas North America, Inc.
Attention: Legal Department
1601 Sawgrass Corporate Parkway, Suite 400
Fort Lauderdale, FL 33323

24. Confidential Information: Subject to the Public Information Act, neither party shall disclose information identified as confidential to anyone except those individuals who need such information to perform the Services; nor should either party use such confidential information, except in connection with the Work, the performance of the Services or as authorized by the other party in writing. Regardless of the term of this Agreement, each party shall be bound by this obligation until such time as the confidential information shall become part of the public domain. Confidential information shall not include information which is either: (i) known to the public; (ii) was known to the receiving party prior to its disclosure; or (iii)

received in good faith from a third party. If either party is required to produce information by valid subpoena or Court order, parties agree to first provide prompt notice to other party in order to allow the party to seek a protective order or other appropriate remedy. This shall not prevent either party from disclosing information to the extent reasonably necessary to substantiate a claim or defense in any adjudicatory proceeding. Client agrees that BVNA shall be permitted to use Client's name and logos in BVNA's marketing materials unless advised or prohibited against it by the Client in writing. The technical and pricing information contained in any proposal or other documents submitted to the Client by BVNA shall be considered confidential and proprietary and shall not be released or disclosed to a third party without BVNA's written consent.

25. Assignment: Neither party may assign this Agreement or any right or obligation hereunder without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that no consent shall be necessary in the event of an assignment to a successor entity resulting from a merger, acquisition or consolidation by either party or an assignment to an Affiliate of either party if such successor or Affiliate assumes all obligations under this Agreement. Any attempted assignment, which requires consent hereunder, shall be void and shall constitute a material breach of this Agreement if such consent is not obtained.

26. Non-Solicitation/Hiring of Employees:

(a) To promote an optimum working relationship, the Client agrees in good faith that for the term of this Agreement and one year after the completion or termination of the Agreement not to directly or indirectly employ or otherwise engage any current employee of BVNA or any former employee of BVNA who left the employ of BVNA within the six (6) months prior to and including the date of the execution of the Agreement. The loss of any such employee would involve considerable financial loss of an amount that could not be readily established by BVNA. Therefore, in the event that Client should breach this provision and without limiting any other remedy that may be available to BVNA, the Client shall pay to BVNA a sum equal to the employee's current annual salary plus twelve (12) additional months of the employee's current annual salary for training of a new employee as liquidated damages.

(b) BVNA's employees shall not be retained as expert witnesses except by separate written agreement. Client agrees to pay BVNA's legal expenses, administrative costs and fees pursuant to BVNA's then current fee schedule for BVNA to respond to any subpoena.

27. Prevailing Wage: This Agreement and any proposals hereunder specifically exclude compliance with any project labor agreement or other union or apprenticeship requirements. In addition, unless explicitly agreed to in the body of the proposal, this Agreement and any proposals hereunder specifically exclude compliance with any State or Federal prevailing wage law or associated requirements, including the Davis Bacon Act. Due to the professional nature of its services BVNA is generally exempt from the Davis Bacon Act and other prevailing wage schemes. It is agreed that no applicable prevailing wage classification or wage rate has been provided to BVNA, and that all wages and cost estimates contained herein are based solely upon standard, no-prevailing wage rates. Should it later be determined by the Client or any applicable agency that in fact prevailing wage applies, then it is agreed that the contract value of this agreement shall be equitably adjusted to account for such changed circumstance. These exclusions shall survive the completion of the project and shall be merged into any subsequently executed documents between the parties, regardless of the terms of such agreement. Client will reimburse, defend, indemnify and hold harmless BVNA from any liability resulting from a subsequent determination that prevailing wage regulations cover the Projects, including all costs, fines and reasonable attorney's fees.

28. Waiver: No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

29. Amendments: This Agreement may be modified or amended only by a written document executed by both BVNA and Client.

30. Entire Agreement: This Agreement constitutes the complete and exclusive statement of Agreement between the Client and BVNA. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

31. Termination: This Agreement may be terminated immediately for cause or by either party without cause upon fifteen (15) days written notice of termination. Upon termination, BVNA shall be entitled to compensation for services performed up to the effective date of termination.

(a) Termination by Client: If the Client terminates this agreement without cause, the Client shall have two options concerning work and assignments that are in-progress. The Client shall select from: (1) Allowing BVNA the opportunity to complete all work and assignments in-progress that may be completed by another provider after the effective date of BVNA's termination; or (2) Providing BVNA with a complete and unconditional release from any and all liability and indemnification requirements regarding all work and assignments that remain in-progress upon BVNA's termination effective date. In the event that Client is silent on termination or does not make an affirmative selection, option (2) providing BVNA with a complete and unconditional release from any and all liability and indemnification requirements will be the default and active selection.

(b) Termination by BVNA: If BVNA terminates without cause, BVNA will provide client with a thirty (30) day transition period from the notice of termination to allow Client sufficient time to secure a new Service Provider. During this transition period, BVNA and Client's responsibilities under this agreement will remain in full force and effect. At the end of the thirty (30) day transition period BVNA will cease all activities. In the event Client shall request BVNA to continue to provide any Services beyond the expiration of the transition period, including any extensions, then BVNA and Client may negotiate in good faith terms of any such extension, including the pricing of Services.

32. Interpretation of Agreement: This Agreement shall be interpreted as though prepared by all parties and shall not be construed unfavorably against either party.

33. Severability of Agreement: If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the laws of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be effected and shall remain in full force and effect.

34. 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. Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

35. 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. Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company 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.

36. 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. Unless the company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the company does not boycott energy companies, and will not boycott energy companies during the term of this Agreement.

37. 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 company is not subject to a provision above, the signatory executing this Agreement on behalf of the company verifies that the 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.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereby execute this agreement upon the terms and conditions stated above and the Attachments following the signatures below.

BUREAU VERITAS NORTH AMERICA, INC.	CLIENT
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:
Address:	Address:
Telephone:	Telephone:
Email:	Email:
DTQR	
Date	

ATTACHMENT A

SCOPE OF SERVICES

CONSTRUCTION CODE SERVICES

BVNA and the representatives of BVNA are charged with the enforcement of the provisions of the Jurisdiction's Building Code, Residential Code, Mechanical Code, Electrical Code, Plumbing Code, Fuel Gas Code and Energy Code, acting in good faith and without malice in the discharge of the duties required by these codes or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties.

Plan Review

Non-Structural Plan Review services shall be conducted as required by the Jurisdiction's Building Code, Residential Code, Mechanical Code, Electrical Code, Plumbing Code, Fuel Gas Code and Energy Code, and other provided code related documents, as approved by the Jurisdiction. Applicants will be notified of Plan Review Comments and are responsible for addressing comments to the satisfaction of the Jurisdiction. The Jurisdiction has final interpretive authority over all plans and specifications. Permits are issued by the Jurisdiction.

Inspections

Inspection services shall be conducted as required by the Jurisdiction's Building Code, Residential Code, Mechanical Code, Electrical Code, Plumbing Code, Fuel Gas Code and Energy Code. Special inspections as specified in chapter 17 and non-prescriptive structural inspections of the adopted International Building Code are not included and may be required as specified in the International Building Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority, and the Certificate of Occupancy will be issued at the discretion of the Jurisdiction.

FIRE SERVICES

Fire Services Plan Review

Commercial, Multi-Family and Single Family Fire Sprinkler System Plan Review, Commercial Fire Alarm Plan Review, Commercial Underground Fire Sprinkler System Plan Review, Commercial Alternative Fire Extinguishing Systems (includes Kitchen Fire Suppression System, Clean Agent Systems, and CO2 Systems) Plan Review and Commercial Above and Below Ground Fuel Storage Tank Plan Review shall be conducted as required by the Jurisdiction's Fire Code, and other provided code related documents, as approved by the Jurisdiction. Applicants will be notified of Plan Review Comments and are responsible for addressing comments to the satisfaction of the Jurisdiction. The Jurisdiction has final interpretive authority over all plans and specifications. Permits are issued by the Jurisdiction. The State of Texas requires the design and installation of Underground Fire Sprinkler Supply Line plans to be performed by a properly licensed contractor.

Fire Services Inspections

Commercial, Multi-Family and Single Family Fire Sprinkler System Inspection, Commercial Fire Alarm Inspection, Commercial Underground Fire Sprinkler System Inspection, Commercial Alternative Fire Extinguishing Systems (includes Kitchen Fire Suppression System, Clean Agent Systems, and CO2 Systems) Inspection, Commercial Above and Below Ground Fuel Storage Tank Inspection and Commercial Fire Certificate of Occupancy Inspection services shall be conducted as required by the Jurisdiction's Fire Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the

Jurisdiction is the final interpretive authority. The State of Texas requires the design and installation of Underground Fire Sprinkler Supply Line plans to be performed by a properly licensed contractor.

Annual Fire Safety Inspections

Annual Fire Safety Inspections will be conducted in accordance with the Jurisdiction's Fire Code for commercial establishments and public buildings subject to an annual operation permit.

Fire Code Plan Review Services and Inspection Services

Site and building Plan Review and Inspection services shall be conducted as required by the Jurisdiction's Fire Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority.

HEALTH SERVICES

BVNA will have an exclusive agreement with Client to ensure compliance with the provisions of the Jurisdiction's Adopted Food Establishment Ordinance. In absence of said ordinance, the provisions of Title 25 Texas Administrative Code Chapter 228, regarding the regulation of food establishments, known as the Texas Food Establishment Rules (TFER), will be enforced. The Texas Administrative Code (TAC), Standards for Public Pools and Spas, Chapter 265, Subchapter L will be enforced for public swimming pools and spas and Subchapter M for Public Interactive Water Features.

BVNA services include the following per permitted installation:

- Review plans for compliance with the applicable laws and rules required.
- Perform inspections to determine compliance with the applicable laws and rules required.
- Inspections will be performed by a Texas Registered Sanitarian
- Swimming pool inspections will be performed by trained, Certified Pool Operators.
- Update or create the required Health forms.
- Web-based project tracking of Health permits.
- Provide written report of any deficiencies.
- Investigation of complaints on permitted facilities.

The Client will have final interpretive authority over all plans, specifications and inspections and is charged with the issuance of all permits and certificates of occupancy.

PUBLIC WORKS SERVICES

Upon receipt of written Notice to Proceed from Client, BVNA will provide Inspection services relative to Public Works Services as outlined below to verify conformance with approved plans, specifications and local ordinances provided by Client.

Inspections

Inspection services include, but are not limited to making site observations, writing correction notices and field reports, attending meetings and answering inquiries in person or by telephone.

Plan Review

Plan Review services include but are not limited to verification of plan compliance with adopted public works standards, attendance at pre-plan design meetings and follow up on design issues.

Technical Support

BVNA will be available for pre-construction or field site meetings and will provide field staff for observation purposes as needed.

PLANNING AND MAPPING SERVICES

Comprehensive Planning and Mapping services shall be provided as outlined below.

Base Mapping

- BVNA shall prepare a corporate area base map, which shall show at least the features (a) through (k) below:
 - a) Highway and street rights-of-way;
 - b) Highway designations and street names;
 - c) All major drainage ways;
 - d) Major bodies of water;
 - e) Block and lot lines for all platted subdivisions as available;
 - f) Property lines within unplatted subdivisions as available;
 - g) The width of all major utility easements;
 - h) Railroad rights-of-way;
 - i) All subdivisions and their names;
 - j) Corporate limits;
 - k) Other major facilities or features to include but not necessarily limited to:
 - 1. Major park and recreation areas and facilities;
 - 2. Water Treatment plants;
 - 3. Sewage Treatment plants;
 - 4. Extraterritorial jurisdiction line, as appropriate; and
 - 5. Other significant features.

Housing Inventory, Analysis and Plan

- BVNA shall prepare a housing conditions inventory, analysis and plan.
- BVNA shall develop criteria to be used in the classification of building conditions and formulate definitions for each classification. As a minimum, the four following classifications shall be utilized within the study:
 - a) Standard,
 - b) Minor Deteriorating,
 - c) Major Deteriorating, and
 - d) Dilapidated.
- BVNA shall perform an assessment of the exterior of all residential buildings within the city to determine the physical condition of each building or structure. BVNA will record vacant and abandoned residential units as the assessment is being made.
- BVNA shall use the base map to create a Housing Conditions Map depicting all housing conditions as inventoried and showing all housing and its classification as defined by the developed criteria.
- BVNA shall conduct an analysis of housing data to determine problems and housing needs of the current and prospective population.
- BVNA shall prepare a goal(s) statement and annual housing related objectives. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement.
- BVNA shall identify future implementation actions and probable costs, both public and private, to be taken annually over the next three to five years. These activities shall result in the preparation of an overall program design for housing related activities.

Population

- BVNA shall compare census data of the locality from 1960 to present. BVNA will provide number of persons in each of the sex, race and Hispanic origin categories.
- BVNA shall determine existing population estimates of the locality by occupied dwelling units. A realistic assessment of the locality's existing population shall be made by reliable methods.
- BVNA shall estimate the locality's future population by five-year increments for the next fifteen to twenty years based on existing trends.
- BVNA will use the base map for illustrative purposes a Population Distribution Map showing the existing and projected population distribution for the planning period.

Land Use Inventory, Analysis and Plan

- BVNA shall assess and inspect each plot, tract and parcel of land within the project area to determine its use. The project area should include the city's extraterritorial jurisdiction (ETJ).
- BVNA shall use categories in classifying land uses shall include, as a minimum, the following:
 - a) Vacant (vacant developed or vacant undeveloped);
 - b) Agriculture (cultivated and range land - five or more acres);
 - c) Residential (single family, two family, multi-family, manufactured and mobile homes);
 - d) Commercial; (retail and services);
 - e) Industrial; (light and heavy);
 - f) Public and Semi-Public (schools, parks and public buildings); and
 - g) Other such additional or subcategories as may be deemed necessary to accurately reflect the existing pattern of land areas.
- BVNA shall prepare a color-coded Existing Land Use Map of the corporate and ETJ area using the base map. Colors should conform to standard code.
- BVNA shall make a tabulation of the existing land uses to show:
 - a) Total acreage by use;
 - b) Percentage of acreage in each land use;
 - c) Acres per 100 persons, or other standard for comparison purposes; and
 - d) Developed and undeveloped land as a percent of the total land.
- BVNA will make an analysis of the community regarding past and potential developments and will report on factors affecting the development of land, such as those below:
 - a) Occupied dwelling units;
 - b) Existing land use;
 - c) Thoroughfares
 - d) Existing and anticipated population;
 - e) Soil characteristics as related to developments;
 - f) Adequacy of public utilities;
 - g) Adequacy of public facilities;
 - h) Storm drainage problem areas;
 - i) Natural and man-made constraints.
- BVNA shall prepare a goal(s) statement and annual land use related objectives and, using the base map at, BVNA shall prepare a color-coded Future Land Use Map to illustrate the future physical development of the locality during the planning period.

B. Economic Development

1. Historic Development And General Characteristics

- Studies and plans being prepared under this contract should be coordinated with previously developed studies and plans, including any available with the appropriate state office, the regional planning council, etc.
- BVNA shall make a review and analysis of the factors which have contributed to the present development of the planning area to include the following:
 - Development of the economy;
 - Physical growth of the community;
 - The relationship of the community to the region.

2. Economic Base, "Barrier Analysis"

- BVNA will prepare an inventory of the social, economic, governmental, and industrial elements of the area's development and potential. The inventory shall, to the extent possible, examine the number of people employed in the retail trade, manufacturing, construction and government, the dollar volume of

various local employers, and employee income levels. The inventory shall, as a minimum, include, but need not be limited to, the following, as available and appropriate:

- a) Retail facilities;
 - b) Wholesale facilities;
 - c) Service facilities;
 - d) Financial facilities;
 - e) Manufacturing facilities;
 - f) The physical facilities and rates for the following utilities and communication services:
 - 1. Electric;
 - 2. Water;
 - 3. Natural gas;
 - 4. Sewage and garbage disposal;
 - g) Transportation;
 - h) Quantity, quality and availability of raw materials;
 - i) Labor supply by sex, industry, and skills;
 - j) Available industrial sites and buildings to include:
 - 1. Location;
 - 2. Utility connections;
 - 3. Transportation;
 - 4. Availability.
- BVNA will determine to the extent possible the relationship of the elements inventoried to economic development potential.
 - A "barrier analysis" shall be prepared which rates the following cost factors and operating condition factors, as appropriate. The ratings shall be assigned based on a comparison with regional, state, and/or national standards.
 - a) Cost Factors:
 - 1. Wage levels (g) Land/site costs
 - 2. Electricity costs (h) Local property taxes
 - 3. Fuel costs (i) Financing costs
 - 4. Water costs (j) State costs
 - 5. Sewer costs (k) Other(s), as appropriate
 - 6. Building costs
 - b) Operating Condition Factors:
 - 1. Unskilled labor supply (k) Availability of air service
 - 2. Skilled labor (l) Vocational education facilities
 - 3. Productivity (m) Site availability
 - 4. Unionization (n) School facilities
 - 5. Labor-management relations (o) Medical services
 - 6. Electric power availability (p) Natural features, resources, geography, etc.
 - 7. Water and sewer availability (q) Others, such as, telecommunications,
 - 8. Gas availability aesthetics, community receptivity, laws,
 - 9. Common motor carrier service community organizations, debt, etc.
 - 10. Rail/freight service
 - c) BVNA shall determine whether the city should use other standards and analysis tools in addition to those above to derive an alternative comparison.
 - d) BVNA shall coordinate with community leaders and draw some conclusions as a result of the inventory and analysis required above; and,
 - e) Determine whether the pattern of economic growth should be altered.
 - f) BVNA shall suggest what type of policies and/or codes should be implemented to improve conditions for the encouragement of economic opportunities and local business expansion and attraction.

3. PLAN

- BVNA shall develop an economic development plan with goals and objectives. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement.
- The implementation strategy should focus on private and public investment and resources.
- The plan shall include graphics, if appropriate, and shall suggest a response to the inventory and analysis above and provide appropriate or possible:

- a) Public/private sector projects and their costs;
- b) Financing sources and incentives; and
- c) Changes to policies, codes and ordinances that could improve the economic climate.

C. Central Business District

1. Commercial Area Inventory

- BVNA shall make an assessment of the Central Business District (CBD) that should include its area of immediately adjacent influence to include but not necessarily limited to the following:
 - a) The existing land use of the Central Business District;
 - b) Street rights-of-way and pavement widths, where applicable;
 - c) Locations and condition of sidewalks, curbs and gutters;
 - d) On and off-street parking;
 - e) Condition of buildings;
 - f) Location of traffic controls by types; and
 - g) Traffic volumes and turning movements for major streets, where available;
 - h) Physical geographic features of the community that could have a positive or negative effect on the integrity of the CBD.
- BVNA shall show the above inventory on a symbol-coded map.
- BVNA shall prepare a drawing to show the relationship of the CBD to other supportive and competitive development within the community.

2. Analysis

- BVNA shall analyze the findings above and should determine:
 - a) The Central Business District and its relationship to community development to determine if improvements or rearrangement of commercial facilities are needed;
 - b) A ratio of existing and projected commercial acreage;
 - c) A ratio of used and vacant commercial floor area in the central business district; and
 - d) Other significant details and their impact on the vitality of the central business district as they become evident during the course of the study.

3. Central Business District Plan

- BVNA shall prepare a goal(s) statement and annual Central Business District related objectives.
- To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement.
- In relation to recognized problems, goals and objectives, BVNA shall prepare recommendations that could improve the aesthetic values and physical integrity of the Central Business District considering possible:
 - a) Improvement to facades and alleyways;
 - b) Pedestrian walkways;
 - c) Landscape treatment of street medians, pedestrian ways and rest areas; and/or
 - d) Removal of obsolete buildings and overhead utility lines.
- BVNA shall prepare a Central Business District Plan to graphically illustrate the redevelopment of the area in relation to the formulated goals and objectives. The Central Business District
- Plan map(s) shall, as a minimum include but not necessarily be limited to:
 - a) Any necessary rearrangement of land uses to improve compatibility;
 - b) Any necessary building relocation or reorientation in order to improve their usefulness; and
 - c) On and off-street parking areas.
- BVNA shall present phased improvements, estimated costs and sources of funding.

D. Street System

1. Street Study

- BVNA shall make an inventory of the physical characteristics of the street system to record, but not necessarily be limited to the following:
 - a) Rights-of-way widths, as available;
 - b) Paving widths, types and condition of pavement;
 - c) Curb and gutter and/or borrow (roadside) ditches;
 - d) Other information concerning configuration, traffic flow, and street conditions, including possible impediments to traffic flow, particularly in an emergency situation, as appropriate and/or available.

- Data and information from the Texas Department of Transportation shall be used to the maximum extent feasible.
- Using the base map for illustrative purposes, BVNA shall prepare a Street Conditions Map showing the existing street system inventory.

2. Street System Analysis

- BVNA shall make an analysis of the street system and list and rank problems and should present possible alternative actions and costs in providing solutions.
- BVNA shall determine the adequacy of the system to meet existing and forecasted needs, including during emergency situations, and make recommendations for any needed improvements concerning configuration, traffic flow, and street conditions. Recommendation should prepare for contingencies, including planning evacuation routes.

3. Street Plan

- BVNA shall prepare a goal(s) statement and street-related objectives for the planning period and should include construction-related and policy-related recommendations regarding streets' improvements. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement. General improvements to meet standards and disaster resiliency needs for at least the first five to ten years shall be stated and include:
 - a) Priorities;
 - b) Estimated costs; and
 - c) Sources of possible funding.
- Using the base map BVNA shall prepare a Future Street Conditions Map.
- The plan shall provide for the elimination of deficiencies and recommended improvements to meet forecasted needs. Improvements shall be in accordance with accepted municipal standards and shall be shown by phases.

E. Thoroughfare System

1. Inventory Of Major And Collector Streets

- BVNA shall prepare standards or criteria to determine the definition for major and collector streets and shall include the information in the narrative section of the study.
- BVNA shall conduct a study of major and collector streets to determine the present condition of these streets within the planning area. The study should include but not necessarily be limited to:
 - a) Peak hour and average daily traffic counts, where available;
 - b) Right-of-way widths;
 - c) Paving widths, types and condition of pavement;
 - d) Traffic control data;
 - e) Parking restrictions;
 - f) Curb and gutter;
 - g) Origin and destination information, where available;
 - h) Land use and traffic generator information;
 - i) Truck routes; and,
 - j) Emergency routes.
- Information from prior studies, the county, Texas Department of Transportation and other available sources shall be used to the maximum extent feasible.
- Using the base map for illustrative purposes, BVNA shall prepare a Thoroughfare Conditions Map to show b. (1) through (9), above, as applicable.

2. Thoroughfare Analysis

- BVNA shall list and rank problems related to the thoroughfares system.
- To determine the size and quality of streets needed in the project area, an analysis shall be made for all major and collector streets, their locations, adequacy or inadequacy for existing and forecasted population, land uses, etc. As a minimum, the following should be considered, where appropriate:
 - a) Texas Department of Transportation traffic counts, local traffic habits, and other factors;
 - b) Circulation studies prepared previously; and
 - c) Street standards approved by the locality and State.

3. Thoroughfare Plan

- BVNA shall prepare a goal(s) statement and thoroughfare system-related objectives for the planning period and should include construction-related and policy-related recommendations regarding thoroughfare system improvements. To the extent possible, objectives shall be stated in quantifiable

terms and target dates set for their achievement. General improvements to meet standards and disaster resiliency needs for at least the first five to ten years shall be stated and include:

- a) Priorities;
- b) Estimated costs; and
- c) Sources of possible funding.
- In relation to the analysis of existing and anticipated land use, school and park locations, travel habits, employment centers, traffic generators, traffic volumes; and in coordination with plans of the Texas Department of Transportation, and other available studies, BVNA shall prepare a plan for a system of thoroughfares, major and collector streets to meet the future circulation needs of the planning area.
- Using the base map at its contracted scale for illustrative purposes, BVNA shall show phased improvements on a Future Thoroughfares Map.
- BVNA will prepare sketch plans for improved channeling of traffic at intersections where problems exist or are anticipated during if needed.

F. Water System

1. Water System Inventory

- BVNA shall make a review of all prior studies and other available data on the existing water system.
- BVNA shall make an inventory of the physical characteristics of the system to include, but not necessarily be limited to the following:
 - a) Location of lines, valves, fire hydrants, and line sizes;
 - b) location and capacity of ground and elevated storage facilities;
 - c) Location and capacity of wells and pumps;
 - d) Location and capacity of water treatment facilities, as appropriate;
 - e) Location and capacity of generators;
 - f) Condition of system elements and other system data, as available.
- Using the base map for illustrative purposes, BVNA shall prepare a Water System Map showing existing facilities as specified in the inventory required above. Mapping shall show all facilities and illustrate the entire area that the facilities serve.
- BVNA shall report appropriate standards and criteria used to determine the water system needs and include them in the narrative section of the report, including the name of publications where standards can be found. Reference shall be made to the existing and required Drought Contingency and Water Conservation Plan.

2. Water System Analysis

- BVNA shall make an analysis of the water system and list and rank problems and should present possible alternative actions and costs in providing solutions, while particularly considering the water system's ability to provide reliable service, including fire protection within state standards during drought conditions. As a minimum, the following should be considered in determining problems connected with the water system:
 - a) Water quality;
 - b) Storage facilities;
 - c) Availability of water; future needs;
 - d) Water pressure;
 - e) Water costs to city;
 - f) Water cost to customers and review of current and
 - g) Operation procedures.
- Distribution lines;
- Ability to function under disaster situations, such as, flood, fire, tornado, power outages, etc.
- BVNA shall determine the adequacy of the system to meet existing and forecasted needs.
- BVNA shall evaluate the local system's capability to provide water under drought and other disaster-related conditions and in regard to its drought contingency and water conservation plan and accepted conservation practices.
- BVNA shall evaluate the local system's capability to provide water, including during drought and other disaster-related conditions, and coordinate with the Regional Water Plan and the State Water Plan, where applicable.

3. Water System Plan

- BVNA shall prepare a goal(s) statement and water system-related objectives for the planning period and should include construction-related and policy-related recommendations regarding water system improvements. To the extent possible, objectives shall be stated in quantifiable terms and target dates

set for their achievement. General improvements to meet standards and disaster resiliency needs for at least the first five to ten years shall be stated and include:

- a) Priorities;
 - b) Estimated costs; and
 - c) Sources of possible funding.
- The studies and plans developed shall be in strict accord with criteria established by the Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board (TWDB), and the Texas Department of Insurance.
 - As much as is applicable, appropriate and possible during the contract period and in coordination with TCEQ, which requires drought management plans, BVNA shall include drought and conservation plans in its overall water system plan. The plans should also include consideration of water provision during other disaster situations, such as flood, fire, tornado, power outages, etc.
 - Using the base map for illustrative purposes, BVNA shall illustrate the existing and proposed water system and findings on a Future Water System Map. Recommended improvements shall be shown by phases.

G. Wastewater System

1. Wastewater System Inventory

- BVNA shall make a review of all information regarding the existing wastewater system.
- BVNA shall make an inventory of the physical characteristics of the system to include, but not necessarily limited to the following:
 - a) Location, condition, and size of lines as available;
 - b) Location of manholes and cleanouts;
 - c) Location and capacities of lift stations;
 - d) Location and capacity of generators;
 - e) Treatment facility and operation arrangement.
- Using the base map for illustrative purposes, BVNA shall prepare a Wastewater System Map showing the existing facilities in relation to topographic features.
- BVNA shall report standards or criteria used to determine wastewater system needs and include the criteria in the narrative section of the report with the name of the publication(s) where standards can be found.

2. Wastewater System Analysis

- BVNA shall list and rank problems related to the wastewater system and should present possible alternative actions and costs in providing solutions. As a minimum, the following should be considered in determining problems of the wastewater system:
 - a) Infiltration;
 - b) Industrial waste and special treatment facilities;
 - c) Operational procedures;
 - d) Unserved areas;
 - e) Characteristics of the soil and terrain affecting collection treatment;
 - f) Ability to function under disaster situations, (flood, fire, tornado, power outages, etc.).

3. Wastewater System Plan

- BVNA shall prepare a goal(s) statement and wastewater system-related objectives for the planning period and should include construction-related and policy-related recommendations regarding wastewater system improvements. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement. General improvements to meet standards and disaster resiliency needs for at least the first five to ten years shall be stated and include:
 - a) Priorities;
 - b) Estimated costs; and
 - c) Sources of possible funding.
- Using the base map for illustrative purposes, BVNA shall prepare a Future Wastewater System Map illustrating phased improvements to the wastewater system in relation to the existing system and topographic features.
- Such prepared plan shall be done in accordance with criteria and standards established by the Texas Commission on Environmental Quality (TCEQ).

H. Storm Drainage System

1. Storm Drainage Inventory

- BVNA shall conduct an assessment of the project area for any existing storm drainage facilities and all natural drainage courses to include as a minimum:
 - a) Location and condition of drainage ways;
 - b) Location and condition of curb and gutter, borrow (roadside) ditches, culverts, and storm sewers;
 - c) Location of 100 years flood hazard areas; and
 - d) Identification of areas within the community where local flooding has occurred.
- Using the base map for illustrative purposes, BVNA shall prepare a Storm Drainage Map showing the existing facilities in relation to topographic features.

2. Storm Drainage Analysis

- BVNA shall list and rank problems related to storm drainage and should present possible alternative actions and costs in providing solutions.
- BVNA shall prepare an analysis of the existing drainage system for both natural and man-made facilities. Major and minor drainage areas and areas that have experienced flooding shall be delineated.

- Drainage characteristics of the areas shall be briefly described and analysis shall be made to determine methods of eliminating local flooding and eroding of local streets. Data, as available through the National Flood Insurance Program of the Federal Emergency Management Agency, shall be utilized to the fullest extent possible.

3. Storm Drainage Plan

- BVNA shall prepare a goal(s) statement and storm drainage-related objectives for the planning period and should include construction-related and policy-related recommendations regarding storm drainage improvements. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement. General improvements to meet standards and disaster resiliency needs for at least the first five to ten years shall be stated and include:
 - a) Priorities;
 - b) Estimated costs; and
 - c) Sources of possible funding.
- Using the base map for illustrative purposes, BVNA shall prepare a Future Storm Drainage Map illustrating phased improvements related to storm drainage in relation to the existing conditions and topographic features.

I. Recreation And Open Space

1. Recreation And Open Space Inventory

- BVNA shall take an inventory of the community's existing parks, recreation facilities and open spaces to include but not necessarily be limited to the following:
 - a) Location, type and use of public parks;
 - b) Location and type of public recreation facilities, including public school facilities;
 - c) Open spaces of all types including boulevards, parkways, floodplains, conservation areas, etc.
- BVNA shall identify the service area of the parks and recreational opportunities it provides.
- Review and report on recreational facilities and open spaces serving the community's population, but outside the municipality's jurisdiction.
- Review and report on major recreational facilities serving the community's population that are privately or semi-publicly owned and operated.

2. Recreation And Open Space Analysis

- In coordination with city officials, BVNA shall establish level of service standards and criteria for determining adequacy of existing parks, recreational facilities and open space and future requirements.
- BVNA shall utilize workshops, hearings and/or canvasses to maximize opportunities to solicit public input on needs and document the dates of the methods used.
- BVNA shall describe the legitimate method for assessing needs. Explain how public input was used to assess needs.
- In consonance with the recommended standards, BVNA shall make a study and analysis to determine the adequacy of the existing parks and recreational facilities to meet the needs of the present and forecasted population, considering population growth, and change in composition.
- BVNA shall prepare a listing and priority ranking of problems relating to recreation facilities and open spaces. Explain how priorities were determined.

3. Recreation Facilities And Open Space Plan

- In cooperation with municipal agencies, BVNA shall determine specific goals relating to recreation and open space requirements and prepare short and long-range (five and ten years') objectives to accomplish the stated goals.
- In relation of existing facilities, recognized problems, and in consonance with goals and objectives, BVNA shall prepare a parks and open space plan. The plan shall contain appropriate text and mapping and shall, as a minimum, include:
 - a) Recommendations for improvements and expansion to existing facilities;
 - b) Recommendations for the general location of new facilities;
 - c) Recommendations for the development and protection of open space areas to include conservation areas and other areas endorsed with natural beauty; and
 - d) Recommendations toward coordinating municipal programs and facilities with other overlapping services within the community, such as school facilities, etc.
 - e) Population projections for the period of the plan and demographics on ethnicity, age, and income.

- f) The existing and proposed parks (and facilities, as appropriate), greenbelts and open spaces illustrated on the base map at its contracted scale.
- Recommended community improvements for the first five years shall be programmed and shall, as a minimum, include the following:
 - a) Phasing of clear and measurable priorities;
 - b) Timeline for completion;
 - c) Estimated cost by project; and
 - d) Possible sources of funding.

J. Capital Improvements Program

1. Financial Analysis

- BVNA shall make a financial analysis of the municipality to the extent possible to determine the municipality's approximate ability to finance present and future capital improvements. The study should include, but not be limited to the following:
 - a) Past, present, and anticipated sources and amounts of income;
 - b) Annual budgets;
 - c) Operating costs;
 - d) Direct and overlapping public debt;
 - e) Outstanding municipal bonds and their schedule of retirement;
 - f) Public improvements financing practices; and
 - g) Recommended standards concerning debt limitations.

2. Capital Needs List

- Based on the previous studies, and all capital needs, BVNA shall prepare a capital needs list of projects by category with general priorities for improvements to be accomplished during the planning period through workshop meetings with local officials. BVNA shall classify the type of capital improvements according to guidelines, such as:
 - a) Mandatory: Those which protect life or health.
 - b) Necessary: Those which are important public services.
 - c) Desirable: Those which replace obsolete facilities.
 - d) Acceptable: Those which reduce operating costs.

3. Capital Improvements Program

- In consonance with the capital needs list and in coordination with the city's budget, BVNA shall prepare a schedule of projects recommended for the municipality for the first five (5) to six (6) years of the planning period. The schedule shall list projects by category together with estimated cost, sources of funds and year of construction.
- A map shall be prepared to show the projects by type and year of construction.

K. Subdivision Ordinance

1. Ordinance Development

- BVNA shall prepare technical material necessary for the drafting and/or updating of a subdivision ordinance that will best be adapted to direct the platting of land consistent with proposals of the previously prepared Land Use Plan.
- The technical material prepared shall be based on sound platting and planning principles and not be inconsistent with all applicable laws.

2. Ordinance Review

- Following development of the technical material and prior to adoption, BVNA shall seek counsel and advice from the city's attorney regarding the legal aspects and implications of subdivision controls.
- BVNA shall prepare the technical material for the subdivision ordinance in a form suitable for its adoption and submit it in report form to the Department as provided herein.

L. Zoning Ordinance

1. Ordinance Development

- BVNA shall prepare technical material necessary for the drafting of zoning ordinance that will best be adapted to direct the use of land consistent with proposals of the city's previously prepared Land Use Plan.
- Technical material on zoning shall be based on sound zoning principles and not be inconsistent with all applicable laws,
- Based on the Land Use Plan and other plans related to physical development of the municipality, BVNA shall have prepared a Zoning District Map using the base map.

2. Ordinance Review

- Following development of the technical material and prior to adoption, BVNA shall seek counsel and advice from the city's attorney regarding the legal aspects and implications of zoning.
- The technical material on zoning and the recommended zoning district map shall be prepared in report form suitable for adoption.

Current Planning Activities

Zoning Application and request reviews and analysis

- Property owner information within 200 feet of site application can be mapped and mailing labels provided.
- Public notice can be submitted to the newspaper of record for publication and necessary documentation for agenda item posting can be provided.
- Letters of notification with map can be mailed and site signage (By City) can be placed on the property 15 days prior to the Commission meeting date.
- Zoning Ordinance based upon owner request will be prepared. (Recommended ordinance wording can be provided).
- An analysis/staff report can be prepared for city from a planning perspective.
- Presentations for the Planning and Zoning Commission can be prepared and presented.
- Presentations for the City Council can be prepared and presented.
- Adjustments to the Comprehensive Plan and zoning map can be made if approved.

Site Plan Applications and request reviews and analysis*

- Review of application for general completeness for accepting site plan for review.*
- Review for compliance with appropriate general zoning district or planned development. A copy of the document to be reviewed will be red lined and a written report provided itemizing each deficiency noted and returned to city. If the city desires a direct line of communication with applicant can be facilitated.
- Review for compliance with landscape requirements.
- Review of circulation/fire lanes.
- An analysis/staff report can be prepared for city from a planning design perspective.
- Presentations for the Planning and Zoning Commission can be prepared and presented.
- Presentations for the City Council can be prepared and presented.

Preliminary Plat Applications and reviews

- Review of application for general completeness for accepting for review. ** Rejection letter if necessary to stop 30-day clock for automatic approval.
- Review for compliance with appropriate general zoning district or planned development guidelines. A copy of the document to be reviewed will be red lined and a written report

provided itemizing each deficiency noted and returned to city. If the city desires a direct line of communication with applicant can be facilitated.

- An analysis/staff report can be prepared for city approval/denial recommendation.
- Presentations for the Planning and Zoning Commission can be prepared and presented.
- Presentations for the City Council can be prepared and presented.

Final Plat Applications and reviews

- Review of application for general completeness for accepting for review. ** Rejection letter if necessary to stop 30-day clock for automatic approval.
- Review of conformance to preliminary plat.
- Review for compliance with appropriate general zoning district or planned development guidelines. A copy of the document to be reviewed will be red lined and a written report provided itemizing each deficiency noted and returned to city. If the city desires a direct line of communication between applicant and BVNA can be facilitated.
- An analysis/staff report can be prepared for city approval/denial recommendation.
- Presentations for the Planning and Zoning Commission can be prepared and presented.
- Presentations for the City Council can be prepared and presented.

Base Map/Zoning Map Updating:

- Preparation of new digital base map.
- Updating existing base map.
- Updating or preparing zoning maps.

911 Addressing

- Development of a 911 addressing system (Digital base map to be provided by city or prepared by BV).
- Address all new developments

*Preliminary consultations can be provided to an applicant upon request to assist and guide them in the plan preparation process.

**If not available BVNA will develop checklists for each type of development to be used to check for minimum submittal requirements of an application.

ADA SERVICES

PHASE 1 ADA Services

Phase 1A: ADA Coordinator and Department Liaison Selection and Training

- **Scope:** Assist City with identifying an ADA Coordinator if not already done so. Work with appointed ADA Coordinator to identify ADA Liaisons, at a minimum, for all public facing departments (i.e. Permitting, Water Utility, Library, Parks & Rec., Police, Fire, etc...). Help ADA Coordinator develop training material for distribution to all ADA Liaisons. Also assist ADA Coordinator to develop a master schedule for quarterly, bi-annual or annual meetings between ADA Coordinator and ADA Liaisons (ADA Task Force).

Phase 1B: ADA Notice Development and Distribution

- **Scope:** Assist appointed ADA Coordinator with development of ADA Notice specific to the City represented. Ensure that all ADA notices are displayed at public facing and internal facing areas. Ensure that ADA notice is also placed on city website.

Phase 1C: ADA Grievance Procedure Development and Distribution

- **Scope:** Assist appointed ADA Coordinator with development of ADA Grievance Procedure. Develop complaint form and make complaint form accessible. Ensure that procedure includes ability for complainants to access and file complaints easily. Ensure that grievance procedure is available on city website and accessible.

Phase 1D: ADA Training at Staff Level Public Facing Departments

- **Scope:** Once ADA Coordinator and ADA Liaisons are identified, develop a training schedule to allow public facing department staff to attend ADA training. Assist ADA Coordinator with one training session. Assist with development of training materials.

PHASE 2 ADA Services

IMPORTANT: Sample of Tasks & Costs Only – Client Specific Tasks & Costs TBD

Phase 2A: ADA Self-Evaluation

- **Scope:**
 - **Task 1 – Project Management:** Bureau Veritas (BV) will maintain project records, budgets, and communication during the project duration. BVNA will provide weekly project update calls to assigned City staff (ADA Coordinator) to keep schedule current.
 - **Task 2 – Project Kickoff:** Meet with City staff to introduce the proposed project tasks, schedule, and method of prioritizing barrier removals. Coordinate with City staff to identify and collect necessary documents to support Self-evaluation process and facilities survey.
 - **Task 3 – Initiate Self-evaluation:**
 - **3A:** Meet with major public facing departments ADA Liaisons (Parks & Rec., Police, Fire, Codes & Permitting, Public Works, Library, Health) to begin review ordinances, policies, and procedures of programs, services, and activities.
 - **3B:** Provide instructions and handouts to ADA Liaisons and describe how they can perform reviews of item 3A and by what scheduled date the reviews are due back to BVNA for compiling.
 - **3C:** Work with ADA Liaisons to ensure they understand their responsibilities to update the final ADA Transition Plan in future years.
 - **Task 4 – Facilities Survey:**
 - **4A: Public buildings** – Survey three (3) City buildings (City Hall, Court House, and Library) to determine compliance and non-compliance with ADA regulations.
 - **4B: Public parking lots** – Survey three (3) public parking lots (City Hall, Court House, and Library) to determine compliance and non-compliance with ADA regulations.
 - **4C: City parks** – Survey up to three (3) city parks to review shelters, restrooms, sport courts, fields, pools, concession stands, playground equipment, pedestrian and bicycle trails.
 - **4D: Signalized intersections** – Survey up to fifteen (15) city owned and maintained signalized intersections. BVNA will evaluate curb ramps and sidewalks leading to each intersection. Signage at each intersection will also be reviewed. Which intersections to survey depends on City staff input, traffic volumes, and adjacent land uses.
 - **4E: Sidewalks** – Survey up to four (4) miles of City sidewalks, curb ramps, and path of travel along arterial roadways. Which City sidewalks, curb ramps, and path of travel to survey depends on City staff input, traffic volumes, pedestrian use, and adjacent land uses.
 - **Task 5 – Survey Data Reporting:**
 - **5A:** BVNA will create a survey and cost reporting for each facility noted in Task 4. Each survey report will note compliance status with ADA and State standards and include the following:
 - Listing of facilities in compliance.
 - Listing of facilities not in compliance.
 - Recommended actions to resolve non-compliance elements.

- Prioritize list of recommended actions based on agreed upon methodologies between BVNA and City staff.
- Assign conceptual costs and budget based on prioritized list of recommended actions.
- Provide photo log of each facility surveyed.
- Provide listing of sidewalks, curb ramps, and signalized intersections data for compiling into City GIS system.
- **5B:** Review City Boards and Commissions policies and procedures for compliance with ADA regulations.

Phase 2B: ADA Transition Plan

- Scope:
 - **Task 1** – Coordinate with ADA Coordinator on strategy for developing Transition Plan including review of City ordinances, design standards relating to sidewalks, curb ramps, Identify policies and procedures for compliance with ADA regulations.
 - **Task 2** – Develop **survey** process to assist ADA Coordinator with evaluating accessibility improvements identified in Phase 2A: ADA Self-evaluation. Utilize prioritization methodology developed within Phase 2A for recommended improvements.
 - **Task 3** – **Assist** ADA Coordinator in creating an implementation schedule for accessibility improvements. Prioritize improvements by facility type, severity, and cost estimates.
 - **Task 4** – **Review** and recommend exceptions and exemptions that may apply under ADA regulations such as historic significance, alteration affecting fundamental nature of programs, services, and activities, structural feasibility, and programs affected by financial and administrative burden.
 - **Task 5** – **Assist** ADA Coordinator with defining on-going budget needed to implement the Transition Plan and bring non-compliance elements into compliance. Help identify possible external funding sources if applicable.

Phase 2C: Public Participation, Outreach, and City Staff Training

- Scope: The Department of Justice requires public entities to engage with the public during the ADA Transition Plan development including appropriate consultation with individuals with disabilities.
 - **Task 1** – BVNA will **facilitate** one (1) public workshop for the City to review draft ADA Self-evaluation and ADA Transition Plan.
 - **Task 2** – BVNA will **prepare** outreach materials and prepare brief summary of the workshop and highlight actions items.
 - **Task 3** – Conduct ADA Coordinator and Liaisons training relating to disabilities etiquette, technologies, and procedures that can assist City staff in providing services to people with disabilities.

Phase 2D: Meetings, Presentation to Council, and Documentation

- Scope:
 - **Task 1 – Progress Meetings:** BVNA will conduct up to three (3) on-site meetings during the project period. Other meetings can be conducted by conference calls with ADA Coordinator and Liaisons.

- **Task 2 – City Council Meeting:** BVNA will conduct one (1) meeting to introduce the project to Council and present the final ADA Self-evaluation and ADA Transition Plan.
- **Task 3 – Summary Documents:** Provide meeting minutes after on-site meetings or conference calls to help guide ADA Coordinator and Liaisons.
- **Task 4 – Draft ADA Self-evaluation and ADA Transition Plan:** Based on the ADA Self-evaluation process as detailed on Phase 2A, the documents will include the following:
 - **4A:** Executive summary describing the project purpose, process, and significant findings.
 - **4B:** Review of policies, procedures, and recommendations for improvement as noted in Phase 2A.
 - **4C:** A schedule that is developed in phases with cost estimates for the removal of accessibility barriers that cannot be resolved through changes to program or services by relocating, using auxiliary aides, or providing equivalent facilitation.
 - **4D:** BVNA will provide reproducible hard copies of the ADA Self-evaluation and ADA Transition Plan and electronic PDF format to the City ADA Coordinator for use and distribution.
- **Task 5 – Final ADA Self-evaluation and ADA Transition Plan:** Following the review of the draft plans as noted in Task 5, BVNA will incorporate comments and prepare final plans for ADA Coordinator use and distribution.
- **Task 6 – Final Deliverables:**
 - **6A:** Two (2) paper copies each of Draft ADA Self-evaluation and ADA Transition Plan.
 - **6B:** Two (2) paper copies of Final ADA Transition Plan and one (1) PDF copy including any appendices.
 - **6C:** One (1) electronic GIS copy of all field data compatible with City GIS system.

ATTACHMENT B
FEE SCHEDULE

CONSTRUCTION CODE SERVICES

Fee Table 1 - Commercial and Multi-Family construction plan review

Valuation	Fee
\$1. ⁰⁰ to \$10,000. ⁰⁰	\$50. ⁰⁰
\$10,001. ⁰⁰ to \$25,000. ⁰⁰	\$70.69 for the first \$10,000. ⁰⁰ plus \$5.46 for each additional \$1000. ⁰⁰
\$25,001. ⁰⁰ to \$50,000. ⁰⁰	\$152.59 for the first \$25,000. ⁰⁰ plus \$3.94 for each additional \$1000. ⁰⁰
\$50,001. ⁰⁰ to \$100,000. ⁰⁰	\$251.09 for the first \$50,000. ⁰⁰ plus \$2.73 for each additional \$1000. ⁰⁰
\$100,001. ⁰⁰ to \$500,000. ⁰⁰	\$387.59 for the first \$100,000. ⁰⁰ plus \$2.19 for each additional \$1000. ⁰⁰
\$500,001. ⁰⁰ to \$1,000,000. ⁰⁰	\$1,263.59 for the first \$500,000. ⁰⁰ plus \$1.85 for each additional \$1000. ⁰⁰
\$1,000,001. ⁰⁰ and up	\$2,188.59 for the first \$1,000,000. ⁰⁰ plus \$1.23 for each additional \$1000. ⁰⁰

Fee Table 2 - Commercial and Multi-Family construction inspection

Valuation	Fee
\$1. ⁰⁰ to \$10,000. ⁰⁰	\$76. ⁹²
\$10,001. ⁰⁰ to \$25,000. ⁰⁰	\$108.75 for the first \$10,000. ⁰⁰ plus \$8.40 for each additional \$1000. ⁰⁰
\$25,001. ⁰⁰ to \$50,000. ⁰⁰	\$234.75 for the first \$25,000. ⁰⁰ plus \$6.06 for each additional \$1000. ⁰⁰
\$50,001. ⁰⁰ to \$100,000. ⁰⁰	\$386.25 for the first \$50,000. ⁰⁰ plus \$4.20 for each additional \$1000. ⁰⁰
\$100,001. ⁰⁰ to \$500,000. ⁰⁰	\$596.25 for the first \$100,000. ⁰⁰ plus \$3.36 for each additional \$1000. ⁰⁰
\$500,001. ⁰⁰ to \$1,000,000. ⁰⁰	\$1,940.25 for the first \$500,000. ⁰⁰ plus \$2.85 for each additional \$1000. ⁰⁰
\$1,000,001. ⁰⁰ and up	\$3,365.25 for the first \$1,000,000. ⁰⁰ plus \$1.89 for each additional \$1000. ⁰⁰

Fee Table 3 - Construction or Improvement of a Residential Dwelling

New Residential Construction	
Plan Review and Inspection Fee	
Square Footage (S.F.)	Fee
0 - 1,500 S.F.	\$785.00
1,501 - 10,000 S.F.	\$785.00 for the first 1,500 S.F. plus \$0.35 for each additional S.F. to and including 10,000 S.F.
Over 10,000 S.F.	\$3,760.00 for the first 10,000 S.F. plus \$0.15 for each additional S.F. over 10,000 S.F.

Plan Review Only	
Plan Review Fee Only Per Dwelling Unit, a new plan for previously reviewed plan or Master Plan	\$200.00 per Plan or per Address
Plan review fee when a permit has been issued for the dwelling and the construction plans are altered such that an additional plan review is required (excludes new plan)	\$150.00 per Plan or per Address
Alterations / Additions / Improvements for Residential Construction	
Trade Permits	Fee
Building, Mechanical, Electrical, Plumbing, Fuel Gas and similar	\$100.00 per trade
Other project types not listed above	\$160.00 per trade
Miscellaneous residential projects such as, but not limited to, Accessory Structures, Fences, Pools, etc.	See Fee Table 2

* All fees billed upon issuance of the permit by the jurisdiction

Back-up inspections

* Backup inspections will be performed during times of inspector absence due to illness, vacation or training at the listed rates. All other project activity will utilize the tables above.

Number of Inspectors

Billing Rate

1 Lead Inspector

\$150.00 per hour

Additional Inspector (20 hours per week)

\$140.00 per hour

FIRE SERVICES

Single Family Residential Fire Services

Fire Code Plan Review Services	\$175.00
Fire Code Inspection Services	\$400.00

Fire Code Plan Review Services - Commercial and Multi-Family construction (Fire Alarm System & Fire Sprinkler System)

Construction Valuation of Project *	Fee, Each System
Less than \$6,250	\$200.00
\$6,250 to \$250,000	\$300.00
\$251,000 to \$500,000	\$425.00
\$501,000 to \$1,000,000	\$550.00
\$1,001,000 to \$3,000,000	\$800.00
\$3,001,000 to \$6,000,000	\$1,200.00
\$6,000,000 and up	\$1,200.00 plus \$0.10 for each additional \$1,000.00

Fire Code Inspection Services - Commercial and Multi-Family construction (Fire Alarm System & Fire Sprinkler System)

Construction Valuation of Project *	Fee, Each System
Less than \$6,250	\$300.00

\$6,250 to \$250,000	\$425.00
\$251,000 to \$500,000	\$525.00
\$501,000 to \$1,000,000	\$675.00
\$1,001,000 to \$3,000,000	\$950.00
\$3,001,000 to \$6,000,000	\$1,425.00
\$6,000,000 and up	\$1,425.00 plus \$0.20 for each additional \$1,000.00

* Valuation is based on construction valuation for project

Underground Fire Sprinkler Supply Line

Fire Code Plan Review	\$150.00
Fire Code Inspection (Sprinkler supply and FDC lines only)	\$350.00
Fire Code Inspection (Private Fire Main)	\$450.00

Alternative Fire Suppression System

Fire Code Plan Review	\$150.00
Fire Code Inspection	\$200.00

Fire Certificate of Occupancy Inspections

Fire Certificate of Occupancy inspections	\$150.00
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Annual Fire Safety Inspections

Day Care, Foster Home, Commercial Business (each inspection and re-inspection per location)	\$100.00
Nursing Home / Assisted Living / School (each inspection and re-inspection per location)	\$250.00

Underground / Aboveground Fuel Storage Tanks

Fire Code Plan Review	\$150.00
Fire Code Inspection (Tank Only)	\$250.00
Fire Code Inspection (Piping and Dispensers)	\$450.00

Site Plan

Fire Code Plan Review	\$250.00
Fire Code Plan Inspection	\$250.00

The construction valuation is determined by the greater of the declared valuation of the project or the valuation calculated using the International Code Council Building Valuation Data table, first update of each calendar year.

Example:

Square Foot Construction Costs

Group (2018 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B Business	200.26	192.96	186.54	177.38	161.90	155.84	170.40	142.43	136.08

The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof

BUREAU VERITAS NORTH AMERICA, INC.

Standard Professional Services Agreement (Facilities) - Rev. (3) 04-14-2021

structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

New Building

Group B occupancy

Type VB construction

10,000 square feet total building area

Declared construction valuation \$1,200,000.

Calculated construction valuation - 10,000 square feet X \$136.08 per square foot = \$1,360,800.

The calculated construction valuation is greater than the declared construction valuation so \$1,360,800 is used to calculate the Bureau Veritas fee for the project.

* Note: BVNA fees do not include any taxes, licensing or other fees imposed by governmental or outside agencies.

HEALTH SERVICES

PER INSPECTION ONLY:

Food Service Inspections - Per each inspection	\$150.00
- Permanent Food Establishment Inspection - Mobile Food Vendor (Hot and Cold Truck) Inspection - Seasonal Vendor Inspection - Public Swimming Pool Inspection	
Temporary Event Inspection - Per each permit	\$100.00
Complaint Investigation - Per each complaint	\$150.00
Consultation outside of the aforementioned scope of services: Health Plan review, Health Final and CO inspections and/or for each re-inspection.	\$150.00 per hour
* Minimum one hour	

PUBLIC WORKS SERVICES

Public Works Plan Review Only	1.0% of the cost of construction
Public Works Inspection Only	2.5% of the cost of construction
Public Works Plan Review & Inspection	3.0% of the cost of construction
Temporary Back Up Inspection	\$150/hour, minimum 4 hours.

PLANNING AND MAPPING SERVICES

Fixed Fees (Based on estimated population in \$/1,000 people, minimum 5,000 people)

Comprehensive Planning and Mapping			
Item	Elements	Cost / 100 people	Min. Hours
1	Base Planning a. Base Map* b. Land Use c. Population d. Housing+D45	\$2,000	67
2	Parks & Recreation	\$750	25
3	Thoroughfare Plan	\$750	25
4	Central Business District Planning	\$1,250	42
5	Zoning Ordinance	(fixed fee) \$6,500	43

6	Subdivision Ordinance	(fixed fee) \$6,500	43
7	Streets Condition Study	\$700	23
8	Water Study Distribution and Supply	\$1,000	33
9	Wastewater Collection and Treatment	\$1,000	33
10	Capital Improvement Plan	\$300	10
11	Digital Map preparation*	\$1,000	33
12	Citizen Participation	\$1,250	42
As a minimum Item 1 and 12 must be included in any study except Item 11 which is a standalone element			
* Assume easy access to documents - additional research listed under additional services			

Hourly Fees

Available Planning Services		
Element	Cost	
Site Plan Review	\$150 per hour (1 hour minimum)	
Site Plan Preparation	\$150 per hour (1 hour minimum)	
Zoning Application Review	\$150 per hour (1 hour minimum)	
SUP Application Review	\$150 per hour (1 hour minimum)	
Zoning Board of Adjustment Application Review	\$150 per hour (1 hour minimum)	
Sign Application Review	\$150 per hour (1 hour minimum)	
Zoning Case Ordinance Preparation	\$150 per hour (1 hour minimum)	
Plat Review - Planning Perspective	\$150 per hour (1 hour minimum)	
Public Hearing Notice map and ownership list (City Mails)	\$150 per hour (1 hour minimum)	
Zoning Map Updates	\$150 per hour (1 hour minimum)	
911 Address mapping (First Time)	\$1,000 per person	Min. 33 hours
911 Address mapping updates	\$150 per hour (1 hour minimum)	
City Council/Planning and Zoning Meeting	\$225 per hour (1 hour minimum)	
Contract Planning Director	\$175 per hour (1 hour minimum)	
Contract Planner	\$150 per hour (1 hour minimum)	
Contract work for Developer interests	\$150 per hour (1 hour minimum)	
Easement Acquisition Negotiator	\$150 per hour (1 hour minimum)	
Additional Services	\$150 per hour (1 hour minimum)	
* Assume easy access to documents - additional research listed under additional services		

Reimbursable Expenses (\$150 per hour)

Reimbursable expenses shall include, but not be limited to, the following:

Mileage (Per current IRS rate)

Domestic Travel Per Diem (Per current GSA rate plus lodging)

Other Direct Project Expenses (at cost plus 15%) including:

- Printing, graphics, photography and reproduction
- Special shipping

ADA SERVICES

Grand Total for Phase 1 Scope of Work

Phase 2 Details	Number of Hours	Rate per Hour	Sub-total
1A – ADA Coordinator & Liaisons Selection & Training	40	\$150.00	\$6,000.00
1B – ADA Notice Development & Distribution	40	\$150.00	\$6,000.00
1C – ADA Grievance Procedure Development & Distribution	40	\$150.00	\$6,000.00
1D – ADA Training of City Staff of Public Facing Depts.	56	\$150.00	\$8,400.00
Grand Total:	176 (1.5 wks)		\$26,400.00

Grand Total for Phase 2 Scope of Work

Phase 2 Details	Number of Hours	Rate per Hour	Sub-total
2A – ADA Self-evaluation	576	\$150.00	\$86,400.00
2B – ADA Transition Plan	96	\$150.00	\$14,400.00
2C – Public Participation, Outreach, and City Staff Training	40	\$150.00	\$6,000.00
2D – Meetings, Presentation to Council, and Documentation	168	\$150.00	\$25,200.00
Grand Total:	880 (5.5 mos.)		\$132,000.00

Note that any additional services above and beyond the scope of work noted above will incur additional fees which BVNA can review and provide cost estimates to accommodate the City.

Contract with BVNA for Inspection Services

03/13/2025





Contract with BVNA for Inspection Services

- Contract for inspection services with BVNA
- Service will be use only as needed when staffing is short or demand is higher than staff is able to provide in a timely manner
- Contract paid for with funds collected from permit fees
- Will ensure the protection of the public





Contract with BVNA for Inspection Services

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **23. Ordinance (First Reading) Z-2025-04: Receive a Report, Hold a Discussion and Take Action on A Request From The Owner, To Change The Zoning Of Approximately 2.5 Acres From Heavy Industrial (HI) To Light Industrial (LI). Located At 4397 Crawford Drive. Legal Description Being Block A, Lot 1, Of The Button Willow, Section 5 Subdivision, Abilene, Taylor County, Texas (*Tim Littlejohn*)**

GENERAL INFORMATION

The subject property was annexed into the City of Abilene in 1957 and was developed in 1980. The property has two buildings on it. One is currently being used by an environmental services company and one is vacant. The applicant is requesting the rezoning to allow more uses for the vacant building. Rezoning the property from HI to LI will not create a non-conformity with the existing Recycling Collection and Processing Center use.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

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

ATTACHMENTS:

1. Ordinance
2. Staff Report
3. owner authorization
4. project overview
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 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 13th day of March, 2025.

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 14th day of February, 2025, 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 27th day of March, 2025, 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 27th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

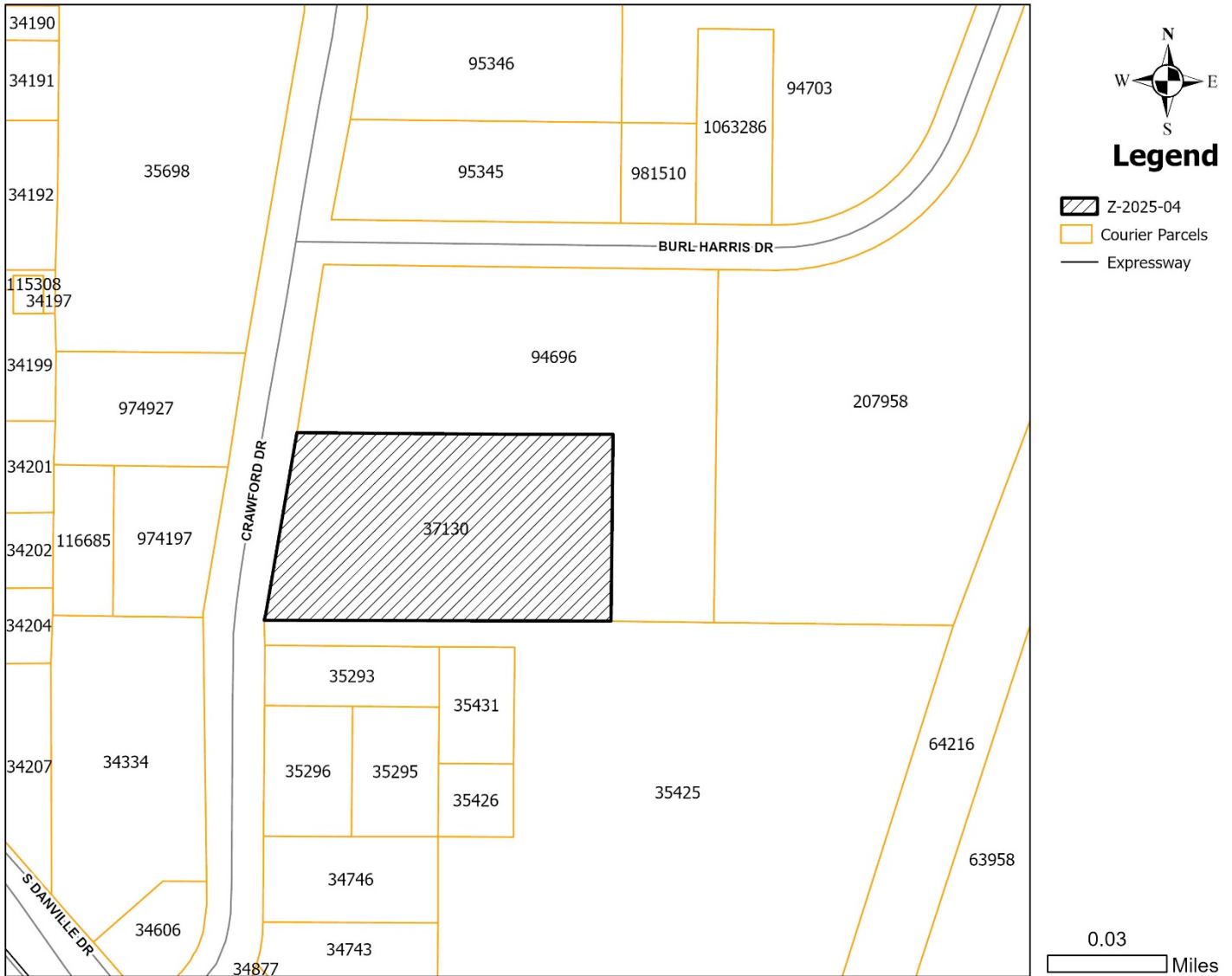
ORDINANCE NO. _____

EXHIBIT A

Change the zoning classification of approximately 2.5 acres from Heavy Industrial (HI) to Light Industrial (LI).

Legal description being Block A, Lot 1, of the Button Willow, Section 5 Subdivision, Abilene, Taylor County, Texas.

Located at 4397 Crawford Drive.



END

ZONING CASE Z-2025-04 STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: March 4, 2025

City Council 1st Read: March 13, 2025

City Council 2nd Read: March 27, 2025

Applicant

Owner: RGP Enterprises INC

Agent: Derek Peterson

Case Manager

Mason Teegardin – Division Manager

Request

Rezone approximately 2.5 acres from Heavy Industrial (HI) to Light Industrial (LI).

Location

The subject property is located at 4397 Crawford Drive. Legal description being Block A, Lot 1, of the Button Willow, Section 5 Subdivision, Abilene, Taylor County, Texas.

Background

The subject property was annexed into the City of Abilene in 1957 and was developed in 1980. The property has two buildings on it. One is currently being used by an environmental services company and one is vacant. The applicant is requesting the rezoning to allow more uses for the vacant building. Rezoning the property from HI to LI will not create a non-conformity with the existing Recycling Collection and Processing Center use.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	HI	Roofing Supply Company
East	HI	Roofing Supply Company & Vacant Land
South	LI	Vacant Building
West	LI	Office

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 zoning is compatible with the Future Land Use Map and the Comprehensive Plan.

- (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 is consistent with the uses surrounding the subject property.

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

This property has access to all required utilities.

(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

- PowerPoint Presentation
- Project Overview
- Owner Authorization

Notification

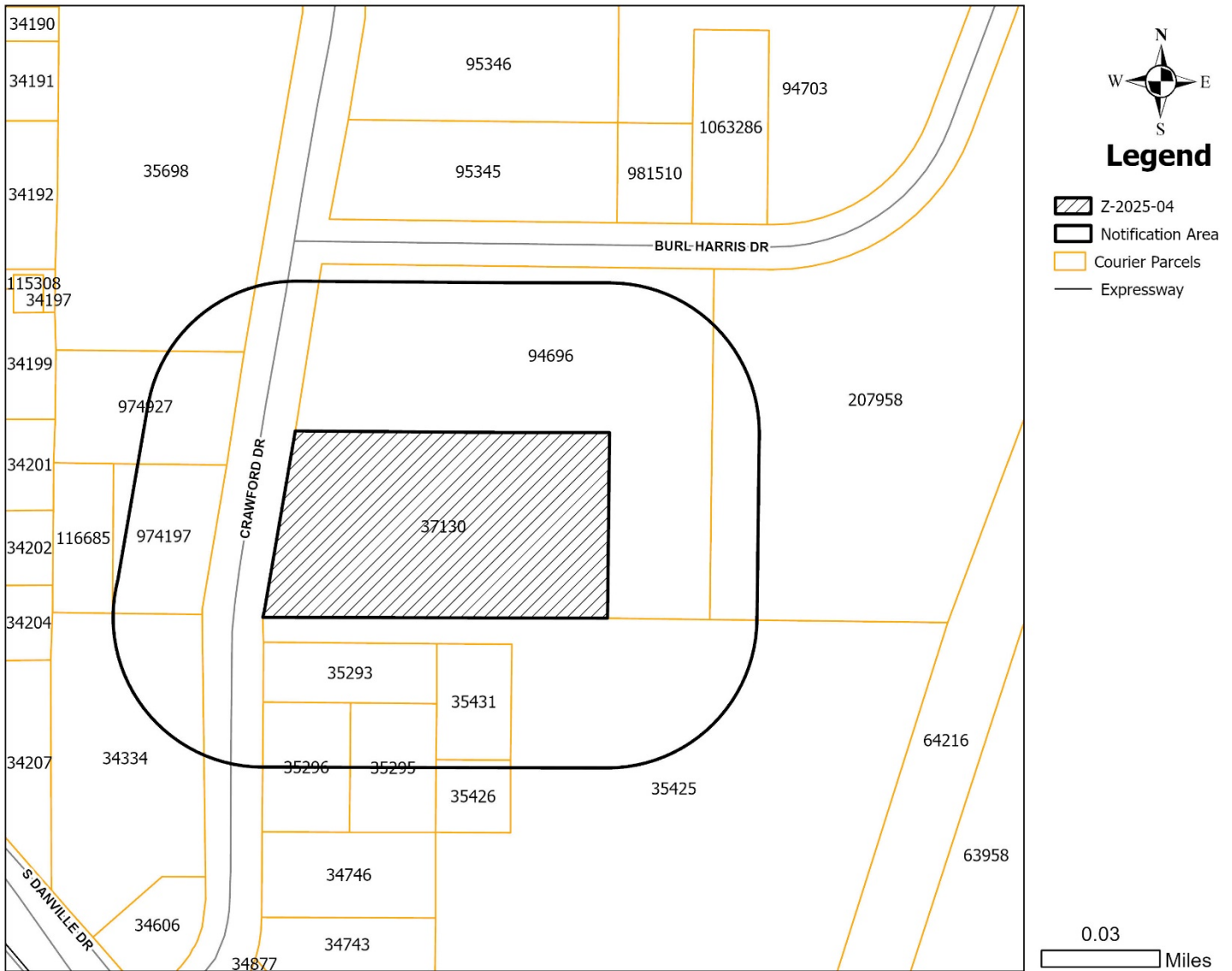
Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on February 14, 2025, via standard mail to the owners of property within a 200-foot radius of the subject street right of way. The property owners and associated parcel identification numbers are identified below:

PROPERTY OWNER

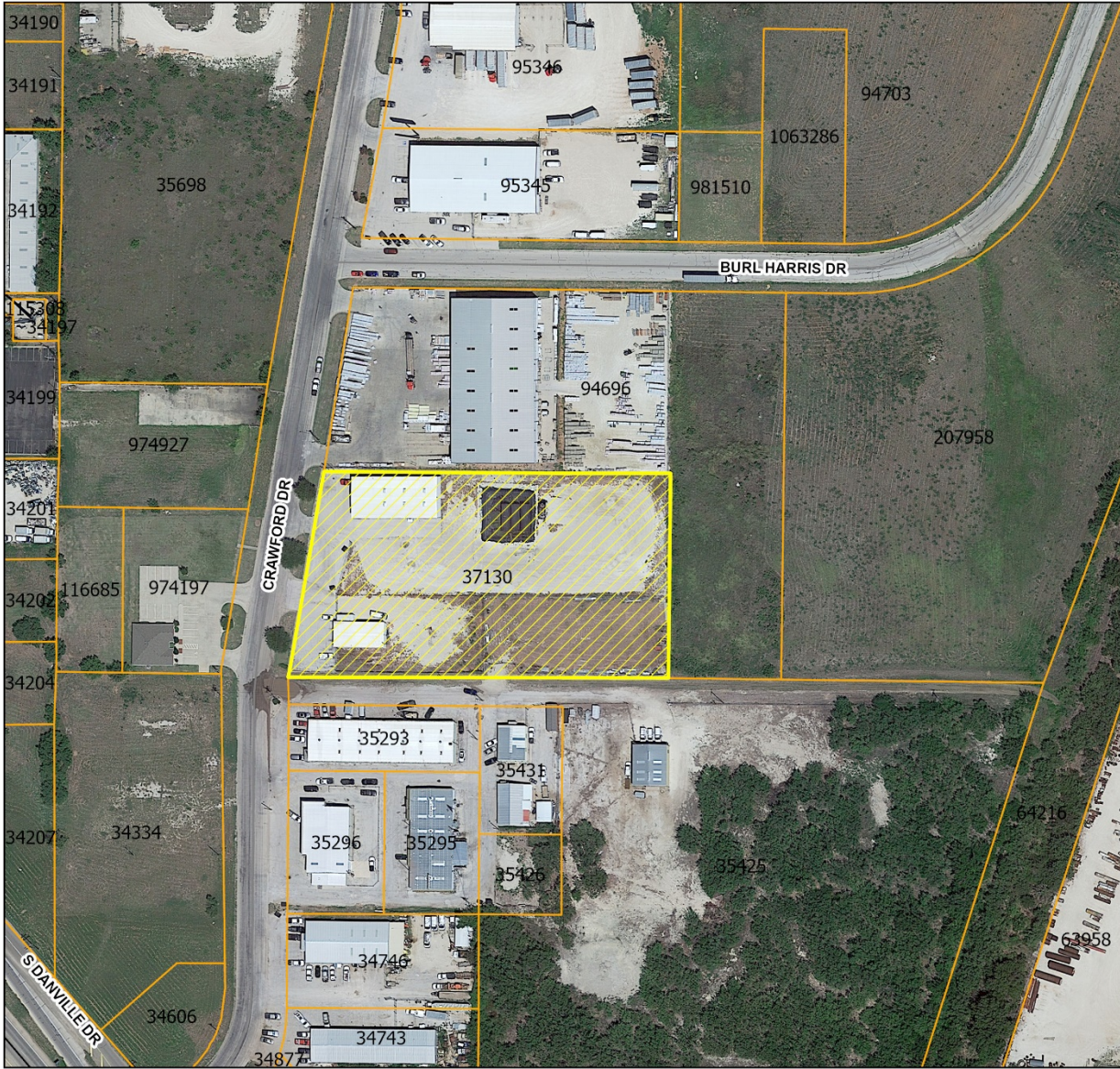
Legend: O - Opposed, F - In Favor

OWNER	PROP_ID	SITUS	RESPONSE
ALTMAN ENTERPRISES LTD	35295	4417 CRAWFORD DR	
ALTMAN ENTERPRISES LTD	35426	4421 CRAWFORD DR	
AMERICAN BUILDERS &	94696	4341 CRAWFORD DR	
AMERICAN BUILDERS &	94696	4349 BURL HARRIS DR	
BERTRAM HOSPITALITY LLC	974927		
BIG COUNTRY HOME BUILDERS	974197	4398 CRAWFORD DR	
BMCW SOUTH CENTRAL L P	35698	2241 INDUSTRIAL BL	
ESKO RANCH LTD	207958	4325 BURL HARRIS DR	
ESKO RANCH LTD	207958	4313 BURL HARRIS DR	
ESKO RANCH LTD	207958	4295 BURL HARRIS DR	
FURNITURE ROW USA LLC	34334	4444 CRAWFORD DR	
HILL TY	35431	4407 CRAWFORD DR	
HILL TY	35431	4405 CRAWFORD DR	
HILL TY	35425	4419 CRAWFORD DR	
RGP ENTERPRISES INC	37130	4397 CRAWFORD DR	
RGP ENTERPRISES INC	37130	4349 CRAWFORD DR	
RGP ENTERPRISES INC	35293	4401 CRAWFORD DR	
SHOOTIN SHOP LLC	35296	4409 CRAWFORD DR	

NOTIFICATION MAP



AERIAL LOCATION MAP



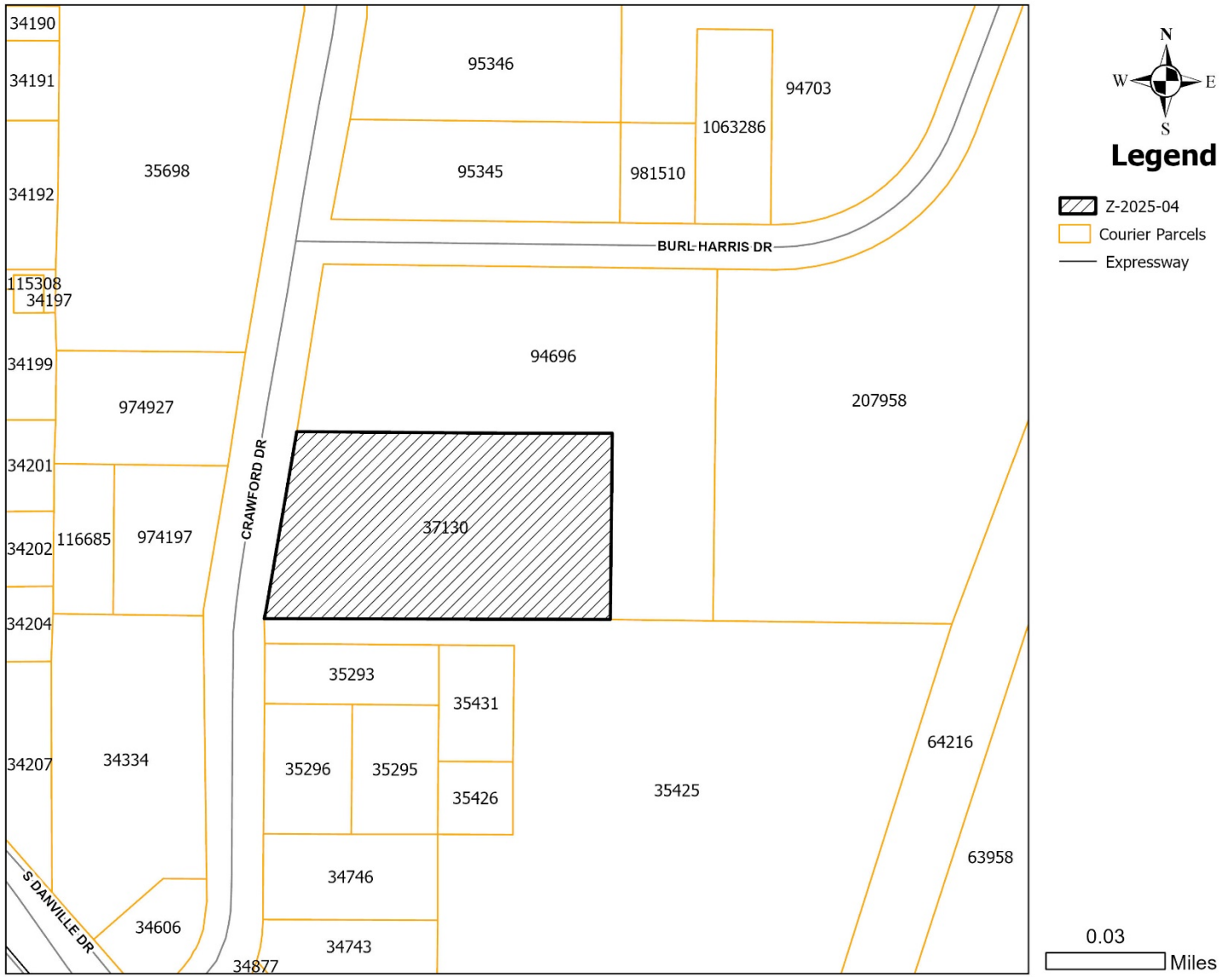
Legend

-  Z-2025-04
-  Courier Parcels
-  Expressway

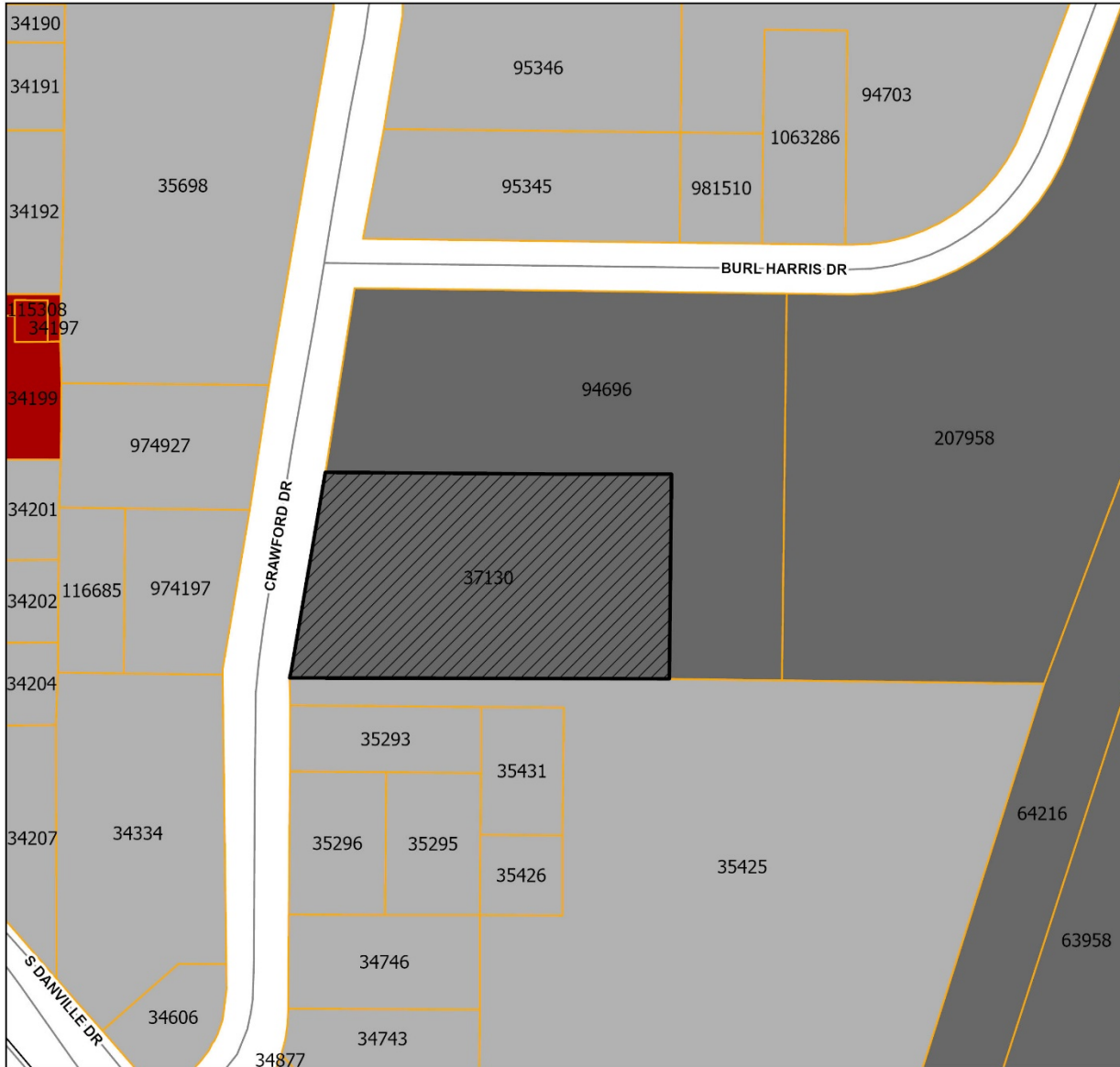
0.03

Miles

LOCATION MAP



ZONING MAP



Legend

- Z-2025-04
- Courier Parcels
- HI (Heavy Industrial)
- LI (Light Industrial)
- HC (Heavy Commercial)
- Expressway

0.03

Miles



2024 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: 15500E Total Number of Acres: 2.5
Zoning Classification(s): HI Total Number of Lots: 1
Location: 4397 Crawford Dr, Abilene, TX 79602

Property Owner Information & Authorization

Name/Company: RGP Enterprises, Inc.
Address: 2266 Industrial Blvd Ste C
City: Abilene State: Texas Zip Code: 79602
Phone: 325-698-9960 Email: derek@petersonrealestate.com

Project Representation (check one):

- ☒ I will represent the application myself; OR
☐ I hereby designate _____ (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

Property Owner's Signature:  Date: 1/28/2025

STATE OF: _____

COUNTY OF: _____

BEFORE ME, a Notary Public, on this day personally appeared _____
(printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the _____ day of _____, 20____

NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☐ Other(specify): _____

Name: _____ Company: _____
Address: _____ City: _____ State: _____
Zip Code: _____ Number: _____ Email: _____

PROJECT OVERVIEW

Project Type: Zoning Application | **Project Title:** Z-2025-04 HI to LI (4397 Crawford Dr.)

ID # 25-000014 | **Started** 01/24/2025 at 4:17 PM



Address

4397 Crawford Dr, Abilene, TX USA 79602

Legal

Button Willow Sec 5 Blk Block A Lot Lot 1
Button Willow Sec 5, Block A, Lot 1

Description

Change zoning to Light Industrial to accommodate a wider range of uses. **** This will be an EXPEDITED case*****
March 4th - P&Z March 13th - CC 1st read March 27th - CC final read

PROPERTY DETAILS

Property ID	37130
GEO ID	42321
Enforcement Area	Red Bud Park Area

PROPERTY ADDITIONAL INFORMATION

Account Number	15500006300
Property ID	42321
Land Use	Heavycom/light Ind
High School	Chs
Middle School	Madison
Elementary School	Jackson
Super Neighborhood	Red Bud Park Area
Courier - Building Square Feet	6800

CONTACTS	CONTACT INFO	ADDRESS	CREDENTIALS	ROLE
Derek Peterson	derek@petersonrealestate.com 3256680094	4401 Crawford Abilene, TX 79605	Owner/ Tenant Commercial	APPLICANT
Rgp Enterprises Inc	-	2266 Industrial Blvd Ste - C Abilene, TX 79602- 7816		Property Owner

PROJECT STEPS	DATE & TIME	RESULT	USER
Request	01/27/2025 at 2:15 PM	Accept	-
Zoning Application Review	01/29/2025 at 2:12 PM	Accepted	Clarissa Ivey

Planning Payment	01/29/2025 at 2:13 PM	Paid	Clarissa Ivey
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

RGP Enterprises, Inc.

Agent Name

Derek Peterson

Block

A

Lot

1

Acreage

2.5

Legal Description of property

BUTTON WILLOW SEC 5, BLOCK A, LOT 1

Subdivision Name

15500E

Current Zoning

Heavy Industrial

Proposed Zoning

Light Industrial

Agree to Terms

Yes

INVOICES	DUE DATE	CONTACT	TOTAL	PAID	DUE
25-000439	02/03/2025	Derek Peterson	\$ 1,500.00	\$ 1,500.00	\$ 0.00
Fees Account No Total Paid Due Zoning - Zone change request 1004002-42001 \$ 1,500.00 \$ 1,500.00 \$ 0.00 Receipts 25-000422					
TOTALS			\$ 1,500.00	\$ 1,500.00	\$ 0.00

CREDENTIALS

Developer

Homeowner

Engineer

Surveyor

OCCUPANCY TYPE	CONSTRUCTION TYPE	SQUARE FEET	VALUATION
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No data for Occupancy Type.

REVIEWS	DATE & TIME	STATUS	HISTORY
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Zoning Application Review	01/29/2025 at 2:12 PM	Approved	Accepted
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Create Agenda for Planning and Zoning Commission	01/29/2025 at 2:13 PM	In Review	-
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INSPECTIONS	DATE & TIME	STATUS	HISTORY
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No data for Inspections.

GENERATED DOCUMENTS	PRINTED ON	PRINTED BY	ISSUED TO
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No data for Generated Documents.

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

owner signed_66703_9860_Owner Authorization.pdf	01/28/2025 at 9:39 AM	Derek Peterson
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Owner Authorization.pdf	01/27/2025 at 2:41 PM	Clarissa Ivey
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EPR DOCUMENTS	ASSOCIATED STEPS	STATUS	LAST REVIEW BY
---------------	------------------	--------	----------------

Civil	Zoning Application Review	Not Uploaded	-
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GENERAL COMMENTS

 **Clarissa Ivey**, Planning Division, Jan 27, 2025 at 2:41 PM

Planning & Zoning
clarissa.ivey@abilenetx.gov // 325.676.6382

Please complete the owner authorization attached below.

*Note the documents must be notarized.

 **Derek Peterson**, Jan 28, 2025 at 9:39 AM

Please find attached.

 **Mason Teegardin**, Jan 28, 2025 at 9:09 AM

**** This will be an EXPEDITED case****

March 4th - P&Z
March 13th - CC 1st read
March 27th - CC final read



REZONE REQUEST

Case: Z-2025-04

Agent: Derek Peterson

Request: Rezone approximately 2.5 acres from Heavy Industrial (HI) to Light Industrial (LI).

Location: 4397 Crawford Drive

Notification: 0 in Favor, 0 in Opposition

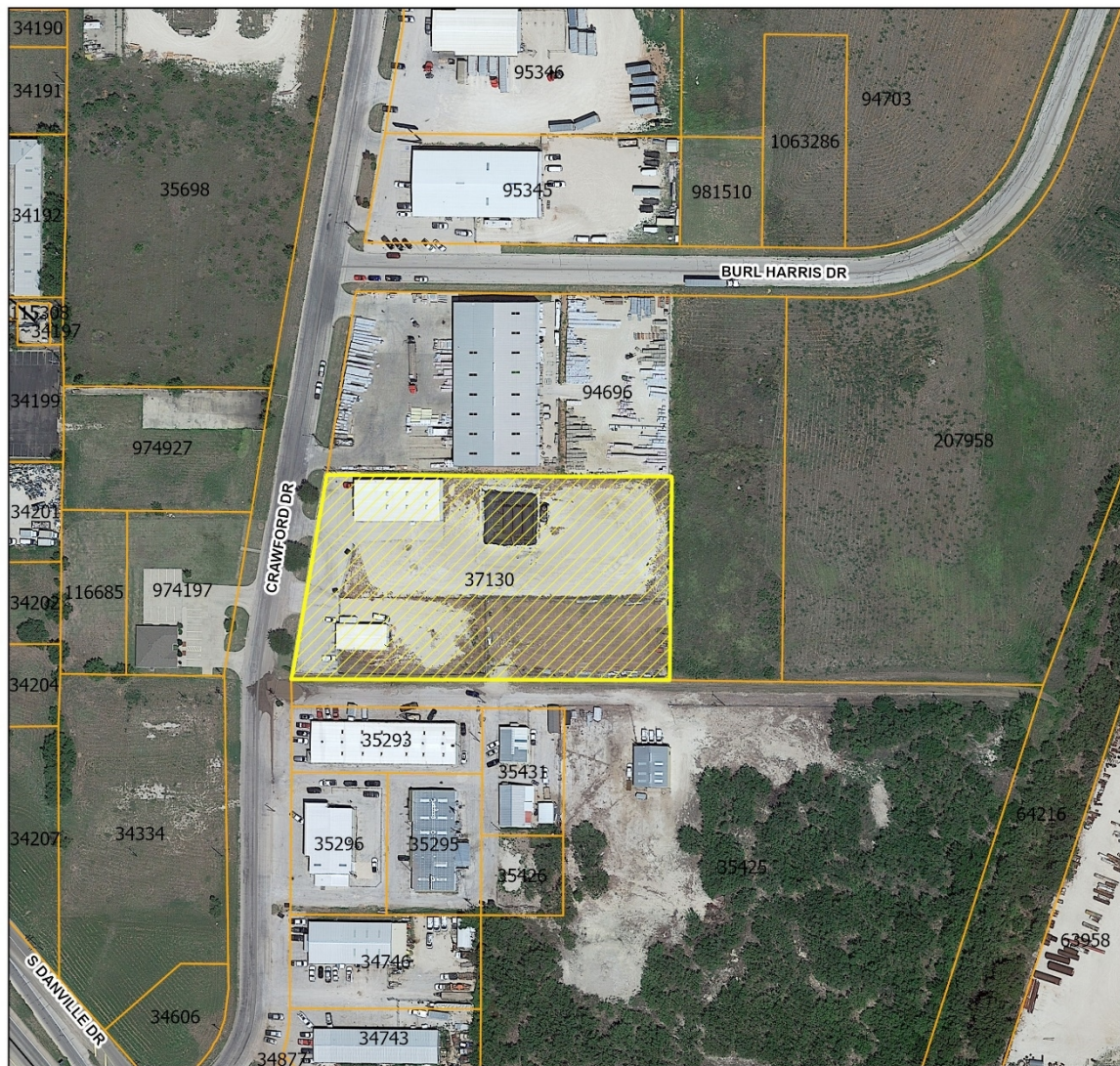
Planning & Zoning: March 4, 2025

Council Hearing: March 13, 2025
March 27, 2025





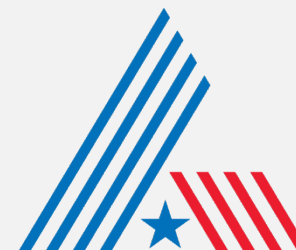
AERIAL LOCATION MAP



Legend

- Z-2025-04
- Courier Parcels
- Expressway

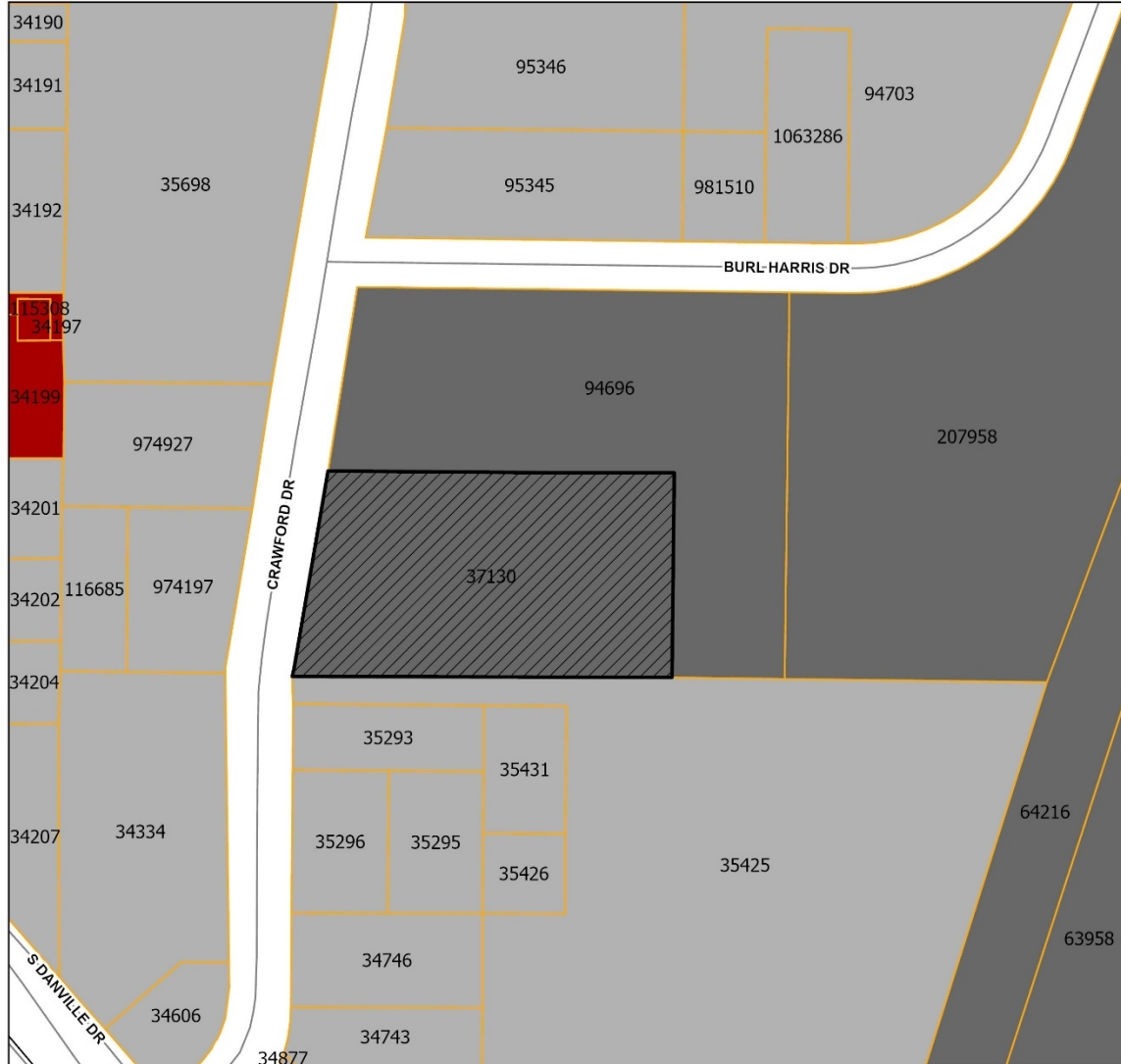
0.03
Miles



CITY OF
ABILENE
TEXAS



ZONING MAP



Legend

-  Z-2025-04
-  Courier Parcels
-  HI (Heavy Industrial)
-  LI (Light Industrial)
-  HC (Heavy Commercial)
-  Expressway

0.03

Miles





PROPERTY VIEWS



CITY OF
ABILENE
TEXAS



SURROUNDING PROPERTY VIEWS





USES IN HEAVY INDUSTRIAL ZONING

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
- TP Field Office or Construction Office (temporary)
- P Freight Container
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recycling Collection Point
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Adult Entertainment Enterprise
- C Motorized Racing

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Fire/Police Station
- P Homeless/Emergency Shelter
- P Post Office
- P Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- P Educational and Scientific Research
- P School: Public/Private

SERVICE:

- P Contractor Services
- P Recycling Collection and Processing Center
- P Scales (public)
- P Wrecker/Towing

TRADE – RETAIL USES:

- P Head Shop
- C Scrap and Waste Material

TRADE – WHOLESALE USES:

- C Livestock – Wholesale or Auction
- P Wholesaling and Storage (indoor)
- P Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
- P Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Pressure Control Station
- P Public Utility Facility
- P Railroad Switching and Marshaling Yard
- P Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Mining
- P Petroleum or Gas Well
- P Liquor
- P Manufacturing (light)
- P Manufacturing (heavy)
- 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 LIGHT INDUSTRIAL ZONING

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 Recreation Building, Multipurpose
P Recycling Collection Point
P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

P Adult Entertainment Enterprise
C Cultural Facilities
P Drive-in Theater
C Motorized Racing
P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

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

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

EDUCATIONAL AND RELIGIOUS USES:

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 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)

TRADE – WHOLESALE USES:

P Liquor, Wholesale/Distribution
C Livestock – Wholesale or Auction
P Wholesaling and Storage (indoor)
P Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

P Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
P 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
P Railroad Switching and Marshaling Yard
P Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

C Mining
P Petroleum or Gas Well
P Liquor
P Manufacturing (light)
P Urban Garden

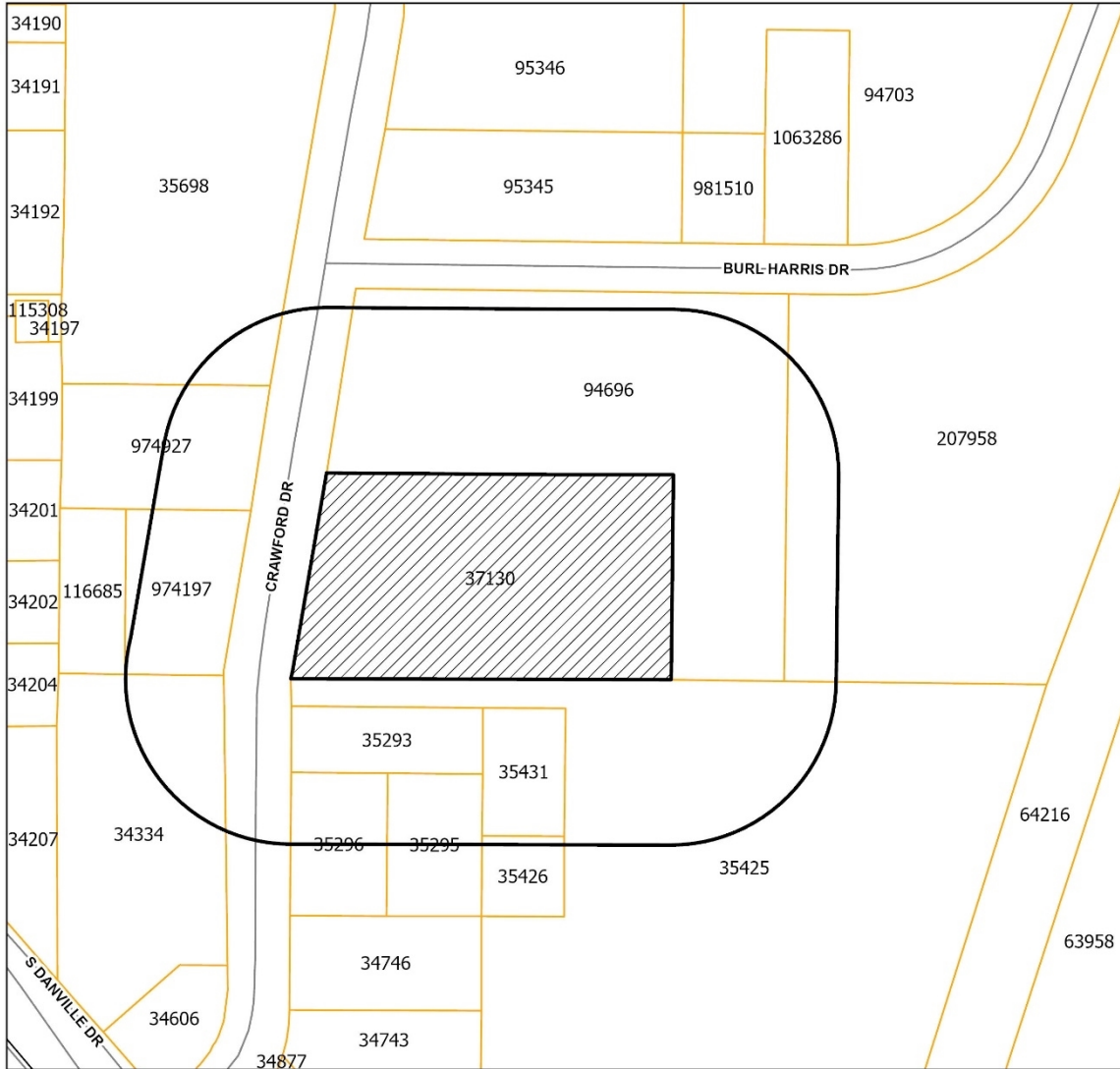
LEGEND

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





NOTIFICATION AREA MAP



Legend

- Z-2025-04
- Notification Area
- Courier Parcels
- Expressway

0 - in Favor -

0 - in 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: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: **24. Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on Amending Chapter 18, "Motor Vehicles and Traffic," Article X, "Stopping, Standing and Parking," Division 4, "Limited on Certain Streets," and Division 5, "Parking Meters," of the Abilene Code of Ordinances, and create a Paid Parking Program (*Max Johnson*)

GENERAL INFORMATION

In certain areas, time limited parking is necessary to ensure that the public has access to parking that is convenient to businesses and establishments within the city, and certain areas are not appropriate for parking for long periods of time, as such parking limits public parking access.

Parking meters are no longer utilized in the city limits and the city desires to create a paid parking program in its place.

The City desires to have time limited parking on both certain city streets and certain city-owned or -operated parking lots.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the amendments to the Code of Ordinances to time limit parking

on certain streets and parking areas.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2025 Ordinance Limited Time Parking redline
2. 2025 Ordinance Limited time Parking clean
3. Ordinance Parking Limitations and Paid Parking Downtown Abilene

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, “MOTOR VEHICLES AND TRAFFIC,” ARTICLE X., “STOPPING, STANDING AND PARKING,” DIVISION 4., “LIMITED ON CERTAIN STREETS,” DIVISION 5., “PARKING METERS,” OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY

WHEREAS, in certain areas, time limited parking is necessary to ensure that the public has access to parking that is convenient to businesses and establishments within the city; and

WHEREAS, certain areas are not appropriate for parking for long periods of time, as such parking limits public parking access; and

WHEREAS, parking meters are no longer utilized in the city limits and the city desires to created a paid parking program in its place; and

WHEREAS, the City desires to have time limited parking on both certain city streets and certain city-owned or -operated parking lots.

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

PART 1: That Chapter 18, Article X, Division 4, Sections 18-232 through 18-235, and 18-237, and Division 5, Sections 18-243 through 18-25045 of the Abilene Municipal Code be amended as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force or effect.

PART 3: That any persons, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine in accordance with Chapter 1 (Section 1-9) of this Code. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 13th day of March, 2025.

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 23rd day of March, 2025, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 27th day of March, 2025, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 27th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Exhibit A

Sec. 18-232. - Stopping, standing or parking prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall stop, stand or park a vehicle between the hours specified ~~in section 18-297~~ of any day except Sundays and legal holidays within the district or upon any of the streets ~~described in section 18-297~~.

Sec. 18-233. - Parking permits for convention guests.

(a) The Abilene Convention and Visitors Bureau shall be authorized to issue special parking permits to out of town convention participants. Upon a display of said parking permit on the upper surface of the front bumper of a motor vehicle operated by convention participants, said vehicle shall be permitted to park in excess of the time limit in the locations enumerated in ~~paragraph (e) of section 18-237~~ **18-237.299**.

(b) The special permit to be issued shall be approved as to form by the Director of ~~Public WorksTraffic and Transportation~~ and a copy of any such special permit shall be filed with the office of the Director of ~~Public WorksTraffic and Transportation~~ before issuance to out of town convention participants is made. These special permits shall contain a space for the opening and closing dates of the convention and such additional information as the Director of ~~Public WorksTraffic and Transportation~~ may require. The dates of the opening and closing of the convention shall be legibly inserted in these spaces provided by either typing or writing with an indelible substance to prevent alteration. No special parking permit shall exempt a vehicle from the time limit before or after the opening and closing dates of the convention.

(c) The Abilene Convention and Visitors Bureau shall notify the office of the Director of ~~Public WorksTraffic and Transportation~~ at least three (3) days in advance of the issuing of any special parking permits and give the number of such permits to be issued, the name of the convention and the dates it will be held.

(d) It shall be unlawful for any person, group or association to knowingly issue, permit or cause to be issued any special parking permit for any vehicle not belonging to an out of town convention participant. It shall be unlawful for any person not an out of town convention participant to display a special parking permit for purposes of parking longer than permitted.

Sec. 18-234. - Parking permits for vehicles being used in construction activity.

(a) The Director of ~~Public WorksTraffic and Transportation~~ is hereby authorized to issue special parking permits for motor vehicles being used in connection with construction activity. Upon display of such a permit in the lower right-hand corner of its front windshield, the authorized vehicle described in the permit shall be permitted to park in excess of any time limits which may be in effect for the on-street parking spaces or loading zones immediately adjacent to or within fifty (50) feet of the work site listed on said permit.

(b) The Director of ~~Public WorksTraffic and Transportation~~ may issue such a permit only if each of the following conditions is met:

(1) The vehicle must be parked at or near to the work site because of tools or equipment carried thereon.

(2) No off-street parking is available on or within fifty (50) feet of the work site.

(3) All on-street parking adjacent to the work site and within fifty (50) feet thereof is time limited by section 18-~~237~~299 of this Code.

(c) No more than two (2) such parking permits shall be issued or in effect at the same time because of work being performed at the same location. Each permit may be issued for a maximum period of thirty (30) calendar days but may be renewed upon application to the Director of ~~Public Works~~~~Traffic and Transportation~~ provided the conditions set forth in subsection (b) above are met. No fee shall be charged for Saturday and Sunday. The fee for each permit issued shall be determined from time to time and placed on file in the City Secretary's office.

Sec. 18-235. - Customer parking program.

(a) The customer parking program is hereby created to provide a mechanism for addressing first offense exceeding the posted time limit parking violations by customers transacting business in the ~~central business~~~~tax increment financing (CBDTIF)~~ district at the time the citation is issued.

(b) The Director of Finance is authorized to sell program stamps to the owners/managers or their authorized representatives of businesses located in the ~~central business~~~~TIF~~ district. The fee for each program stamp shall be established by the Director of Finance.

Sec. 18-237. - Parking time limited.

In accordance with the terms of this chapter, and when signs are erected giving notice thereof, no person shall stand, stop or park a vehicle in excess of the indicated period of time specified. Each consecutive increment of the time limit during which a vehicle remains continuously parked shall be deemed to be a separate offense.

Secs. 18-23~~8~~7—18.242. – Reserved.

DIVISION 5. — PARKING METERSPAID PARKING PROGRAM

Sec. 18-243. — Paid Parking~~meter zones.~~

~~Parking meter zones are hereby established within the district or upon those parking lots, streets or parts of streets described in section 18-300, in which zones the parking of vehicles upon parking lots or streets shall be regulated by parking meters between the hours specified in section 18-300 of any day except Saturdays, Sundays and legal holidays. The Director of Traffic and Transportation is authorized, subject to the approval of the City Council by amendment of section 18-300, to establish parking meter zones at other locations upon those parking lots or~~

~~streets or parts of streets where it is determined upon the basis of an engineering and traffic investigation that the installation of parking meters shall be necessary to aid in the regulation, control and inspection of the parking of vehicles. In accordance with the terms of this chapter, and when signs are erected giving notice thereof, no person shall stand, stop or park a vehicle in a Paid Parking Program parking space in excess of a pre-purchased period of time. Parking in a Paid Parking Program parking space in excess of, or void of a pre-purchased period of time shall be deemed an offense. Each consecutive 2-hour increment of the time during which a vehicle remains continuously parked in a Paid Parking Program parking space in violation of this section shall be deemed to be a separate offense.~~

~~Sec. 18-244. — Installation of parking meters.~~

~~The Director of Traffic and Transportation shall install parking meters in the parking meter zones established as provided in this chapter upon the curb immediately adjacent to each designated parking space or at a single location in a parking lot. Such meters shall be capable of being operated automatically upon the deposit therein of coins of United States currency or other payment method as specified in section 18-300 for the full period of time for which parking is lawfully permitted in any such parking meter zone. Parking lot meters may be capable of being operated automatically by the use of a debit or credit card for the full period of time for which parking is lawfully permitted in any such parking meter zone. Except for parking lot meters, each parking meter shall be so designed, constructed, installed and set up that upon the expiration of the time period registered, by the deposit of one (1) or more coins, as provided herein, it will indicate by an appropriate signal that the lawful parking meter has expired, and during such period of time and prior to the expiration thereof, will indicate the interval of time which remains of such period. Each parking meter shall bear thereon a legend indicating the days and hours when the requirement to deposit coins or other payment method therein shall apply, the value of the coins or other payment method to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located.~~

~~Sec. 18-245. — Parking meter spaces.~~

~~For parking meter spaces on the street, the Director of Traffic and Transportation shall designate the parking space adjacent to each parking meter for which such meter is to be used by appropriate markings upon the curb or the pavement of the street. Parking meter spaces so designated shall be of appropriate length and width so as to be accessible from the traffic lanes of such street. For parking meter spaces in a parking lot, the Director of Traffic and Transportation shall designate the parking spaces for which such meter is to be used by appropriate markings upon the curb or the pavement of the lot or by signage.~~

~~Sec. 18-246~~4. - ~~Deposit of coins and t~~Time limits maximum.

~~(a) No person shall park a vehicle in any metered parking lot or parking space upon a street alongside of which a parking meter has been installed during the restricted and regulated time applicable to the parking meter zone in which such meter is located unless a coin or coins of~~

~~United States currency of the appropriate denomination or other payment method as provided in this chapter shall have been deposited therein, or shall have been previously deposited therein for an unexpired interval of time, and the meter has been placed in operation.~~

~~(b) No person shall park a vehicle in any such metered parking lot or parking space for a consecutive period of time longer than the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located, irrespective of the number of amounts of coins or other payment method deposited in such meter.~~

~~(c) The provisions of this section shall not relieve any person from the duty to observe other and more restrictive provisions of this chapter and the state vehicle code prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times. Parking in a Paid Parking Program parking space in excess of the maximum time allowed shall be deemed an offense. The maximum amount of time a vehicle may be parked in a Paid Parking Program parking space shall be determined from time to time and placed on file in the City Secretary's office. Each consecutive 2-hour increment of the time during which a vehicle remains continuously parked in a Paid Parking Program parking space in violation of this section shall be deemed to be a separate offense.~~

~~Sec. 18-247. — Use of slugs prohibited.~~

~~No person shall deposit or attempt to deposit in any parking meter any slug, button or any other device or substance as substitutes for coins of United States currency.~~

Sec. 18-24~~58~~. Tampering with signsmeter.

No person shall deface, injure, tamper with, ~~open, or willfully break~~ destroy, or impair the usefulness of any parking signmeter.

~~Sec. 18-249. — Advertising on parking meters.~~

~~There shall be no advertising for private purposes placed upon the parking meters, and only such advertising media for municipal purposes shall be placed thereon as designated by the City Council.~~

Sec. 18-250~~46~~. — Paid Parking Programmeter rates.

Paid Parking Program ~~meter~~ rates shall be determined from time to time and placed on file in the City Secretary's office.

Secs. 18-247-18.256 Reserved.

|

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, “MOTOR VEHICLES AND TRAFFIC,” ARTICLE X., “STOPPING, STANDING AND PARKING,” DIVISION 4., “LIMITED ON CERTAIN STREETS,” DIVISION 5., “PARKING METERS,” OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY

WHEREAS, in certain areas, time limited parking is necessary to ensure that the public has access to parking that is convenient to businesses and establishments within the city; and

WHEREAS, certain areas are not appropriate for parking for long periods of time, as such parking limits public parking access; and

WHEREAS, parking meters are no longer utilized in the city limits and the city desires to created a paid parking program in its place; and

WHEREAS, the City desires to have time limited parking on both certain city streets and certain city-owned or -operated parking lots.

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

PART 1: That Chapter 18, Article X, Division 4, Sections 18-232 through 18-235, and 18-237, and Division 5, Sections 18-243 through 18-250 of the Abilene Municipal Code be amended as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force or effect.

PART 3: That any persons, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine in accordance with Chapter 1 (Section 1-9) of this Code. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 13th day of March, 2025.

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 23rd day of March, 2025, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 27th day of March, 2025, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 27th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Exhibit A

Sec. 18-232. - Stopping, standing or parking prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall stop, stand or park a vehicle between the hours specified of any day except Sundays and legal holidays within the district or upon any of the streets.

Sec. 18-233. - Parking permits for convention guests.

(a) The Abilene Convention and Visitors Bureau shall be authorized to issue special parking permits to out of town convention participants. Upon a display of said parking permit on the upper surface of the front bumper of a motor vehicle operated by convention participants, said vehicle shall be permitted to park in excess of the time limit in the locations enumerated in section 18-237.

(b) The special permit to be issued shall be approved as to form by the Director of Public Works and a copy of any such special permit shall be filed with the office of the Director of Public Works before issuance to out of town convention participants is made. These special permits shall contain a space for the opening and closing dates of the convention and such additional information as the Director of Public Works may require. The dates of the opening and closing of the convention shall be legibly inserted in these spaces provided by either typing or writing with an indelible substance to prevent alteration. No special parking permit shall exempt a vehicle from the time limit before or after the opening and closing dates of the convention.

(c) The Abilene Convention and Visitors Bureau shall notify the office of the Director of Public Works at least three (3) days in advance of the issuing of any special parking permits and give the number of such permits to be issued, the name of the convention and the dates it will be held.

(d) It shall be unlawful for any person, group or association to knowingly issue, permit or cause to be issued any special parking permit for any vehicle not belonging to an out of town convention participant. It shall be unlawful for any person not an out of town convention participant to display a special parking permit for purposes of parking longer than permitted.

Sec. 18-234. - Parking permits for vehicles being used in construction activity.

(a) The Director of Public Works is hereby authorized to issue special parking permits for motor vehicles being used in connection with construction activity. Upon display of such a permit in the lower right-hand corner of its front windshield, the authorized vehicle described in the permit shall be permitted to park in excess of any time limits which may be in effect for the on-street parking spaces or loading zones immediately adjacent to or within fifty (50) feet of the work site listed on said permit.

(b) The Director of Public Works may issue such a permit only if each of the following conditions is met:

(1) The vehicle must be parked at or near to the work site because of tools or equipment carried thereon.

(2) No off-street parking is available on or within fifty (50) feet of the work site.

(3) All on-street parking adjacent to the work site and within fifty (50) feet thereof is time limited by section 18-237 of this Code.

(c) No more than two (2) such parking permits shall be issued or in effect at the same time because of work being performed at the same location. Each permit may be issued for a maximum period of thirty (30) calendar days but may be renewed upon application to the Director of Public Works provided the conditions set forth in subsection (b) above are met. No fee shall be charged for Saturday and Sunday. The fee for each permit issued shall be determined from time to time and placed on file in the City Secretary's office.

Sec. 18-235. - Customer parking program.

(a) The customer parking program is hereby created to provide a mechanism for addressing first offense exceeding the posted time limit parking violations by customers transacting business in the central business (CB) district at the time the citation is issued.

(b) The Director of Finance is authorized to sell program stamps to the owners/managers or their authorized representatives of businesses located in the central business district. The fee for each program stamp shall be established by the Director of Finance.

Sec. 18-237. - Parking time limited.

In accordance with the terms of this chapter, and when signs are erected giving notice thereof, no person shall stand, stop or park a vehicle in excess of the indicated period of time specified. Each consecutive increment of the time limit during which a vehicle remains continuously parked shall be deemed to be a separate offense.

Secs. 18-238—18.242. – Reserved.

DIVISION 5. – PAID PARKING PROGRAM

Sec. 18-243. – Paid Parking

In accordance with the terms of this chapter, and when signs are erected giving notice thereof, no person shall stand, stop or park a vehicle in a Paid Parking Program parking space in excess of a pre-purchased period of time. Parking in a Paid Parking Program parking space in excess of, or void of a pre-purchased period of time shall be deemed an offense. Each consecutive 2-hour increment of the time during which a vehicle remains continuously parked in a Paid Parking Program parking space in violation of this section shall be deemed to be a separate offense.

Sec. 18-244. - Time limit maximum.

Parking in a Paid Parking Program parking space in excess of the maximum time allowed shall be deemed an offense. The maximum amount of time a vehicle may be parked in a Paid Parking Program parking space shall be determined from time to time and placed on file in the City Secretary's office. Each consecutive 2-hour increment of the time during which a vehicle remains continuously parked in a Paid Parking Program parking space in violation of this section shall be deemed to be a separate offense.

Sec. 18-245. Tampering with signs.

No person shall deface, injure, tamper with, destroy, or impair the usefulness of any parking sign.

Sec. 18-246. – Paid Parking Program rates.

Paid Parking Program rates shall be determined from time to time and placed on file in the City Secretary's office.

Secs. 18-247-18.256 Reserved.

Ordinance (First Reading): Amending Chapter 18, “Motor Vehicles and Traffic,” of the Abilene Code of Ordinances

(Max Johnson)

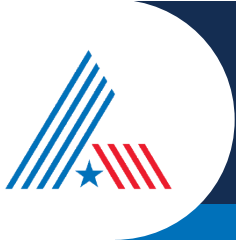




Amending Chapter 18 of the Abilene Code of Ordinances

- Removes parking meters from the Code of Ordinances and replaces this section with the Paid Parking Program
- Ensures the public has access to parking convenient to downtown businesses
- Locations of time-limited parking are not appropriate for long-term parking
- Modifies language to include time-limited parking on city streets and certain city-owned or –operated parking lots.
- The Paid Parking Program has a time limit maximum, and parking in excess of the maximum time allowed shall be deemed an offense.
- All Time-limited parking will be identified with appropriate signs





Amending Chapter 18 of the Abilene Code of Ordinances

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: **25. Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on Amending the Fee Ordinance to Add a Commercial Breeder Permit Fee *(Robert Hanna)*

GENERAL INFORMATION

The Amended Animals and Fowl ordinance created a commercial breeder permit. The Fee Ordinance does not currently have the permit fee listed. The proposed fee for the permit is \$150.00, and the permit is for two (2) years.

SPECIAL CONSIDERATIONS

A show animal permit is no longer contemplated by the amendments to the Animals and Fowl Ordinance, so there is no longer a reference to "show animal."

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the Commercial Breeder permit fee

BOARD OR COMMISSION RECOMMENDATION

n/a

ATTACHMENTS:

1. 2025 Ordinance-Breeder Permit Fee Added to Fee Schedule
2. Attachment A - Breeder Permit Fee Added to Fee Schedule
3. Breeder Permit ppt

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 37-2024 AND ADOPTING FEES AND CHARGES FOR A COMMERCIAL BREEDER PERMIT, FOR THE CITY OF ABILENE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES, RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HERewith; CALLING A PUBLIC HEARING.

WHEREAS, the City Council adopted Ordinance 37-2024 ("Fee Ordinance") on August 8, 2024 setting fees and charges commencing on October 1, 2024; and,

WHEREAS, it was contemplated that this Fee Ordinance would require amendment from time to time to modify and update fees and charges; and,

WHEREAS, the City of Abilene desires to add camping fee; now, therefore,

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

PART 1: That the Schedule of Fees and Charges for the City of Abilene, Texas is amended as set out in Exhibit "A", attached and made a part of this ordinance for all purposes.

PART 2: That all ordinance and parts of ordinance, resolutions, and parts of resolutions in conflict herewith are repealed.

PART 3: That this Schedule of Fees and Charges for the City of Abilene, Texas shall be kept on file in the City Secretary's office.

PASSED ON FIRST READING on the 13th day of March, A.D. 2025.

After passage on first reading, a notice of the time and place 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. The same being more than twenty-four (24) hours prior to the time designated for said hearing. After such an opportunity for the public to be heard, said ordinance was passed on its second and final reading.

PASSED ON SECOND AND FINAL READING AT A PUBLIC HEARING on the
27th day of March, A.D. 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Animals	Commercial Breeder Permit	\$150/2 year

AMEND FEE ORDINANCE BY ADDING FEE FOR COMMERCIAL BREEDER PERMIT





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 26. (Remove from Table) Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving the Special Events Permit Policy (Lesli Andrews)

GENERAL INFORMATION

The Special Events Permitting Division is located in the Parks and Recreation Department and managed by the Parks and Recreation Office. This creates one location where citizens and organizations can access the Special Event Application, make payments, and access all City of Abilene resources needed to support an event. Multiple items will need to be approved by the City Council including the Special Event Permit Policy, Special Event Ordinance, and update the Fee Schedule.

Special Events Office established in 2022. Since November of 2022 more than 100 event permits have been issued. After two years of operation, the Special Event Policy is in need of updates to expand and enhance the service to patrons.

Three key areas include:

- A Special Event Permit may be required for events taking place on property not owned, managed or operated by the City. The determination shall be made based on the number of expected attendees, permit-required components of the event, and the potential impact on surrounding residents, businesses, and traffic.
- Establishing a category for Fireworks/Pyrotechnics/Specialized Equipment
- Establishing the permanent staging area and parade route

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends approval of the Special Events Permit Policy.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 25_3_13 Resolution Special Event Policy
2. 22_9_15 CURRENT SPECIAL EVENT PERMIT POLICY
3. 25_3_13 UPDATED (25_3_10) PROPOSED Special Events Policy (2)
4. 25_3_13 Presentation Special Events Permit Policy Small File (1)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING THE SPECIAL EVENT PERMIT POLICY**

WHEREAS, the City of Abilene approves special events that occur on public and private property in Abilene; and

WHEREAS, the City of Abilene desires to have a permit policy that defines the types, locations, deadlines, requirements and fees; and

WHEREAS, the Special Event Permit Policy will be utilized in accordance with the Special Event Permit Ordinance.

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

Part 1: That the City Council approves the Special Event Permit Policy, and authorizes the City Manager, or his designee, to administer and enforce the Special Event Permit Policy

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

ADOPTED this 13th day of March 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

SPECIAL EVENT PERMIT POLICY

Applicability

This policy shall apply to all parades and special events that utilize city right-of-way. The City reserves the right to categorize events.

Funeral processions are not governed by this policy. Please contact the Abilene Police Department (APD) for information on funeral processions.

The reservation of City of Abilene Parks and Recreation facilities, Convention Center grounds, and the City Hall lawn is not governed by this policy. Any event utilizing or entering park property, Convention Center grounds or the City Hall lawn requires a Request To Use Parks Facilities application. Please contact the Parks & Recreation Department to make a reservation.

Single Day Local

Single Day Local Street events do not require the use of cones, barricades or other traffic control devices in traffic lanes and shall occur only on local streets. A Single Day Local event may also require police traffic control at designated intersections.

Single Day

Single Day events may require full or partial control or use of the street but are less than 10 continuous hours a calendar day in duration. Single Day events are restricted to local streets, including the Downtown Area. Except for processions, Single Day events shall not occur during the hours of 7:30am to 5:30pm Monday through Friday on North 1st, Pine, Cypress, Oak, or Chestnut Streets within the Downtown Area.

Multi-Day/Major Impact

Multi-Day events require full or partial control or use of the street and are either a multiple day event or a single day event with a community wide focus or major impact. Events utilizing fireworks shall be Multi-Day events. Except for processions, Multi-Day events may not occur on arterial streets and may not occur during the hours of 7:30am to 5:30pm on North 1st, Pine, Cypress, Oak, or Chestnut Streets within the Downtown Area.

Processions

A procession is a number of people or vehicles moving forward in the right-of-way in an organized fashion (parade, fun run, walk, etc.). Processions on a local street adjacent to residential areas do not require a permit when organized by residents. All other processions require a Single Day or Multi Day and paid police escort.

Downtown Parades

Downtown Parades are processions that follow the established downtown route as depicted in the route map maintained in the City Secretary's Office. Staging shall occur within the staging area in the South Downtown Area. Dates, times, duration and other parade elements are subject to review and approval as part of the permit process.

Application

Every event applicant must fully complete the event permit application.

Applications for the following events must be submitted before the following deadlines:

- Single Day Local event with no control over streets – no later than **Fourteen (14) days** prior to the event.
- Single Day event requiring control over local streets - no later than **Thirty (30) days** prior to event.
- Multi-Day and Procession event –no later than **Sixty (60) days** prior to the event.
- Parade – no later than **Sixty (60) days** prior to the event.

Applications will be reviewed by departments including, but not limited to: APD, Traffic, AFD Fire Marshall, Public Works, Traffic & Transportation Division, Risk, Legal, Parks and Recreation and Environmental Health. If necessary, the City shall set a time for a review meeting and **the applicant or event organizer shall have a representative in attendance.**

Permit Fee

- Please reference the City of Abilene Fee Schedule on record with the City Secretary.

Agreement for Street Closures and Parades

If an event requests to close a street or multiple streets, 100% of the businesses located in the street closure area must be notified prior to event approval. 51% of the businesses located in the street closure area must agree to the street closure by signing the form prior to event approval. See Attachment A. A copy of the notification and list of impacted businesses must be submitted with Attachment A.

Agreement and Insurance

Commercial public liability insurance naming the City of Abilene as an additional insured is required for Single Day, Multi-Day and Parades.

Approval for Single Day and Multi-Day events and Parades require full approval by the City of Abilene.

City Services

Unless the City co-sponsors an event through a formal written agreement, no city services will be donated as part of the issuance of a Special Event Permit. Certain city services may be available for a fee. Otherwise all required services will be the sole responsibility of the event organizer or responsible party, either through qualified volunteers or through privately contracted services. Event organizers shall coordinate security with APD. All required services shall be clearly identified and secured, and are subject to review by the Special Event Permitting Department.

Quick Reference Table

	Single Day Local	Single Day	Multi-Day	Downtown Parades	Outside of Downtown
Criteria	no control over the street; staff pre-approved route;	less than 10 hours in duration; requiring control of local streets;	multiple day event or major impact; requiring control of streets; fireworks	closed streets, approved route in the Downtown Area	any other private use upon any public street alley, sidewalk or public way
Application Available	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department
Application due before event	14 days	30 days	60 days	60 days	60 days
Applicant must attend review meeting	No	No	Yes	Yes	Yes
Agreement	Approved Application	Approved Application	Approved Application	Approved Application	Approved Application
Indemnity required	Yes	Yes	Yes	Yes	Yes
Insurance required	No	Yes	Yes	Yes	Yes
License fee	\$25.00	\$50.00	\$100.00	\$200.00	\$100.00
Coordinating City department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department

ATTACHMENT A

NOTIFICATION OF STREET CLOSURE

NAME OF EVENT:_____

DATE OF EVENT:_____

STREET(S) TO BE CLOSED:_____

TIME OF EVENT:_____ TIME OF STREET CLOSURE:_____

BUSINESS NAME:_____PHONE #:_____

ADDRESS:_____APPROVE: YES_____NO_____

SIGNATURE:_____PRINT NAME:_____

BUSINESS NAME:_____PHONE #:_____

ADDRESS:_____APPROVE: YES_____NO_____

SIGNATURE:_____PRINT NAME:_____

BUSINESS NAME:_____PHONE #:_____

ADDRESS:_____APPROVE: YES_____NO_____

SIGNATURE:_____PRINT NAME:_____

BUSINESS NAME:_____PHONE #:_____

ADDRESS:_____APPROVE: YES_____NO_____

SIGNATURE:_____PRINT NAME:_____

BUSINESS NAME:_____PHONE #:_____

ADDRESS:_____APPROVE: YES_____NO_____

SIGNATURE:_____PRINT NAME:_____

BUSINESS NAME: _____ PHONE #: _____

ADDRESS: _____ APPROVE: YES _____ NO _____

SIGNATURE: _____ PRINT NAME: _____

BUSINESS NAME: _____ PHONE #: _____

ADDRESS: _____ APPROVE: YES _____ NO _____

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BUSINESS NAME: _____ PHONE #: _____

ADDRESS: _____ APPROVE: YES _____ NO _____

SIGNATURE: _____ PRINT NAME: _____

BUSINESS NAME: _____ PHONE #: _____

ADDRESS: _____ APPROVE: YES _____ NO _____

SIGNATURE: _____ PRINT NAME: _____



Special Events Policy and Procedures



**Adopted
March 13, 2025**

City of Abilene Special Events Policy and Procedures

GENERAL POLICY STATEMENT

The City of Abilene (City) encourages its citizens and businesses to participate in and produce special events that enhance the quality of life, provide entertainment and other leisure activities, promote local economic health, attract visitors and contribute to the dynamic atmosphere of the community. To facilitate these events, the City has established orders, policies and procedures to ensure the success of such events by providing a system for advanced planning, standard information and basic ground rules that allow special event organizers, sponsors and facility users to achieve their mutual goals, while minimizing the impact of the event on the community.

It is the purpose of this policy and related procedures to regulate special events held in the City so that such events can occur with the safety and health of the participants in mind, the protection of public property considered and the impact on non-participating residents minimized. The City Manager or designee has the right to waive certain submittal requirements if the facility has pre-approved permits and emergency plans on file and in place.

The City recognizes that approval from other entities may be required to complete the City of Abilene Special Event approval process. It is the responsibility of the event organizer to ensure that all applicable rules are followed, and all necessary authorizations are obtained.

FACILITY USE AND PERMIT INFORMATION

The City of Abilene's Parks and Recreation Department is responsible for distributing, receiving, and processing all applications for special events and for coordinating review of applications by appropriate City Departments. The Parks and Recreation Department (Special Events Division) is located at; 633 Walnut, Abilene, Texas 79601. The hours of operation are 8:00 a.m. to 5:00 p.m. Monday through Friday. For additional information, please call 325-676-6217.

The City of Abilene's Parks and Recreation Department is also responsible for distributing, receiving, and processing all facility reservations for the use of City-owned athletic fields, park pavilions, outdoor courts, splash pads, recreation centers, activity buildings, and parks. Reservations at these facilities for the purposes of conducting anything other than a special event do not require a Special Event Permit. Facility use and rental requests can be made online at www.abilenetx.gov, or in person at 633 Walnut.

The Special Event Application approval process does not necessarily or automatically reserve facilities. Park areas that are impacted by the event will require a facility reservation so as not to further impact a **park patron**. A facility reservation and/or Special Event Permit **does not provide exclusive use** of the entire park and/or facility. The general area of the park, pathway and/or facility must remain open to the public. Access to the general public may not be restricted at any time, regardless of whether or not the event is gated and/or charging admission unless further approvals are granted including a host venue sponsorship agreement. Except for Festival Gardens rentals, rental of the Festival Gardens allows for a private/gated event.

DEFINITIONS

“Application Fee”

The fee for any Special Event Application is \$100.00, as approved by the City Council. No application for a permit will be processed until the required application fee and permitting fees are paid. The application fee is nonrefundable, shall not be prorated and is a separate fee from any permit fees.

“Business Day”

Any calendar day except Saturday, Sunday or any City of Abilene holiday.

“Commercial Event”

A Commercial Event is a special event held by for-profit organizations which is open to public participation (fee or free) and may include, but is not limited to, a fair, festival, exhibition, carnival centered around music, art, culture, food, car/truck/vehicle, etc. These events require an approved Special Event Application. A donation to a non-profit does not constitute the event being a non-commercial event.

“Float”

One or more vehicles with or without a trailer or forty (40') of occupied space within the parade procession.

“General Event”

Private events, ceremonies, social gatherings, and parties that are not otherwise defined herein, and where parking can be accommodated onsite for the total number of attendees.

“Local Streets”

A type of thoroughfare: arterial, collector, minor arterial, or an expressway that is primarily used within the city limits. Street closures are not authorized on arterial streets, except on North 1st between Walnut and Cedar.

“Parade”

When one or more street closures are required, a concerted walk, column, march, procession of any kind, or similar display consisting of twenty-five (25) or more individuals, or five (5) or more floats, moving together in or upon any public roadway, sidewalk, or other public property in a place within the regulatory jurisdiction of the City.

“Procession”

When a street closure is not required, a concerted walk, column, march of any kind, or similar display consisting of twenty-five (25) or more individuals moving together in or upon any public roadway, or other public property in a place within the regulatory jurisdiction of the City.

“Public Property”

Any property held for public use by any department or branch of government, federal, state, county, school or municipal.

“Special Event”

A special event is a nonroutine pre-planned activity that brings a group of people together for a specific purpose, usually for a limited time. Special events can be held on public or private property and can include but not limited to a variety of activities such as concerts, parades, festivals, carnivals, fundraisers, rally, races, and walks/runs.

“Special Event Application”

The initial step in the special event permitting process. The application is a form to present event intentions and requests for review.

“Special Event Permit”

Final signed permit authorizing event as detailed.

“Special Event Permitting Office”

The office of the City of Abilene responsible, under the Special Event Permit Policy, for accepting and processing applications for a Special Events Permit.

“Support Services”

Resources, such as security, fire/EMS Services, waste management, or street services, may be required to support a special event. City services may be available at a fee but all services are the responsibility of the Applicant.

“Tournament”

A tournament is a pre-planned temporary series of games or contests involving use of a City sports complex or field(s). Such tournaments are customarily held for purposes of competitions aimed at drawing crowds that may impact surrounding neighborhoods, traffic flow or the community as a whole.

SPECIAL EVENT PERMIT PROCESS

The City of Abilene provides a wide variety of facilities for special events and general leisure time use. When planning a special event, a Special Event Application must be submitted. The City will determine the review and approval process and the level of involvement or support service provision, if any, that the event requires.

Once the application is received, City staff will guide the Applicant through the process for approval and requirements to receive a Special Event Permit, if warranted. A Special Event Permit may or may not be required for events taking place on property not owned, managed or operated by the City. This determination shall be made based on the number of expected attendees, permit-required components of the events, and the potential impact on surrounding residents, businesses, and traffic.

While all special events require the same application, the application review and approval period and required permit(s) may vary depending on the type and location. No events should be publicized until the Applicant has received all necessary permits and approvals from the City and, if necessary, any additional permitting agencies. Permits and approvals for events, facility use or support services are issued on a first-come, first-served basis.

- ✓ **STEP 1:** Submit a Special Event Application.
- ✓ **STEP 2:** The Special Event Permitting Office will review and determine the level of involvement or support service provisions, if any, that the event requires. A tentative permit/deposit payment will be made to hold the facility during the review period, if applicable.
- ✓ **STEP 3:** Notification of status or conditional status to include all applicable requirements needed.
 - **Fees:** Upon conditional approval, full payment is due.
 - **Required Documentation:** All applicable documentation including, but not limited to, approved traffic control plan, site plan/map, parking plan, trash plan, public

notification plan and public safety plan must be submitted **14 days prior** to the event date.

- **Insurance Requirements:** All applicable insurance or Texas Alcoholic Beverage Commission documentation must be submitted **seven (7) days prior** to the event date.

✓ **SPECIAL EVENT PERMIT:** If all documentation is received and approved as required, a final Special Event Permit will be issued, and any other provisions that may be needed will be communicated to the event organizer.

- All permits issued through this process shall expire at the termination of the permitted event.
- No permit issued shall be transferred or assigned.

CRITERIA FOR APPROVAL/DISAPPROVAL

In issuing a permit for a special event, the City of Abilene considers whether:

- The event is reasonably likely to cause injury to persons or property, create a disturbance, cause disorderly conduct or encourage or result in violation of the law, or community standards;
- The event will unreasonably and substantially interrupt the safe and orderly movement of pedestrians and vehicular traffic in the area;
- The proposed location is adequate for the size and nature of the event;
- The event does not unreasonably interfere with the intended use of the area;
- The Applicant's information was accurate and truthful;
- The Applicant's apparent ability to execute the event;
- The Applicant's apparent ability to obtain the appropriate insurance (if applicable);
- The event unreasonably conflicts with other scheduled special events in the community;
- Approvals by other governing agencies (i.e. County); and
- All permit requirements and deadlines have been met.

REQUIRED APPROVALS, DENIAL, AND APPEAL PROCESS

Applications for special events must be reviewed and approved by all appropriate Departments including, but not limited to: Abilene Fire Department, Abilene Police Department, Event Permit Administrator, Public Works, Traffic & Transportation Division, Risk, Legal, Parks & Recreation, and Environmental Health. If needed, the City will establish a review meeting, and **the Applicant or event organizer shall have a representative in attendance.**

Agreement for Street Closures: If an event requests to close a street or multiple streets, 100% of the businesses located in the street closure area must be notified prior to event approval. 51% of the businesses located in the street closure area must agree to street closure by signing an approval form prior to event approval. The organizer will create an event notification letter to provide the impacted businesses that are unable to sign the Attachment A form and to submit to the Special Events Permitting Office.

An application for a special event permit may be denied to a person for the following reasons:

- An investigation reveals that the applicant falsified information on the application.
- An official has determined that the health, safety or welfare of the citizens would be

- impaired by allowing the special event to occur as requested.
- An application is incomplete or submitted after the application due date.

In the event that an application is denied, the Applicant may file an appeal with the City Manager within five (5) business days from the date of denial. This appeal shall contain a written statement setting forth the grounds for the appeal. The City Manager shall issue a written decision to the appeal within five (5) business days of the receipt of the appeal. The decision of the City Manager shall be final and may not be appealed further.

Approval of the event by any other entity does not imply approval by the City of Abilene. The City's approval of a special event and/or issuance of a special event permit does not grant or authorize use of the City's trademark, brand or domain name. No permit issued shall be transferred or assigned. All permits issued shall expire at the termination of the permitted event.

DEADLINES

Applications should be submitted at a minimum within the timeframes specified for the types of events proposed. Reservations are subject to availability and applicable reservation timeframes and guidelines described below. The City of Abilene City Manager may waive the submission deadline in extreme cases of unforeseen events.

REVOCATION

Issued permits may be revoked for any of the following causes:

- Fraud, misrepresentation or false statement contained in the permit application.
- Fraud, misrepresentation of false statement made in the course of carrying out the permitted event.
- The Applicant refuses to comply with the terms of the permit.
- The Applicant refuses to pay or has delinquent fees.
- The Applicant has not provided proof of insurance, if required.

Notice of revocation of a permit shall be given verbally or in writing and state the grounds of the revocation. The Applicant shall immediately surrender their permit and immediately cease the special event.

DOWNTOWN PARADES

Application Deadline: 60 DAYS PRIOR TO THE EVENT

Parades are required to follow the established downtown route as depicted in the route map maintained in the Special Events Office. Except for processions, Multi-Day Events shall not occur during the hours of 7:30 am to 5:30 pm, Monday thru Friday, on North 1st, Pine, Cypress, Oak, or Chestnut Streets within the Downtown Area, unless otherwise approved by the City Manager or designee. Staging shall occur within the staging area(s) in the South Downtown Area. Parades shall not exceed the limit of 135 floats. No parade shall exceed a 90 minute duration. Parade floats shall not exceed twelve feet (12') in height and shall not exceed forty feet (40') of occupied space within the parade procession.

Items shall not be thrown from parade floats by parade participants. An itemized list of each group representing a float shall be submitted to the special events office no later than seven (7) days prior to the parade. Dates, times, duration, and other parade elements are subject to review and approval as part of the permit process. All parades shall abide by the City of Abilene [parade ordinance](#). All parades are considered events with street closures.

- Applicant may be required to attend review meeting
- Insurance is required
- Fee: \$200.00

OUTSIDE OF DOWNTOWN EVENT

Application Deadline: 60 DAYS PRIOR TO THE EVENT

Any other private use upon any public street, alley, sidewalk, or public way.

- Applicant may be required to attend a review meeting
- Insurance is required

SINGLE DAY/SINGLE DAY LOCAL EVENT

Application Deadline: 14 DAYS PRIOR TO EVENT IF NO STREET CLOSURES

Application Deadline: 30 DAYS PRIOR TO EVENT IF STREET CLOSURES ARE REQUESTED

- Fee: \$100.00

Single Day Event: Do not require the use of cones, barricades or other traffic control devices in traffic lanes, and shall occur only on sidewalks or other public walkways. These events may require police traffic control at designated intersections.

- Applicant is not required to attend a review meeting
- Insurance is not required
- Fee: \$25.00

Single Day Local Street Event: May require full or partial control or use of the street but are less than ten (10) continuous hours a calendar day in duration. These events are restricted to local streets, including the Downtown Area. Except for processions, Single Day Events shall not occur during the hours of 7:30 am to 5:30 pm, Monday thru Friday, on North 1st, Pine, Cypress, Oak, or Chestnut Streets within the Downtown Area.

- Applicant is not required to attend a review meeting
- Insurance is required
- Fee: \$50.00

MULTI-DAY/MAJOR IMPACT EVENT

Application Deadline: 60 DAYS PRIOR TO THE EVENT

Events that require full or partial control or use of the street and are either a multiple day event or a single day event with a community-wide focus or major impact. Except for processions, Multi-Day Events shall not occur during the hours of 7:30 am to 5:30 pm, Monday thru Friday, on North 1st, Pine, Cypress, Oak, or Chestnut Streets within the Downtown Area, unless otherwise approved by City Manager or designee.

- Applicant is required to attend a review meeting
- Insurance is required
- Fee: \$100.00

FIREWORKS/PYROTECHNICS/SPECIALIZED EQUIPMENT EVENT

Application Deadline: 60 DAYS PRIOR TO THE EVENT

Example: 4th of July, Outdoor Concert, Drone Show, etc...

Events posing a special hazard to the general public and property due to the nature of the equipment involved. Specialized equipment includes but is not limited to drones, model aircraft, etc. These events may require outside review prior to approval.

- Applicant is required to attend a review meeting
- Insurance is required
- Fee: \$300.00

PROCESSIONS AND GENERAL EVENTS

Example: March, Organized Run/Walk, etc...

Procession: When a street closure is not required, a concerted walk, column, march, procession of any kind, or similar display consisting of twenty-five (25) or more individuals moving together in or upon any public roadway, or other public property in a place within the regulatory jurisdiction of the City. Processions are considered events without street closures. Processions require a Single Day or Multi-Day Permit and paid police traffic services, excluding funeral processions, university, college, secondary and primary school events when supervised by the school, neighborhood parades or neighborhood processions on residential streets.

General Events: Private events, ceremonies, social gatherings, and parties that do not meet any of the above-mentioned criteria and facilities where parking can be accommodated onsite for the total number of attendees may not require a Special Event Permit. A facility reservation may be required.

FEES

City of Abilene Ordinance Sec. 26-164 outlines the process for establishing permit fees. A refundable security/damage deposit is required to secure the facility for the special event/tournament, and reservation fees are due at least fourteen (14) days prior to the event. The City reserves the right to increase the amount of the refundable security/damage deposit, at its sole discretion, based on the size and scope of the event. The reservation fee includes the use of the facility and existing utilities. Special Event Permit fees are applicable for commercial and non-profit events.

Additional charges may be incurred by the Applicant if the facility or property used for the special event is damaged or not cleaned up including, but not limited to, physical damage, general trash from the event, vendor-related items, and/or sign/barricade and traffic control device removal. Additionally, fees will apply if hours for set up or tear down exceed hours reserved. A refund of the security/damage deposit will be processed upon review of the facility/property by City staff at the conclusion of the event; no later than 15 business days

following the last day of the event reservation. The Permit holder is responsible for all costs associated with the special event including but not limited to tents, tables, chairs, sound, trash removal, portable toilets, insurance, security, medical services/first-aid, advertising, etc.

CITY SERVICES

Unless the City co-sponsors an event through a formal written agreement, no city services will be donated as part of the issuance of a Special Event Permit. Certain City services may be available for a fee. Otherwise, all required services will be the sole responsibility of the event organizer or responsible party, either through qualified volunteers or through privately contracted services. Event organizers shall coordinate security with the Abilene Police Department. All required services shall be clearly identified and secured, and are subject to review by the Special Event Permitting Office.

SITE PLANS, RACE COURSE ROUTE AND PATHWAY MANAGEMENT

In order to understand the impact of the special event to the facility and the community, a detailed site set-up plan and/or route or race course map will be required as part of the application process. For walks that only utilize the pathway system, a staffing plan (or Traffic Plan) is also required to address all pathway/street intersections to ensure the safety of event participants and the movement of traffic. For walks, the plan would ensure the movement of vehicles is not delayed by the event.

PARKING, EVENT SET UP AND BREAKDOWN

Applicants are required to submit an adequate parking plan for the event and activities being proposed. If utilizing parking onsite at a City facility, the number of existing parking spots must accommodate the total number of attendees for the event as well as ADA accessible parking. If onsite parking is not sufficient, event organizers will be required to secure authorization for additional parking areas, this does not include parking along the right of way or parking along shoulders/ roadways. Additionally, the City will require written approval for offsite areas from property owners before the Special Event Permit is issued. Facility reservation hours must include hours for set up and breakdown. Permit holders are not authorized to access the facility for set up outside of reserved hours and must vacate the park or any other City property at the designated end time. Additional fees will apply if hours for set up or tear down exceed reservation.

TRAFFIC CONTROL

All proposed street closures must be included in the Special Event Application and be authorized by the police department. If your event involves street closures, you must obtain traffic/safety equipment for the safe closure of your venue and ensure proper detour and parking information is posted. Applicants must also plan for the systematic closure and reopening of the streets and other areas in which your event will take place. The traffic control plan will need to show the type of Manual for Traffic Control Devices (MUTCD) approved barricades to be used and advance signage that is applicable with the closure. Street closures will not be approved on Arterial Thoroughfare except for a Single Day Local Street Event or Multi-Day/Major Impact Event located within the Downtown Area. Other than processions, events shall not occur during the hours of 7:30 am to 5:30 pm, Monday thru Friday, on North 1st, Pine, Cypress, Oak, or Chestnut Streets in the Downtown Area.

PUBLIC SAFETY/SECURITY

Applicants are responsible for providing a safe and secure event. Event organizers must ensure adequate personnel are present to provide general security, manage crowds, maintain order, enforce local laws and ordinances, provide medical assistance, traffic control, etc. All costs associated with public safety are the responsibility of the permit holder. All Private Security must be approved by the Abilene Police Department. Events may be required to complete a Crowd Management Course to receive a Crowd Management Certificate. Two Crowd Managers are required for the first 1000 participants, 1 additional Crowd Manager will be required for each additional 1000 participants. Requirements are subject to change based on the type of event, activities being proposed, previous event history. Any event with over 5,000 anticipated participants must submit 3 different event organizers to contact for the safety of the participants and spectators.

Parade Organizers are responsible for submitting a parade lineup. The lineup will need to be in order based on the Staging Area required for the number of units in the Parade. Parade floats shall not exceed twelve feet (12') in height, and shall not exceed forty feet (40') of occupied space within the parade procession. The lineup must include the name of the participant/organization's float in the order of the Parade line up. Each participant/organization must be listed in order to be approved to participate in the parade. This information is solely for the purpose of event safety during the event by the Fire Department, Emergency Management, and Abilene Police Department. The lineup will not be shared with the public.

COMMUNITY OUTREACH

If an event requests to close a street or multiple streets, a Community Outreach Plan is required. 100% of the businesses or residents located in the street closure area must be notified prior to event approval. 51% of the businesses or residents located in the street closure area must agree to the street closure by signing the form prior to event approval. A copy of the completed Notification Letter and Notification of Street Closure form must be submitted with the application. Notification Letters can be sent by postal mail, emailed, or hand delivered to impacted businesses/residents. Applicants are able to add the required documents during the permit application review process. The plan should identify and resolve, to the reasonable extent possible, any potential problems within and around the venue that may take place as a result of the proposed event. This Community Outreach Plan should, at a minimum, include a community point of contact, presentation of the proposed event plans to community group(s) for feedback and advisory recommendation(s) to the City, as well as notification materials developed specifically for entities that are directly affected by the event.

The Notification Letter must include but is not limited to; The City of Abilene Special Event Policy requires notification to be sent to each business within the street closure area, a response is required stating approval or denial. Notification responses will need to be submitted via email to Specialevents@abilenetx.gov. If a response is not received postmarked no later than 14 days prior to the event, it will be assumed that the impacted business/resident is in agreement with the street closures. Notices posted in the park shall be reviewed and approved by the Director of the Parks and Recreation Department. All costs incurred as part of the Community Outreach Plan are the responsibility of the event organizer or sponsor.

TRASH AND LITTER

Permit holders are responsible for providing clean-up during and following the event, including all trash and litter removal. All permanent trash receptacles must be maintained during the event

and left free of trash following the event. Organizers may be required to provide additional trash receptacles and dumpsters based on the event scope. A Street Sweeper will be required upon conclusion of all permitted parades. The applicant/permit holder is solely responsible for arranging the additional trash needs and all associated costs by inputting the waste management plan on the Special Event Application. If it becomes necessary for the City to clean up any given area, the permit holder will forfeit any deposit and may be billed for all costs of the clean-up. The City reserves the right to determine location for dumpster units.

RESTROOMS

Organizers of special events may be required to provide portable toilets or make arrangements for restroom facilities, at the event organizer's expense. Portable toilets must be removed immediately following the event, unless other arrangements have been made and approved by City staff. The public restrooms at any City facility typically must remain open to the general public during the special event. The City may require event organizers to provide a restroom porter service (on-site vendor stocking and cleaning periodically throughout the day) for existing restroom facilities based on the information provided by the Applicant. All costs for porter services will be the responsibility of the permit holder. The City reserves the right to determine location for portable restroom units.

SALE OF FOOD

Where food is prepared on-site and for sale, organizers are responsible for obtaining appropriate permits from the Abilene Taylor County Public Health District. A copy of the permit(s) will be required prior to the issuance of the Special Event Permit. Organizations with approved events that occur on Parkland must submit an approved vendor list. Vendors listed on the approved vendor list must complete the vendor permitting process through the Parks & Recreation Department in order to obtain a Vendor Permit and be approved to make a profit on parkland.

ALCOHOLIC BEVERAGES

If you propose to provide alcohol (sold or free) at your event, you will need to secure a permit from the Texas Alcoholic Beverage Commission (TABC). Alcohol sold or distributed on outdoor City public property or outdoor private property within a special event venue is limited to those persons 21 years and older. The TABC permit timeframe is required to cover the dates that alcohol is present on the premises if the premises is not permitted by TABC prior to the event. Sale or consumption of alcohol in a City Park is prohibited per [Ordinance Chapter 22 - Sec. 22-1. - Intoxicating Beverages Prohibited; Confiscation](#), unless it adheres to the allowance permitting outlined in the [ordinance subsection \(c\) and \(d\)](#). If alcohol associated with your event will be located on property managed by another public agency or on private property (e.g., a restaurant), use and distribution shall comply with the requirements of the respective entities. If alcoholic beverages are to be sold or consumed at the special event at an alcohol-allowed facility:

- Applicant will be required to acknowledge any prohibited areas for alcoholic beverages as outlined above.
- Liquor Liability Insurance coverage must be provided naming The City of Abilene as additional insured and included a Waiver of Subrogation for alcohol sales.
- Applicant will be required to provide Security.

INSURANCE

The Host Organization is responsible for providing a Certificate of Insurance and a separate additional Insured Endorsement reflecting Commercial General Liability insurance, Worker's Compensation insurance and Liquor Liability insurance (if applicable) for the Host Organization and, as applicable, the Primary Contact, Private Security Service Provider, Medical Service Provider, and other Service Providers if required by the Risk Management Department.

The insurance and endorsements shall specifically name the City, its officers, employees, volunteers, and agents as an additional insured and shall provide coverage for the entire duration of dates and times for which the Special Event Permit is in effect, including setup and dismantle dates. If the event includes the use of alcohol, whether or not it is distributed on City property, Liquor Liability Insurance shall also be required.

The certificate must:

- Name The City of Abilene as the "Certificate Holder" and "Additional Insured" – Other entities/location may also be required to be named;
- Contain a provision for ten (10) days prior written notice to the City of Abilene if the policy expires or is canceled or changed;
- Not have exclusions in the insurance coverage regarding publicly owned or leased property or City of Abilene operations or personnel, employees, licensees or agents; and
- Include a Waiver of Subrogation.

All costs associated with insurance are the responsibility of the event organizer. Subcontractors, vendors and others associated with the production of the special event may also be required to meet this condition including, but not limited to food/beverage vendors, activity vendors, caterers and/or event rental companies.

AMPLIFIED SOUND/NOISE

The City of Abilene has a noise ordinance which prohibits excessive noise. [Sec. 20-1. - Noise control generally](#); any unreasonable loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibility in the immediate vicinity thereof is hereby declared to be unlawful and is hereby prohibited. Any noise of such character, intensity and continued duration which substantially interferes with the comfort and enjoyment of private homes by persons of ordinary sensibility is hereby declared to be unlawful and is hereby prohibited. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate this section. Due to the nature of events and the fact that the majority of community facilities are built near, adjacent to or in close proximity to residential areas, it is the sole responsibility of the event organizer to familiarize themselves with these noise restrictions and ensure the event is in compliance.

SIGNS AND BANNERS

All signs and/or banners to be displayed prior to and during the event must be approved prior to issuance of the Special Event Permit. The applicant/permit holder is solely responsible for arranging a contractor for installment of the banner(s) and all associated costs. The banner requirements have been implemented on the Special Event Application. Signs must be removed immediately after the Special event. Banners may not be hung on or suspended from existing light pole structures.

FIREWORKS/PYROTECHICS/SPECIALIZED EQUIPMENT

Fireworks, pyrotechnics or any type of flame effects of any class, kind or type requires additional applications, reviews and conditions for approval. Fireworks are regulated by the State of Texas, and the Abilene Fire Department Fire Marshal's Office. Applicants must provide proof of approval and compliance with all requirements of such agencies at least 30 days prior to the event.

The operation of specialized equipment includes, but is not limited to, drones. While the FAA possesses the exclusive authority to enforce all aviation law, certain situations may also involve local or state authorities for the deterrence, detection, and investigation of unauthorized or illegal activity by drone operators. If your proposed event will involve UAS operations, the applicant must comply with all FAA rules and regulations. For the latest information, visit the FAA's UAS site at: <https://www.faa.gov/uas/>. Drones (UAS) shall be operated in accordance with Federal Aviation Regulations, including registering the activity through the Federal Aviation Administration's "B4UFly" website and using FAA-licensed photographers/videographers who are hired to record any event. Drones are not allowed in City of Abilene parks without special written permission. Specialized equipment not listed may require a review meeting.

CITY SERVICES AND EVENT ACCESS

All regularly scheduled city services will be provided during the normal work hours whenever possible. The City of Abilene does not have Special Event equipment, signs or supplies for loan or for rent. City staff will provide Applicants consultation as may be reasonably necessary to resolve problems, answer questions and facilitate review by outside agencies at no charge to the Applicant.

Please note that City staff and their respective contractors, shall have unrestricted access to the reserved facility or facilities at any time during the event (set up, tear down, event production) to execute the functions of their respective job or contract. City staff and contractors will be identifiable through a uniform or employee identification.

The City of Abilene City Manager (or designee) has the authority to cancel or stop an event, before or during the event, if the conditions required for approval of the event are not being met. In addition, the City Manager (or designee) and public safety officials have the authority to cancel or stop an event, or place additional restrictions on the event, if it is deemed that the public health, safety or welfare is being jeopardized and/or would be better served with additional restrictions or requirements.

SPECIAL RULES AND ADDITIONAL PROCEDURES

Special rules and additional procedures may be required that are unique to certain City of Abilene facilities. All rules and regulations contained within the [City of Abilene Ord. Chapter 22](#) and [Article IX](#), and may be amended from time to time, apply to special events. Most parks and pathway areas cannot be reserved or permitted for the exclusive use of one (1) group, and access to general park amenities by the general public may not be restricted at any time.

The City of Abilene reserves the right, at its sole discretion, to deny use of the facility or require the event to cease and organizer/attendees vacate the park in the event these policies are not adhered to.

POLITICAL ACTIVITY

Political events/activity, including but not limited to, candidate meet and greets, conducting voter registration, City of Abilene forums and/or rallies, are permitted with the following

considerations:

- All park rules are followed per [City of Abilene Ord. Chapter 22](#).
- The activity does not interfere with existing park reservations, maintenance and/or special events.
- The activity does not impede access to any areas within the facility or cause a disruption to patrons and surrounding residents.
- Certain exceptions may apply as required by law and determined by the City of Abilene Legal Counsel.

OTHER CONSIDERATIONS AND APPROVALS

By submitting an application for a Special Event Permit, Applicants agree to follow local, state and federal Orders or Declarations and/or Centers for Disease Control and Prevention (CDC) and Public Health Agency guidelines on disease control and prevention when organizing events and gatherings. Guidelines for events and gatherings are available from various sources including, but not limited to, the CDC (www.cdc.gov) and the Department of Human Health Services (www.hhs.gov). The City of Abilene does not accept any responsibility or liability of the health and safety of the event Applicant, participants, attendees, volunteers, vendors or sponsors. Applicant assumes all liability related to the health and safety of all those attending the special event. The City of Abilene does not disinfect or sanitize all park facilities including, but not limited to, equipment, amenities, restrooms and/or trash receptacles.

PENALTY FOR VIOLATIONS

Any person, firm, partnership, corporation, association, agent or employee thereof who violates any of the provisions of the governing ordinance outlined in the Special Events Permit Policy, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) for each offense. Each and every day that such violation shall continue shall be deemed to constitute a separate offense.

Quick Reference Table

	Single Day	Single Day - Local Street	Multi-Day/ Major Impact	Downtown Parades	Outside of Downtown	Fireworks/ Pyrotechnics/ Specialized Equipment
Criteria	no control over the street; shall occur only on sidewalks or other public walkways.	less than 10 hours in duration; requiring control of local streets;	multiple day event or major impact; requiring control of streets;	closed streets, approved route in the Downtown Area and approved staging area.	any other private use upon any public street alley, sidewalk or public way	posing special hazard to the general public and property due to equipment used;
Application Available	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department	Parks & Recreation Department
Application due before event date	14 days	30 days	60 days	60 days	60 days	60 days
Applicant may need to attend review meeting	No	No	Yes	Yes	Yes	Yes
Agreement	Approved Application	Approved Application	Approved Application	Approved Application	Approved Application	Approved Application
Indemnity required	Yes	Yes	Yes	Yes	Yes	Yes
Insurance required	No	Yes	Yes	Yes	Yes	Yes
Permit fee	\$25.00	\$50.00	\$100.00	\$200.00	\$100.00	\$300.00
Coordinating City Department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department	Parks and Recreation Department

ATTACHMENT A
NOTIFICATION OF STREET CLOSURE

NAME OF EVENT: _____ DATE OF EVENT: _____

STREET(S) TO BE
CLOSED: _____

TIME OF EVENT: _____ TIME OF STREET CLOSURE: _____

BUSINESS NAME: _____ PHONE #: _____

SIGNATURE: _____ PRINT NAME: _____

BUSINESS NAME: _____ PHONE #: _____

SIGNATURE: _____ PRINT NAME: _____

BUSINESS NAME: _____ PHONE #: _____

SIGNATURE: _____ PRINT NAME: _____

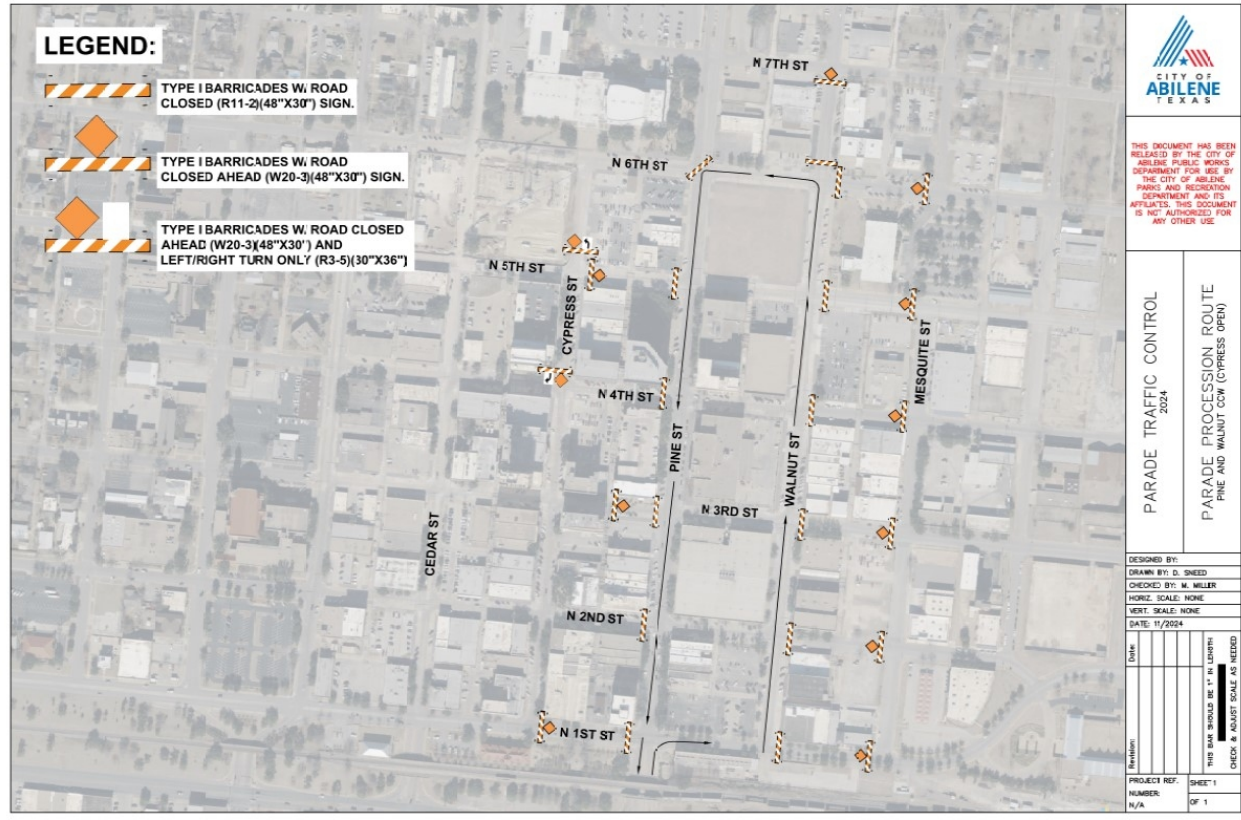
BUSINESS NAME: _____ PHONE #: _____

SIGNATURE: _____ PRINT NAME: _____

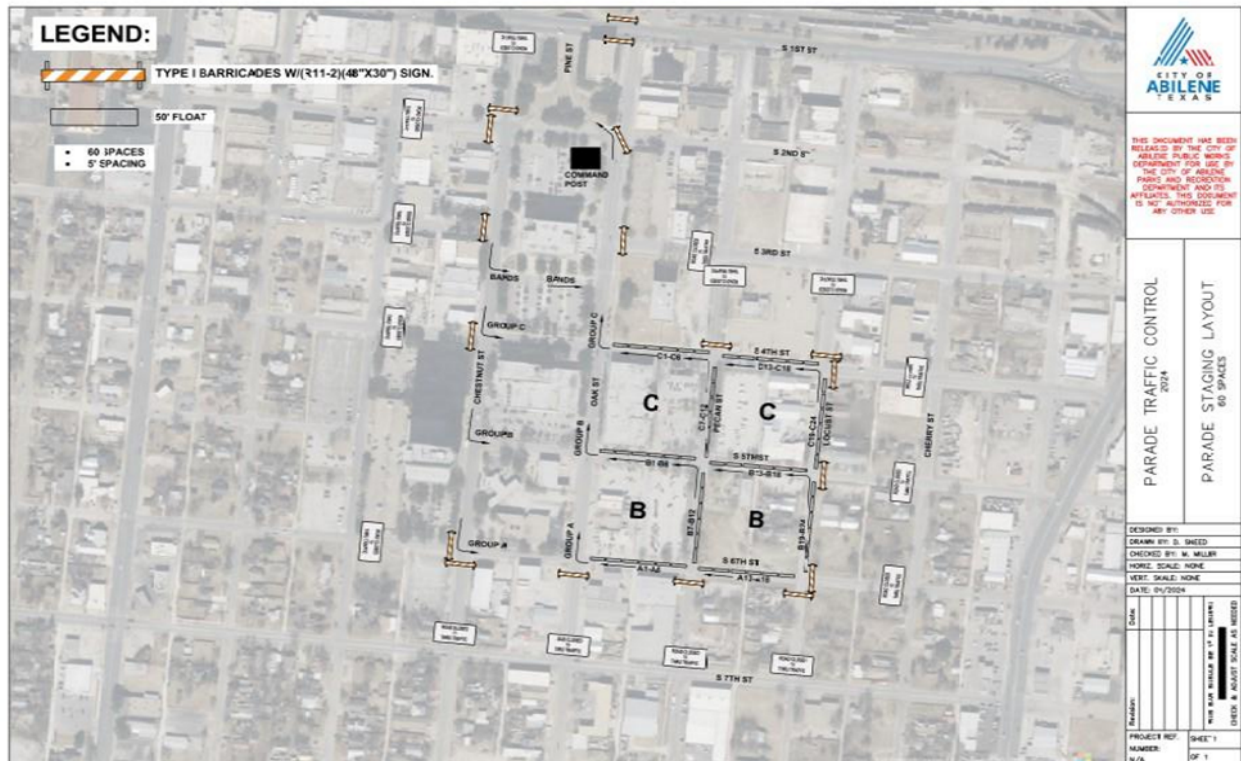
BUSINESS NAME: _____ PHONE #: _____

SIGNATURE: _____ PRINT NAME: _____

2025 PARADE ROUTE: The route map is subject to change at any time. Please see the Special Events Office for any possible changes due to unforeseen construction etc..



60, 96, & 135 - STAGING PLANS: The staging plans are subject to change at any time. Please see the Special Events Office for any possible changes due to unforeseen construction etc..

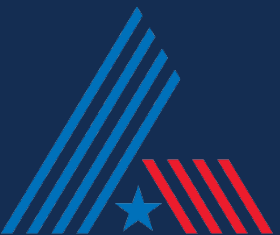


Special Events Permit Policy



General Information:

- Special Events Office established in 2022
- The purpose of the office is to centralize access to resources for citizens and organizations interested in hosting a special event.
- To assist in this purpose, an online system was implemented in 2022 that allows an application to be submitted online by a prospective host providing step-by-step guidance through the special event submittal process.
- The office also serves as a “one stop shop” for payment of required fees as well as access to support staff to assist patrons with best practices, policies, and procedures.

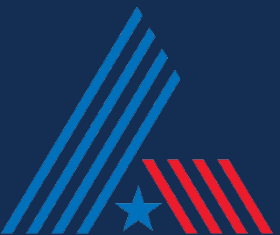


Special Event Policy Updates:

- After two years of operation, the Special Event Policy is in need of updates to expand and enhance the service to patrons. Three key areas needing updates are as follows:
 - A Special Event Permit may be required for events taking place on property not owned, managed or operated by the City. The determination shall be made based on the number of expected attendees, permit-required components of the event, and the potential impact on surrounding residents, businesses, and traffic.
 - Establishing a category for Fireworks/Pyrotechnics/Specialized Equipment
 - Establishing the permanent staging area and parade route



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: **27. Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 29, "Streets and Sidewalks," Article IX, "Special Events Permit" of the Code of Ordinances *(Lesli Andrews)*

GENERAL INFORMATION

The Special Events Permitting Office is located in the Parks and Recreation Department and managed by the Parks and Recreation Office. This allows one location where citizens and organizations can access the Special Event Application, make payments, and access City of Abilene resources needed to support an event. Multiple items will need to be approved by the City Council, including the Special Event Permit Policy, Special Event Ordinance, and the updated Fee Schedule.

Staff are requesting additional language to cover parades.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends approval of the Special Events Permit Ordinance.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 25_3_13 Special Event Permit ENACTING ORDINANCE
2. 25_3_13 REDLINE DRAFT - Special Event Permit ORDINANCE (25_3_10)
3. 25_3_13 FINAL DRAFT - Special Event Permit ORDINANCE (25_3_10) clean
4. 25_3_13 Presentation Amending Special Events Chapter 29 Article IX Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 29 “STREETS AND SIDEWALKS,” ARTICLE IX “SPECIAL EVENT PERMIT,” OF THE CODE OF THE CITY OF ABILENE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; DECLARING A PENALTY; AND CALLING A PUBLIC HEARING.

WHEREAS, Chapter 29, Article IX of the Abilene Code of Ordinance sets forth the procedure and guidelines to issue a special event permit; and

WHEREAS, the City of Abilene seeks to revise the Ordinance to issue special events permits, and to streamline and clarify the parameters via the Ordinance, policy and fees.

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

Part 1: That Chapter 29, Article IX, “Special Events Permits” of the Code of Ordinances, City of Abilene, Texas, is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

Part 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of a competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

Part 3: That any person, firm, or corporation violating the provisions of this ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of the Code of Ordinances, City of Abilene, Texas.

Part 4: Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said offense, 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.

ADOPTED on first reading on the 19th day of December, 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 9th day of March, 2025, the same being more than 24 hours prior to a public hearing being held in the Council Chambers of City Hall in Abilene, Texas, at 8:30 a.m. on the 13th day of March, 2025, to permit the public to be heard.

ADOPTED on the second and final reading on this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

Exhibit A

• ARTICLE IX. - SPECIAL EVENTS PERMIT

Sec. 29-160. - Purpose of article.

The purpose of this article is to ensure the health, safety, and welfare of the public at parades and special events held in the which utilize City of Abilene ~~rights-of-way~~ by creating a permitting process for these parades and special events.

• Sec. 29-161. - Definitions.

The following words and phrases, when used in this chapter, shall have the meanings ascribed to them by this section:

Applicant. The person, group, organization, or business who is normally named as the event organizer and retains responsibility for the special event or parade listed on the permit application.

Application fee. The fee for any special event application, as approved by the City Council. No application for a permit will be processed until the required application fee and permitting fees are paid. The fee is nonrefundable and shall not be prorated.

Business day. Any calendar day except Saturday, Sunday or any City of Abilene holiday.

City. The City of Abilene, Texas.

City approved parade. A parade that has been approved by the City to be supported with city services at no additional costs to the special event permit holder.

City Manager. The City Manager of the City of Abilene, Texas, or his or her designee.

Commercial Event. A special event held by for-profit organizations which is open to public participation, for a fee or free, which is anticipated to attract one thousand (1,000) or more people, and may include, but is not limited to, a fair, festival, exhibition, or carnival, centered around music, art, culture, food, cars/trucks/vehicles. A donation by the for-profit organization to a non-profit does not constitute the event being a non-commercial event.

Fireworks/Pyrotechnics/Specialized Equipment Event. A special event that poses a special hazard to the general public and property due to the nature of the equipment involved, including fireworks or pyrotechnics. Specialized equipment includes, but is not limited to, drones.

Float. A ~~one~~ or more vehicles with or without a trailer or forty (40') of occupied space within the parade procession.

General Event. Private events, ceremonies, social gatherings, and parties that are not otherwise defined herein, and where parking can be accommodated onsite for the total number of attendees.

Local Streets. A type of thoroughfare: arterial, collector, minor arterial, or an expressway that is primarily used within the city limits. Street closures are not authorized on arterial streets, except on North 1st between Walnut and Cedar.

Official. City of Abilene Peace Officers, or the City Manager or designee who administers, implements, or enforces the provisions of this chapter.

Parade. When one or more street closures are required, aA concerted walk, column, march, procession of any kind, or similar display consisting of twenty-five (25) or more individuals, or five (5) or more floats, moving together in or upon any public roadway, sidewalk, or other public property in a place within the regulatory jurisdiction of the City.

Procession. When a street closure is not required, a concerted walk, column, march, procession of any kind, or similar display consisting of twenty-five (25) or more individuals moving together in or upon any public roadway, or other public property in a place within the regulatory jurisdiction of the City.

Public Property. Any property held for public use by any department or branch of government, federal, state, county, school or municipality. Public property does not include private property.

Special Event. A special event is a nonn-routine, pre-planned activity that brings a group of people together for a specific purpose, usually for a limited time. Special events can be held on public or private property and can include, but are not limited to, activities such as concerts, festivals, carnivals, fundraisers, rallies, races, and walks/runs.

Special Event Application. The initial step in the special event permitting process. The application is a form to present event intentions and requests for review.

Special Event Permit. A final signed permit authorizing the event as detailed, written authorization document to parade or assemble that is issued by the City of Abilene, Texas as required by this ordinance.

Special Eevent Ppermitting Officedepartment. The officedepartment of the City of Abilene responsible, under the special event permit policy, for accepting and processing applications for a Sspecial Eevent Ppermit.

Special Event Policy. A written policy created by the City to regulate parades and special events in conjunction with the Special Event Permit Ordinance.

Support Services. Resources, such as security, fire, EMS, waste management, or street services, which may be required to support a special event. City support services may be available for a fee, but all support services are the responsibility of the Applicant.

Tournament. A special event being a pre-planned temporary series of games or contests involving use of a City sports complex or field(s), customarily held for purposes of competitions aimed at drawing crowds that may impact surrounding neighborhoods, traffic flow, or the community as a whole.

- **Sec. 29-162. - Permit requirements and exemptions.**

(a) Any ~~special event or parade that utilizes City rights-of-way~~ shall comply with the permitting requirements of this article and the special event permit policy adopted by City Council and kept on file with the City Secretary.

(b) This article does not apply to events which require a street use license under article V of this chapter.

(c) ~~This article shall not apply to funeral processions, university, college, secondary and primary school events when supervised by the school, neighborhood parades or neighborhood processions on residential streets, students in grades kindergarten through twelve going to and from school classes or participating in school educational activities that direct supervision of school authorities, Federal, State and Local governmental bodies or units of the City including the Armed Forces of the United States of America, and the forces of the police and fire departments acting within the scope of their duties.~~

(d) ~~All permit holders shall be regulated by the requirements of this article and also by the City's Special Event Policy. In the event of a conflict between this article and the City's Special Event Policy, this article's provisions shall control.~~

(e) ~~Permit requirements or exemptions do not exclude requirements that may be found in other laws, ordinances or regulations.~~

- **Sec. 29-163. - Application.**

~~Applicant~~Applications for special event permits under this article shall file an online application with the City's special event permitting office.

~~1. Special Event Process~~

~~(a) Any person desiring to hold a special event or parade regulated by this Ordinance shall first obtain a Special Event Permit from the City of Abilene Department of Parks and Recreation.~~

~~2. Route plan and procedures~~

~~(a) Parades shall be required to follow the established downtown route and applicable staging areas that are maintained within the special events office. Street closures shall be removed within one hour after special event or parade. Dates, times, duration, and other special event or parade elements are subject to review and approval as part of the permit process.~~

- **Sec. 26-164. - Required fee.**

(a) The fee for a special event permit shall be approved by the City Council. No application for a permit will be processed until the required fees are tendered to the City. The permit fee is nonrefundable and shall not be prorated.

(b) Expenses for any additional costs for City services necessary for the event shall be billed separately. These expenses include, but are not limited to, costs for police escort, security, traffic control, refuse collection and street sweeping.

- **Sec. 29-165. - Issuance.**

Upon completion and approval of the application, the City shall issue a permit to the applicant within the timelines indicated in the special event permit policy.

- **Sec. 29-166. - Expiration.**

All permits issued under the provisions of this article shall expire at the termination of the permitted event.

- **Sec. 29-167. - Transfer.**

No permit issued under the provisions of this article shall be transferred or assigned.

- **Sec. 29-168. - Denial.**

An application for a special event permit may be denied to a person under this article for the following reasons:

(1) An investigation reveals that the applicant falsified information on the application.

(2) An official has determined that the health, safety or welfare of the citizens would be impaired by allowing the special event to occur as requested.

(3) An application is incomplete or submitted after the application due date.

- **Sec. 29-169. - Revocation.**

(a) Permits issued under the provisions of this article may be revoked for any of the following reasons by any official of the City:

(1) Fraud, misrepresentation or false statement contained in the application for a special event permit.

(2) Fraud, misrepresentation or false statement made in the course of carrying out the permitted special event.

(3) The applicant refuses to comply with the terms of the permit.

(4) The applicant has not provided proof of insurance, if required.

(b) Notice of revocation of a **special event** permit shall be given verbally or in writing, and state the grounds of the revocation.

(c) When the applicant receives notice that their **special event** permit has been revoked, they shall immediately surrender their permit to the revoking official and immediately cease the special event.

- **Sec. 29-170. - Appeals.**

(a) An appeal from any act of denial or revocation **of any special event permit** shall be filed with the City Manager within five (5) business days from the date of denial or revocation.

(b) Such appeal shall be taken by filing with the City Manager a written statement setting forth fully the grounds for the appeal.

(c) The City Manager shall issue a written decision on the denial or revocation in writing within five (5) business days of receipt of the appeal.

(d) The revocation or denial is not stayed pending the City Manager's decision.

(e) The decision of the City Manager on such appeal shall be final and may not be appealed further.

- **Sec. 29-171. - Penalty for violation.**

Any person, firm, partnership, corporation, association, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) for each offense. Each and every day that such violation shall continue shall be deemed to constitute a separate offense.

- **Secs. 29-172. -- Additional regulations for parades.**

(a) Parade floats shall not exceed twelve feet (12') in height, and shall not exceed ~~fifty~~forty feet (450') of occupied space within the parade procession.

(b) Items shall not be thrown from parade floats by parade participants.

(c) An itemized list of each group representing a float shall be submitted to the special events office no later than seven (7) days prior to the parade.

(d) Parades shall not exceed the float limit as provided in the Special Event Policy.

~~(h) No parade shall exceed ninety (90) minutes in duration.~~

(e) Parades shall not exceed ninety (90) minutes in duration.

(f) Parades shall be required to follow the established downtown parade route and applicable staging areas that are maintained within the special events office. Street closure barricades or other equipment shall be

removed within one hour after the end of a special event or parade. Dates, times, duration, location, and other special event or parade elements are subject to review and approval as part of the permitting process.

- **Secs. 29-173—29-180. - Reserved.**

Exhibit A

• ARTICLE IX. - SPECIAL EVENTS PERMIT

Sec. 29-160. - Purpose of article.

The purpose of this article is to ensure the health, safety, and welfare of the public at parades and special events held in the City of Abilene by creating a permitting process for these parades and special events.

• **Sec. 29-161. - Definitions.**

The following words and phrases, when used in this chapter, shall have the meanings ascribed to them by this section:

Applicant. The person, group, organization, or business who is normally named as the event organizer and retains responsibility for the special event or parade listed on the permit application.

Application fee. The fee for any special event application, as approved by the City Council. No application for a permit will be processed until the required application fee and permitting fees are paid. The fee is nonrefundable and shall not be prorated.

Business day. Any calendar day except Saturday, Sunday or any City of Abilene holiday.

City. The City of Abilene, Texas.

City approved parade. A parade that has been approved by the City to be supported with city services at no additional costs to the special event permit holder.

City Manager. The City Manager of the City of Abilene, Texas, or his or her designee.

Commercial Event. A special event held by for-profit organizations which is open to public participation, for a fee or free, which is anticipated to attract one thousand (1,000) or more people, and may include, but is not limited to, a fair, festival, exhibition, or carnival, centered around music, art, culture, food, cars/trucks/vehicles. A donation by the for-profit organization to a non-profit does not constitute the event being a non-commercial event.

Fireworks/Pyrotechnics/Specialized Equipment Event. A special event that poses a special hazard to the general public and property due to the nature of the equipment involved, including fireworks or pyrotechnics. Specialized equipment includes, but is not limited to, drones.

Float. One or more vehicles with or without a trailer or forty (40') of occupied space within the parade procession.

General Event. Private events, ceremonies, social gatherings, and parties that are not otherwise defined herein, and where parking can be accommodated onsite for the total number of attendees.

Local Streets. A type of thoroughfare: arterial, collector, minor arterial, or an expressway that is primarily used within the city limits. Street closures are not authorized on arterial streets, except on North 1st between Walnut and Cedar.

Official. City of Abilene Peace Officers, or the City Manager or designee who administers, implements, or enforces the provisions of this chapter.

Parade. When one or more street closures are required, a concerted walk, column, march, procession of any kind, or similar display consisting of twenty-five (25) or more individuals, or five (5) or more floats, moving together in or upon any public roadway, sidewalk, or other public property in a place within the regulatory jurisdiction of the City.

Procession. When a street closure is not required, a concerted walk, column, march, procession of any kind, or similar display consisting of twenty-five (25) or more individuals moving together in or upon any public roadway, or other public property in a place within the regulatory jurisdiction of the City.

Public Property. Any property held for public use by any department or branch of government, federal, state, county, school or municipality. Public property does not include private property.

Special Event. A special event is a nonroutine, pre-planned activity that brings a group of people together for a specific purpose, usually for a limited time. Special events can be held on public or private property and can include, but are not limited to, activities such as concerts, festivals, carnivals, fundraisers, rallies, races, and walks/runs.

Special Event Application. The initial step in the special event permitting process. The application is a form to present event intentions and requests for review.

Special Event Permit. A final signed permit authorizing the event as detailed..

Special Event Permitting Office. The office of the City of Abilene responsible, under the special event permit policy, for accepting and processing applications for a Special Event Permit.

Special Event Policy. A written policy created by the City to regulate parades and special events in conjunction with the Special Event Permit Ordinance.

Support Services. Resources, such as security, fire, EMS, waste management, or street services, which may be required to support a special event. City support services may be available for a fee, but all support services are the responsibility of the Applicant.

Tournament. A special event being a pre-planned temporary series of games or contests involving use of a City sports complex or field(s), customarily held for purposes of competitions aimed at drawing crowds that may impact surrounding neighborhoods, traffic flow, or the community as a whole.

- **Sec. 29-162. - Permit requirements and exemptions.**

(a) Any special event or parade shall comply with the permitting requirements of this article and the special event permit policy adopted by City Council and kept on file with the City Secretary.

(b) This article does not apply to events which require a street use license under article V of this chapter.

(c) This article shall not apply to funeral processions, university, college, secondary and primary school events when supervised by the school, neighborhood parades or neighborhood processions on residential streets, Federal, State and Local Governmental bodies or units of the City including the Armed Forces of the United States of America, and the forces of the police and fire departments acting within the scope of their duties.

(d) All permit holders shall be regulated by the requirements of this article and also by the City's Special Event Policy. In the event of a conflict between this article and the City's Special Event Policy, this article's provisions shall control.

(e) Permit requirements or exemptions do not exclude requirements that may be found in other laws, ordinances or regulations.

- **Sec. 29-163. - Application.**

Applications for special event permits under this article shall file an online application with the City's special event permitting office.

- **Sec. 26-164. - Required fee.**

(a) The fee for a special event permit shall be approved by the City Council. No application for a permit will be processed until the required fees are tendered to the City. The permit fee is nonrefundable and shall not be prorated.

(b) Expenses for any additional costs for City services necessary for the event shall be billed separately. These expenses include, but are not limited to, costs for police escort, security, traffic control, refuse collection and street sweeping.

- **Sec. 29-165. - Issuance.**

Upon completion and approval of the application, the City shall issue a permit to the applicant within the timelines indicated in the special event permit policy.

- **Sec. 29-166. - Expiration.**

All permits issued under the provisions of this article shall expire at the termination of the permitted event.

- **Sec. 29-167. - Transfer.**

No permit issued under the provisions of this article shall be transferred or assigned.

- **Sec. 29-168. - Denial.**

An application for a special event permit may be denied to a person under this article for the following reasons:

- (1) An investigation reveals that the applicant falsified information on the application.
- (2) An official has determined that the health, safety or welfare of the citizens would be impaired by allowing the special event to occur as requested.
- (3) An application is incomplete or submitted after the application due date.

- **Sec. 29-169. - Revocation.**

(a) Permits issued under the provisions of this article may be revoked for any of the following reasons by any official of the City:

- (1) Fraud, misrepresentation or false statement contained in the application for a special event permit.
- (2) Fraud, misrepresentation or false statement made in the course of carrying out the permitted special event.
- (3) The applicant refuses to comply with the terms of the permit.
- (4) The applicant has not provided proof of insurance, if required.

(b) Notice of revocation of a special event permit shall be given verbally or in writing, and state the grounds of the revocation.

(c) When the applicant receives notice that their special event permit has been revoked, they shall immediately surrender their permit to the revoking official and immediately cease the special event.

- **Sec. 29-170. - Appeals.**

(a) An appeal from any act of denial or revocation of any special event permit shall be filed with the City Manager within five (5) business days from the date of denial or revocation.

(b) Such appeal shall be taken by filing with the City Manager a written statement setting forth fully the grounds for the appeal.

(c) The City Manager shall issue a written decision on the denial or revocation in writing within five (5) business days of receipt of the appeal.

(d) The revocation or denial is not stayed pending the City Manager's decision.

(e) The decision of the City Manager on such appeal shall be final and may not be appealed further.

- **Sec. 29-171. - Penalty for violation.**

Any person, firm, partnership, corporation, association, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) for each offense. Each and every day that such violation shall continue shall be deemed to constitute a separate offense.

- **Secs. 29-172. - Additional regulations for parades.**

(a) Parade floats shall not exceed twelve feet (12') in height, and shall not exceed forty feet (40') of occupied space within the parade procession.

(b) Items shall not be thrown from parade floats by parade participants.

(c) An itemized list of each group representing a float shall be submitted to the special events office no later than seven (7) days prior to the parade.

(d) Parades shall not exceed the float limit as provided in the Special Event Policy.

(e) Parades shall not exceed ninety (90) minutes in duration.

(f) Parades shall be required to follow the established downtown parade route and applicable staging areas that are maintained within the special events office. Street closure barricades or other equipment shall be removed within one hour after the end of a special event or parade. Dates, times, duration, location, and other special event or parade elements are subject to review and approval as part of the permitting process.

- **Secs. 29-173—29-180. - Reserved.**

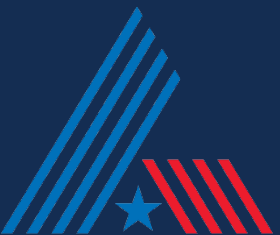
Amending Ordinance Chapter 29 Article IX Special Events Permit



Article IX. – Special Events Permit Ordinance Changes:

Sec.29-161 – Definitions

- Float. One vehicle with or without a trailer, or forty feet (40') of occupied space, within the parade procession.
- Parade. A concerted walk, column, march, or procession of any kind, or similar display consisting of twenty-five (25) or more individuals, or five (5) or more floats, moving together in or upon any public roadway, sidewalk, or other public property in a place within the regulatory jurisdiction of the City.
- Special Event. A special event is a non-routine, pre-planned activity that brings a group of people together for a specific purpose, usually for a limited time. Special events can be held on public or private property and can include, but are not limited to, activities such as concerts, festivals, carnivals, fundraisers, rallies, races, and walks/runs.

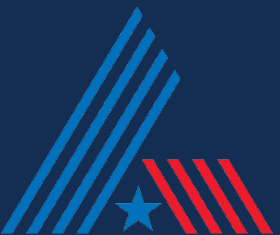


Article IX. – Special Events Permit Ordinance Changes:

Special Event Permit. A written authorization document to hold a parade or special event that is issued by the City of Abilene, Texas as required by this ordinance.

Sec. 29-162 - Permit requirements and exemptions

(c) This article shall not apply to funeral processions, nor to students in grades kindergarten through twelve going to and from school classes or participating in a school educational activity that are under the direct supervision of school authorities, or governmental bodies or units of the City.



Article IX. – Special Events Permit Ordinance Changes:

Sec. 29-163 - Application

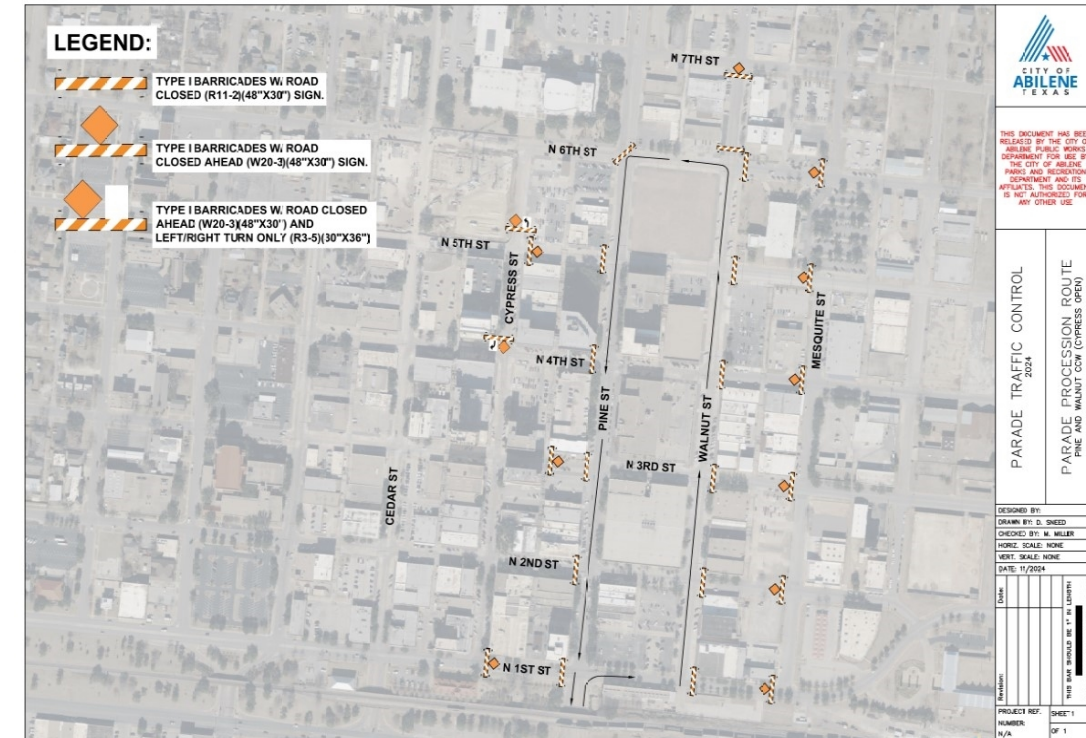
1. Special Event Process

Any person desiring to hold a special event or parade regulated by this Ordinance shall first obtain a Special Event Permit from the City of Abilene Department of Parks and Recreation.

2. Route plan and procedures

Parades shall be required to follow the established downtown parade route and applicable staging areas that are maintained within the special events office. Street closures barricades or other equipment shall be removed within one hour after the end of a special event or parade. Dates, times, duration, location, and other special event or parade elements are subject to review and approval as part of the permitting process.

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: **28. Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending the Fees and Charges Ordinance to Special Events Fees (Lesli Andrews)

GENERAL INFORMATION

The Special Events Permitting Division is located in the Parks and Recreation Department and managed through the Parks and Recreation Front Office. This allows one location where citizens and organizations can access the Special Event Application, make payments, and access City of Abilene resources needed to support an event. Multiple items will need to be approved by the City Council including the Special Event Permit Policy, Special Event Ordinance, and update the Fee Schedule.

The Fiscal Year 2025 Fee Schedule was adopted on August 8, 2024. Request to add one (1) new Special Events fee to the Fiscal Year 2025 Fee Schedule. The new fee is a "Fireworks/Pyrotechnics/Specialized Equipment" fee.

A request is also being submitted to change the Street Sweeping service fee from \$150 to \$225.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Possible revenue for the General Fund.

STAFF RECOMMENDATION

Staff recommends approval of the amended fees to the Fees and Charges Ordinance.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 25_3_13 Ordinance-Fee
2. 25_3_13 Attachment A - FY25 Special Event Fee Schedule Requested Changes
3. 25_3_13 Presentation FY25 Special Events Fee Schedule Addition

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 41-2024 AND ADOPTING FEES AND CHARGES FOR SPECIAL EVENTS, FOR THE CITY OF ABILENE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES, RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; CALLING A PUBLIC HEARING.

WHEREAS, the City Council adopted Ordinance 41-2024 ("Fee Ordinance") on August 8, 2024 setting fees and charges commencing on October 1, 2024; and,

WHEREAS, it was contemplated that this Fee Ordinance would require amendment from time to time to modify and update fees and charges; and,

WHEREAS, the City of Abilene desires to add special event fee; now, therefore,

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

PART 1: That the Schedule of Fees and Charges for the City of Abilene, Texas is amended as set out in Exhibit "A", attached and made a part of this ordinance for all purposes.

PART 2: That all ordinance and parts of ordinance, resolutions, and parts of resolutions in conflict herewith are repealed.

PART 3: That this Schedule of Fees and Charges for the City of Abilene, Texas shall be kept on file in the City Secretary's office.

PART 4: That the effective date of this section shall be the first billing cycle in April, A.D., 2025.

PASSED ON FIRST READING on the 19th day of December, A.D. 2024.

After passage on first reading, a notice of the time and place 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. The same being more than twenty-four (24) hours prior to the time designated for said hearing. After such an opportunity for the public to be heard, said ordinance was passed on its second and final reading.

PASSED ON SECOND AND FINAL READING AT A PUBLIC HEARING on the
13th day of March, A.D. 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

<u>SPECIAL EVENT AND STREET USE LICENSE</u>		
	Application fee	\$100.00
	Single Day Local : no control over the street; pre-approved route; not in Downtown Area	\$25.00
	Single Day: less than 10 hours in duration; requiring control of local/minor streets; in Downtown Area	\$50.00
	Multiday: multiple day event or major impact; requiring control streets; in Downtown Area	\$100.00
	Parades: closed streets, approved route in the Downtown Area	\$200.00
	Street Use License: any other private use upon any public street, alley, sidewalk, or public way	\$100.00
	Fireworks/Pyrotechnics/Specialized Equipment:	\$300.00
	Street Sweeping	\$225.00

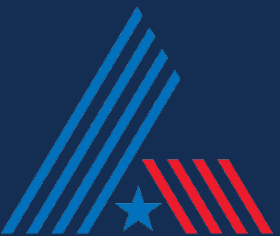
Special Events Fee Schedule Addition



FY25 Fee Schedule Addition Information:

- Special Events Office established in 2022
- Since November of 2022 more than 100 event permits have been issued
- Addition of the Fireworks/Pyrotechnics/Specialized Equipment fee \$300
- Change Street Sweeping fee from \$150 to \$225

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: **29. Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 6, Animals and Fowl, of the Abilene Code of Ordinances (Stanley Smith)

GENERAL INFORMATION

Upon request of the Animal Services Advisory Board, the Mayor, and changes in state laws, the following amendments to Chapter 6, "Animals and Fowls," of the Abilene Code of Ordinances are recommended for Council approval:

1. The name of the Animal Control Department has been changed to Abilene Animal Outreach. The name is updated throughout the Ordinance.
2. Texas Agricultural Code, section 251.0055, effective September 1, 2023, limits the ability of a municipality to regulate agricultural operations within its city limits. Appropriate amendments to the Animal Code have been made in response to state law.
3. Texas Health and Safety Code, section 821.102, effective January 18, 2022, regulates the restraining of dogs, including prohibiting chains or weights.
4. Prohibiting the sale of domestic animals in public places, and requiring permission of a landowner for sale on private property, including a parking lot.
5. Creating a Commercial Breeder Permit to allow persons to breed dogs or cats within the city limits.
6. Creating an Aggressive Dog category, for a dog that makes an unprovoked attack on a domestic animal that causes bodily injury or death. State law regulates and defines a Dangerous Dog as a dog making an unprovoked attack on a person. Abilene has adopted the state law regulation of dangerous dogs, which remains in effect. Because state law may preempt the

dangerous dog category, an Aggressive Dog category is created to clearly regulate dog on domestic animal attacks. The Aggressive Dog procedure is similar to the Dangerous Dog procedure, to avoid confusion by city animal control staff and Abilene residents.

7. Adding a requirement that a dog or cat owner, who reclaims their pet from the Pet Adoption and Resource Center, to provide proof of sterilization (spayed/neutered) within 30 days of the animal's release to the owner. Failure to provide proof is a class C misdemeanor. If the animal is impounded twice by the City, the animal may be sterilized by the city and the animal's owner shall pay the City the cost of the sterilization prior to release of the animal.

8. Requirements for quarantine of animals have been strengthened.

SPECIAL CONSIDERATIONS

Changes from the first reading to the second reading:

1. The requirement that all dogs and cats be spayed or neutered has been removed completely.
2. The "show animal" permit has been removed from the Breeders Permit section.
3. Breeding of special purpose dogs are exempt from the breeding restrictions.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the amendments to Chapter 6, "Animals and Fowl," Code of Ordinances.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Enacting Ordinance- Animals & Fowl
2. Chapter 6, Animals and Fowls redline changes (3-05-25)
3. Chapter 6, Animals and Fowls clean (3-05-25)
4. Powerpoint Animals and Fowl Amendments

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6, “ANIMALS AND FOWL,” OF THE CODE OF THE CITY OF ABILENE, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City seeks to protect the public health and safety of citizens of Abilene through regulation of domestic animals located in the city limits; and

WHEREAS, the City seeks to protect the health and safety of domestic animals within the city limits; and

WHEREAS, the protection of the health and safety of citizens and domestic animals may be accomplished by amending Chapter 6 of the Code of Ordinances.

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

PART 1: That Chapter 6, “Animals and Fowl,” of the Code of Ordinances of the City of Abilene, Texas, are hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 3: That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

PASSED ON FIRST READING this 13th day of February, 2025.

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 23rd day of February, 2025, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 27th day of February, 2025, to permit the public to be heard. At the Council meeting on February 27, 2025, the public hearing was publicly rescheduled for March 13, 2025. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 13th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

CITY ATTORNEY

Chapter 6 ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

Animal: Any live, vertebrate creature, domestic or wild.

At large: Any animal off the property of its owner and not under the control of a competent person.

Commercial breeder: A person who has been issued a commercial breeding permit by Abilene Animal Outreach.

Domestic animals: Those animals which are naturally tame and gentle or which, by long association with ~~man~~humans, have become thoroughly domesticated and are now reduced to such a state of subjection to ~~hishuman~~ will that they no longer possess a disposition or inclination to escape.

Kennel: Any place where more than four (4) dogs or more than four (4) cats, or any combination of cats and dogs where the total exceeds four (4) animals over the age of ten (10) weeks, ~~and where said animals~~ are raised, trained, boarded, harbored, or kept.

Necessary veterinary care: Veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuations, tremors, swelling, broken bone, ~~(s)~~, open ~~wounds, wound(s)~~, inability to eat or drink, blistering, irregular or abnormal breathing, partial or local paralysis, abnormal discharge or bleeding, ~~managemange~~, or other signs of health problems.

Owner: The actual owner of an animal and/or the person who has the care, custody, or control of such animal.

Restraint: An animal shall be deemed to be restrained when it is:

- (1) Confined on the premises of the owner within a fence or enclosure; ~~or~~
- (2) Fastened or picketed by a lead, or rope ~~or chain~~ so as to keep the animal on the premises; ~~or~~
- (3) Under the control of a person by a leash; ~~or~~
- (4) On or within a vehicle being driven or parked; or
- (5) At heel beside a competent person and obedient to that person's command.

Wild animal: Those animals of wild nature or disposition so as to require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate control of the owner.

Sec. 6-2. Violations—Citing to appear.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agent of ~~the Abilene~~ Animal ~~Control Department Outreach~~, such animal need not be impounded by the agent. The agent may, if the owner agrees to sign a citation, issue a citation which shall require the person to appear in court within ten (10) days to answer a charge of a violation of this chapter.
- (b) Signing the citation shall only be a promise to appear and is not an admission of guilt.
- (c) It shall be unlawful for any person upon being issued any citation to give the animal control employee a false name or address.
- (d) It shall be unlawful to fail to appear in municipal court within ten (10) days of the signing of the citation.

Sec. 6-3. Same—Impoundment.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the ~~agents agent~~ of ~~the Abilene~~ Animal ~~Control Department Outreach~~ and the owner cannot be located or refuses to sign a citation, the agent may impound the animal and/or file a complaint against the owner in municipal court.
- (b) When an animal is found in violation of a provision of this chapter and its ownership is not known to the agent of ~~the Abilene~~ Animal ~~Control Department Outreach~~, such animal shall be impounded.

Sec. 6-4. Interference with department.

No person shall interfere with, hinder, or molest any agent of ~~the Abilene~~ Animal ~~Control Department Outreach~~ in the performance of any duty of the agent, or seek to release any animal in the custody of ~~the Abilene~~ Animal ~~Control Department Outreach~~, ~~the Abilene Animal Shelter's~~ managing entity, or ~~its~~their agents.

Sec. 6-5. Records.

It shall be the duty of ~~the Abilene~~ Animal ~~Control Department Outreach~~ to keep, or cause to be kept, accurate and detailed records of:

- (1) *Impoundment and disposition.* Impoundment and disposition of all animals coming into its custody.
- (2) *Bite cases.* All bite cases reported to it and its investigation of same.
- (3) *Monies received.* All monies received under this chapter.

Such records shall be open to inspection at reasonable times by persons responsible for similar records of the City, and shall be audited by the City Auditor in the same manner as other City records which are audited.

Sec. 6-6. Noise.

It shall be unlawful for any person to own, keep, or be in control of any animal which causes unreasonably loud or unnecessary noise that causes material distress, or discomfort to ~~persons, or~~ persons of ordinary sensibilities in the immediate vicinity.

Sec. 6-7. Keeping certain animals—Prohibited.

- (a) It shall be unlawful for any person to harbor or maintain within the City limits the following animals:
 - (1) All high risk rabies carriers, as defined in state law, including bats, skunks, coyotes, raccoons, and foxes;
 - (2) Venomous reptiles and amphibians;
 - (3) Any wild animal whose normal mature weight exceeds forty (40) pounds; or
 - (4) Any "dangerous wild animal" as defined in the Texas Health and Safety Code, as amended.
- (b) A person shall not sell, exchange, give away, or transfer a prohibited animal to any person in the City for use, retention, resale, or transfer as a pet or as a human's companion except as provided by state or federal law for:
 - (1) A federal, state, county, or municipal agency or an agent of such an agency acting in an official capacity;
 - (2) A research facility licensed by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. § 2131 et seq~~-.).~~, as amended;
 - (3) A zoo;
 - (4) Transporting an injured, sick, orphaned, or abandoned prohibited animal for care or treatment;
 - (5) A licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under V.T.C.A., Parks and Wildlife Code Ch. 43, subch. C, as amended, who is temporarily treating or caring for a sick or injured prohibited animal;
 - (6) A transient circus company;
 - (7) A television or motion picture production company that has temporary custody or control of the prohibited animal during the filming of a television or motion picture production in the City;
 - (8) A college or university that owns and has possession, custody, or control of the prohibited animal solely as a mascot for the college or university;
 - (9) Transporting the prohibited animal in interstate commerce in compliance with the Animal Welfare Act (7 U.S.C. § 2131 et seq.), as amended;
 - (10) A person whose only business is to supply nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. § 2131 et seq.), as amended;
 - (11) A participant in a species survival plan of the American Zoo and Aquarium Association for the species of prohibited animal owned by or in the possession, control, or custody of the person; or

- (12) Exhibiting a prohibited animal at a special event conducted with written permission from the City.

Sec. 6-8. Same—Exceptions.

The provisions of section 6-7 shall not apply to or prohibit the keeping of wild animals by the following:

- (1) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
- (2) ~~Publicly~~A publicly or privately maintained circus, traveling show₂ or rodeo which does not remain in this City longer than thirty (30) days out of each year.
- (3) Hospitals, clinics₂ and other premises operated by licensed veterinarians for the care and treatment of animals.

Sec. 6-9. Restraint of wild animals.

It shall be the duty of each owner of a wild animal in the City to keep the same under restraint at all times.

Sec. 6-10. Keeping swine restricted.

- (a) ~~No~~Except as provided herein or as otherwise allowed by law, no person who is the owner of any swine₂ or any person who has any swine under his or her management or control₂ shall keep the same or allow the same to remain in any pen or in any other place within the City.
- (b) This section shall not apply to or prohibit the keeping of swine by the following:
 - (1) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
 - (2) ~~Publicly~~A publicly or privately maintained circus, traveling show₂ or rodeo which does not remain in the City longer than thirty (30) days out of each year.
 - (3) ~~Slaughterhouses~~A slaughterhouse.
 - (4) Any person, persons, organization₂ or corporation keeping swine in an agricultural open space district as provided by the City of Abilene zoning ordinance ~~and when~~ said swine is kept no closer than six hundred (600) feet from any other residential district, church₂ or school.
 - (5) Hospitals, clinics₂ and other premises operated by licensed veterinarians for the care and treatment of animals.

Sec. 6-11. Running at large generally.

If any animal, other than ~~dogs, cats~~a dog, cat, or other domesticated ~~pets~~pet, is found at large within the City limits, the owner thereof shall be guilty of a misdemeanor.

Sec. 6-12. Herding.

The driving of herds of animals, other than dogs, cats₂ or other domesticated pets, along or upon any street, avenue₂ or alley of the City is hereby prohibited. This section shall not apply to or prohibit the herding of animals along or upon any street, avenue₂ or alley of the City by:

- (1) ~~Publicly~~A publicly or privately maintained circus, traveling show₁ or rodeo which does not remain in this City longer than thirty (30) days out of each year.
- (2) Any officer, agent₂ or employee of the federal, state₂ or local government₂ or agencies thereof, if such herding is done in the performance of ~~its~~ official duties.

Sec. 6-13. Dead animals—Leaving carcass exposed a nuisance.

- (a) No person shall place or deposit the exposed carcass of any animal or fowl on any street, alley, highway₁ or public place or upon private property or shall stand or permit to stand any truck or other vehicle containing such carcass on any street, alley, highway₁ or public place or on private property within the City. The term "exposed" as used in this section ~~is meant~~means the exposure of the carcass of an animal so that putrefying odors may escape therefrom and contaminate the air.
- (b) The exposure of the putrefying carcass of a beast so that noxious or disagreeable odors may escape therefrom and contaminate the air shall be a public nuisance, and the Health Officer or any ~~Police Officer~~peace officer may summarily remove such carcass to a point outside the City or may bury or burn the same, and the expense of such disposal shall be included in the fine collected from the person so violating this section.

Sec. 6-14. Same—Removal by owner.

No person shall allow or permit any animal or fowl which has died and which₂ at the time of death₁ was owned~~or~~₁ controlled₁ or kept by such person to lie in or upon any street, alley, lot₁ or other place in this City. Such person or persons shall cause the carcass of such animal or fowl to be disposed of as the Health Officer may direct.

Sec. 6-15. Same—Removal and disposal service, fees.

The fees and charges for services furnished by the City₇ shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-16. Care and humane treatment of animals.

- (a) For purposes of this section, "restraint" shall mean a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.
- (b) It shall be unlawful for an owner or other person to:
 - (1) Fail to provide an animal with sufficient good and wholesome food and water₂; adequate housing consisting of a three-sided structure with a cover or roof₇ and a floor that is sufficient to keep the ~~animals~~animal dry and ensure that ~~they do it~~does not have to lay in water₂; shelter and protection from the weather₂; veterinary care when needed to prevent suffering₂; ~~and~~with humane care and treatment;
 - (2) Beat, torment, abuse, overload, seriously overwork, maim, disfigure, burn or scald, mutilate, or torture an animal;
 - (3) Carry or transport an animal in any vehicle or other conveyance in a cruel or inhumane manner;

- (4) Cruelly confine an animal;
- (5) Crop a dog's ears, dock a tail, remove dew claws, or perform other surgical procedures on a dog or cat, except as provided by the Veterinary Licensing Act, as amended;
- (6) Use steel jaw or leg-hold traps or snares;
- (7) Abandon an animal, including abandoning an animal in the owner's custody without making reasonable arrangements for the assumption of custody by another person;
- (8) Instigate or permit any dog fight, cock fight, or other combat between animals or between animals and humans;
- (9) Leave any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare;
- (10) Secure by use of a restraint a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian.
 - a. "Unhealthy situation" and "potentially dangerous situation for a pedestrian" shall include, but not be limited to:
 1. Leaving a dog unattended by use of a restraint that unreasonably limits the dog's movement:
 - i. Between the hours of 10:00 p.m. and 6:00 a.m.;
 - ii. Within five hundred (500) feet of the premises of a school; or
 - iii. In the case of extreme weather conditions, including conditions in which the actual or effective outdoor temperature is below thirty-two (32) degrees Fahrenheit, a heat advisory has been issued by a local or state authority or jurisdiction, or a hurricane, tropical storm, flood, or tornado warning has been issued for the jurisdiction by the National Weather Service.
 2. Secure by use of a restraint an animal in such a manner as to permit the animal access upon any public "right-of-way";
 3. Secure by use of a restraint an animal in such a manner that does not permit the animal to reach ~~shelter, food~~food, potable water, an area that allows the animal to avoid standing water and exposure to excessive animal waste, shade from direct sunlight, or ~~water~~adequate shelter;
 4. Secure by use of a restraint an animal in such a manner that it is subject to attacks by persons or other animals, stinging bites from outdoor insects, or other similar hazards that pose an unreasonable threat of injury to the animal;
 5. Failing to remove waste on a daily basis from the area in which the animal is restrained;
 6. Using a choke-type collar ~~to~~ on an animal in conjunction with a restraint-~~i~~
or

7. Restraining a dog outside and unattended by use of a restraint that is a chain or has weights attached.

- b. It shall be minimally required that the ~~tether~~restraint used must be ~~at least ten (10) feet in length,~~ equipped with swivel ends; positioned in such a manner as to prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving any part of its owner's property; and ~~that is~~ secured to the animal using a properly fitted collar or harness.
- c. For purposes of subsection (10), a restraint unreasonably limits a dog's movement if the restraint: uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog; is a length shorter ~~than that~~ the greater of five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail or ten (10) feet; is attached to a trolley system that allows the dog to move along a running line for a distance less than the greater of five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail or ten (10) feet; is in an unsafe condition; or causes injury to the dog.
- d. ~~Notwithstanding subsections [sic] subsection~~Subsection (10) does not apply to:
 - ~~21.~~ A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
 - ~~32.~~ A dog restrained for a reasonable period, not to exceed three (3) hours in a twenty-four-hour period; and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
 - ~~43.~~ A dog restrained while the owner is engaged in, or actively training for, an activity ~~that is~~ conducted ~~pursuant to~~under a valid license issued by this state if the activity ~~for which the license is issued~~ is associated with the use or presence of a dog;
 - ~~54.~~ A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; ~~or~~
 - ~~65.~~ A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, ~~if the restraint is;~~
 - 6. A dog restrained in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;
 - 7. A dog restrained while the owner is engaged in, or actively training for, hunting or field trialing.

(11) Kill an animal, except as allowed by law;

(12) Expose an animal to any poisonous substance, whether mixed with food or not, so that the poison is likely to be ingested by an animal. Provided, however, it shall not be a violation of this section for a person, on his or her own property, to expose rats or mice to common rat poison intended for the purpose of exterminating the rats or mice; or

(13) Cause any of the enumerated acts (1)—(12) to be done; ~~;~~

Sec. 6-17. Removal of animal in immediate danger and veterinary medical attention.

- (a) Any animal observed by a peace officer or agent of ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach that appears to be in immediate danger may be removed from such situation by the quickest and most reasonable means available.
- (b) In the event the animal removed requires veterinary medical attention, the peace officer or agent of ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach removing the animal is authorized to take the animal to a licensed veterinarian as soon as practicable for veterinary medical treatment. The owner will be responsible for reimbursing the City for the cost of any veterinary medical treatment; and must pay the bill before redeeming the animal; in the event the animal is allowed to be returned to the owner. If a person other than the owner is found to have violated section 6-16, that person will be responsible for reimbursing the City for the amount of the veterinary medical bills. Such reimbursement is required before the animal will be released to the owner.
- (c) If the veterinarian determines that the animal is too severely injured, or is too ill, to have a reasonable chance of recovery, ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach is authorized to have the animal humanely destroyed. Any costs incurred as a result of the humane destruction of the animal may be recovered from the owner or other person who is found to have violated section 6-16.

Sec. 6-18. Impoundment, release, and disposition of animal.

- (a) Any peace officer or any agent of ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach may seize and impound any animal that appears to have been cruelly treated in violation of section 6-16.
- (b) If the animal is not in need of immediate veterinary medical attention as provided in section 6-17, the animal shall be held by ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach while an investigation is conducted to determine whether there is sufficient evidence to proceed against the owner or other person for a violation of section 6-16.
- (c) If at the conclusion of the investigation ~~the, Abilene~~ Animal ~~Control~~ DepartmentOutreach determines that there is not enough evidence to proceed against the owner or other person for a violation of section 6-16, or other law prohibiting cruelty to animals, the animal shall be returned to the owner upon payment of any veterinary medical bills as provided in section 6-17; and payment of impound fees and compliance with the associated requirements set forth in section 6-93. Payment of the veterinary medical bills and impound fees is required before the animal will be released.
- (d) If at the conclusion of the investigation ~~the, Abilene~~ Animal ~~Control~~ DepartmentOutreach determines that there is enough evidence to proceed against the owner or other person for a violation of section 6-16, ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach may initiate a proceeding in the municipal court to:
 - (1) Prosecute the owner or other person for a violation of section 6-16;
 - (2) Determine the appropriate disposition of the animal;
 - (3) Assess the appropriate amount of impound fees and veterinary medical bills required to be paid by the owner or other person found to have violated section 6-16; and

- (4) Impose a fine in accordance with section 1-9.
- (e) If, after prosecution for an offense under section 6-16, the municipal court finds the owner or other person prosecuted for a violation of section 6-16 not guilty, the owner or other person prosecuted is still responsible for payment of any veterinary medical bills as provided in section 6-17, and payment of any impound fees and compliance with the associated requirements set forth in section 6-93. Full payment of veterinary medical bills and impound fees, and compliance with section 6-93 is required before the animal will be released to the owner.
- (f) Nothing in this article shall be construed to prevent the election by ~~the~~ Abilene Animal ~~Control Department~~ Outreach to pursue criminal charges against the owner or other person for violations of the applicable animal cruelty provisions of the Texas Penal Code.

Sec. 6-19. Sale of domestic animals in public ~~s~~places

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for commercial purposes any domestic animal on a roadside, public right-of-way, sidewalk, street, parkway or any other public property or any property dedicated to public use, a commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event. This section does not apply to a sale held on privately owned property with the written permission of the owner of the property including a parking lot where the seller has the parking lot owner's written permission. This section does not apply to the City of Abilene or a not-for-profit 501(c)(3) animal welfare, rescue, or adoption agency.

Secs. 6-~~19~~20—6-28. Reserved.

ARTICLE II. PETS

DIVISION 1. GENERALLY

Sec. 6-29. Exemption.

Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except as otherwise stated.

Sec. 6-30. Reserved.

Sec. 6-31. Vaccination.

No person shall own, keep, or harbor a dog or cat over the age of four (4) months within the City limits unless the dog or cat has a current certificate of vaccination for an anti-rabies vaccine.

Sec. 6-32. Restraint of dogs.

Every person who owns, keeps, or is in charge of a dog shall restrain ~~his~~ the dog at all times.

Sec. 6-33. Special confinement requirement for fierce, dangerous, vicious dogs.

The owner shall confine within a building or a secure enclosure a fierce, dangerous, or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely muzzled.

Sec. 6-34. Spay or neuter required

All dogs and cats that are kept, harbored, or maintained within the city limits must be spayed or neutered as recommended by a veterinarian. This section applies to the owner of the dog or cat. This section does not apply to an owner who holds a commercial breeder/show animal's permit issued under this chapter. This section does not apply to an owner whose dog or cat is temporarily kept, harbored or maintained within the city limits for one week or less.

Sec. 6-354. Commercial breeding, show animals

(a) Commercial breeding/show animal—Permit required.

(1) A person commits an offense if the person breeds cats or dogs, to the extent that more than twelve (12) cats, dogs, or combination thereof or two (2) litters of cats, dogs, or combination thereof, whichever is greater, are produced during any twelve (12) consecutive month period, without a commercial breeding/show animal permit issued by Abilene Animal Outreach.

(23) An application for a commercial breeding/show animal permit must be made on the form prescribed by Abilene Animal Outreach and shall include, at a minimum, the following information:

- a. Applicant's name, telephone number, and address;
- b. Address where any notices related to the permit are to be sent;
- c. Address of proposed location for breeding the dogs or cats;
- d. A description of the species, breed, gender, age, and registration certificate number for each female animal to be used for breeding;
- e. A description of the species, breed, gender, and, if applicable, microchip number for each female animal owned by the commercial breeder which will not be used for breeding;
- f. A statement affirming that the applicant is familiar with the provisions of this chapter and will maintain all breeding animals in accordance with all applicable legal requirements;
- g. A statement affirming that, upon request by the department, the applicant will make the breeding animals, premises, equipment, and veterinary records available for inspection during business hours; and

h. A statement affirming the applicant will notify Abilene Animal Outreach, as required, of any additional female cats or dogs acquired for breeding during the term of the permit.

if:

a. Operation of commercial breeding at the proposed location would violate established zoning laws of the City of Abilene;

b. The applicant or the applicant's spouse has been found by a court of competent jurisdiction to have cruelly treated an animal, used an animal for dog or cock fighting, or been a spectator of dog or cock fighting; or

c. In the twelve (12) months preceding the date of the application, the applicant or the applicant's spouse received two (2) or more citations for violating any provision of this chapter. This prohibition shall not apply if the citation was subsequently dismissed or if the applicant or the applicant's spouse was found "not guilty" of the citation by a court of competent jurisdiction.

(46) A permit issued under this section is issued to the individual applicant and is not transferable to another person. The permit shall be valid for a period of two (2) years, unless revoked or surrendered. Permits may be surrendered by providing written notification of the surrender to Abilene Animal Outreach.

(57) Abilene Animal Outreach may revoke a commercial breeding/show animal permit in accordance with this section upon providing the permit holder written notice via hand-delivery, certified mail, return receipt requested, or electronic mail with delivery confirmation.

(8) A commercial breeder/show animal permit may be revoked if:

a. The permit holder provided false information on the application;

b. The permit holder or the permit holders's spouse has been found by a court of competent jurisdiction to have cruelly treated an animal, used an animal for dog or cock fighting, or been a spectator of dog or cock fighting;

c. The permit holder or the permit holder's spouse has been convicted of a violation of any provision of this chapter on two (2) or more occasions within the past twelve (12) months; or

d. Other good cause as determined by the City Manager or his or her designee;

(9) Commercial breeders acquiring a female cat or dog for breeding purposes during the term of a permit are required to notify Abilene Animal Outreach of the acquisition by completing the form prescribed by Abilene Animal Outreach.

(b) Planned breeding—Registration certificate required.

(1) Every female cat or dog to be used for breeding by a commercial breeder shall be microchipped and registered as a registered breeding animal prior to being used for breeding.

(2) The registration application shall be on the form prescribed by Abilene Animal Outreach and, at a minimum, include:

a. The name of the animal;

b. A description of the animal's species, breed, gender, and age;

c. A signed, written letter of approval for breeding by a licensed veterinarian dated within the last ninety (90) days;

d. Records of the animal's microchip, including the unique microchip ID, and current rabies vaccination; and

e. Proof of registration with the American Kennel Club or license for breeding issued by the Texas Department of Licensing and Regulation pursuant to the "Dog or Cat Breeders Act."

(3) A registration certificate authorizing the animal to be used for breeding should be issued within ten (10) business days.

(4) The registration certificate shall authorize the animal to be used by a commercial breeder for breeding for a period of two (2) years from the date of issuance unless suspended or surrendered. The commercial breeder may notify Abilene Animal Outreach in writing to surrender the certificate.

(5) The registration certificate authorizing an animal to be used for breeding is automatically suspended during any period in which a licensed veterinarian determines it is unsafe for the animal to be used for breeding or the animal is subject to mandatory quarantine.

(c) Appealing determination of Animal Services Manager.

(1) If Abilene Animal Outreach Services denies, fails to renew, revokes, or suspends any license, permit, or other authorization provided in this section, the applicant or person holding such license, permit, or other authorization may appeal the decision to the City

Manager or his or her's designee by filing a written appeal with the City Manager within ten (10) business days of the notice being sent.

(2) The Ceity Mmanager or his or her's designee shall make a decision within ten (10) business days of the appeal being received.

(d) Exemption for certain persons who breed special purpose dogs.

(1) Those breeders exempt under Chapter 802.005 of the Texas Occupations Code are also exempt from Section 6-34 of this ordinance.

Secs. 6-~~34~~³⁶⁵—6-44. Reserved.

DIVISION 2. LICENSE

Sec. 6-45. Required.

No person shall own, keep, or harbor a dog or cat over the age of four (4) months within the City unless a license has been obtained for the same.

Sec. 6-46. Administration by veterinarians.

The City ~~Animal Control Department of Abilene~~ or its authorized agent will furnish licensed veterinarians who agree to follow the provisions of this division with application forms and license tags for dogs and cats.

Sec. 6-47. Application.

Written applications for dog and cat licenses shall be made upon a printed application form provided by the City and shall state the name and address of the owner or keeper of said dog or cat and the name, breed, color, age, and sex of the dog or cat being licensed.

Sec. 6-48. Conditions for license.

The dog and cat license tags shall be issued upon payment of the license fee and the meeting of one (1) of the following conditions:

- (1) Vaccination by a licensed veterinarian with anti-rabies vaccine; or
- (2) Presentation of a metal vaccination tag issued by a licensed veterinarian showing that such vaccination was given less than three (3) months prior to the date of application for such license.

Sec. 6-49. Fee.

The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-50. Issuance.

Dog and cat license tags shall be issued by the ~~Animal Control Department~~City of Abilene or its authorized agent and authorized veterinarians licensed in the state and practicing within the City limits or its extraterritorial jurisdiction.

Sec. 6-51. Collar, tag to be worn.

Every person who owns, keeps, or is in charge of or in control of a dog or cat within the City shall provide and place on such dog or cat a collar or harness which shall be worn by said dog or cat at all times when off the premises of said person, and shall attach to the collar or harness the metal license tag obtained pursuant to this division.

Sec. 6-52. Transfer.

Each dog or cat license issued under this division shall be restricted to the animal for which the same was issued and shall not be transferred.

Sec. 6-53. Duration.

Every license issued under the provisions of this division shall be valid for one (1) year from the date of issuance thereof.

Sec. 6-54. Reimbursement by City.

The City will reimburse authorized licensed veterinarians the sum of one dollar (\$1.00) for each dog or cat license issued by such veterinarian, to help defray the cost imposed on such veterinarian for issuing said licenses in accordance with this article.

Secs. 6-55—6-59. Reserved.

DIVISION 3. DANGEROUS AND AGGRESSIVE DOGS

Sec. 6-60. Authorization, Dangerous Dogs.

The general laws of the state, except as specifically provided through proper ordinances and regulations of the City, shall control the handling of dangerous dogs. There is adopted as part of this chapter all of the provisions of V.T.C.A., Health and Safety Code title 10, Ch. 822, subch. ~~DD~~, including § 822.0422, as amended, insofar as applicable.

Sec. 6-61. Definitions.

For the purposes of this ~~division~~article, the following words and/or phrases shall have the meanings respectively ascribed to them by the statute except as provided below:

"Dangerous dog" as defined in V.T.C.A., Health and Safety Code § ~~822.041~~, is amended to include the additional definition definitions of:

"Aggressive dog" is a dog that makes an unprovoked attack on a domestic animal that causes bodily injury or death and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.

Sec. 6-62. Dangerous Dog determination, Seizure-

- ~~(a)~~ (a) If a person reports an incident described by V.T.C.A., Health and Safety Code § 822.041(2), ~~as codified and amended by section 6-61 of the Abilene City Code, the~~ Abilene Animal Control Department Outreach may seize and impound the dog pending investigation of the incident.
- (b) ~~The~~ Abilene Animal Control Department Outreach shall release the dog to the owner if ~~the~~ Abilene Animal Control Department Outreach has not made a determination that the dog is a dangerous dog on or before the tenth business day after the seizure and impoundment of the dog, and if all fees have been paid as required under subsection (d). Release of the dog does not prohibit the Abilene Animal Control Department Outreach from receiving more information and subsequently declaring the dog a dangerous animal.
- (c) If ~~the~~ Abilene Animal Control Department Outreach determines the dog is a dangerous dog, it shall continue to impound the dog until the owner complies with V.T.C.A., Health and Safety Code § ~~822.042~~, or until such time as the dog may legally be destroyed.
- (d) The owner shall pay any cost or fee assessed by ~~the~~ Abilene Animal Control Department Outreach related to the seizure, acceptance, impoundment, or destruction of the dog. In the event that the dog is returned to the owner, all fees must be paid prior to release of the dog.

Sec. 6-63. Aggressive Dog determination; Seizures; levels defined.

- ~~(a)~~ (a) After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to ensure the health and safety of the public, an Abilene Animal Outreach officer may seek a warrant for the immediate seizure and impoundment of the dog. A search and seizure warrant shall be obtained from any municipal court magistrate to enter onto private property to search for a dog which is allegedly an aggressive dog, if permission to enter the subject premises is denied by a person in lawful possession.
- ~~(b)~~ (b) Abilene Animal Outreach shall release the dog to the owner if Abilene Animal Outreach has not made a determination that the dog is an aggressive dog on or before the tenth business day after the seizure and impoundment of the dog, and if all fees have been paid as required under subsection (d). Release of the dog does not prohibit the Abilene Animal Outreach from receiving more information and subsequently declaring the dog an aggressive animal.
- ~~(c)~~ (c) The owner shall pay any cost or fee assessed by Abilene Animal Outreach related to the seizure, acceptance, impoundment, or destruction of the dog. In the event that the dog is returned to the owner, all fees must be paid prior to release of the dog.
- ~~(d)~~ (d) If the dog is determined to be an aggressive dog, the cost of securing and caring for the dog shall be borne by the owner. If a dog which has been impounded by Abilene Animal Outreach is determined to be an aggressive dog, it shall not be released back to the owner until the owner certifies in writing the owner will comply with the conditions set forth in

section 6-65 as required and has paid all fees incurred for impoundment of the dog. If the owner fails to take the necessary action to have the dog released to the owner under this section within thirty (30) days of the date of the final aggressive dog determination, the owner shall be deemed to have surrendered ownership of the aggressive dog to the city in which case the dog shall become the property of the City of Abilene and may be placed for adoption, transferred to rescue/foster organizations/individuals, transferred to other humane organizations, or euthanized humanely, as determined by Abilene Animal Outreach. If ownership of the dog is transferred, the new owner must be made aware of the dog's classification and the required conditions with which the new owner must comply.

- (e) If a dog which has been impounded by Abilene Animal Outreach is determined not to be an aggressive dog, the dog shall be released to the owner and the owner shall not be responsible for payment of the fees associated with the impoundment of the dog. If such dog is not reclaimed within three (3) days of the owner receiving written notice the dog is able to be reclaimed, the dog shall become the property of the City of Abilene and may be placed for adoption, transferred to rescue/foster organizations/individuals, transferred to other humane organizations, or euthanized humanely, as determined by Abilene Animal Outreach.
- (f) Abilene Animal Outreach shall give the dog's owner written notice of the dog's specific behaviors resulting in the determination that the dog is an aggressive dog, of the dog's classification as an aggressive dog, and of the restrictions applicable to that dog by reason of its classification.

Sec. 6-64. Appeal of aggressive dog determination.

- (a) An owner may appeal an aggressive dog determination within fifteen (15) calendar days after receiving notice of the determination by:
 - (1) Filing a written notice of appeal of the aggressive dog determination in the Abilene Municipal Court;
 - (2) Attaching a copy of the determination of Abilene Animal Outreach; and
 - (3) Serving a copy of the notice of appeal to Abilene Animal Outreach by certified mail.
- (b) A municipal court judge shall conduct a hearing to determine whether the preponderance of the evidence supports the aggressive dog determination.
- (c) The municipal court judge shall be the finder of fact. As such, the municipal court judge may compel attendance of the complainant, any known witnesses, the dog owner against whom the complaint was filed, and Abilene Animal Outreach staff who investigated. Failure of the owner of the animal to appear at the hearing shall result in a final classification with no further appeal. The owner may be represented by counsel.
- (d) At the conclusion of the hearing, the municipal court judge may affirm or reverse the aggressive dog determination.
- (e) The result of the appeal hearing is final, and, if the dog is determined to be an aggressive dog, shall be considered a final aggressive dog determination.

- (f) An aggressive dog determination made by Abilene Animal Outreach which is not timely appealed shall be considered a final aggressive dog determination.

Sec. 6-65. Regulation of aggressive dogs.

- (a) In addition to the other requirements of this chapter, the owner or keeper of an aggressive dog shall, within thirty (30) days of a final aggressive dog determination, comply with the following conditions:

- (1) The aggressive dog shall be confined so as not to be at large by an enclosure or structure in a manner that prevents the dog from reaching any public sidewalk or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever the dog is outside. The owner or keeper shall restrict the dog to the owner's or keeper's property unless the dog is restrained by an adequate leash under the control of a capable person and muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration. The owner or keeper of an aggressive dog shall post no less than two (2) "Beware of Dog" warning signs on the property where the dog is being kept and shall not permit the warning signs to be removed. The signs must be sufficient in size to be readable from the public right-of-way. The signs shall be no closer than six (6) feet apart. In addition, Abilene Animal Outreach may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00).
 - (2) To ensure correct identification, all dogs that have been classified as aggressive dogs shall be microchipped and photographed and may be fitted with a special tag or collar as determined by Abilene Animal Outreach at the owner's expense.
 - (3) The owner or keeper of an aggressive dog shall not allow the special tag or collar to be removed from the dog. The owner or keeper of an aggressive dog shall not allow the dog to be moved to a new address or change owners or keepers without providing Abilene Animal Outreach at least ten (10) days' prior written notice containing the new address and name and contact information for the new owner(s) or keeper(s). If the dog changes owners or keepers, the person providing the dog to the new owner or keeper shall notify the new owner or keeper of the dog's classification and the requirements with which the owner or keeper must comply and certify to Abilene Animal Outreach, in writing, that such notification was made.
 - (4) At the owner's expense, the aggressive dog must be spayed or neutered either by Abilene Animal Outreach or, at the discretion of Abilene Animal Outreach, by a veterinarian approved by Abilene Animal Outreach prior to being released back to its owner.
- (b) Notwithstanding any other provision, if Abilene Animal Outreach determines an owner or keeper of an aggressive dog has failed to comply with the requirements of this chapter, Abilene Animal Outreach may request a show cause hearing before the municipal court and seize the aggressive dog, pursuant to a warrant or court order until such time as the hearing can be held. The hearing shall be held no later than ten (10) calendar days from

the date the aggressive dog is seized. Upon the conclusion of the hearing, the judge may, but is not required to, modify the requirements of the existing aggressive dog determination. Such modifications may include ordering the aggressive dog to be humanely euthanized.

Secs. 6-~~6366~~—6-68. Reserved.

ARTICLE III. IMPOUNDMENT

DIVISION 1. GENERALLY

Sec. 6-69. Authorized.

Any peace officer or any agent of ~~the~~Abilene Animal ~~Control Department~~Outreach may take up and impound any animal found in violation of this chapter.

Sec. 6-70. Impoundment~~Pets~~.

The impoundment of dogs, cats, or any other domestic animal~~pet~~pets shall be as provided in sections 6-89 through 6-99.

Sec. 6-71. Confinement by private citizen.

If any animal, including any domestic animal~~pet~~, is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal temporarily until he or she can notify ~~the~~Abilene Animal ~~Control Department~~Outreach. When notified, ~~#~~Abilene Animal Outreach shall behave the duty ~~of the department~~ to impound such animal as provided in this chapter.

Sec. 6-72. ~~Pound~~Shelter fees.

The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-73. Disposition at City ~~Manager~~Manager's or his or her designee's discretion.

If any animal impounded is found to be affected with a contagious disease, or if the animal is seriously injured, or if ~~it~~the animal cannot be otherwise placed for adoption, the animal shall become the property of the City, and ~~it~~the animal may immediately be euthanized or otherwise disposed of without notice or any waiting period. All decisions as to the condition, adoption, or other disposition of the ~~animals~~animal shall be made by the City Manager or his or her designee.

Sec. 6-74. Redemption.

The owner of any animal not affected with a contagious disease or seriously injured and impounded under the provisions of this chapter may redeem the same within three (3) business days of its impoundment by paying the required ~~pound~~shelter fees.

Sec. 6-75. Disposition of impounded animals.

If not redeemed within the appropriate time period specified in section 6-74, the animal shall become the property of the City, and the animal may be adopted, euthanized, or otherwise disposed of as recommended by the City Manager or his or her designee.

Sec. 6-76. Reserved.

Sec. 6-77. Records of impoundment.

~~The~~Abilene Animal ~~Control Department~~Outreach shall keep a record for at least one (1) year giving the description of all animals impounded, the date of impoundment, the date of adoption or other disposition, the amount realized for such animal, and the name and address of the new owner.

Secs. 6-78—6-88. Reserved.

DIVISION 2. PETS

Sec. 6-89. Authorized.

The agents of ~~the~~Abilene Animal ~~Control Department~~Outreach are authorized to take up and impound:

- (1) All dogs found not restrained by their owners; or
- (2) All cats which do not have a vaccination tag as provided by sections 6-31 and 6-51 and are found not restrained by their owners.

Sec. 6-90. Redemption.

- (a) The redemption period for an animal impounded other than for quarantine or pursuant to a court order, is:
 - (1) Three (3) business days after the date of impoundment, unless subsections (b) or (c) apply to the animal.
- (b) The redemption period for an animal impounded pursuant to a court order is the time set forth in the court order or, if no provision is made in the court order, five (5) days after the court proceedings are final.
- (c) The redemption period for an animal impounded for quarantine is three (3) days after completion of the quarantine period.
- (d) If an animal is not redeemed within the appropriate time period specified in subsections (a) through (c), ~~or~~ the animal is voluntarily surrendered by the owner, the animal shall become the property of the City and may be placed for adoption, euthanized, or otherwise disposed of as recommended by the City Manager or his or her designee.
- (e) An owner of an impounded animal commits an offense if he or she removes or attempts to remove the animal from ~~a City~~the Abilene Pet Adoption and Resource Center~~Animal Shelter~~ without first paying all applicable fees required in this chapter.
- (f) *Notice.* Upon impounding a dog found with current vaccination tags or chip, the agents of ~~the~~Abilene Animal ~~Control Department~~Outreach shall make a reasonable effort to notify the

owner that his or her animal has been impounded and the conditions whereby he or she may regain custody of such animal.

Sec. 6-91. Reserved.

Sec. 6-92. Fees.

The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-93. Reserved.

Sec. 6-94. Redemption of unvaccinated or unsterilized animal.

(a) The owner of any animal over the age of four (4) months, which has not been vaccinated as required by this chapter, upon satisfactory proof of ownership, shall pay to the City ~~Animal Services~~ of Abilene or its authorized Agent applicable fees to cover the cost of rabies vaccination and City tag for the animal before the animal can be redeemed. Upon payment of the fee, a receipt for the shots shall be given to the owner to be honored by the veterinarian designated by the owner. The owner of the animal shall have seventy-two (72) hours from the time the receipt is issued to take the animal and receipt to the veterinarian for vaccination. Failure to vaccinate within the stated time period will result in forfeiture of the rabies vaccination and City tag fees to the City. Each month, all veterinarians shall turn in all receipts that they have received, and the City shall reimburse them for the full value of each receipt.

(b) An owner reclaiming any dog or cat over the age of six (6) months, which has not been sterilized (spayed or neutered), shall submit written proof to the City of Abilene or its authorized Agent of having the animal sterilized within thirty (30) calendar days of the animal's release from the animal shelter. Any owner who does not provide such proof of sterilization as required by this section shall commit an offense.

(1) An owner is excepted from the sterilization requirement of this subsection (b) if the owner proves to the satisfaction of the City of Abilene or its authorized Agent within thirty (30) calendar days of the animal's release from the animal shelter:

a. That the animal is dead, lost, or stolen; or

—A licensed veterinarian has certified that the animal should not be sterilized for health reasons or is permanently non-fertile.

(2) It is an affirmative defense to the sterilization requirement of this subsection (b) that:

a. The owner is a licensed breeder under this Chapter;

b. The animal being reclaimed is a dog bred with the intent that it be used primarily for the purposes described in Texas Occupations Code Section 802.005(a); or

c. The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work.

(c) If an owned dog or cat is impounded twice by the City of Abilene or its authorized Agent and such animal is over the age of six (6) months, then prior to the release of said animal to the owner after the second such impoundment, the owner shall allow and pay for the animal to be sterilized (spayed or neutered), or show proof satisfactory to the City of Abilene or its Authorized Agent that said animal has been sterilized (spayed or neutered) previously. Any owner who misrepresents whether said animal has been sterilized shall commit an offense.

(1) An owner is excepted from the sterilization requirement of this subsection (c) if the owner proves to the satisfaction of the City of Abilene or its authorized Agent prior to release that a licensed veterinarian has certified that the animal should not be sterilized for health reasons or is permanently non-fertile.

Sec. 6-95. Reserved. ~~Transfer of title; deposits for spaying and neutering.~~

~~The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City Secretary.~~

Sec. 6-96. Placement with competent person.

The ~~Animal Control Department~~City of Abilene or its authorized Agent may place any animal, held at ~~its animal shelter,~~the Abilene Pet Adoption and Resource Center~~Animal Shelter~~ in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter.

Sec. 6-97. Reserved. ~~Placement with humane society, fees.~~

~~The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City Secretary.~~

Sec. 6-98. Reserved.

Sec. 6-99. Destruction of donated, sick, injured animals.

The ~~Animal Control Department~~City of Abilene or its authorized Agent may destroy any animal by a humane method if it has been donated to the ~~shelter~~Abilene Pet Adoption and Resource Center~~Animal Shelter~~ with the request that it be destroyed, if the animal is so sick or injured that its cure is considered by the ~~Animal Control Department~~City of Abilene or its authorized Agent to be impractical or if its death is imminent, or if it is found to be infected with

a contagious disease. In any such event, the animal shall become the property of the City, and such destruction may be done immediately without notice or any waiting period.

Secs. 6-100—6-115. Reserved.

ARTICLE IV. RABIES CONTROL

DIVISION 1. GENERALLY

Sec. 6-116. Report of rabies suspect by veterinarian.

It shall be the duty of every licensed veterinarian to report to ~~the~~Abilene Animal ~~Control Department~~Outreach his or her diagnosis of any animal observed by him or her as a rabies suspect.

Sec. 6-117. Report of bites or scratches by physicians.

It shall be the duty of every physician or other practitioner to report to ~~the~~Abilene Animal ~~Control Department~~Outreach the names and addresses of persons treated for bites or scratches inflicted by animals, together with such other information as will be helpful in rabies control.

Sec. 6-118. Killing or removing rabid animal from the City.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal which has bitten a human or which is suspected of having bitten a human, except as herein provided, nor remove same from the City limits without written permission from ~~the~~Abilene Animal ~~Control Department.~~Outreach.

Sec. 6-119. Surrender of carcass.

The carcass of any dead animal suspected of having been exposed to rabies shall, upon demand, be surrendered to ~~the~~Abilene Animal ~~Control Department.~~Outreach.

Sec. 6-120. Disposition of rabid animals.

~~The~~Abilene Animal ~~Control Department~~Outreach shall direct the disposition of any animal found to be infected with rabies.

Sec. 6-121. Duty to surrender animal.

No person shall fail or refuse to surrender any animal for quarantine, destruction, or disposal as required herein when demand is made therefor by ~~the~~Abilene Animal ~~Control Department.~~Outreach.

Sec. 6-122. Rabies control authority.

The Abilene Animal ~~Services Manager~~Outreach Supervisor or designee shall be the rabies control authority authorized to quarantine an animal as provided in V.T.C.A., Health and Safety Code Ch. 826, as amended, and the rules adopted by the Texas Board of Health under that chapter.

Secs. 6-123—6-132. Reserved.

DIVISION 2. QUARANTINE OF SPECIFIC ANIMAL

Sec. 6-133. Authorized; minimum time.

Upon being presented a sworn affidavit that an animal has bitten or scratched a person, the City Manager or his or her designee shall quarantine the animal so identified for a period of ten (10) days.

Sec. 6-134. Places.

(a) Quarantine of an animal which has bitten or scratched a person shall be at the following:

- (1) Animal shelter;
- (2) A licensed veterinarian hospital in the City at the expenses of the owner, upon the owner's request ~~an approval by the local rabies control authority; or~~
- (3) Home quarantine. Home quarantine is permissible when allowed by applicable laws and regulations and the City Manager or his or designee agrees that home quarantine is warranted and believes the following requirements are satisfied:
 - a. The owner of the animal is a resident of this City and agrees to keep the animal at his or her residence in this City;
 - b. The animal was properly restrained at the time the bite occurred; and
 - c. The animal was properly protected by rabies vaccination.

(b) Animals of unknown ownership will be quarantined at the Abilene Pet Adoption and Resource Center. ~~animal shelter.~~

~~Abilene Animal Shelter.~~

Sec. 6-135. Surrender by owner.

Upon ~~the~~ demand made by ~~the~~ Abilene Animal ~~Control Department~~ Outreach, it shall be unlawful for the owner to fail to surrender any animal which has bitten or scratched a human being or which is suspected of having been exposed to rabies, for quarantine, which expenses shall be borne by the owner.

Sec. 6-136. Released to owner.

The quarantined animal may be reclaimed by the owner if adjudged free of rabies, upon payment of the fees set forth in section 6-92, upon compliance with the vaccination provisions set forth in section 6-31.

Sec. 6-137. Pathological examination—Death during quarantine.

When an animal under quarantine diagnosed by a licensed veterinarian as being rabid or suspected of being rabid dies while under observation, ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach shall immediately send the head of such animal to the Health Department for a pathological examination. ~~The~~Abilene Animal ~~Control~~ DepartmentOutreach shall notify the proper Health Officer of reports of human contacts and then the diagnosis made of the suspected animal after the pathological examination has been made.

Sec. 6-138. Same—Emergency situation.

When an animal bites or scratches a person so that the Director of the Health Department believes that the quarantine observation period cannot be observed because of the danger of developing rabies, the Health Director shall order that ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach immediately forward the animal's head for pathological examination.

Secs. 6-139—6-149. Reserved.*DIVISION 3. CITY-WIDE QUARANTINE***Sec. 6-150. When authorized.**

A City-wide quarantine may be invoked for a period of thirty (30) days by the City Council upon the recommendation of ~~the~~Abilene Animal ~~Control~~ DepartmentOutreach after it has been notified by the Health Department of a positive diagnosis of rabies of an animal or after an investigation has determined there exists an immediate threat of rabies.

Sec. 6-151. Extension of time.

In the event there are additional positive cases of rabies occurring within the thirty-day period of the City-wide quarantine, such period of quarantine shall be extended for additional reasonable period of time.

Sec. 6-152. Destruction of bitten animals.

During a period of City-wide rabies quarantine, every animal bitten by a rabid animal shall be destroyed.

Sec. 6-153. Confinement of animals.

It shall be unlawful for any person to take or permit any animal in the streets or any other public place during the period of quarantine, including but not limited to public and private dog parks.

Secs. 6-154—6-165. Reserved.*ARTICLE V. TRAPS*

Sec. 6-166. Placement and baiting prohibited on streets and alleys.

It shall be unlawful for any person to place and bait or to permit the placing or baiting ~~and placing~~ of any trap, designed for trapping animals, in any highway, street, alley, or other public place within the corporate limits of the City.

Sec. 6-167. Prohibited within City limits; exception, areas zoned agricultural open space.

It shall be unlawful for any person to set or bait or permit the setting or baiting or placing of any steel-jawed, killer-type, toothed trap designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of entrapped prey and commonly known as a ~~"bear trap," "wolf trap," or "coyote trap"~~ in any zoning district within the City limits, except in those districts zoned agricultural open space. In agricultural open space districts, any trap must be more than three hundred (300) yards from the nearest district zoned for residential, commercial, or industrial use.

Sec. 6-168. When declared abandoned; impoundment.

Any traps mentioned in sections 6-166 and 6-167 found upon any public property shall be and the same are hereby declared to be abandoned property, and any animal control agent ~~police or peace~~ officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the appropriate provisions of this Code.

Sec. 6-169. Animal trapping by animal control.

It is hereby specifically provided that ~~the City~~ Abilene Animal ~~Control Division~~ Outreach is exempted from any provision of these animal trapping sections in the performance of ~~their~~ its lawful duties.

Secs. 6-170—6-195. Reserved.

Chapter 6 ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

Animal: Any live, vertebrate creature, domestic or wild.

At large: Any animal off the property of its owner and not under the control of a competent person.

Commercial breeder: A person who has been issued a commercial breeding permit by Abilene Animal Outreach.

Domestic animals: Those animals which are naturally tame and gentle or which, by long association with humans, have become thoroughly domesticated and are now reduced to such a state of subjection to human will that they no longer possess a disposition or inclination to escape.

Kennel: Any place where more than four (4) dogs or more than four (4) cats, or any combination of cats and dogs where the total exceeds four (4) animals over the age of ten (10) weeks are raised, trained, boarded, harbored, or kept.

Necessary veterinary care: Veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuations, tremors, swelling, broken bone(s), open wound(s), inability to eat or drink, blistering, irregular or abnormal breathing, partial or local paralysis, abnormal discharge or bleeding, mange, or other signs of health problems.

Owner: The actual owner of an animal and/or the person who has the care, custody, or control of such animal.

Restraint: An animal shall be deemed to be restrained when it is:

- (1) Confined on the premises of the owner within a fence or enclosure;
- (2) Fastened or picketed by a lead or rope so as to keep the animal on the premises;
- (3) Under the control of a person by a leash;
- (4) On or within a vehicle being driven or parked; or
- (5) At heel beside a competent person and obedient to that person's command.

Wild animal: Those animals of wild nature or disposition so as to require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate control of the owner.

Sec. 6-2. Violations—Citing to appear.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agent of Abilene Animal Outreach, such animal need not be impounded by the agent. The agent may, if the owner agrees to sign a citation, issue a citation which shall require the person to appear in court within ten (10) days to answer a charge of a violation of this chapter.
- (b) Signing the citation shall only be a promise to appear and is not an admission of guilt.
- (c) It shall be unlawful for any person upon being issued any citation to give the animal control employee a false name or address.
- (d) It shall be unlawful to fail to appear in municipal court within ten (10) days of the signing of the citation.

Sec. 6-3. Same—Impoundment.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agent of Abilene Animal Outreach and the owner cannot be located or refuses to sign a citation, the agent may impound the animal and/or file a complaint against the owner in municipal court.
- (b) When an animal is found in violation of a provision of this chapter and its ownership is not known to the agent of Abilene Animal Outreach, such animal shall be impounded.

Sec. 6-4. Interference with department.

No person shall interfere with, hinder, or molest any agent of Abilene Animal Outreach in the performance of any duty of the agent or seek to release any animal in the custody of Abilene Animal Outreach, the Abilene Animal Shelter's managing entity, or their agents.

Sec. 6-5. Records.

It shall be the duty of Abilene Animal Outreach to keep, or cause to be kept, accurate and detailed records of:

- (1) *Impoundment and disposition.* Impoundment and disposition of all animals coming into its custody.
- (2) *Bite cases.* All bite cases reported to it and its investigation of same.
- (3) *Monies received.* All monies received under this chapter.

Such records shall be open to inspection at reasonable times by persons responsible for similar records of the City and shall be audited by the City Auditor in the same manner as other City records which are audited.

Sec. 6-6. Noise.

It shall be unlawful for any person to own, keep, or be in control of any animal which causes unreasonably loud or unnecessary noise that causes material distress or discomfort to persons of ordinary sensibilities in the immediate vicinity.

Sec. 6-7. Keeping certain animals—Prohibited.

- (a) It shall be unlawful for any person to harbor or maintain within the City limits the following animals:
 - (1) All high risk rabies carriers, as defined in state law, including bats, skunks, coyotes, raccoons, and foxes;
 - (2) Venomous reptiles and amphibians;
 - (3) Any wild animal whose normal mature weight exceeds forty (40) pounds; or
 - (4) Any "dangerous wild animal" as defined in the Texas Health and Safety Code, as amended.
- (b) A person shall not sell, exchange, give away, or transfer a prohibited animal to any person in the City for use, retention, resale, or transfer as a pet or as a human's companion except as provided by state or federal law for:
 - (1) A federal, state, county, or municipal agency or an agent of such an agency acting in an official capacity;
 - (2) A research facility licensed by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. § 2131 et seq.), as amended;
 - (3) A zoo;
 - (4) Transporting an injured, sick, orphaned, or abandoned prohibited animal for care or treatment;
 - (5) A licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under V.T.C.A., Parks and Wildlife Code Ch. 43, subch. C, as amended, who is temporarily treating or caring for a sick or injured prohibited animal;
 - (6) A transient circus company;
 - (7) A television or motion picture production company that has temporary custody or control of the prohibited animal during the filming of a television or motion picture production in the City;
 - (8) A college or university that owns and has possession, custody, or control of the prohibited animal solely as a mascot for the college or university;
 - (9) Transporting the prohibited animal in interstate commerce in compliance with the Animal Welfare Act (7 U.S.C. § 2131 et seq.), as amended;
 - (10) A person whose only business is to supply nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. § 2131 et seq.), as amended;
 - (11) A participant in a species survival plan of the American Zoo and Aquarium Association for the species of prohibited animal owned by or in the possession, control, or custody of the person; or

- (12) Exhibiting a prohibited animal at a special event conducted with written permission from the City.

Sec. 6-8. Same—Exceptions.

The provisions of section 6-7 shall not apply to or prohibit the keeping of wild animals by the following:

- (1) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
- (2) A publicly or privately maintained circus, traveling show, or rodeo which does not remain in this City longer than thirty (30) days out of each year.
- (3) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals.

Sec. 6-9. Restraint of wild animals.

It shall be the duty of each owner of a wild animal in the City to keep the same under restraint at all times.

Sec. 6-10. Keeping swine restricted.

- (a) Except as provided herein or as otherwise allowed by law, no person who is the owner of any swine or any person who has any swine under his or her management or control shall keep the same or allow the same to remain in any pen or in any other place within the City.
- (b) This section shall not apply to or prohibit the keeping of swine by the following:
 - (1) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
 - (2) A publicly or privately maintained circus, traveling show, or rodeo which does not remain in the City longer than thirty (30) days out of each year.
 - (3) A slaughterhouse.
 - (4) Any person, persons, organization, or corporation keeping swine in an agricultural open space district as provided by the City of Abilene zoning ordinance when said swine is kept no closer than six hundred (600) feet from any other residential district, church, or school.
 - (5) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals.

Sec. 6-11. Running at large generally.

If any animal, other than a dog, cat, or other domesticated pet, is found at large within the City limits, the owner thereof shall be guilty of a misdemeanor.

Sec. 6-12. Herding.

The driving of herds of animals, other than dogs, cats, or other domesticated pets, along or upon any street, avenue, or alley of the City is hereby prohibited. This section shall not apply to or prohibit the herding of animals along or upon any street, avenue, or alley of the City by:

-
- (1) A publicly or privately maintained circus, traveling show, or rodeo which does not remain in this City longer than thirty (30) days out of each year.
 - (2) Any officer, agent, or employee of the federal, state, or local government, or agencies thereof, if such herding is done in the performance of official duties.

Sec. 6-13. Dead animals—Leaving carcass exposed a nuisance.

- (a) No person shall place or deposit the exposed carcass of any animal or fowl on any street, alley, highway, or public place or upon private property or shall stand or permit to stand any truck or other vehicle containing such carcass on any street, alley, highway, or public place or on private property within the City. The term "exposed" as used in this section means the exposure of the carcass of an animal so that putrefying odors may escape therefrom and contaminate the air.
- (b) The exposure of the putrefying carcass of a beast so that noxious or disagreeable odors may escape therefrom and contaminate the air shall be a public nuisance, and the Health Officer or any peace officer may summarily remove such carcass to a point outside the City or may bury or burn the same, and the expense of such disposal shall be included in the fine collected from the person so violating this section.

Sec. 6-14. Same—Removal by owner.

No person shall allow or permit any animal or fowl which has died and which, at the time of death, was owned, controlled, or kept by such person to lie in or upon any street, alley, lot, or other place in this City. Such person or persons shall cause the carcass of such animal or fowl to be disposed of as the Health Officer may direct.

Sec. 6-15. Same—Removal and disposal service, fees.

The fees and charges for services furnished by the City shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-16. Care and humane treatment of animals.

- (a) For purposes of this section, "restraint" shall mean a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.
- (b) It shall be unlawful for an owner or other person to:
 - (1) Fail to provide an animal with sufficient good and wholesome food and water; adequate housing consisting of a three-sided structure with a cover or roof and a floor that is sufficient to keep the animal dry and ensure that it does not have to lay in water; shelter and protection from the weather; veterinary care when needed to prevent suffering; or humane care and treatment;
 - (2) Beat, torment, abuse, overload, seriously overwork, maim, disfigure, burn or scald, mutilate, or torture an animal;
 - (3) Carry or transport an animal in any vehicle or other conveyance in a cruel or inhumane manner;
 - (4) Cruelly confine an animal;

- (5) Crop a dog's ears, dock a tail, remove dew claws, or perform other surgical procedures on a dog or cat, except as provided by the Veterinary Licensing Act, as amended;
- (6) Use steel jaw or leg-hold traps or snares;
- (7) Abandon an animal, including abandoning an animal in the owner's custody without making reasonable arrangements for the assumption of custody by another person;
- (8) Instigate or permit any dog fight, cock fight, or other combat between animals or between animals and humans;
- (9) Leave any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare;
- (10) Secure by use of a restraint a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian.
 - a. "Unhealthy situation" and "potentially dangerous situation for a pedestrian" shall include, but not be limited to:
 - 1. Leaving a dog unattended by use of a restraint that unreasonably limits the dog's movement:
 - i. Between the hours of 10:00 p.m. and 6:00 a.m.;
 - ii. Within five hundred (500) feet of the premises of a school; or
 - iii. In the case of extreme weather conditions, including conditions in which the actual or effective outdoor temperature is below thirty-two (32) degrees Fahrenheit, a heat advisory has been issued by a local or state authority or jurisdiction, or a hurricane, tropical storm, flood, or tornado warning has been issued for the jurisdiction by the National Weather Service.
 - 2. Secure by use of a restraint an animal in such a manner as to permit the animal access upon any public "right-of-way";
 - 3. Secure by use of a restraint an animal in such a manner that does not permit the animal to reach food, potable water, an area that allows the animal to avoid standing water and exposure to excessive animal waste, shade from direct sunlight, or adequate shelter;
 - 4. Secure by use of a restraint an animal in such a manner that it is subject to attacks by persons or other animals, stinging bites from outdoor insects, or other similar hazards that pose an unreasonable threat of injury to the animal;
 - 5. Failing to remove waste on a daily basis from the area in which the animal is restrained;
 - 6. Using a choke-type collar on an animal in conjunction with a restraint; or
 - 7. Restraining a dog outside and unattended by use of a restraint that is a chain or has weights attached.

- b. It shall be minimally required that the restraint used must be equipped with swivel ends; positioned in such a manner as to prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving any part of its owner's property; and secured to the animal using a properly fitted collar or harness.
- c. For purposes of subsection (10), a restraint unreasonably limits a dog's movement if the restraint: uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog; is a length shorter than the greater of five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail or ten (10) feet; is attached to a trolley system that allows the dog to move along a running line for a distance less than the greater of five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail or ten (10) feet; is in an unsafe condition; or causes injury to the dog.
- d. Subsection (10) does not apply to:
 - 1. A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
 - 2. A dog restrained for a reasonable period, not to exceed three (3) hours in a twenty-four-hour period and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
 - 3. A dog restrained while the owner is engaged in, or actively training for, an activity conducted under a valid license issued by this state if the activity is associated with the use or presence of a dog;
 - 4. A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock;
 - 5. A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products;
 - 6. A dog restrained in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;
 - 7. A dog restrained while the owner is engaged in, or actively training for, hunting or field trialing.
- (11) Kill an animal, except as allowed by law;
- (12) Expose an animal to any poisonous substance, whether mixed with food or not, so that the poison is likely to be ingested by an animal. Provided, however, it shall not be a violation of this section for a person, on his or her own property, to expose rats or mice to common rat poison intended for the purpose of exterminating the rats or mice; or
- (13) Cause any of the enumerated acts (1)—(12) to be done.

Sec. 6-17. Removal of animal in immediate danger and veterinary medical attention.

- (a) Any animal observed by a peace officer or agent of Abilene Animal Outreach that appears to be in immediate danger may be removed from such situation by the quickest and most reasonable means available.
- (b) In the event the animal removed requires veterinary medical attention, the peace officer or agent of Abilene Animal Outreach removing the animal is authorized to take the animal to a licensed veterinarian as soon as practicable for veterinary medical treatment. The owner will be responsible for reimbursing the City for the cost of any veterinary medical treatment and must pay the bill before redeeming the animal in the event the animal is allowed to be returned to the owner. If a person other than the owner is found to have violated section 6-16, that person will be responsible for reimbursing the City for the amount of the veterinary medical bills. Such reimbursement is required before the animal will be released to the owner.
- (c) If the veterinarian determines that the animal is too severely injured, or is too ill, to have a reasonable chance of recovery, Abilene Animal Outreach is authorized to have the animal humanely destroyed. Any costs incurred as a result of the humane destruction of the animal may be recovered from the owner or other person who is found to have violated section 6-16.

Sec. 6-18. Impoundment, release, and disposition of animal.

- (a) Any peace officer or any agent of Abilene Animal Outreach may seize and impound any animal that appears to have been cruelly treated in violation of section 6-16.
- (b) If the animal is not in need of immediate veterinary medical attention as provided in section 6-17, the animal shall be held by Abilene Animal Outreach while an investigation is conducted to determine whether there is sufficient evidence to proceed against the owner or other person for a violation of section 6-16.
- (c) If at the conclusion of the investigation, Abilene Animal Outreach determines that there is not enough evidence to proceed against the owner or other person for a violation of section 6-16, or other law prohibiting cruelty to animals, the animal shall be returned to the owner upon payment of any veterinary medical bills as provided in section 6-17 and payment of impound fees and compliance with the associated requirements set forth in section 6-93. Payment of the veterinary medical bills and impound fees is required before the animal will be released.
- (d) If at the conclusion of the investigation, Abilene Animal Outreach determines that there is enough evidence to proceed against the owner or other person for a violation of section 6-16, Abilene Animal Outreach may initiate a proceeding in the municipal court to:
 - (1) Prosecute the owner or other person for a violation of section 6-16;
 - (2) Determine the appropriate disposition of the animal;
 - (3) Assess the appropriate amount of impound fees and veterinary medical bills required to be paid by the owner or other person found to have violated section 6-16; and
 - (4) Impose a fine in accordance with section 1-9.

- (e) If, after prosecution for an offense under section 6-16, the municipal court finds the owner or other person prosecuted for a violation of section 6-16 not guilty, the owner or other person prosecuted is still responsible for payment of any veterinary medical bills as provided in section 6-17 and payment of any impound fees and compliance with the associated requirements set forth in section 6-93. Full payment of veterinary medical bills and impound fees and compliance with section 6-93 is required before the animal will be released to the owner.
- (f) Nothing in this article shall be construed to prevent the election by Abilene Animal Outreach to pursue criminal charges against the owner or other person for violations of the applicable animal cruelty provisions of the Texas Penal Code.

Sec. 6-19. Sale of domestic animals in public places

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for commercial purposes any domestic animal on a roadside, public right-of-way, sidewalk, street, parkway or any other public property or any property dedicated to public use, a commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event. This section does not apply to a sale held on privately owned property with the written permission of the owner of the property including a parking lot where the seller has the parking lot owner's written permission. This section does not apply to the City of Abilene or a not-for-profit 501(c)(3) animal welfare, rescue, or adoption agency.

Secs. 6-20 - 6-28. Reserved.

ARTICLE II. PETS

DIVISION I. GENERALLY

Sec. 6-29. Exemption.

Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except as otherwise stated.

Sec. 6-30. Reserved.

Sec. 6-31. Vaccination.

No person shall own, keep, or harbor a dog or cat over the age of four (4) months within the City limits unless the dog or cat has a current certificate of vaccination for an anti-rabies vaccine.

Sec. 6-32. Restraint of dogs.

Every person who owns, keeps, or is in charge of a dog shall restrain the dog at all times.

Sec. 6-33. Special confinement requirement for fierce, dangerous, vicious dogs.

The owner shall confine within a building or a secure enclosure a fierce, dangerous, or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely muzzled.

Sec. 6-34. Commercial breeding

(a) Commercial breeding—Permit required.

(1) A person commits an offense if the person breeds cats or dogs, to the extent that more than twelve (12) cats, dogs, or combination thereof or two (2) litters of cats, dogs, or combination thereof, whichever is greater, are produced during any twelve (12) consecutive month period, without a commercial breeding/show animal permit issued by Abilene Animal Outreach.

(2) An application for a commercial breeding permit must be made on the form prescribed by Abilene Animal Outreach and shall include, at a minimum, the following information:

- a. Applicant's name, telephone number, and address;
- b. Address where any notices related to the permit are to be sent;
- c. Address of proposed location for breeding the dogs or cats;
- d. A description of the species, breed, gender, age, and registration certificate number for each female animal to be used for breeding;
- e. A description of the species, breed, gender, and, if applicable, microchip number for each female animal owned by the commercial breeder which will not be used for breeding;
- f. A statement affirming that the applicant is familiar with the provisions of this chapter and will maintain all breeding animals in accordance with all applicable legal requirements;
- g. A statement affirming that, upon request by the department, the applicant will make the breeding animals, premises, equipment, and veterinary records available for inspection during business hours; and
- h. A statement affirming the applicant will notify Abilene Animal Outreach, as required, of any additional female cats or dogs acquired for breeding during the term of the permit.

(3) Abilene Animal Outreach shall not issue a commercial breeding permit if:

- a. Operation of commercial breeding at the proposed location would violate established zoning laws of the City of Abilene;
- b. The applicant or the applicant's spouse has been found by a court of competent jurisdiction to have cruelly treated an animal, used an animal for dog or cock fighting, or been a spectator of dog or cock fighting; or

c. In the twelve (12) months preceding the date of the application, the applicant or the applicant's spouse received two (2) or more citations for violating any provision of this chapter. This prohibition shall not apply if the citation was subsequently dismissed or if the applicant or the applicant's spouse was found "not guilty" of the citation by a court of competent jurisdiction.

(4) A permit issued under this section is issued to the individual applicant and is not transferable to another person. The permit shall be valid for a period of two (2) years, unless revoked or surrendered. Permits may be surrendered by providing written notification of the surrender to Abilene Animal Outreach.

(5) Abilene Animal Outreach may revoke a commercial breeding permit in accordance with this section upon providing the permit holder written notice via hand-delivery, certified mail, return receipt requested, or electronic mail with delivery confirmation.

(6) A commercial breeder permit may be revoked if:

- a. The permit holder provided false information on the application;
- b. The permit holder or the permit holder's spouse has been found by a court of competent jurisdiction to have cruelly treated an animal, used an animal for dog or cock fighting, or been a spectator of dog or cock fighting;
- c. The permit holder or the permit holder's spouse has been convicted of a violation of any provision of this chapter on two (2) or more occasions within the past twelve (12) months; or
- d. Other good cause as determined by the City Manager or his or her designee

(7) Commercial breeders acquiring a female cat or dog for breeding purposes during the term of a permit are required to notify Abilene Animal Outreach of the acquisition by completing the form prescribed by Abilene Animal Outreach.

(b) Planned breeding—Registration certificate required.

(1) Every female cat or dog to be used for breeding by a commercial breeder shall be microchipped and registered as a registered breeding animal prior to being used for breeding.

(2) The registration application shall be on the form prescribed by Abilene Animal Outreach and, at a minimum, include:

- a. The name of the animal;
- b. A description of the animal's species, breed, gender, and age;
- c. A signed, written letter of approval for breeding by a licensed veterinarian dated within the last ninety (90) days;

d. Records of the animal's microchip, including the unique microchip ID, and current rabies vaccination; and

e. Proof of registration with the American Kennel Club or license for breeding issued by the Texas Department of Licensing and Regulation pursuant to the "Dog or Cat Breeders Act."

(3) A registration certificate authorizing the animal to be used for breeding should be issued within ten (10) business days.

(4) The registration certificate shall authorize the animal to be used by a commercial breeder for breeding for a period of two (2) years from the date of issuance unless suspended or surrendered. The commercial breeder may notify Abilene Animal Outreach in writing to surrender the certificate.

(5) The registration certificate authorizing an animal to be used for breeding is automatically suspended during any period in which a licensed veterinarian determines it is unsafe for the animal to be used for breeding or the animal is subject to mandatory quarantine.

(c) Appealing determination of Animal Services Manager.

(1) If Abilene Animal Outreach denies, fails to renew, revokes, or suspends any license, permit, or other authorization provided in this section, the applicant or person holding such license, permit, or other authorization may appeal the decision to the City Manager or his or her designee by filing a written appeal with the City Manager within ten (10) business days of the notice being sent.

(2) The City Manager or his or her designee shall make a decision within ten (10) business days of the appeal being received.

(d) Exemption for certain persons who breed special purpose dogs.

(1) Those breeders exempt under Chapter 802.005 of the Texas Occupations Code are also exempt from section 6-34 of this Chapter.

Secs. 6-35 - 6-44. Reserved.

DIVISION 2. LICENSE

Sec. 6-45. Required.

No person shall own, keep, or harbor a dog or cat over the age of four (4) months within the City unless a license has been obtained for the same.

Sec. 6-46. Administration by veterinarians.

The City of Abilene or its authorized agent will furnish licensed veterinarians who agree to follow the provisions of this division with application forms and license tags for dogs and cats.

Sec. 6-47. Application.

Written applications for dog and cat licenses shall be made upon a printed application form provided by the City and shall state the name and address of the owner or keeper of said dog or cat and the name, breed, color, age, and sex of the dog or cat being licensed.

Sec. 6-48. Conditions for license.

The dog and cat license tags shall be issued upon payment of the license fee and the meeting of one (1) of the following conditions:

- (1) Vaccination by a licensed veterinarian with anti-rabies vaccine; or
- (2) Presentation of a metal vaccination tag issued by a licensed veterinarian showing that such vaccination was given less than three (3) months prior to the date of application for such license.

Sec. 6-49. Fee.

The fees and charges for services furnished by the City shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-50. Issuance.

Dog and cat license tags shall be issued by the City of Abilene or its authorized agent and authorized veterinarians licensed in the state and practicing within the City limits or its extraterritorial jurisdiction.

Sec. 6-51. Collar, tag to be worn.

Every person who owns, keeps, or is in charge of or in control of a dog or cat within the City shall provide and place on such dog or cat a collar or harness which shall be worn by said dog or cat at all times when off the premises of said person and shall attach to the collar or harness the metal license tag obtained pursuant to this division.

Sec. 6-52. Transfer.

Each dog or cat license issued under this division shall be restricted to the animal for which the same was issued and shall not be transferred.

Sec. 6-53. Duration.

Every license issued under the provisions of this division shall be valid for one (1) year from the date of issuance thereof.

Sec. 6-54. Reimbursement by City.

The City will reimburse authorized licensed veterinarians the sum of one dollar (\$1.00) for each dog or cat license issued by such veterinarian to help defray the cost imposed on such veterinarian for issuing said licenses in accordance with this article.

Secs. 6-55 - 6-59. Reserved.

DIVISION 3. DANGEROUS AND AGGRESSIVE DOGS

Sec. 6-60. Authorization, Dangerous Dogs.

The general laws of the state, except as specifically provided through proper ordinances and regulations of the City, shall control the handling of dangerous dogs. There is adopted as part of this chapter all of the provisions of V.T.C.A., Health and Safety Code title 10, Ch. 822, subch. D, including § 822.0422, as amended, insofar as applicable.

Sec. 6-61. Definitions.

For the purposes of this division, the following words and/or phrases shall have the meanings respectively ascribed to them by the statute except as provided below:

“Dangerous dog” as defined in V.T.C.A., Health and Safety Code § 822.041.

“Aggressive dog” is a dog that makes an unprovoked attack on a domestic animal that causes bodily injury or death and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.

Sec. 6-62. Dangerous Dog determination, Seizure.

- (a) If a person reports an incident described by V.T.C.A., Health and Safety Code § 822.041(2), Abilene Animal Outreach may seize and impound the dog pending investigation of the incident.
- (b) Abilene Animal Outreach shall release the dog to the owner if Abilene Animal Outreach has not made a determination that the dog is a dangerous dog on or before the tenth business day after the seizure and impoundment of the dog, and if all fees have been paid as required under subsection (d). Release of the dog does not prohibit the Abilene Animal Outreach from receiving more information and subsequently declaring the dog a dangerous animal.
- (c) If Abilene Animal Outreach determines the dog is a dangerous dog, it shall continue to impound the dog until the owner complies with V.T.C.A., Health and Safety Code § 822.042, or until such time as the dog may legally be destroyed.
- (d) The owner shall pay any cost or fee assessed by Abilene Animal Outreach related to the seizure, acceptance, impoundment, or destruction of the dog. In the event that the dog is returned to the owner, all fees must be paid prior to release of the dog.

Sec. 6-63. Aggressive Dog determination, Seizure.

- (a) After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to ensure the health and safety of the public, an Abilene Animal Outreach officer may seek a warrant for the immediate seizure and impoundment of the dog. A search and seizure warrant shall be obtained from any municipal court magistrate to enter onto private property to search for a dog which is allegedly an aggressive dog, if permission to enter the subject premises is denied by a person in lawful possession.
- (b) Abilene Animal Outreach shall release the dog to the owner if Abilene Animal Outreach has not made a determination that the dog is an aggressive dog on or before the tenth business day after the seizure and impoundment of the dog, and if all fees have been paid as required under subsection (d). Release of the dog does not prohibit the Abilene Animal

Outreach from receiving more information and subsequently declaring the dog an aggressive animal.

- (c) The owner shall pay any cost or fee assessed by Abilene Animal Outreach related to the seizure, acceptance, impoundment, or destruction of the dog. In the event that the dog is returned to the owner, all fees must be paid prior to release of the dog.
- (d) If the dog is determined to be an aggressive dog, the cost of securing and caring for the dog shall be borne by the owner. If a dog which has been impounded by Abilene Animal Outreach is determined to be an aggressive dog, it shall not be released back to the owner until the owner certifies in writing the owner will comply with the conditions set forth in section 6-65 as required and has paid all fees incurred for impoundment of the dog. If the owner fails to take the necessary action to have the dog released to the owner under this section within thirty (30) days of the date of the final aggressive dog determination, the owner shall be deemed to have surrendered ownership of the aggressive dog to the city in which case the dog shall become the property of the City of Abilene and may be placed for adoption, transferred to rescue/foster organizations/individuals, transferred to other humane organizations, or euthanized humanely, as determined by Abilene Animal Outreach. If ownership of the dog is transferred, the new owner must be made aware of the dog's classification and the required conditions with which the new owner must comply.
- (e) If a dog which has been impounded by Abilene Animal Outreach is determined not to be an aggressive dog, the dog shall be released to the owner and the owner shall not be responsible for payment of the fees associated with the impoundment of the dog. If such dog is not reclaimed within three (3) days of the owner receiving written notice the dog is able to be reclaimed, the dog shall become the property of the City of Abilene and may be placed for adoption, transferred to rescue/foster organizations/individuals, transferred to other humane organizations, or euthanized humanely, as determined by Abilene Animal Outreach.
- (f) Abilene Animal Outreach shall give the dog's owner written notice of the dog's specific behaviors resulting in the determination that the dog is an aggressive dog, of the dog's classification as an aggressive dog, and of the restrictions applicable to that dog by reason of its classification.

Sec. 6-64. Appeal of aggressive dog determination.

- (a) An owner may appeal an aggressive dog determination within fifteen (15) calendar days after receiving notice of the determination by:
 - (1) Filing a written notice of appeal of the aggressive dog determination in the Abilene Municipal Court;
 - (2) Attaching a copy of the determination of Abilene Animal Outreach; and
 - (3) Serving a copy of the notice of appeal to Abilene Animal Outreach by certified mail.
- (b) A municipal court judge shall conduct a hearing to determine whether the preponderance of the evidence supports the aggressive dog determination.
- (c) The municipal court judge shall be the finder of fact. As such, the municipal court judge may compel attendance of the complainant, any known witnesses, the dog owner against

whom the complaint was filed, and Abilene Animal Outreach staff who investigated. Failure of the owner of the animal to appear at the hearing shall result in a final classification with no further appeal. The owner may be represented by counsel.

- (d) At the conclusion of the hearing, the municipal court judge may affirm or reverse the aggressive dog determination.
- (e) The result of the appeal hearing is final, and, if the dog is determined to be an aggressive dog, shall be considered a final aggressive dog determination.
- (f) An aggressive dog determination made by Abilene Animal Outreach which is not timely appealed shall be considered a final aggressive dog determination.

Sec. 6-65. Regulation of aggressive dogs.

- (a) In addition to the other requirements of this chapter, the owner or keeper of an aggressive dog shall, within thirty (30) days of a final aggressive dog determination, comply with the following conditions:
 - (1) The aggressive dog shall be confined so as not to be at large by an enclosure or structure in a manner that prevents the dog from reaching any public sidewalk or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever the dog is outside. The owner or keeper shall restrict the dog to the owner's or keeper's property unless the dog is restrained by an adequate leash under the control of a capable person and muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration. The owner or keeper of an aggressive dog shall post no less than two (2) "Beware of Dog" warning signs on the property where the dog is being kept and shall not permit the warning signs to be removed. The signs must be sufficient in size to be readable from the public right-of-way. The signs shall be no closer than six (6) feet apart. In addition, Abilene Animal Outreach may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00).
 - (2) To ensure correct identification, all dogs that have been classified as aggressive dogs shall be microchipped and photographed and may be fitted with a special tag or collar as determined by Abilene Animal Outreach at the owner's expense.
 - (3) The owner or keeper of an aggressive dog shall not allow the special tag or collar to be removed from the dog. The owner or keeper of an aggressive dog shall not allow the dog to be moved to a new address or change owners or keepers without providing Abilene Animal Outreach at least ten (10) days' prior written notice containing the new address and name and contact information for the new owner(s) or keeper(s). If the dog changes owners or keepers, the person providing the dog to the new owner or keeper shall notify the new owner or keeper of the dog's classification and the requirements with which the owner or keeper must comply and certify to Abilene Animal Outreach, in writing, that such notification was made.
 - (4) At the owner's expense, the aggressive dog must be spayed or neutered either by Abilene Animal Outreach or, at the discretion of Abilene Animal Outreach, by a

veterinarian approved by Abilene Animal Outreach prior to being released back to its owner.

- (b) Notwithstanding any other provision, if Abilene Animal Outreach determines an owner or keeper of an aggressive dog has failed to comply with the requirements of this chapter, Abilene Animal Outreach may request a show cause hearing before the municipal court and seize the aggressive dog, pursuant to a warrant or court order until such time as the hearing can be held. The hearing shall be held no later than ten (10) calendar days from the date the aggressive dog is seized. Upon the conclusion of the hearing, the judge may, but is not required to, modify the requirements of the existing aggressive dog determination. Such modifications may include ordering the aggressive dog to be humanely euthanized.

Secs. 6-66 - 6-68. Reserved.

ARTICLE III. IMPOUNDMENT

DIVISION 1. GENERALLY

Sec. 6-69. Authorized.

Any peace officer or any agent of Abilene Animal Outreach may take up and impound any animal found in violation of this chapter.

Sec. 6-70. Impoundment.

The impoundment of dogs, cats, or any other domestic animal shall be as provided in sections 6-89 through 6-99.

Sec. 6-71. Confinement by private citizen.

If any animal, including any domestic animal, is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal temporarily until he or she can notify Abilene Animal Outreach. When notified, Abilene Animal Outreach shall have the duty to impound such animal as provided in this chapter.

Sec. 6-72. Shelter fees.

The fees and charges for services furnished by the City shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-73. Disposition at City Manager's or his or her designee's discretion.

If any animal impounded is found to be affected with a contagious disease or if the animal is seriously injured or if the animal cannot be otherwise placed for adoption, the animal shall become the property of the City, and the animal may immediately be euthanized or otherwise disposed of without notice or any waiting period. All decisions as to the condition, adoption, or other disposition of the animal shall be made by the City Manager or his or her designee.

Sec. 6-74. Redemption.

The owner of any animal not affected with a contagious disease or seriously injured and impounded under the provisions of this chapter may redeem the same within three (3) business days of its impoundment by paying the required shelter fees.

Sec. 6-75. Disposition of impounded animals.

If not redeemed within the appropriate time period specified in section 6-74, the animal shall become the property of the City, and the animal may be adopted, euthanized, or otherwise disposed of as recommended by the City Manager or his or her designee.

Sec. 6-76. Reserved.**Sec. 6-77. Records of impoundment.**

Abilene Animal Outreach shall keep a record for at least one (1) year giving the description of all animals impounded, the date of impoundment, the date of adoption or other disposition, the amount realized for such animal, and the name and address of the new owner.

Secs. 6-78 - 6-88. Reserved.*DIVISION 2. PETS***Sec. 6-89. Authorized.**

The agents of Abilene Animal Outreach are authorized to take up and impound:

- (1) All dogs found not restrained by their owners; or
- (2) All cats which do not have a vaccination tag as provided by sections 6-31 and 6-51 and are found not restrained by their owners.

Sec. 6-90. Redemption.

- (a) The redemption period for an animal impounded other than for quarantine or pursuant to a court order, is three (3) business days after the date of impoundment, unless subsections (b) or (c) apply to the animal.
- (b) The redemption period for an animal impounded pursuant to a court order is the time set forth in the court order or, if no provision is made in the court order, five (5) days after the court proceedings are final.
- (c) The redemption period for an animal impounded for quarantine is three (3) days after completion of the quarantine period.
- (d) If an animal is not redeemed within the appropriate time period specified in subsections (a) through (c) or the animal is voluntarily surrendered by the owner, the animal shall become the property of the City and may be placed for adoption, euthanized, or otherwise disposed of as recommended by the City Manager or his or her designee.
- (e) An owner of an impounded animal commits an offense if he or she removes or attempts to remove the animal from the Abilene Pet Adoption and Resource Center without first paying all applicable fees required in this chapter.

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- (f) *Notice.* Upon impounding a dog found with current vaccination tags or chip, the agents of Abilene Animal Outreach shall make a reasonable effort to notify the owner that his or her animal has been impounded and the conditions whereby he or she may regain custody of such animal.

Sec. 6-91. Reserved.

Sec. 6-92. Fees.

The fees and charges for services furnished by the City shall be determined from time to time and placed on file in the office of the City Secretary.

Sec. 6-93. Reserved.

Sec. 6-94. Redemption of unvaccinated or unsterilized animal.

- (a) The owner of any animal over the age of four (4) months, which has not been vaccinated as required by this chapter, upon satisfactory proof of ownership, shall pay to the City of Abilene or its authorized Agent applicable fees to cover the cost of rabies vaccination and City tag for the animal before the animal can be redeemed. Upon payment of the fee, a receipt for the shots shall be given to the owner to be honored by the veterinarian designated by the owner. The owner of the animal shall have seventy-two (72) hours from the time the receipt is issued to take the animal and receipt to the veterinarian for vaccination. Failure to vaccinate within the stated time period will result in forfeiture of the rabies vaccination and City tag fees to the City. Each month, all veterinarians shall turn in all receipts that they have received, and the City shall reimburse them for the full value of each receipt.
- (b) An owner reclaiming any dog or cat over the age of six (6) months, which has not been sterilized (spayed or neutered), shall submit written proof to the City of Abilene or its authorized Agent of having the animal sterilized within thirty (30) calendar days of the animal's release from the animal shelter. Any owner who does not provide such proof of sterilization as required by this section shall commit an offense.
- (1) An owner is excepted from the sterilization requirement of this subsection (b) if the owner proves to the satisfaction of the City of Abilene or its authorized Agent within thirty (30) calendar days of the animal's release from the animal shelter:
- a. That the animal is dead, lost, or stolen; or
 - b. A licensed veterinarian has certified that the animal should not be sterilized for health reasons or is permanently non-fertile
- (2) It is an affirmative defense to the sterilization requirement of this subsection (b) that:
- a. The owner is a licensed breeder under this Chapter;

- b. The animal being reclaimed is a dog bred with the intent that it be used primarily for the purposes described in Texas Occupations Code Section 802.005(a); or
 - c. The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work.
- (c) If an owned dog or cat is impounded twice by the City of Abilene or its authorized Agent and such animal is over the age of six (6) months, then prior to the release of said animal to the owner after the second such impoundment, the owner shall allow and pay for the animal to be sterilized (spayed or neutered), or show proof satisfactory to the City of Abilene or its Authorized Agent that said animal has been sterilized (spayed or neutered) previously. Any owner who misrepresents whether said animal has been sterilized shall commit an offense.
- (1) An owner is excepted from the sterilization requirement of this subsection (c) if the owner proves to the satisfaction of the City of Abilene or its authorized Agent prior to release that a licensed veterinarian has certified that the animal should not be sterilized for health reasons or is permanently non-fertile.

Sec. 6-95. Reserved.

Sec. 6-96. Placement with competent person.

The City of Abilene or its authorized Agent may place any animal held at the Abilene Pet Adoption and Resource Center in the custody of some person deemed to be a responsible and suitable owner who will agree to comply with the provisions of this chapter.

Sec. 6-97. Reserved.

Sec. 6-98. Reserved.

Sec. 6-99. Destruction of donated, sick, injured animals.

The City of Abilene or its authorized Agent may destroy any animal by a humane method if it has been donated to the Abilene Pet Adoption and Resource Center with the request that it be destroyed if the animal is so sick or injured that its cure is considered by the City of Abilene or its authorized Agent to be impractical or if its death is imminent or if it is found to be infected with a contagious disease. In any such event, the animal shall become the property of the City, and such destruction may be done immediately without notice or any waiting period.

Secs. 6-100 - 6-115. Reserved.

ARTICLE IV. RABIES CONTROL

DIVISION 1. GENERALLY

Sec. 6-116. Report of rabies suspect by veterinarian.

It shall be the duty of every licensed veterinarian to report to Abilene Animal Outreach his or her diagnosis of any animal observed by him or her as a rabies suspect.

Sec. 6-117. Report of bites or scratches by physicians.

It shall be the duty of every physician or other practitioner to report to Abilene Animal Outreach the names and addresses of persons treated for bites or scratches inflicted by animals, together with such other information as will be helpful in rabies control.

Sec. 6-118. Killing or removing rabid animal from the City.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal which has bitten a human or which is suspected of having bitten a human, except as herein provided, nor remove same from the City limits without written permission from Abilene Animal Outreach.

Sec. 6-119. Surrender of carcass.

The carcass of any dead animal suspected of having been exposed to rabies shall, upon demand, be surrendered to Abilene Animal Outreach.

Sec. 6-120. Disposition of rabid animals.

Abilene Animal Outreach shall direct the disposition of any animal found to be infected with rabies.

Sec. 6-121. Duty to surrender animal.

No person shall fail or refuse to surrender any animal for quarantine, destruction, or disposal as required herein when demand is made therefor by Abilene Animal Outreach.

Sec. 6-122. Rabies control authority.

The Abilene Animal Outreach Supervisor or designee shall be the rabies control authority authorized to quarantine an animal as provided in V.T.C.A., Health and Safety Code Ch. 826, as amended, and the rules adopted by the Texas Board of Health under that chapter.

Secs. 6-123 - 6-132. Reserved.

DIVISION 2. QUARANTINE OF SPECIFIC ANIMAL

Sec. 6-133. Authorized; minimum time.

Upon being presented a sworn affidavit that an animal has bitten or scratched a person, the City Manager or his or her designee shall quarantine the animal so identified for a period of ten (10) days.

Sec. 6-134. Places.

- (a) Quarantine of an animal which has bitten or scratched a person shall be at the following:
 - (1) Animal shelter;

- (2) A licensed veterinarian hospital in the City at the expenses of the owner, upon the owner's request an approval by the local rabies control authority; or
 - (3) Home quarantine. Home quarantine is permissible when allowed by applicable laws and regulations and the City Manager or his or designee agrees that home quarantine is warranted and believes the following requirements are satisfied:
 - a. The owner of the animal is a resident of this City and agrees to keep the animal at his or her residence in this City;
 - b. The animal was properly restrained at the time the bite occurred; and
 - c. The animal was properly protected by rabies vaccination.
- (b) Animals of unknown ownership will be quarantined at the Abilene Pet Adoption and Resource Center.

Sec. 6-135. Surrender by owner.

Upon demand made by Abilene Animal Outreach, it shall be unlawful for the owner to fail to surrender any animal which has bitten or scratched a human being or which is suspected of having been exposed to rabies for quarantine, which expenses shall be borne by the owner.

Sec. 6-136. Released to owner.

The quarantined animal may be reclaimed by the owner if adjudged free of rabies, upon payment of the fees set forth in section 6-92, upon compliance with the vaccination provisions set forth in section 6-31.

Sec. 6-137. Pathological examination—Death during quarantine.

When an animal under quarantine diagnosed by a licensed veterinarian as being rabid or suspected of being rabid dies while under observation, Abilene Animal Outreach shall immediately send the head of such animal to the Health Department for a pathological examination. Abilene Animal Outreach shall notify the proper Health Officer of reports of human contacts and then the diagnosis made of the suspected animal after the pathological examination has been made.

Sec. 6-138. Same—Emergency situation.

When an animal bites or scratches a person so that the Director of the Health Department believes that the quarantine observation period cannot be observed because of the danger of developing rabies, the Health Director shall order that Abilene Animal Outreach immediately forward the animal's head for pathological examination.

Secs. 6-139 - 6-149. Reserved.

DIVISION 3. CITY-WIDE QUARANTINE

Sec. 6-150. When authorized.

A City-wide quarantine may be invoked for a period of thirty (30) days by the City Council upon the recommendation of Abilene Animal Outreach after it has been notified by the Health

Department of a positive diagnosis of rabies of an animal or after an investigation has determined there exists an immediate threat of rabies.

Sec. 6-151. Extension of time.

In the event there are additional positive cases of rabies occurring within the thirty-day period of the City-wide quarantine, such period of quarantine shall be extended for additional reasonable period of time.

Sec. 6-152. Destruction of bitten animals.

During a period of City-wide rabies quarantine, every animal bitten by a rabid animal shall be destroyed.

Sec. 6-153. Confinement of animals.

It shall be unlawful for any person to take or permit any animal in the streets or any other public place during the period of quarantine, including but not limited to public and private dog parks.

Secs. 6-154 - 6-165. Reserved.

ARTICLE V. TRAPS

Sec. 6-166. Placement and baiting prohibited on streets and alleys.

It shall be unlawful for any person to place and bait or to permit the placing or baiting of any trap designed for trapping animals in any highway, street, alley, or other public place within the corporate limits of the City.

Sec. 6-167. Prohibited within City limits; exception, areas zoned agricultural open space.

It shall be unlawful for any person to set or bait or permit the setting or baiting or placing of any steel-jawed, killer-type, toothed trap designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of entrapped prey and commonly known as a "bear trap," "wolf trap," or "coyote trap" in any zoning district within the City limits, except in those districts zoned agricultural open space. In agricultural open space districts, any trap must be more than three hundred (300) yards from the nearest district zoned for residential, commercial, or industrial use.

Sec. 6-168. When declared abandoned; impoundment.

Any traps mentioned in sections 6-166 and 6-167 found upon any public property shall be and the same are hereby declared to be abandoned property, and any animal control agent or peace officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the appropriate provisions of this Code.

Sec. 6-169. Animal trapping by animal control.

It is hereby specifically provided that Abilene Animal Outreach is exempted from any provision of these animal trapping sections in the performance of its lawful duties.

Secs. 6-170 - 6-195. Reserved.

Amending Chapter 6, Animals and Fowl, Code of Ordinances





Summary of proposed changes:

1. The name of the Animal Control Department has been changed to Abilene Animal Outreach. The name is updated throughout the Ordinance.
2. Texas Agricultural Code, section 251.0055, effective September 1, 2023, limits the ability of a municipality to regulate agricultural operations within its city limits. Appropriate amendments to the Animal Code have been made in response to state law.
3. Texas Health and Safety Code, section 821.102, effective January 18, 2022, regulates the restraining of dogs, including prohibiting chains or weights.





4. Prohibiting the sale of domestic animals in public places, and requiring permission of a landowner for sale on private property, including a parking lot.
5. Creating a Commercial Breeder Permit to allow persons to breed dogs or cats within the city limits.





6. Creating an Aggressive Dog category, for a dog that makes an unprovoked attack on a domestic animal that causes bodily injury or death. State law regulates and defines a Dangerous Dog as a dog making an unprovoked attack on a person. Abilene has adopted the state law regulation of dangerous dogs, which remains in effect.

Because state law may preempt the dangerous dog category, an Aggressive Dog category is created to clearly regulate dog on domestic animal attacks. The Aggressive Dog procedure is similar to the Dangerous Dog procedure, to avoid confusion by city animal control staff and Abilene residents.





7. Adding a requirement that a dog or cat owner, who reclaims their pet from the Pet Adoption and Resource Center, to provide proof of sterilization (spayed/neutered) within 30 days of the animal's release to the owner. Failure to provide proof is a class C misdemeanor. If the animal is impounded twice by the City, the animal may be sterilized by the city and the animal's owner shall pay the City the cost of the sterilization prior to release of the animal.
8. Requirements for quarantine of animals have been strengthened.





- The requirement that all dogs and cats be spayed or neutered has been removed completely.
- The “show animal” permit has been removed from the Breeders Permit section.

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **30. Ordinance (Final Reading) CUP-2025-03: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, to Apply a Conditional Use Permit to Approximately 0.9 Acres to Allow for Contractor Services within General Commercial (GC) Zoning, Located at 625 ES 11th Street (*Tim Littlejohn*)**

GENERAL INFORMATION

The applicant is requesting to apply a Conditional Use Permit to approximately 0.9 acres to allow for Contractor Services within General Commercial (GC) zoning.

SPECIAL CONSIDERATIONS

The subject property was annexed into the City in 1959 and has remained vacant since annexation. The property owners are wanting to develop the property as an office/warehouse for their plumbing company. The Development Review Committee are currently reviewing the site plan.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff Recommends approval subject to the Plan of Operations.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval subject to the Plan of Operations

by a vote of 5-0.

ATTACHMENTS:

1. Ordinance
2. staff report
3. application
4. building layout
5. plan of operations
6. 1142 Lytle Acres Drive (PID_58041)
7. 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 27th day of February, 2025.

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 January, 2025, 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 13th day of March, 2025, 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 13th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

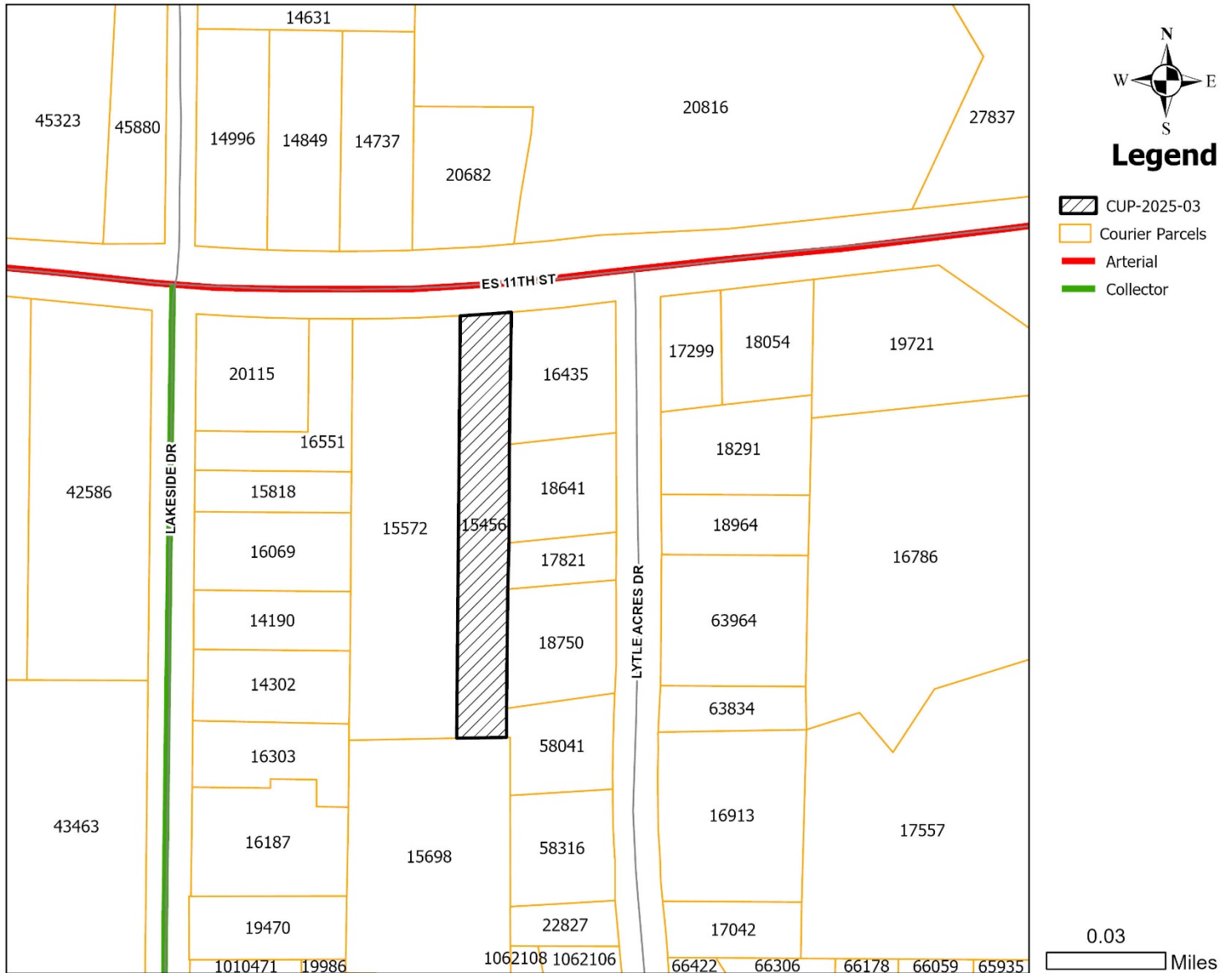
EXHIBIT A

Apply a Conditional Use Permit to approximately 0.9 acres to allow for Contractor Services within General Commercial (GC) zoning.

The Conditional Use Permit is subject to compliance with the attached Plan of Operation (Exhibit B).

Legal description being Block A, Lot 1, of the Walker Addition, Abilene, Taylor County, Texas.

Located at 625 ES 11th Street.



Legend

- CUP-2025-03
- Courier Parcels
- Arterial
- Collector

0.03
Miles

EXHIBIT B

Scope of Operations and Future Plans for Walker Tradesman Plumbing located at 625 ES 11th, Abilene, Texas. Walker Addition, Block A, Lot 1, Acres 0.9

Walker Tradesman Plumbing operations consist of receiving customer service calls, scheduling appointments, and dispatching technicians to job sites.

Our office hours are 8:00 to 5:00 Monday through Friday. We are closed on weekends. From time to time the on-call plumber may come in before or after these hours to collect supplies for a job. Otherwise, they take a truck home and use the on-call cell phone to dispatch calls.

Our operation is small compared to most and will consist of an area our employees can park during the day. Normally once a technician is dispatched in the morning you rarely see them except for lunch and clocking out at the end of the day. The garage area will hold routine plumbing supplies and smaller equipment needed for routine residential plumbing jobs.

The noise level is very low as administrative staff will be the only ones on the property and we rarely get customers or vendors dropping by the office. An occasional plumbing truck will come to the office to gather dispatch paperwork or to collect a tool or supplies.

We have carefully designed the building to sit on the front part of the property as consistent with other commercial buildings along ES 11th. We have an engineer who has helped us understand and stay in compliance with all city codes and ordinances respecting property lines and avoiding the 10" sewer main that runs through the center of our property. We are not allowed to build a building on top of the sewer main. We have taken great care in designing the building size so it will accommodate our administrative processes and allow for the 100-year-old pecan trees to remain on the property. A privacy fence, much like the one constructed to the west of our property, will be built along the east side of the property to protect our neighbor's privacy.

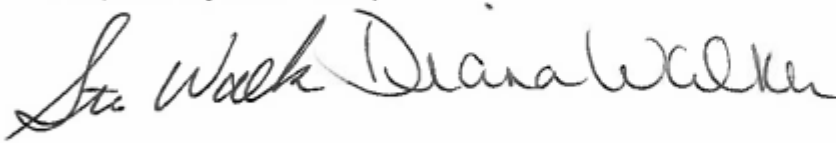
We first purchased the property in August of 2010. It was our understanding along with our neighbor this was zoned commercial property. We have a surveyor certificate and plat description on file dated August 31, 2016. On November 7, 2017, we went before the City Council along with our neighbor on the west side of our property to get permission to rezone the back part of the property from RS-6 property to General Commercial which was approved for both properties. Allowing us to further develop these properties that for no other reason would serve any purpose due to their location and access. Our neighbor proceeded with building a legal office building while we chose to put off the building process for a few more years. We have a fenced-in area towards the back of the property that serves as a yard to store a few trucks, a skid steer, backhoe, along with a tractor and lawn mower we use to maintain the property. We have been able to coexist with our neighbors since this time without incidence.

ORDINANCE NO. _____

In closing, I would like to mention when we first bought the property, we began to clean it up as it had become an eyesore and was being utilized as a neighborhood dumping ground. We hauled truck loads of tree limbs and trash that had been a haven for rats and snakes. As we worked, the neighbors on the east side of the property thanked us for cleaning up the property and helping with their mice problem that had migrated to their homes because of the tall grass and debris pile. One neighbor told us she felt safer because of our presence as there were homeless people that liked to frequent the property. We have been and are very considerate and upfront with our neighbors in expressing our plans for the property and will continue to respect our neighbors. Some mentioned they hoped we wouldn't cut down the pecan trees. We told them it was our goal to keep them if possible.

Currently our administrative office is located on Windmill Circle and we can provide recommendations if needed.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Steve & Diana Walker". The signature is written in dark ink and is positioned below the "Respectfully Submitted," text.

Steve & Diana Walker,

Owners Walker Tradesman Plumbing

END

ZONING CASE CUP-2025-03 STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: February 4, 2025
City Council 1st Read: February 27, 2025
City Council 2nd Read: March 13, 2025

Applicant

Owner: Steve & Diana Walker

Case Manager

Mason Teegardin – Division Manager

Request

The applicant is requesting to apply a Conditional Use Permit to approximately 0.9 acres to allow for Contractor Services within General Commercial (GC) zoning.

Location

The subject property is located at 625 ES 11th Street. Legal description being Block A, Lot 1, of the Walker Addition, Abilene, Taylor County, Texas.

Background

The subject property was annexed into the City in 1959 and has remained vacant since annexation. The property owners are wanting to develop the property as an office/warehouse for their plumbing company. The Development Review Committee are currently reviewing the site plan.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	GC	Event Center
East	GC	Meat Market
South	RS-6	Single Family Residence
West	GC	Law Offices

Criteria Assessment

Staff have 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 intent of the Land Development Code.
- 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 use is compatible with surrounding development.

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

The proposed use should not generate additional pedestrian or vehicular traffic for the area.

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

The proposed use should 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 proposed use will not generate any adverse effect on any adjacent properties. Visual screening and/or buffering will be required during the site plan review for the areas of the property abutting RS-6 lots.

- 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 proposed use complies with the zoning district and surrounding property uses.

P&Z Recommendation

The Planning & Zoning Commission recommends **approval** subject to the Plan of Operations.

Attachments

- Application
- Building Layout
- Plan of Operations
- PowerPoint Presentation

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on January 17, 2025, 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 ID			Legend: O - Opposed, F - In Favor
OWNER	PROP ID	SITUS	RESPONSE
HERNANDEZ BRANT LEE	14190	1163 LAKESIDE DR	
HOOKEER NICHOLAS RYAN	14302	1171 LAKESIDE DR	
CHRISTIAN DORA SUE	14737	534 ES 11TH ST	
CHRISTIAN DORA SUE	14849	518 ES 11TH ST	
WALKER STEVE & DIANA	15456	625 ES 11TH ST	
WALKER STEVE & DIANA	15456	615 ES 11TH ST	
JONES JAY	15572	541 ES 11TH ST	
JONES JAY	15698	550 BYNUM ST	
CONRAD MONTE	15818	1133 LAKESIDE DR	
CONRAD MONTE	16069	1149 LAKESIDE DR	

GREENWOOD JEFFREY MARK &	16187	1217 LAKESIDE DR	
COLE OPHILIA	16303	1209 LAKESIDE DR	
HENDRIX TOMMY D & TAMI M	16435	633 ES 11TH ST	
WEST TEXAS COMMERCIAL	16551	503 ES 11TH ST	
SANTOS ROMEO	17299	701 ES 11TH ST APT A	
SANTOS ROMEO	17299	701 ES 11TH ST APT C	
SANTOS ROMEO	17299	701 ES 11TH ST APT B	
SANTOS ROMEO	17299	701 ES 11TH ST APT D	
BRYAN DOUGLAS KURT & LEE ANN	17821	1134 LYTL ACRES DR	
WILKES RONNIE DALE &	18641	1126 LYTL ACRES DR	
BIDDY WANDA D	18750	1138 LYTL ACRES DR	
LIONS GATE EVENT CENTER	20682	550 ES 11TH ST	
CITY OF ABILENE	20816	610 ES 11TH ST	N/A
CITY OF ABILENE	20816	704 ES 11TH ST	N/A
CITY OF ABILENE	20816	610 B ES 11TH ST	N/A
LEMAY PEARL LF EST	58041	1142 LYTL ACRES DR	F
LE MAY LINDA M LIFE ESTATE	58316	1158 LYTL ACRES DR	
LE MAY LINDA M LIFE ESTATE	58316	1202 LYTL ACRES DR	

OWNER

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PLAN OF OPERATIONS

Scope of Operations and Future Plans for Walker Tradesman Plumbing located at 625 ES 11th, Abilene, Texas. Walker Addition, Block A, Lot 1, Acres 0.9

Walker Tradesman Plumbing operations consist of receiving customer service calls, scheduling appointments, and dispatching technicians to job sites.

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The noise level is very low as administrative staff will be the only ones on the property and we rarely get customers or vendors dropping by the office. An occasional plumbing truck will come to the office to gather dispatch paperwork or to collect a tool or supplies.

We have carefully designed the building to sit on the front part of the property as consistent with other commercial buildings along ES 11th. We have an engineer who has helped us understand and stay in compliance with all city codes and ordinances respecting property lines and avoiding the 10" sewer main that runs through the center of our property. We are not allowed to build a building on top of the sewer main. We have taken great care in designing the building size so it will accommodate our administrative processes and allow for the 100-year-old pecan trees to remain on the property. A privacy fence, much like the one constructed to the west of our property, will be built along the east side of the property to protect our neighbor's privacy.

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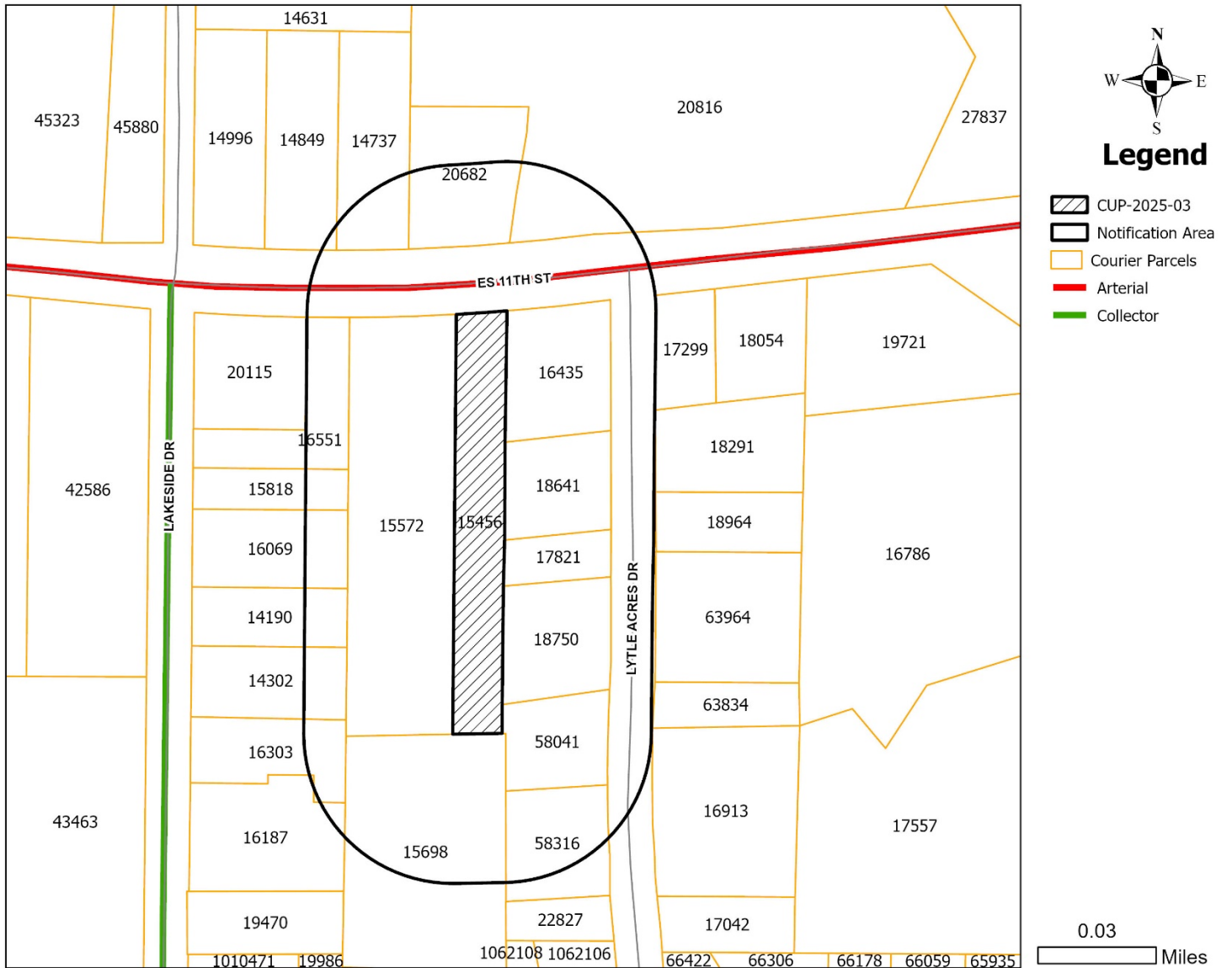
Respectfully Submitted,

A handwritten signature in cursive script that reads "Steve & Diana Walker". The signature is written in dark ink and is positioned below the "Respectfully Submitted," text.

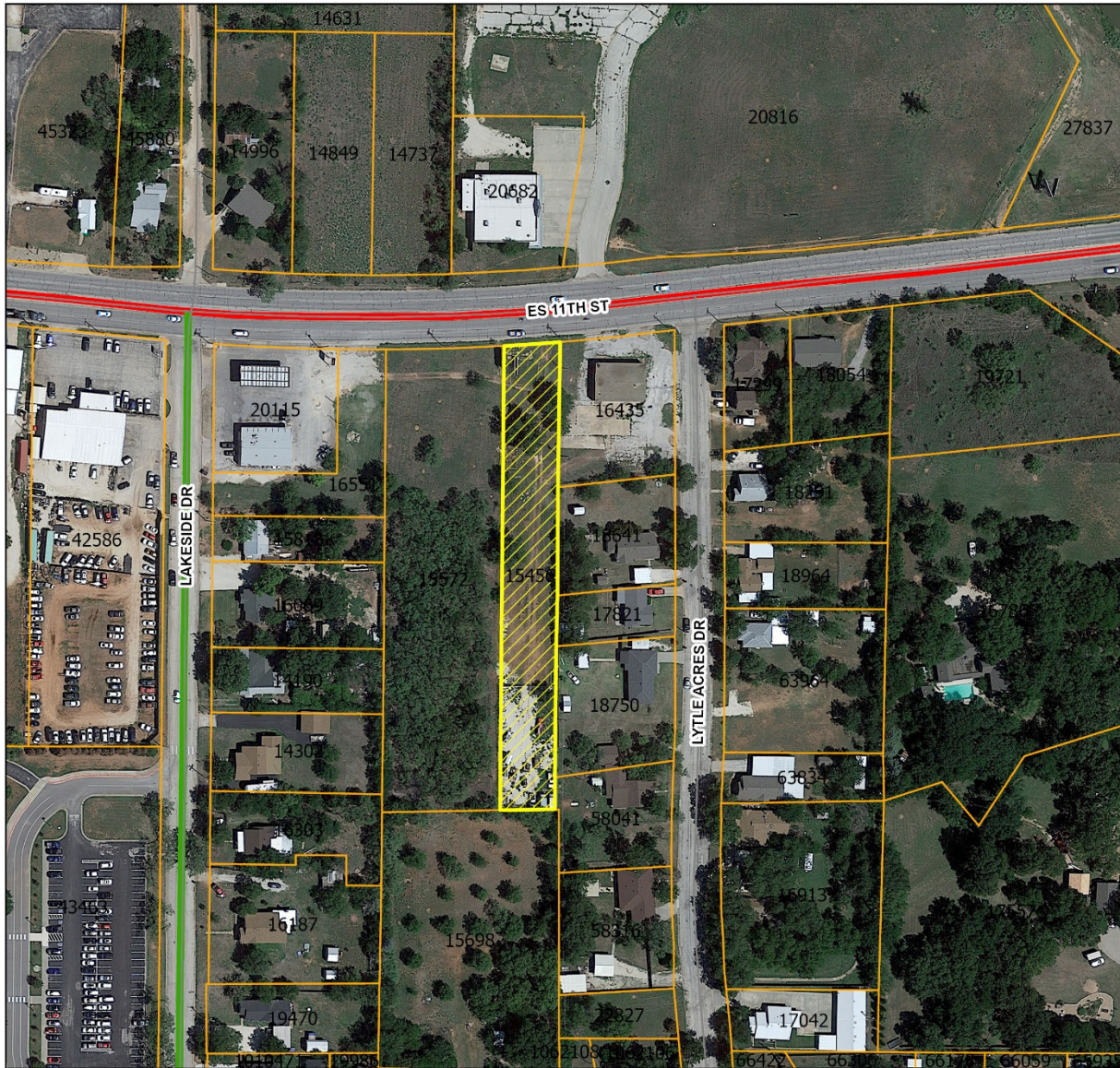
Steve & Diana Walker,

Owners Walker Tradesman Plumbing

NOTIFICATION MAP



LOCATION MAP



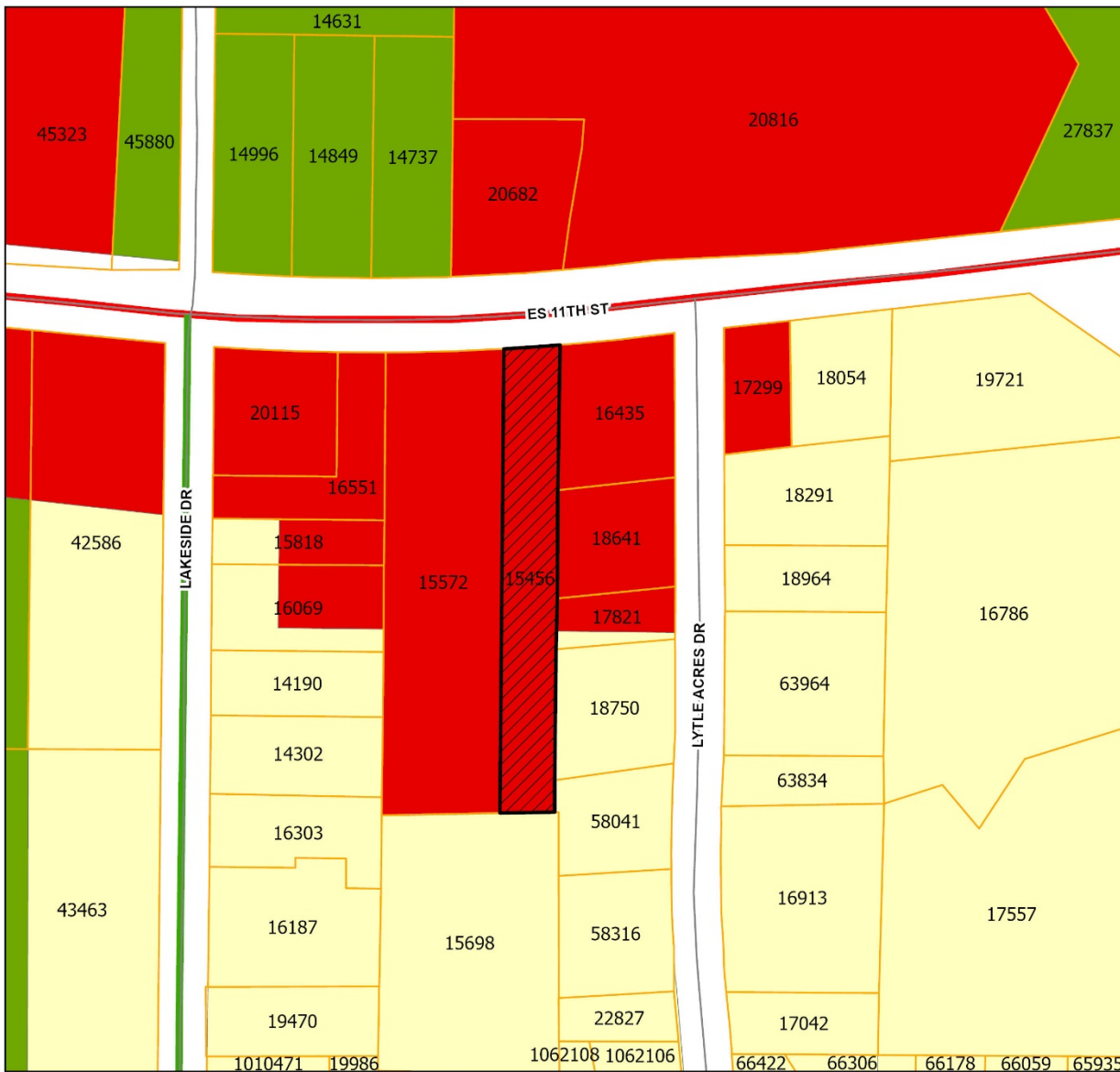
Legend

- CUP-2025-03
- Courier Parcels
- Arterial
- Collector

0.03

Miles

ZONING MAP



Legend

- CUP-2025-03
- Courier Parcels
- GC (General Commercial)
- RS (Residential - Single Family)
- AO (Agricultural Open)
- Arterial
- Collector

0.03

Miles



2024 Development Application

Zoning Application Page 1 of 3

Planning

- ☒ Conditional Use ☐ Special Exceptions ☐ Rezoning ☐ Variance
☐ PDD Amendment ☐ Street Name Change ☐ Thoroughfare Abandonment
☐ Easement Release

Relief Procedures

- ☐ Petition for Relief ☐ Proportionality Appeal ☐ Vested Rights Petition ☐ Appeal
Other: _____

Project Name: Walker Tradesman Plumbing Offices
Address: 62525 11th Number of Lots: 1 Acreage: 0.9
Legal Description: A 0708 Sur 48 Bal SE 1/4, Tract 2, Acres 0.9
Subdivision Name: Walker Addition Block: A Lot: 1
Current Zoning: GC Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: Steve & Diana Walker
Address: 225 Filly Rd
City, State, Zip: Abilene, TX 79606 Fax: (325) 276-3508
Phone: (325) 514-0039 Email: Steve@walkertradesman.com
diana@walkertradesman.com
Agent Name: _____
Address: _____
City, State, Zip: _____ Fax: _____
Phone: _____ Email: _____

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

Signature of Owner: Steve Walker Diana Walker Date: 12/6/24

FOR OFFICE USE ONLY

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

2024 Development Application

Zoning Application Page 2 of 3

Existing Zoning

- | | | | |
|--------------------------------|--|--|------------------------------|
| ☐ AO | Agricultural Open Space | ☐ GR | General Retail |
| ☐ RR | Rural Residential RR-5 & RR-1 | ☐ MU | Medical Use |
| ☐ RS-12 | Residential Single-Family – 12,000 sq. ft lots | ☐ CB | Central Business |
| ☐ RS-8 | Residential Single-Family – 8,000 sq. ft lots | ☐ MX | Mixed Use |
| ☐ RS-6 | Residential Single-Family – 6,000 sq. ft lots | ☒ GC | General Commercial |
| ☐ PH | Single-Family Residential Patio Home | ☐ HC | Heavy Commercial |
| ☐ TH | Residential Townhouse | ☐ LI | Light Industrial |
| ☐ MD | Residential Medium Density | ☐ HI | Heavy Industrial |
| ☐ MH | Manufactured/Mobile Home | ☐ PD | Planned Development District |
| ☐ CU | College & University | ☐ | Empowerment Overlay |
| ☐ NO | Neighborhood Office | | |
| ☐ O | Office | | |
| ☐ NR | Neighborhood Retail | | |

Reason for Conditional Use Permit

Build office building for Walker Tradesman Plumbing.

Fees

FOR DEVELOPMENT FEES CTRL & CLICK LINK BELOW AND CHOOSE "Z"

<https://abilenetx.gov/563/Fee-Schedule>

Fees can be paid online with credit card.



2024 Development Application

Zoning Application Page 3 of 3

Zoning Impact Analysis

Please answer these questions in order to assist staff with the processing of your zoning request.

1. Does the proposed zoning map amendment implement the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use Map?

2. Is the use permitted by the proposed change in the zoning district's classification? Are the standards applicable to such uses appropriate in the immediate area of the land to be reclassified?

They are consistant to such uses
Appropriate for ES 11th Street.

3. Are the proposed changes in agreement with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area?

yes

4. Are there other factors that will substantially affect the public health, safety, morals, or general welfare?

No

Other Required Forms - Disclosure of Interest (See Attached)

2024 Development Application

Disclosure of Interest

Disclosure Questions

Every question must be answered. If the question is not applicable, answer with "N/A".

NOTE: If the Project Representative is not the Property Owner, this form must be filled out by both the Property Owner and the Project Representative.

- A. Do you believe that a City official* or City employee** may have a conflict of interest in the property or application referenced on the reverse side? ☐ Yes ☒ No

- B. If so, state the name of each City official or employee of the City of Abilene known by you that may have a conflict of interest in the property or application referenced on reverse side.

N/A

- C. State all information upon which you base the belief (use additional paper, if necessary).

N/A

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Abilene, Texas, as changes occur.

Name of Certifying Person (print): Steve Walker Diana Walker

Property Owner ☒ Project Representative ☐

Signature of Certifying Person: Steve Walker Diana Walker

*Mayor, City Council members, Planning and Zoning Commission members, and Zoning Board of Adjustment members

**City Manager, City Secretary, City Attorney, and all department heads



2024 Development Application

Recommendations

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

PUBLIC NOTIFICATION

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

PLEASE READ BEFORE SIGNING

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

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

SIGNED: _____

DATE: _____

Stefan
12/6/24

Diana Walker

Scope of Operations and Future Plans for Walker Tradesman Plumbing located at 625 ES 11th, Abilene, Texas. Walker Addition, Block A, Lot 1, Acres 0.9

Walker Tradesman Plumbing operations consist of receiving customer service calls, scheduling appointments, and dispatching technicians to job sites.

Our office hours are 8:00 to 5:00 Monday through Friday. We are closed on weekends. From time to time the on-call plumber may come in before or after these hours to collect supplies for a job. Otherwise, they take a truck home and use the on-call cell phone to dispatch calls.

Our operation is small compared to most and will consist of an area our employees can park during the day. Normally once a technician is dispatched in the morning you rarely see them except for lunch and clocking out at the end of the day. The garage area will hold routine plumbing supplies and smaller equipment needed for routine residential plumbing jobs.

The noise level is very low as administrative staff will be the only ones on the property and we rarely get customers or vendors dropping by the office. An occasional plumbing truck will come to the office to gather dispatch paperwork or to collect a tool or supplies.

We have carefully designed the building to sit on the front part of the property as consistent with other commercial buildings along ES 11th. We have an engineer who has helped us understand and stay in compliance with all city codes and ordinances respecting property lines and avoiding the 10" sewer main that runs through the center of our property. We are not allowed to build a building on top of the sewer main. We have taken great care in designing the building size so it will accommodate our administrative processes and allow for the 100-year-old pecan trees to remain on the property. A privacy fence, much like the one constructed to the west of our property, will be built along the east side of the property to protect our neighbor's privacy.

We first purchased the property in August of 2010. It was our understanding along with our neighbor this was zoned commercial property. We have a surveyor certificate and plat description on file dated August 31, 2016. On November 7, 2017, we went before the City Council along with our neighbor on the west side of our property to get permission to rezone the back part of the property from RS-6 property to General Commercial which was approved for both properties. Allowing us to further develop these properties that for no other reason would serve any purpose due to their location and access. Our neighbor proceeded with building a legal office building while we chose to put off the building process for a few more years. We have a fenced-in area towards the back of the property that serves as a yard to store a few trucks, a skid steer, backhoe, along with a tractor and lawn mower we use to maintain the property. We have been able to coexist with our neighbors since this time without incidence.

In closing, I would like to mention when we first bought the property, we began to clean it up as it had become an eyesore and was being utilized as a neighborhood dumping ground. We hauled truck loads of tree limbs and trash that had been a haven for rats and snakes. As we worked, the neighbors on the east side of the property thanked us for cleaning up the property and helping with their mice problem that had migrated to their homes because of the tall grass and debris pile. One neighbor told us she felt safer because of our presence as there were homeless people that liked to frequent the property. We have been and are very considerate and upfront with our neighbors in expressing our plans for the property and will continue to respect our neighbors. Some mentioned they hoped we wouldn't cut down the pecan trees. We told them it was our goal to keep them if possible.

Currently our administrative office is located on Windmill Circle and we can provide recommendations if needed.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Steve & Diana Walker". The signature is written in dark ink and is positioned below the "Respectfully Submitted," text.

Steve & Diana Walker,

Owners Walker Tradesman Plumbing

[Planning] Response to Request for conditional use permit for Parcel ID #15456

2 messages

Ronda <rondava@suddenlink.net>
To: planning@abilenetx.gov

Sun, Jan 26, 2025 at 2:57 PM

To: Mason Teegardin

From: Pearl LeMay, Parcel ID #58041

Subject: Response to request for conditional use permit for 625 ES 11th St, Parcel ID #15456

I, Pearl LeMay, am in favor of this request. The owner of this property is supposed to keep the fence row clean of trees and grass behind my property since building an additional fence about 1-2 feet from my fence several years ago. I want to be sure he still maintains this area.

Thank You,

Pearl LeMay

--

You received this message because you are subscribed to the Google Groups "Planning Services" group.
To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.
To view this discussion visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/001b01db7034%24e73ee270%24b5bca750%24%40net>.

Teegardin, Mason <mason.teegardin@abilenetx.gov>
To: Ronda <rondava@suddenlink.net>
Cc: planning@abilenetx.gov

Tue, Jan 28, 2025 at 9:30 AM

Received, thank you!

[Quoted text hidden]

--

**Mason Teegardin**

Planning Division Manager
City of Abilene
555 Walnut Street
Office: 325.676.6490
mason.teegardin@abilenetx.gov



CONDITIONAL USE PERMIT

Case: CUP-2025-03

Owner: Steve & Diana Walker

Request: A Conditional Use Permit to allow for Contractor Services within General Commercial (GC) zoning.

Location: 625 ES 11th Street

Notification: 1 in Favor, 0 in Opposition

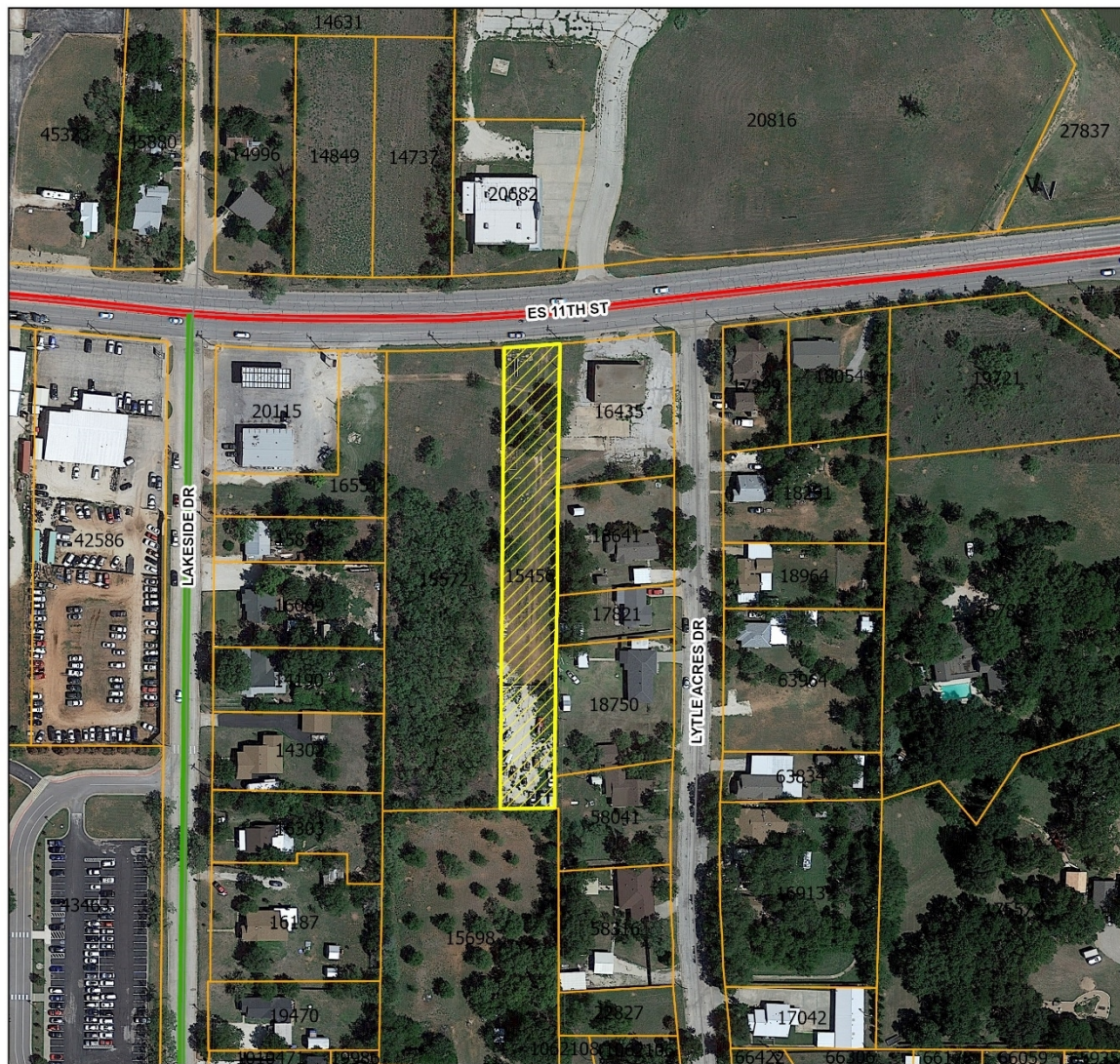
Planning & Zoning: February 4, 2025

Council Hearing: February 27, 2025
March 13, 2025





AERIAL LOCATION MAP

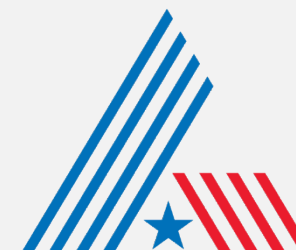


Legend

- CUP-2025-03
- Courier Parcels
- Arterial
- Collector

0.03

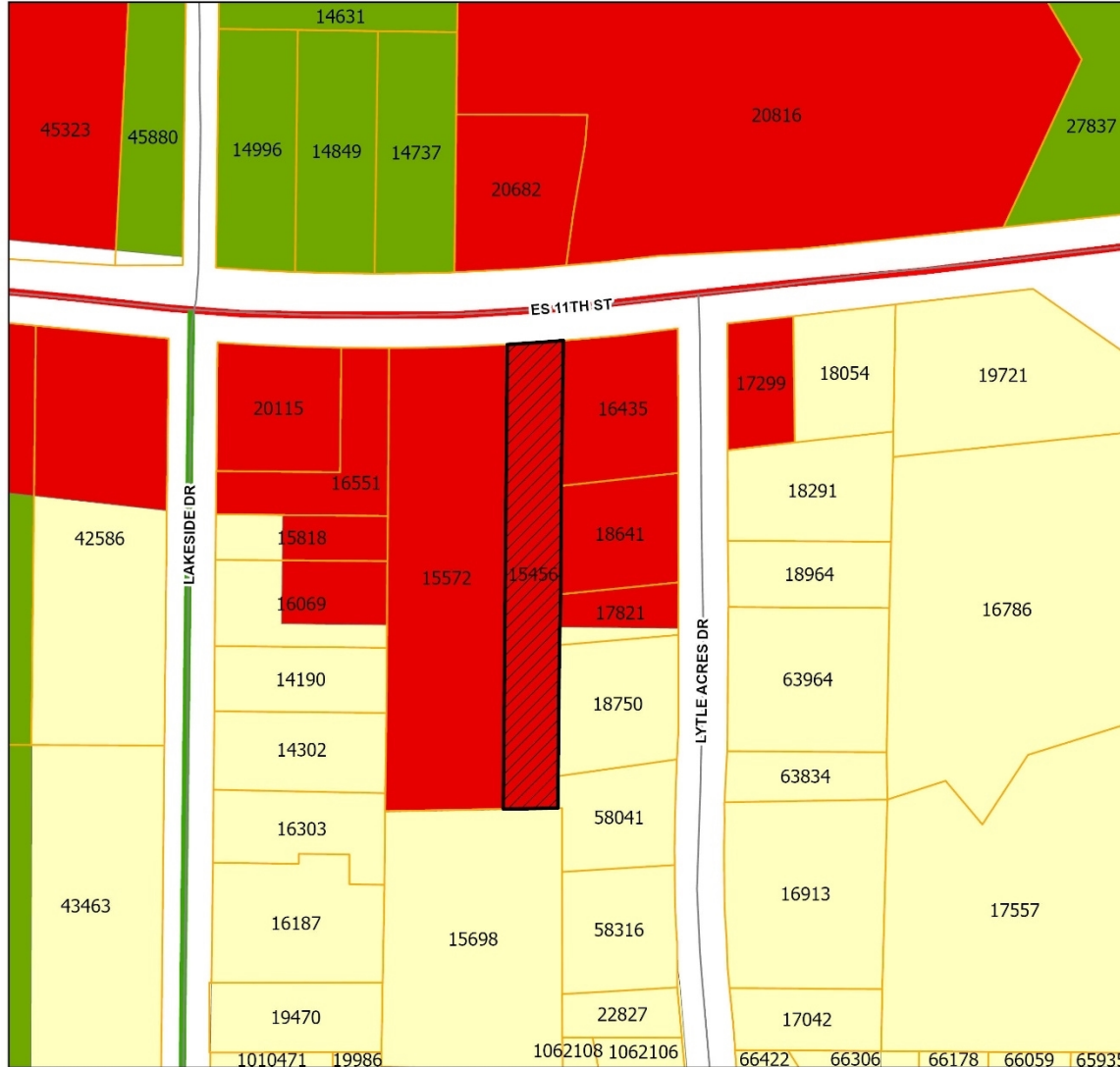
Miles



CITY OF
ABILENE
TEXAS



ZONING MAP



Legend

- CUP-2025-03
- Courier Parcels
- GC (General Commercial)
- RS (Residential - Single Family)
- AO (Agricultural Open)
- Arterial
- Collector

0.03

Miles



CITY OF
ABILENE
TEXAS



USES IN GENERAL COMMERCIAL ZONING

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

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-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C 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:

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

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

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

SERVICE:

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C 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 Personal Services
- P Printing, Copying, Reproduction, Publishing
- C 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)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

TRADE – WHOLESALE USES:

- C Wholesaling and Storage (indoor)

TRADE – RETAIL USES:

- C Aircraft and Accessories
- 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 (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- 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

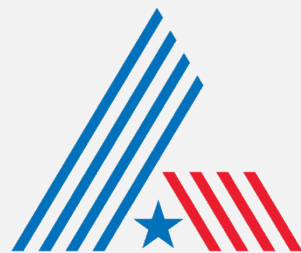
LEGEND

- 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



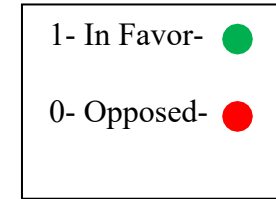


PROPERTY VIEWS



CITY OF
ABILENE
TEXAS







FINDINGS AND RECOMMENDATION

The proposed 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:

The Planning & Zoning Commission recommends **approval** subject to the Plan of Operations.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **31. Ordinance (Final Reading) CUP-2025-04: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, Represented by Precision Contractors, to Apply a Conditional Use Permit to Approximately 1.81 Acres Zoned General Commercial to Allow Freight containers, Located at 718 S. Clack Street** *(Tim Littlejohn)*

GENERAL INFORMATION

The applicant is requesting to apply a Conditional Use Permit to approximately 1.81 acres zoned General Commercial (GC) to allow Freight Containers.

SPECIAL CONSIDERATIONS

The subject property was annexed into the City in 1957; however, the property was not developed until 1993. According to google imagery the freight containers did not become a permanent fixture until 2019. Following a notice of violation from Code Compliance, the owners have moved the containers to an improved surface and have begun constructing a screening fence.

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 containers are subject to the submitted concept plan and all applicable LDC requirements.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval subject to conditions as recommended by staff by a vote of 5-0.

ATTACHMENTS:

1. Ordinance
2. Staff Report CUP-2025-04
3. Concept Plan
4. Freight Container Requirements - Section 2.4.3.3(25)
5. Owner Authorization
6. Project Overview
7. Presentation CUP-2025-04

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 27th day of February, 2025.

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 January, 2025, 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 13th day of March, 2025, 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 13th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Apply a Conditional Use Permit to approximately 1.81 acres to allow freight containers within General Commercial (GC) zoning.

The Conditional Use Permit is subject to the submitted the following conditions:

1. A building permit must be applied for within 30 days of approval
2. The freight containers are subject to the submitted concept plan and all applicable LDC requirements.

Legal description being Lot 3 and South 31.9' of Lots 1 and 2, Block A, Smith Bros & Raymond Addition, Abilene, Taylor County, Texas.

Located at 718 S Clack St.

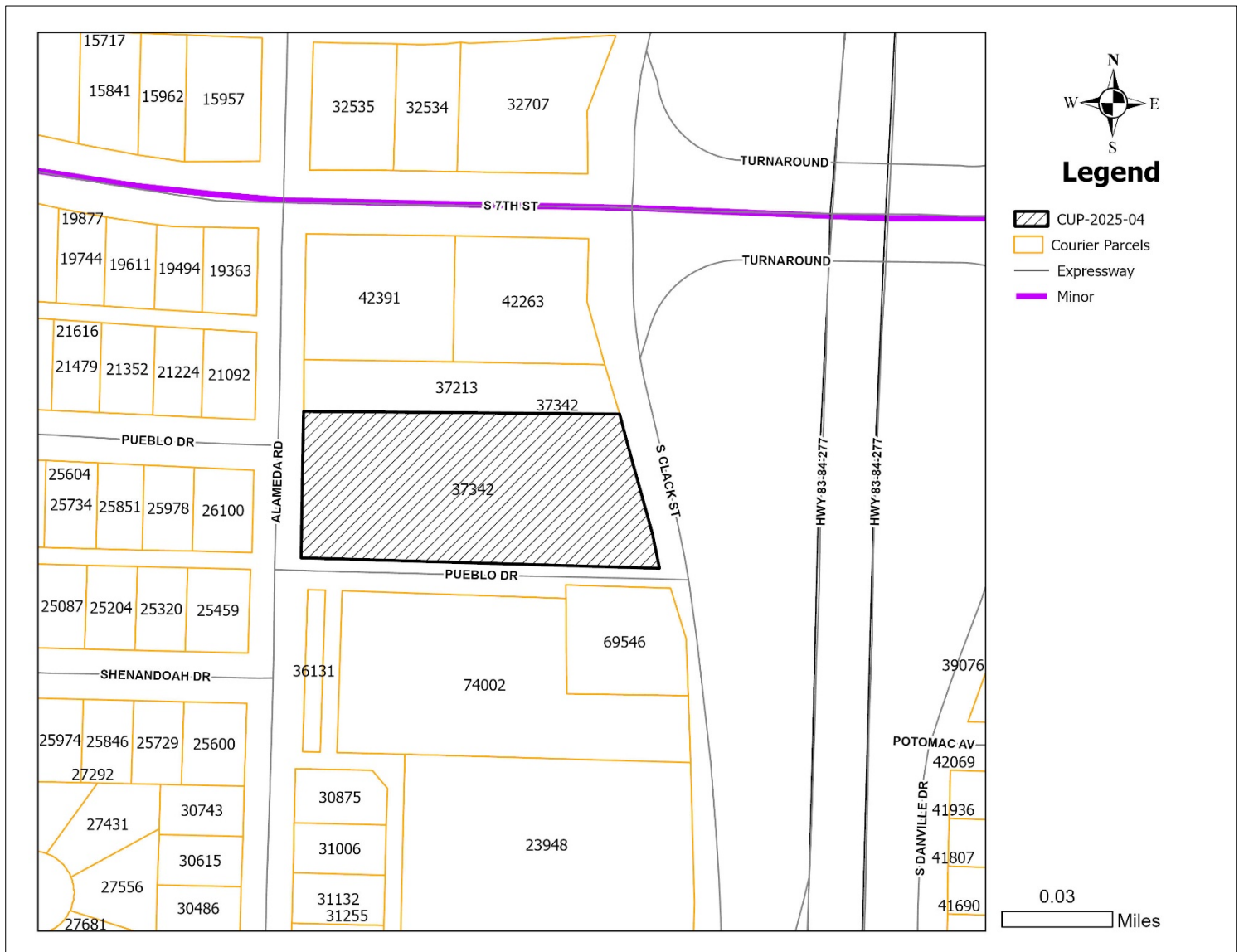
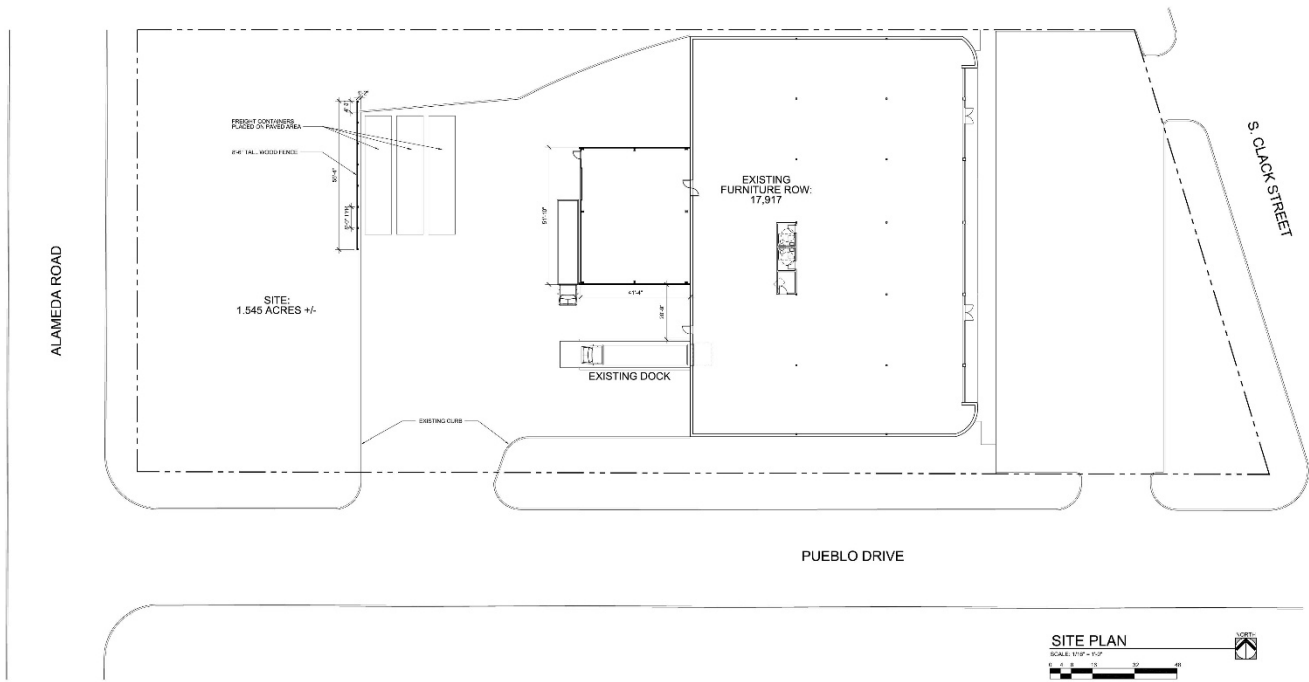


EXHIBIT B



JT-10558

INTERGROUP
ARCHITECTS
 ■ architecture
 ■ planning
 ■ interiors
 2000 West L. Wilson Blvd.
 Littleton, Colorado 80120
 P. 303.558.0077 F. 303.558.2294
www.jgarch.com

Furniture Row Site Plan

[illegible]

-END-

ZONING CASE CUP-2025-04 STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: February 4, 2025
City Council 1st Read: February 27, 2025
City Council 2nd Read: March 13, 2025

Applicant

Owner: Furniture Row USA LLC
Agent: Precision Contractors – Kyle Kassel

Case Manager

Clarissa Ivey – Planner

Request

The applicant is requesting to apply a Conditional Use Permit to approximately 1.81 acres zoned General Commercial (GC) to allow Freight Containers.

Location

The subject property is located at 718 S Clack St, legal description being Lot 3 and South 31.9' of Lots 1 and 2, Block A, Smith Bros & Raymond Addition, Abilene, Taylor County, Texas.

Background

The subject property was annexed into the City in 1957; however, the property was not developed until 1993. According to google imagery the freight containers did not become a permanent fixture until 2019. Following a notice of violation from Code Compliance, the owners have moved the containers to an improved surface and have begun constructing a screening fence.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	GC	Church
East	N/A	HWY 83-84
South	GC	Self-Storage & Retail
West	RS-6	Residential

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 Commercial 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 Commercial zoning which includes screening from adjacent properties with less intensive uses.

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.
- 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.
- Freight containers shall not be stacked.
- 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** 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 containers are subject to the submitted concept plan and all applicable LDC requirements.

Attachments

- Concept Plan
- LDC requirements for freight containers

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on January 17, 2025, 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:

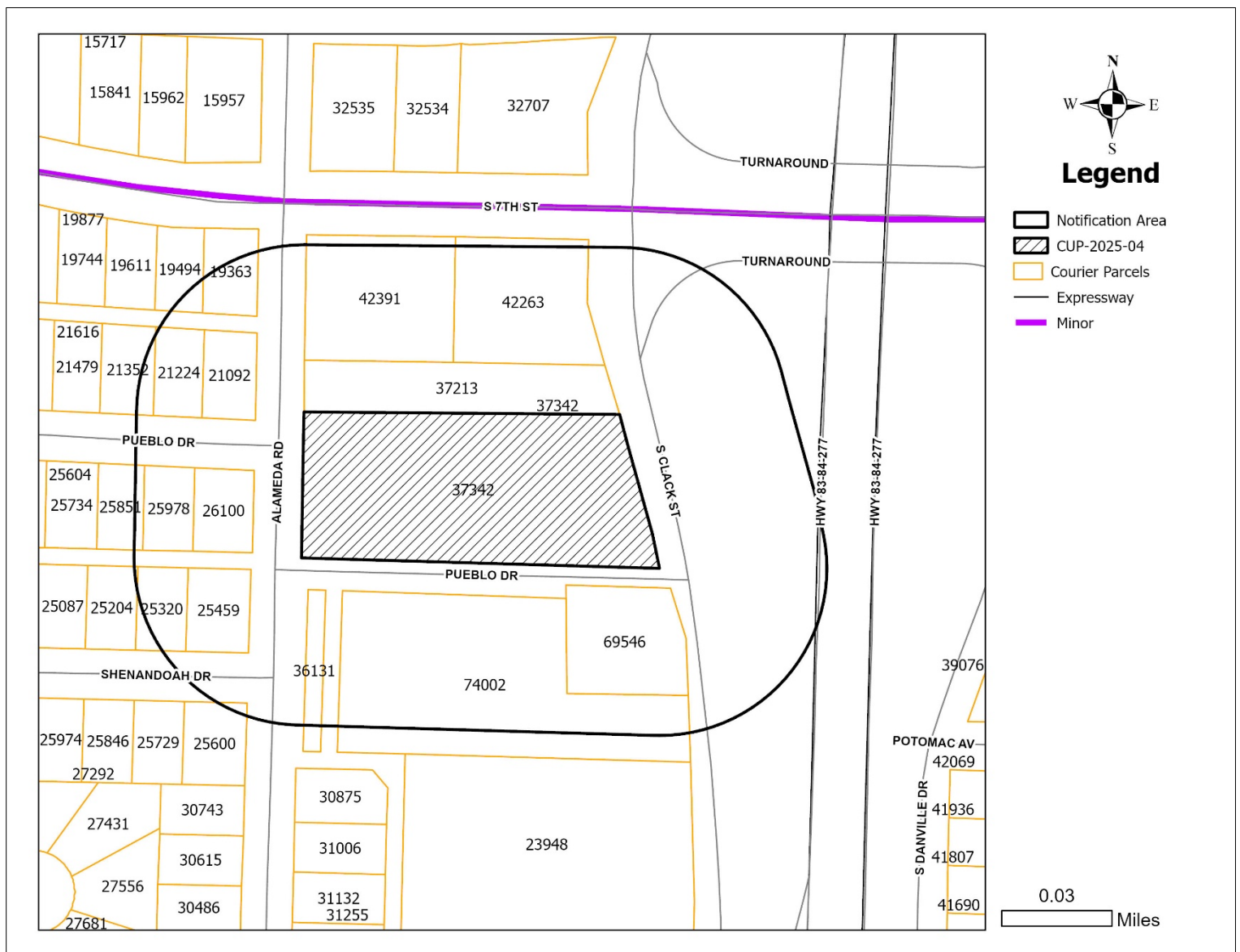
Legend: O - Opposed, F - In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
BECK DOUGLAS KENT	37213	714 S CLACK ST	
BECK KENT	42263	710 S CLACK ST	
BEST USI PORTFOLIO LLC	74002	818 S CLACK ST	
BOGUS ANNABELLE P	25459	5202 SHENANDOAH DR	
BONILLA FRANCISCO &	25851	5217 PUEBLO DR	
DABNEY MYRAM	21224	5210 PUEBLO DR	
DACUMOS REBECA C	19363	5201 S 7TH ST	
FURNITURE ROW USA LLC	37342	718 S CLACK ST	
JARAMILLO JUAN P & PRADO MARIA L	25320	5210 SHENANDOAH DR	
JGN PROPERTIES LLC	19494	5209 S 7TH ST	
JOYFUL MORNING PROPERTIES LLC	25204	5218 SHENANDOAH DR	
KNOTTY OAK FUNERAL SERVICES LLC	42391	5133 S 7TH ST	
LEGACY DWELLING LLC	26100	5201 PUEBLO DR	
LEYVA ROSA LOPEZ	25978	5209 PUEBLO DR	
NANCE NOAH	25600	5201 SHENANDOAH DR	
R & M THOMASON FAMILY	36131	710 ALAMEDA RD	
REEDER MARIAN JO TR OF FARREL G REEDER TESTAMENTARY TR	69546	802 S CLACK ST	
REID JEREMY	21092	5202 PUEBLO DR	
WEBB PETRA G MATA	21352	5218 PUEBLO DR	

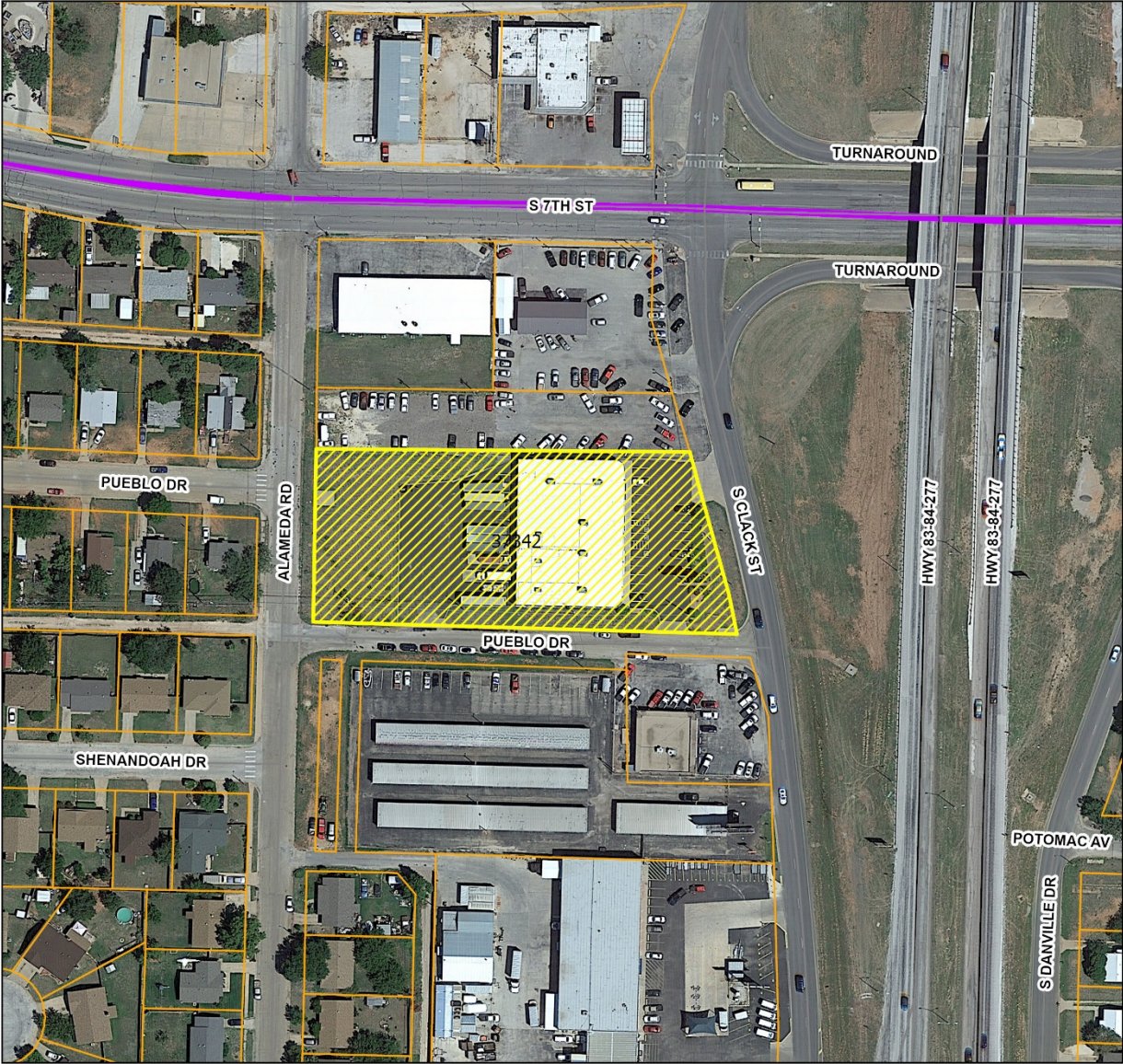
PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
DACUMOS REBECA C	19363	5201 S 7TH ST	
JGN PROPERTIES LLC	19494	5209 S 7TH ST	
REID JEREMY	21092	5202 PUEBLO DR	
DABNEY MYRAM	21224	5210 PUEBLO DR	
WEBB PETRA G MATA	21352	5218 PUEBLO DR	
JOYFUL MORNING PROPERTIES LLC	25204	5218 SHENANDOAH DR	
JARAMILLO JUAN P & PRADO MARIA L	25320	5210 SHENANDOAH DR	
BOGUS ANNABELLE P	25459	5202 SHENANDOAH DR	
NANCE NOAH	25600	5201 SHENANDOAH DR	
BONILLA FRANCISCO &	25851	5217 PUEBLO DR	
LEYVA ROSA LOPEZ	25978	5209 PUEBLO DR	
LEGACY DWELLING LLC	26100	5201 PUEBLO DR	
R & M THOMASON FAMILY	36131	710 ALAMEDA RD	
BECK DOUGLAS KENT	37213	714 S CLACK ST	

FURNITURE ROW USA LLC	37342	718 S CLACK ST	
BECK KENT	42263	710 S CLACK ST	
KNOTTY OAK FUNERAL SERVICES LLC	42391	5133 S 7TH ST	
REEDER MARIAN JO TR OF FARREL G REEDER TESTAMENTARY TR	69546	802 S CLACK ST	
BEST USI PORTFOLIO LLC	74002	818 S CLACK ST	

NOTIFICATION MAP



LOCATION MAP

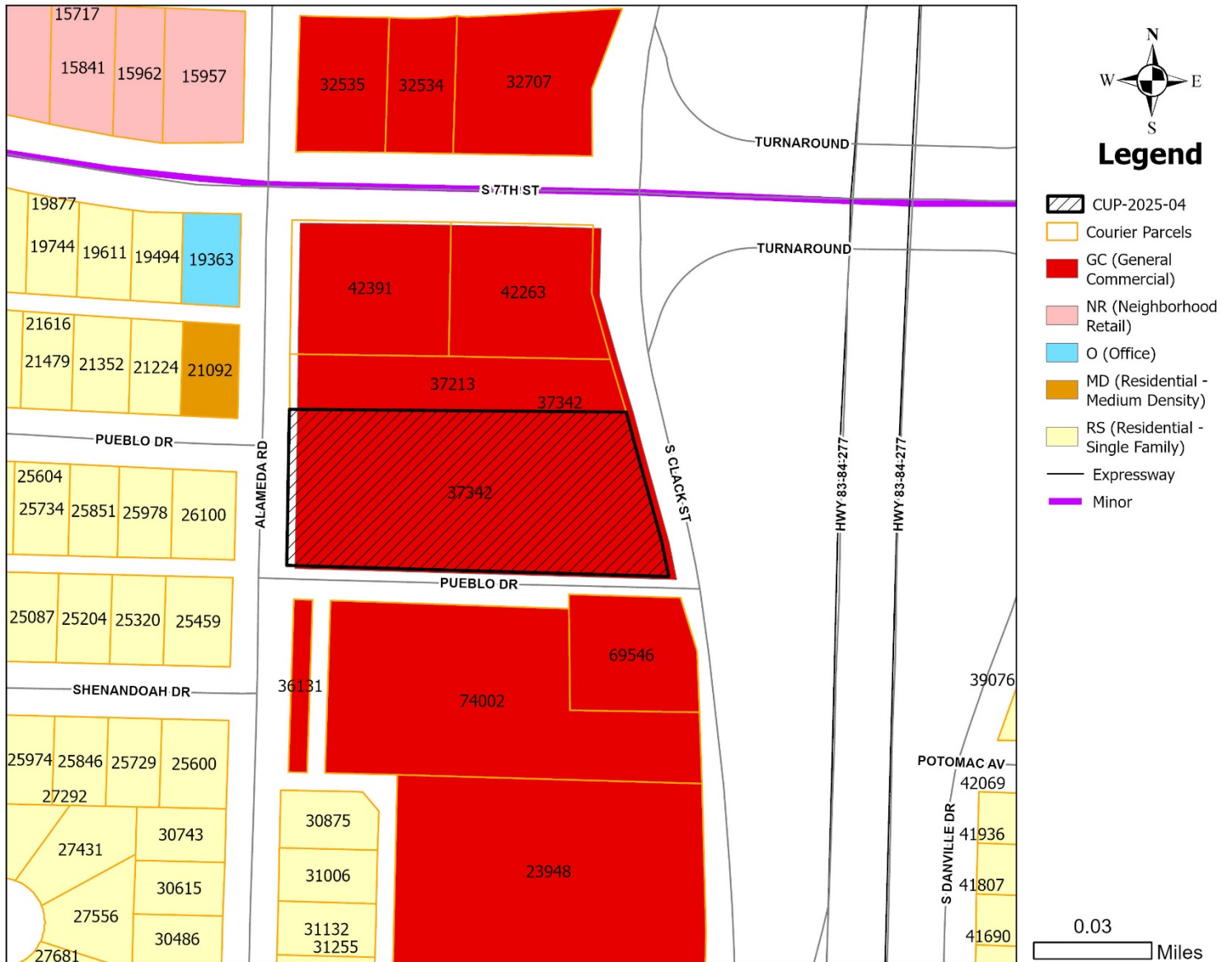


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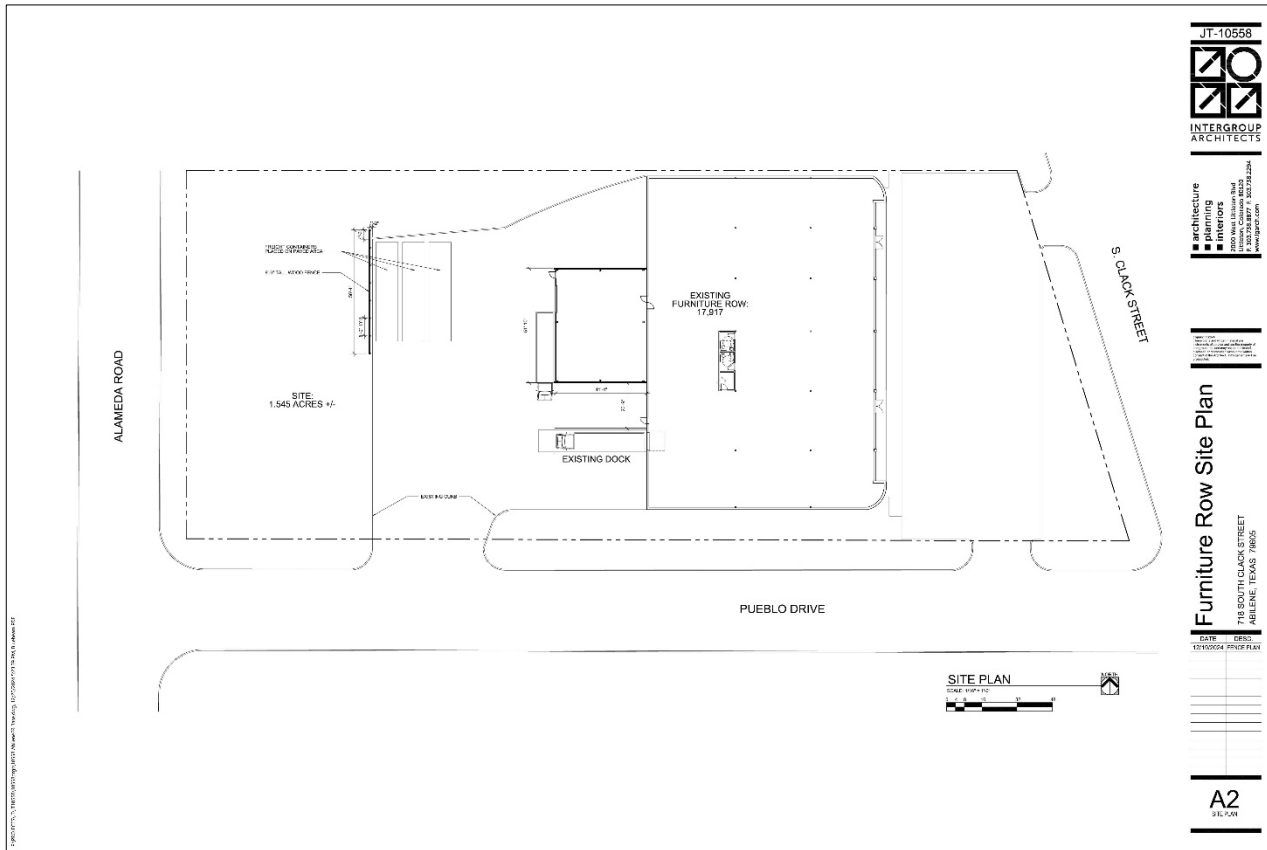
- CUP-2025-04
- Courier Parcels
- Expressway
- Minor

0.03
Miles

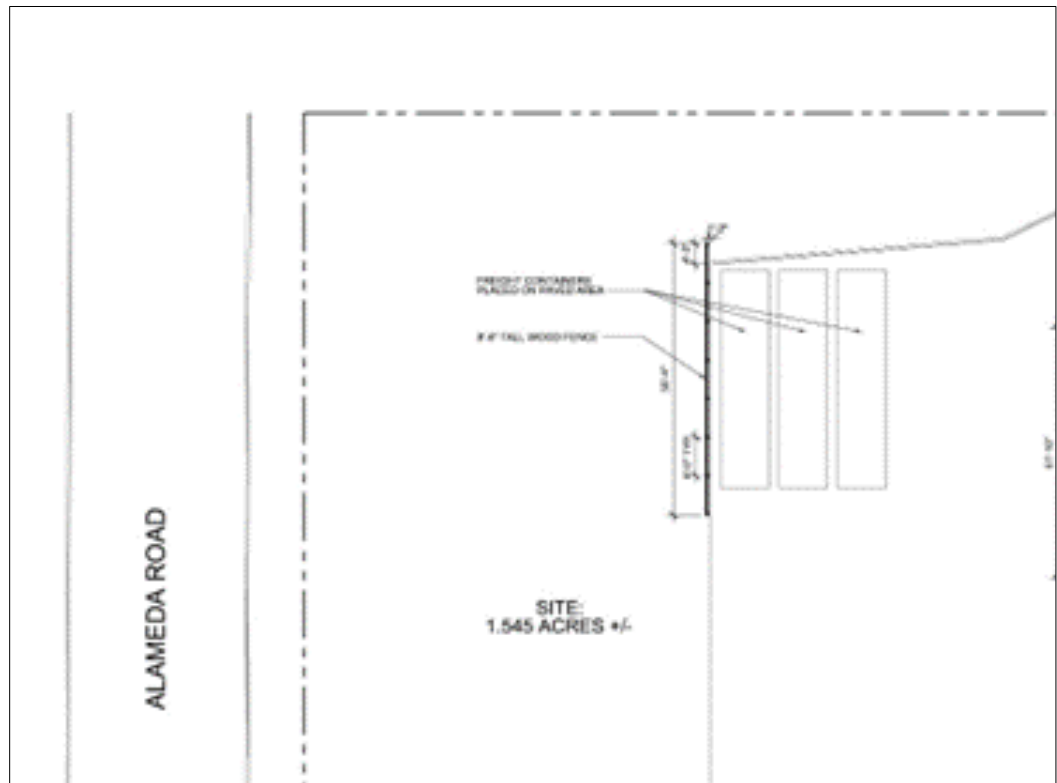
ZONING MAP

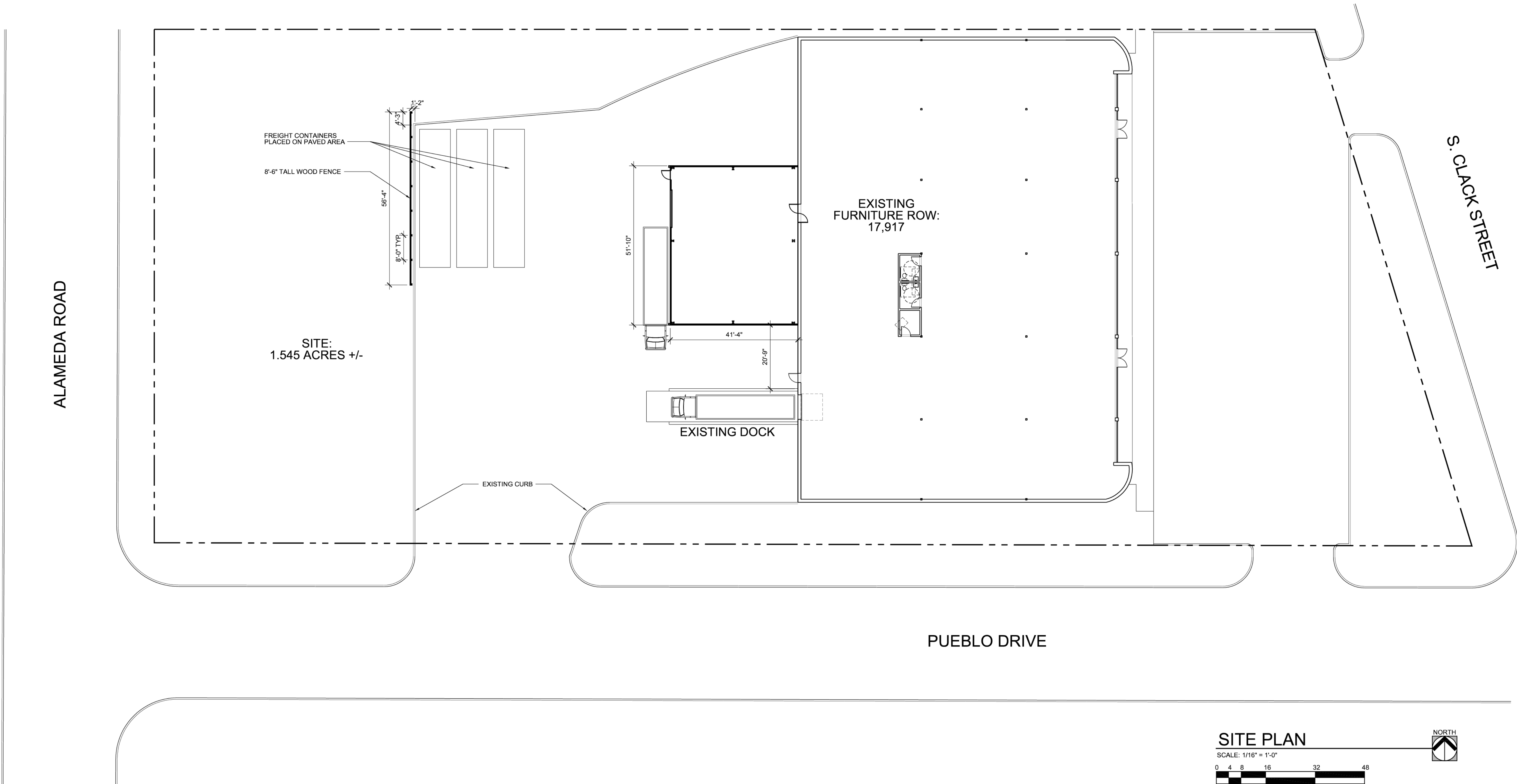


Concept Plan



Enlarged





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.



2024 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: 60754 Total Number of Acres: 1.81
Zoning Classification(s): GC Total Number of Lots: 1
Location: 718 S Clack St, Abilene, TX 79605

Property Owner Information & Authorization

Name/Company: Furniture Row USA LLC
Address: 5651 N Broadway
City: Denver State: CO Zip Code: 80216
Phone: 303-437-7737 Email: lara.hayes@furniturerow.com

Project Representation (check one):

- ☐ I will represent the application myself; OR
☒ I hereby designate Kyle Kassel / Precision Contractors (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

Property Owner's Signature: [Signature], Manager Date: 12/30/2024

STATE OF: Colorado

COUNTY OF: Adams

BEFORE ME, a Notary Public, on this day personally appeared Richard P.R. Cohn
(printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 30th day of December, 20 24



[Signature]

NOTARY PUBLIC in and for the State of Colorado

Project Representative Information (complete if designated by owner)

☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☒ Other(specify): Contractor

Name: Kyle Kassel Company: Precision Contractors
Address: 12656 E Jamison Pl #2 City: Englewood State: CO
Zip Code: 80112 Number: 712-260-4102 Email: kylekassel@precision-contractors.com

PROJECT OVERVIEW

Project Type: Conditional Use Permit | **Project Title:** CUP-2025-04 Freight Container in GC (718 S Clack St.)

ID # 24-000274 | **Started** 12/22/2024 at 10:32 PM



Address

718 S Clack St, Abilene, TX USA 79605

Legal

Smith Bros & Raymond Addn Blk Block A Lot Lot 3 & S3
Smith Bros & Raymond Addn, Block A, Lot 3 & S31.9 Of
Lt 1 & 2

Description

The client currently has 3 containers and plan on moving them off the grass to the pavement and building a fence to block from residential home view.

PROPERTY DETAILS

Property ID	37342
GEO ID	53107
Enforcement Area	Dyess Area

PROPERTY ADDITIONAL INFORMATION

Account Number	60754000200
Property ID	53107
Land Use	Commercial
High School	Chs
Middle School	Clack
Elementary School	Reagan
Super Neighborhood	Dyess Area
Courier - Building Square Feet	15600

CONTACTS	CONTACT INFO	ADDRESS	CREDENTIALS	ROLE
Furniture Row Usa Llc -		5651 Broadway Denver, CO 80216-1021	-	Property Owner
Jacob Williams	jacob.williams@furniturerow.com 3256982434	718 S Clack St Abilene, TX 79605	-	Property Tenant
Kyle Kassel	kylekassel@precision-contractors.com	-	-	APPLICANT

GENERAL COMMENTS

 **Clarissa Ivey**, *Planning Division, Dec 23, 2024 at 11:37 AM*

Please complete the owner authorization document attached. The completed document can be uploaded here or emailed to planning@abilenetx.gov

 **Kyle Kassel**, *Dec 31, 2024 at 11:35 AM*

Hi Clarissa,

I understand Lara with Furniture Row cc'd you on her email with the attached document yesterday, but included it below for your reference!

Thank you,
Kyle L. Kassel
712.260.4102



CONDITIONAL USE PERMIT

Case: CUP-2025-04

Agent: Precision Contractors – Kyle Kassel

Requests: A Conditional Use Permit to allow Freight Containers.

Location: 718 S Clack

Notification: 0 in Favor, 0 in Opposition

Planning & Zoning: February 4, 2025

Council Hearing: February 27, 2025
March 13, 2025





AERIAL LOCATION MAP



Legend

- CUP-2025-04
- Courier Parcels
- Expressway
- Minor



CITY OF
ABILENE
TEXAS



ZONING MAP



Legend

- CUP-2025-04
- Courier Parcels
- GC (General Commercial)
- NR (Neighborhood Retail)
- O (Office)
- MD (Residential - Medium Density)
- RS (Residential - Single Family)
- Expressway
- Minor





USES IN GENERAL COMMERCIAL ZONING

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

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-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C 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:

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

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

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

SERVICE:

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C 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 Personal Services
- P Printing, Copying, Reproduction, Publishing
- C 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)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

TRADE – WHOLESALE USES:

- C Wholesaling and Storage (indoor)

TRADE – RETAIL USES:

- C Aircraft and Accessories
- 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 (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- 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

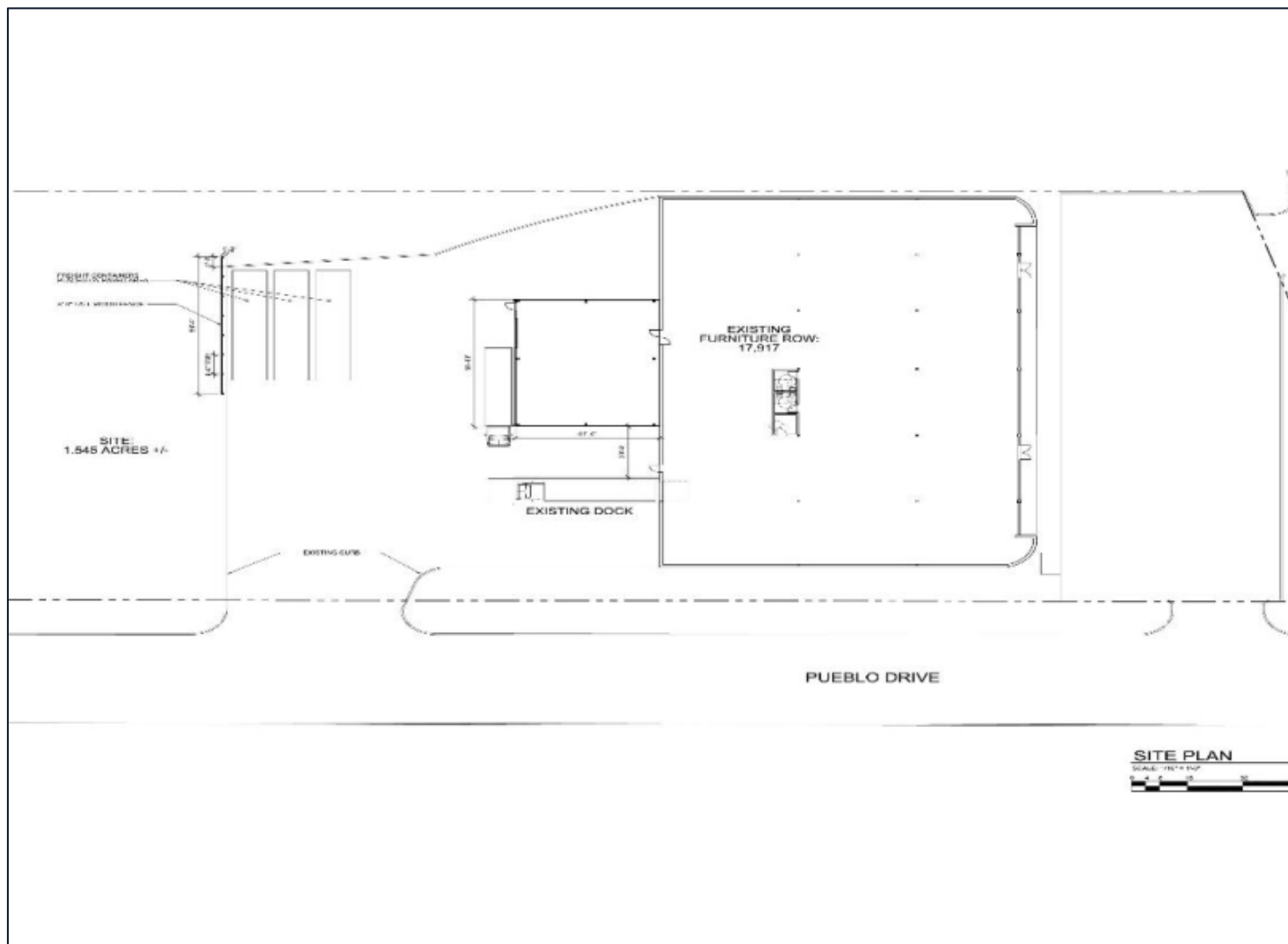
LEGEND

- 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





CONCEPT PLAN



CITY OF
ABILENE
TEXAS



PROPERTY VIEWS





NEIGHBORING PROPERTY VIEWS



Subject Property
January 24, 2025 3:56 PM



24, 2025 3:57 PM
North Neighboring Property



West Neighboring Property

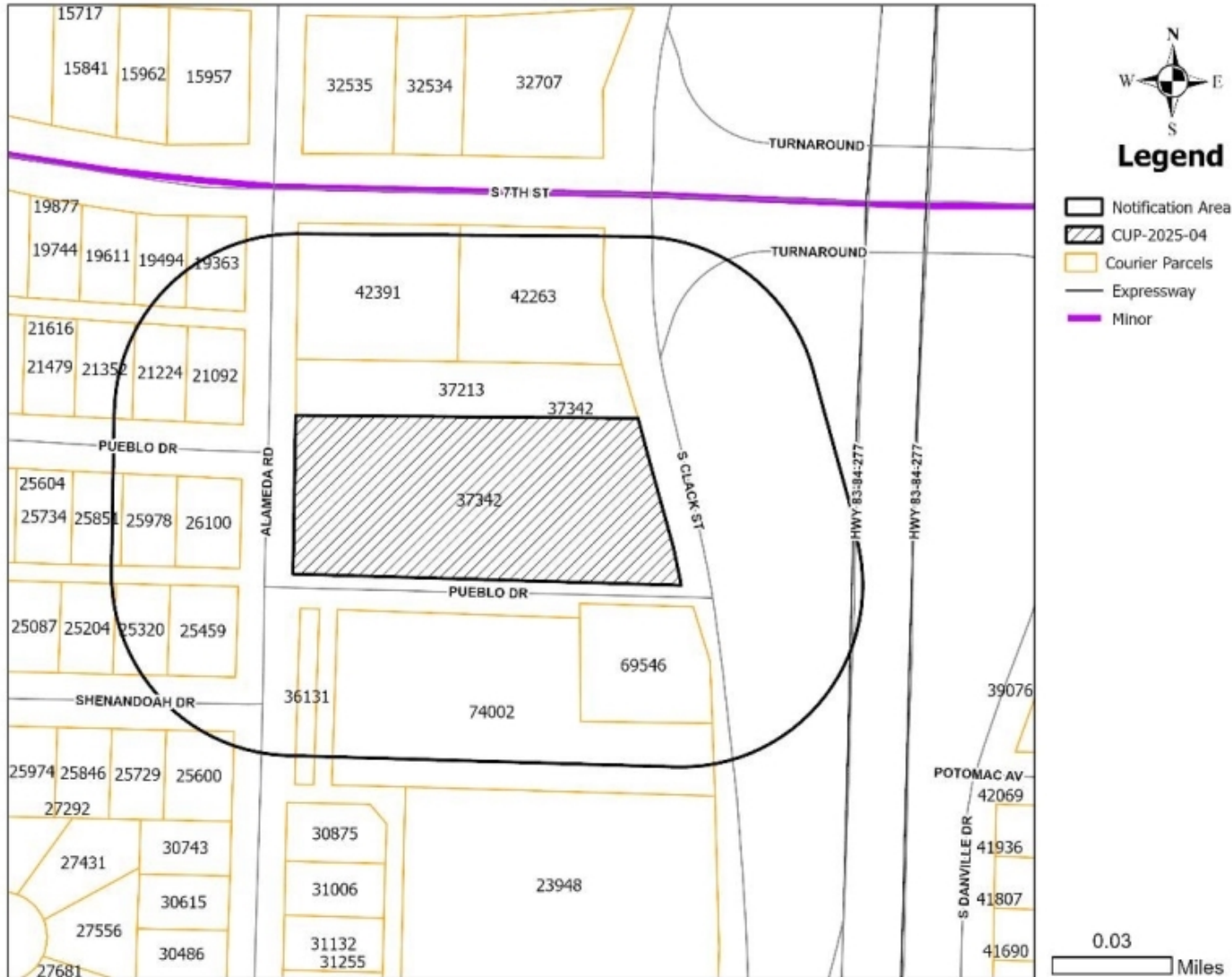


South Neighboring Property





NOTIFICATION AREA MAP



0- In Favor- ●
0- Opposed- ●





FINDINGS AND RECOMMENDATION

The proposed request is consistent with:

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

P&Z 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 containers are subject to the submitted concept plan and all applicable LDC requirements.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **32. Ordinance (Final Reading) CUP-2025-05: 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 15.03 Acres to Allow an RV (Recreational Vehicle) Park, Located at 3201 Dub Wright Blvd. (Tim Littlejohn)**

GENERAL INFORMATION

The applicant is requesting to apply a Conditional Use Permit to approximately 15.03 acres zoned Agricultural Open (AO) to allow for a Recreational Vehicle Park.

SPECIAL CONSIDERATIONS

The current owner proposes to build a 130 space Recreational Vehicle community. This property has remained vacant since annexation.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval **subject to the submitted concept plan and plan of operation** by a vote of 5-0.

ATTACHMENTS:

1. Ordinance
2. Staff Report CUP-2025-05
3. Concept Plan
4. Legal Description
5. Map Exhibit
6. Plan of Operations
7. Presentation CUP-2025-05

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 27th day of February, 2025.

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 January, 2025, 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 13th day of March, 2025, 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 13th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Apply a Conditional Use Permit to approximately 15.03 acres to allow an RV (Recreational Vehicle) Park in Agricultural Open Zoning.

The Conditional Use Permit is subject to the attached Conceptual plan (Listed as Exhibit B) and the attached Plan of Operation (listed as Exhibit C)

Legal description being a 15.03 acre tract being more particularly described as follows:

BEING a 15.03 acre zoning tract out of the John Adams Survey No. 44, Abstract No. 3, City of Abilene, Taylor County, Texas and being out of the remainder of that certain 30 acre tract, known as Tract Two, and the remainder of that certain 15 acre tract, known as Tract One, being more particularly described in a deed to Patricia R. Nail & the Michael J. Wingo II and Maryann Wingo Revocable Living Trust recorded in Instrument Nos. 2012-4609 & 201914103 Official Public Records, Taylor County, Texas. Said 15.03 acre tract is more particularly described in metes and bounds as follows:

BEGINNING at a point for the northeast corner of this described tract and said 15 acre tract;

THENCE S00°59'16"E, 1382.20 feet along the west line of this described tract and said 15 acre tract to a point for the south corner of this described tract, and being in the east right-of-way line of FM 3438, known as Dub Wright Blvd.;

THENCE along the west line of this described tract and the remainder of said 30 acre tract and 15 acre tract, and along the east right-of-way line of said FM 3438 the following bearings and distances:

- N50°39'36"W, 206.22 feet to a point for corner;
- N42°40'47"W, 296.86 feet to a point for corner;
- N40°58'35"W, 196.30 feet to a point for corner, being the beginning of a non-tangent curve to the right, having a radius of 1382.89 feet, with a delta angle of 23°55'27" and a chord bearing N10°25'14"W, 573.25 feet;
- Along curve to the right an arc length of 577.43 feet to a point for corner;
- N01°33'11"E, 329.02 feet to a point for the northwest corner of this described tract and being in the north line of said 30 acre tract;

THENCE S89°15'33"E along the north line of this described tract, said 30 acre tract, and said 15 acre tract, a distance of 608.10 feet to said POINT OF BEGINNING and containing 15.03 acres of land, more or less.

Located at 3201 Dub Wright Blvd.

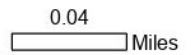
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EXHIBIT C

TOWERSIDE RANCH RV PARK – PLAN OF OPERATIONS

Towerside Ranch RV Park will consist of 130 RV fully paved spaces developed in a single phase all of which will have access to utilities including water, sewer, electric, and Wi-Fi. Amenities on the property will include a pool, playground, dog park, and a laundry / common restroom and shower facility. The property will be illuminated by street lighting to be designed in compliance with City of Abilene regulations.

The Park will be staffed between 8am - 5pm, while Park amenities such as the pool, playground, and dog park will be available for use by residents between 7am – 10pm. A strict quiet hour's policy will be in place between 9pm – 7am daily. 24/7 emergency contact with staff will be available.

In addition to adhering to City of Abilene development and landscape requirements and regulations, the Park will be entirely fenced around the property perimeter and irrigated (if approved) using the existing effluent water line located on the west side of Dub Wright Blvd further improving the aesthetics of the property.

POLICIES / REGULATIONS

1. Violation of any Park Rules & Regulations may result in your immediate removal and being asked to vacate the Park premises.
2. There will be no refunds! As a service-based business, we do not have a landlord/tenant agreement with any of our guests.
3. We are not responsible for any loss due to theft, fire, utility failure, improper connections, failure to unhook during freezing temperatures, or any uncontrollable acts of nature.
4. By staying at our park, you agree to the use of your photo, image, or likeness in advertising, social media, and any print products in association with Tower View RV Park.

GENERAL RULES

- Registration and payments are due immediately upon arrival. No exceptions.
- No arrivals past 10:00pm. Late arrivals must check-in at the office no later than 10:00am the next morning. If you fail to do so, we will automatically charge the credit card we have on file, no discounts or coupons will apply.
- All RVs must be fully operational, well-kept, and in good condition. RVs 10 years or older must be approved by Park management.
- Park quiet times are between 10:00pm and 7:00am. Please be respectful of others always. No generators, or any excessive noise will be tolerated.
- Showers, restrooms, and laundromat are provided for your convenience. It is the responsibility of every guest to clean up after yourself.
- Please do not run water unnecessarily. No above ground pools, or vehicle washing will be permitted at the Park.
- There is no curbside trash pickup. Dumpsters are located by the office for your convenience. Dumpster use is limited to bagged, household trash only. No oversized objects please.
- No permanent structures allowed, unless pre-approved by Park management, including but not limited to sheds, clotheslines, freezers/refrigerators, fencing, decks, dog kennels, pens, or dog runs.
- No tent camping is allowed, unless pre-approved by Park management.
- No sub-leasing is allowed.
- No open campfires are allowed.
- No mats, rugs, etc., are allowed on the grass.
- Solicitation, or signs for the sale of products/services will not be allowed.

VEHICLES AND PARKING

- A 10 MPH speed limit is strictly enforced.
- All guests must have a valid driver's license to operate any motorized vehicle on Park property.
- Park your vehicle in your assigned site only. Any vehicle parked in a vacant site will be charged for the space rental at the daily rate.
- No parking on the street, or grass.
- No repairs of any vehicle, or RV on Park property. You may check with local listings for businesses that provide these services.
- The operation of motorized scooters, ATVs, minibikes, or any unlicensed motorized vehicle is prohibited on Park property.

CHILDREN AND VISITORS

- All visitors must check-in at the office. Visitors must comply with all Park Rules & Regulations.
- You are responsible for the safety and conduct of your children and visiting guests.
- All children under the age of 14 must have adult supervision in all common areas.
- Skateboards and in-line skates are not permitted on Park property.

POOL

- Anyone under the age of 14 must have an adult inside the pool fence with them at all times.
- Babies/Not potty-trained children are not permitted in the pool without swim diapers.
- No smoking inside the pool area or pool.
- No glass containers are allowed inside the pool area or pool.
- Swimmers must wear appropriate swimwear, no street clothes.
- No Diving – Read posted pool rules

PETS

- All pets must be registered at the office prior to your stay. Wildlife/Farm animals are not considered pets and will not be allowed to stay at the Park.
- Pets must always be kept on a leash and may not be left outside unattended except when utilizing the dog park.
- Pick up your pet's waste immediately and dispose of it properly. This includes around your site and anywhere on Park property.
- Management reserves the right to refuse pets based on breed/behavior.
- Pets are the exclusive responsibility of their owners. Noisy pets will not be tolerated.
- No pet bathing is permitted in any of the Park facilities.

ALCOHOL, SMOKING, DRUGS AND FIREARMS

- Smoking is prohibited in all Park buildings.
- Dispose of smoking materials in proper receptacles. Do not throw them on the ground. This includes your site area.
- Absolutely no discharge of firearms, or fireworks allowed.
- All weapons shall be kept in compliance with all applicable state and federal laws.
- No alcohol is permitted in any common area. Towerside Ranch RV Park is not responsible for people of any age driving while under the influence.
- No criminal, or drug related activity on Park property will be tolerated.

-END-

ZONING CASE CUP-2025-05 STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: February 4, 2025
City Council 1st Read: February 27, 2025
City Council 2nd Read: March 13, 2025

Applicant

Owner: Patricia Nail
Agent: Jacob Martin

Case Manager

Adam Holland – Planner

Request

The applicant is requesting to apply a Conditional Use Permit to approximately 15.03 acres zoned Agricultural Open (AO) to allow for a Recreational Vehicle Park.

Location

The subject property is located at 3201 Dub Wright Blvd. Legal description being John Adams Survey 44, Abilene, Taylor County, Texas.

Background

The current owner proposes to build a 130 space Recreational Vehicle community. This property has remained vacant since annexation.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	AO	Vacant
East	AO, GC	Single-Family Residences, Self-storage
South	AO	Vacant
West	AO	Vacant

Criteria Assessment

Staff have 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 spirit and intent of AO zoning.

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 use is generally compatible with adjacent uses and development, however the Land Development code specifies a minimum separation of 300' from all residential development. The proposed park is only 100 feet at a minimum from Residential Medium Density, however, the property will be fully screened and any adverse impacts would be mitigated.

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

The proposed use is located on Dub Wright Blvd which is designated as an arterial road. Additional traffic is expected as a part of development.

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.**

New driveways shall be reviewed as part of the Site Plan review process to ensure compliance to applicable standards.

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

The applicant proposes a perimeter fence and landscaping around the property to mitigate any visual impacts. Opaque vs non-opaque was not specified.

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 proposed RV Park complies with the standards set out in the Land Development Code and is compatible with the surrounding uses at this location.

P&Z Recommendation

P&Z recommends **approval** of the Conditional Use Permit, subject to the submitted concept plan and Plan of Operation

Attachments

- PowerPoint Presentation
- Plan of Operation
- Concept Plan

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on January 17, 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

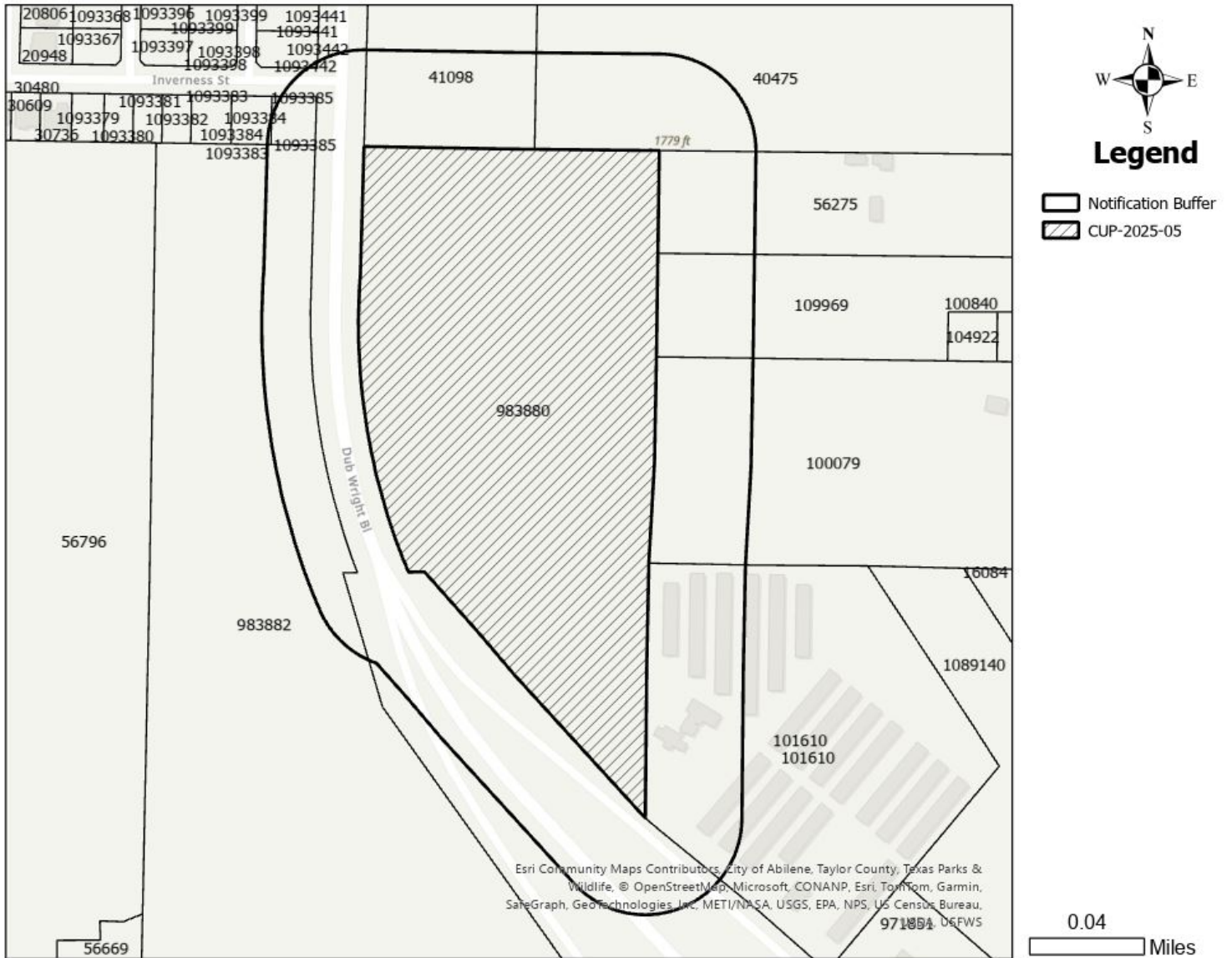
Owner

OWNER	SITUS	PROP_ID	RESPONSE
DUB WRIGHT BOULEVARD LP	3533 DUB WRIGHT BL	101610	
DUB WRIGHT BOULEVARD LP	3617 DUB WRIGHT BL	101610	
LEGACY FUNERAL HOLDINGS LLC	3010 BISHOP RD	40475	
LEGACY FUNERAL HOLDINGS LLC	3009 DUB WRIGHT BL	41098	
NAIL PATRICIA	3201 DUB WRIGHT BL	983880	
NAIL PATRICIA	6310 BUTTERFIELD TR	983882	
QUEEN BEE ENTERPRISES	6519 INVERNESS ST	1093384	
QUEEN BEE ENTERPRISES	6517 INVERNESS ST	1093384	
QUEEN BEE ENTERPRISES	3075 GLENNSTER ST	1093442	
QUEEN BEE ENTERPRISES	3073 GLENNSTER ST	1093442	
QUEEN BEE ENTERPRISES	6509 INVERNESS ST	1093385	
QUEEN BEE ENTERPRISES	6511 INVERNESS ST	1093385	
RENFRO ELDRED R & PATRICIA A	3202 BISHOP RD	56275	
RENFRO ELDRED R & PATRICIA A		109969	
ROPER ANTHONY & AMANDA	3350 BISHOP RD	100079	

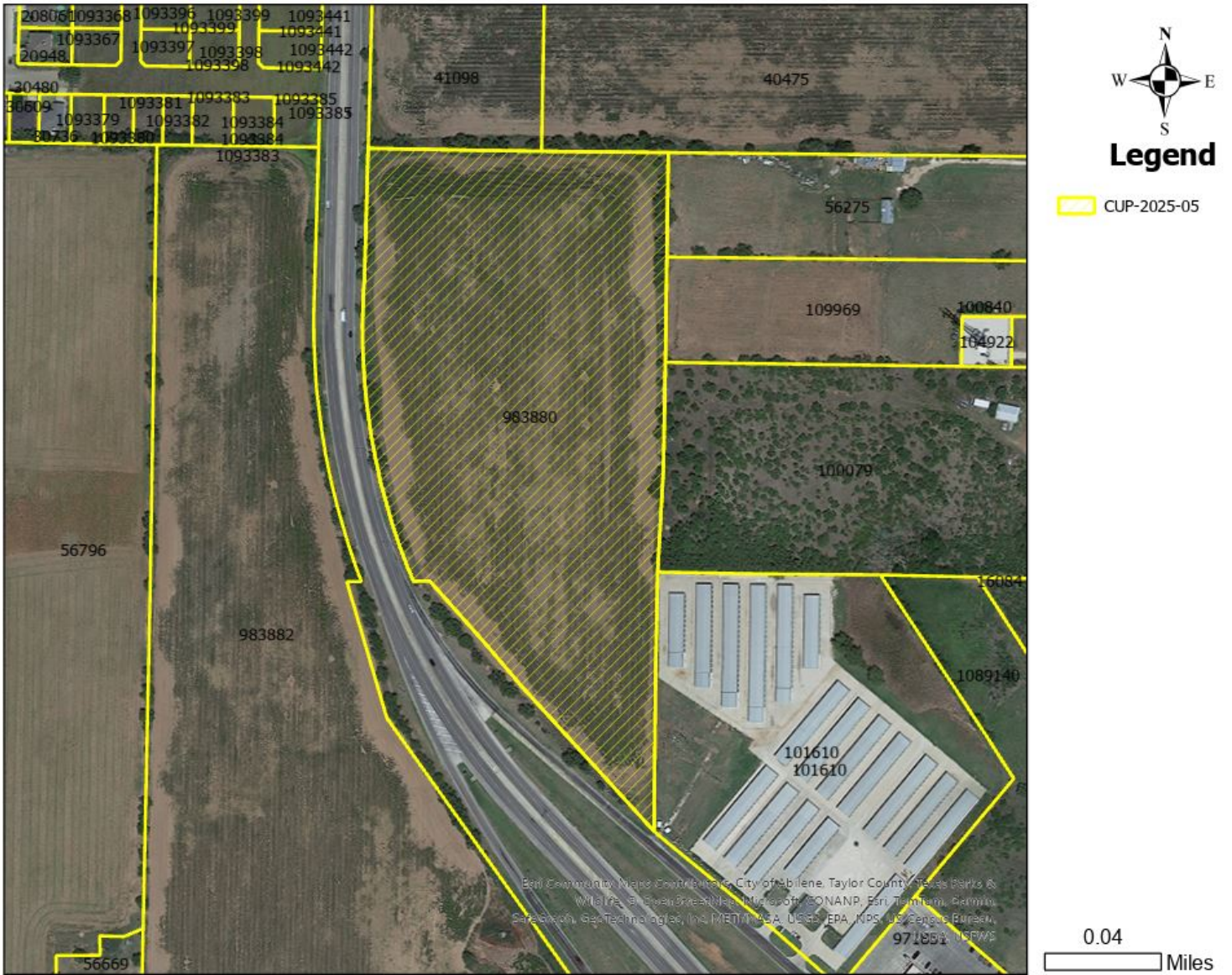
Prop ID

OWNER	SITUS	PROP_ID	RESPONSE
LEGACY FUNERAL HOLDINGS LLC	3010 BISHOP RD	40475	
LEGACY FUNERAL HOLDINGS LLC	3009 DUB WRIGHT BL	41098	
RENFRO ELDRED R & PATRICIA A	3202 BISHOP RD	56275	
ROPER ANTHONY & AMANDA	3350 BISHOP RD	100079	
DUB WRIGHT BOULEVARD LP	3533 DUB WRIGHT BL	101610	
DUB WRIGHT BOULEVARD LP	3617 DUB WRIGHT BL	101610	
RENFRO ELDRED R & PATRICIA A		109969	
NAIL PATRICIA	3201 DUB WRIGHT BL	983880	
NAIL PATRICIA	6310 BUTTERFIELD TR	983882	
QUEEN BEE ENTERPRISES	6519 INVERNESS ST	1093384	
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QUEEN BEE ENTERPRISES	6509 INVERNESS ST	1093385	
QUEEN BEE ENTERPRISES	6511 INVERNESS ST	1093385	
QUEEN BEE ENTERPRISES	3075 GLENNSTER ST	1093442	
QUEEN BEE ENTERPRISES	3073 GLENNSTER ST	1093442	

NOTIFICATION MAP



LOCATION MAP



ZONING MAP

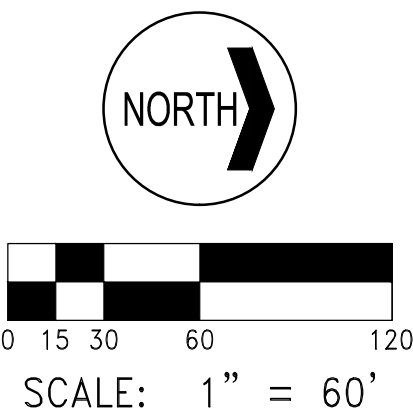


Concept Plan





14' x 60' RV PAD = 130



THIS DOCUMENT IS
RELEASED FOR REVIEW
ONLY UNDER THE
AUTHORIZATION OF
HOMER T. FILLINGIM IV,
P.E. #97395 AND IS NOT
TO BE USED FOR
CONSTRUCTION,
BIDDING OR
PERMITTING PURPOSES



KYLE PAUL
DUB WRIGHT RV PARK

CONCEPT SITE PLAN - 1

NO.	REVISION	DATE
1		
1		
SEQ.		SHEET
1		EX-01
PROJECT #		SCALE
24482		1" = 60'
BAR IS ONE INCH IN LENGTH ON ORIGINAL DRAWING.		
CHECKED BY: [Signature]		DATE: [Date]



3465 Curry Lane Abilene, Texas
325-695-1070 www.jacobmartin.com
Firm # 10194493

**METES & BOUNDS DESCRIPTION
PROPOSED "AO" ZONING TRACT
CITY OF ABILENE
TAYLOR COUNTY, TEXAS**

BEING a **15.03 acre** zoning tract out of the John Adams Survey No. 44, Abstract No. 3, City of Abilene, Taylor County, Texas and being out of the remainder of that certain 30 acre tract, known as Tract Two, and the remainder of that certain 15 acre tract, known as Tract One, being more particularly described in a deed to Patricia R. Nail & the Michael J. Wingo II and Maryann Wingo Revocable Living Trust recorded in Instrument Nos. 2012-4609 & 201914103 Official Public Records, Taylor County, Texas. Said **15.03 acre** tract is more particularly described in metes and bounds as follows:

BEGINNING at a point for the northeast corner of this described tract and said 15 acre tract;

THENCE S00°59'16"E, 1382.20 feet along the west line of this described tract and said 15 acre tract to a point for the south corner of this described tract, and being in the east right-of-way line of FM 3438, known as Dub Wright Blvd.;

THENCE along the west line of this described tract and the remainder of said 30 acre tract and 15 acre tract, and along the east right-of-way line of said FM 3438 the following bearings and distances:

- N50°39'36"W, 206.22 feet to a point for corner;
- N42°40'47"W, 296.86 feet to a point for corner;
- N40°58'35"W, 196.30 feet to a point for corner, being the beginning of a non-tangent curve to the right, having a radius of 1382.89 feet, with a delta angle of 23°55'27" and a chord bearing N10°25'14"W, 573.25 feet;
- Along curve to the right an arc length of 577.43 feet to a point for corner;
- N01°33'11"E, 329.02 feet to a point for the northwest corner of this described tract and being in the north line of said 30 acre tract;

THENCE S89°15'33"E along the north line of this described tract, said 30 acre tract, and said 15 acre tract, a distance of 608.10 feet to said **POINT OF BEGINNING** and containing **15.03 acres** of land, more or less.



TBAE FIRM
BR 2261

TBPEL FIRM
1019493

Abilene, TEXAS
Exhibit

CUP Application

NO. REVISION		DATE
SEQ.	SHEET	
PROJECT # SCALE		BAR IS ONE INCH IN LENGTH ON ORIGINAL DRAWING. CHECK SCALE AND ADJUST ACCORDINGLY.
N.T.S.		

TOWERSIDE RANCH RV PARK – PLAN OF OPERATIONS

Towerside Ranch RV Park will consist of 130 RV fully paved spaces developed in a single phase all of which will have access to utilities including water, sewer, electric, and Wi-Fi. Amenities on the property will include a pool, playground, dog park, and a laundry / common restroom and shower facility. The property will be illuminated by street lighting to be designed in compliance with City of Abilene regulations.

The Park will be staffed between 8am - 5pm, while Park amenities such as the pool, playground, and dog park will be available for use by residents between 7am – 9pm. A strict quiet hour's policy will be in place between 9pm – 7am daily. 24/7 emergency contact with staff will be available.

In addition to adhering to City of Abilene development and landscape requirements and regulations, the Park will be entirely fenced around the property perimeter and irrigated (if approved) using the existing effluent water line located on the west side of Dub Wright Blvd further improving the aesthetics of the property.

POLICIES / REGULATIONS

1. Violation of any Park Rules & Regulations may result in your immediate removal and being asked to vacate the Park premises.
2. There will be no refunds! As a service-based business, we do not have a landlord/tenant agreement with any of our guests.
3. We are not responsible for any loss due to theft, fire, utility failure, improper connections, failure to unhook during freezing temperatures, or any uncontrollable acts of nature.
4. By staying at our park, you agree to the use of your photo, image, or likeness in advertising, social media, and any print products in association with Tower View RV Park.

GENERAL RULES

- Registration and payments are due immediately upon arrival. No exceptions.
- No arrivals past 9:00pm. Late arrivals must check-in at the office no later than 10:00am the next morning. If you fail to do so, we will automatically charge the credit card we have on file, no discounts or coupons will apply.
- All RVs must be fully operational, well-kept, and in good condition. RVs 10 years or older must be approved by Park management.
- Park quiet times are between 9:00pm and 7:00am. Please be respectful of others always. No generators, or any excessive noise will be tolerated.
- Showers, restrooms, and laundromat are provided for your convenience. It is the responsibility of every guest to clean up after yourself.
- Please do not run water unnecessarily. No above ground pools, or vehicle washing will be permitted at the Park.
- There is no curbside trash pickup. Dumpsters are located by the office for your convenience. Dumpster use is limited to bagged, household trash only. No oversized objects please.
- No permanent structures allowed, unless pre-approved by Park management, including but not limited to sheds, clotheslines, freezers/refrigerators, fencing, decks, dog kennels, pens, or dog runs.
- No tent camping is allowed, unless pre-approved by Park management.

- No sub-leasing is allowed.
- No open campfires are allowed.
- No mats, rugs, etc., are allowed on the grass.
- Solicitation, or signs for the sale of products/services will not be allowed.

VEHICLES AND PARKING

- A 10 MPH speed limit is strictly enforced.
- All guests must have a valid driver's license to operate any motorized vehicle on Park property.
- Park your vehicle in your assigned site only. Any vehicle parked in a vacant site will be charged for the space rental at the daily rate.
- No parking on the street, or grass.
- No repairs of any vehicle, or RV on Park property. You may check with local listings for businesses that provide these services.
- The operation of motorized scooters, ATVs, minibikes, or any unlicensed motorized vehicle is prohibited on Park property.

CHILDREN AND VISITORS

- All visitors must check-in at the office. Visitors must comply with all Park Rules & Regulations.
- You are responsible for the safety and conduct of your children and visiting guests.
- All children under the age of 14 must have adult supervision in all common areas.
- Skateboards and in-line skates are not permitted on Park property.

POOL

- Anyone under the age of 14 must have an adult inside the pool fence with them at all times.
- Babies/Not potty-trained children are not permitted in the pool without swim diapers.
- No smoking inside the pool area or pool.
- No glass containers are allowed inside the pool area or pool.
- Swimmers must wear appropriate swimwear, no street clothes.
- No Diving – Read posted pool rules

PETS

- All pets must be registered at the office prior to your stay. Wildlife/Farm animals are not considered pets and will not be allowed to stay at the Park.
- Pets must always be kept on a leash and may not be left outside unattended except when utilizing the dog park.
- Pick up your pet's waste immediately and dispose of it properly. This includes around your site and anywhere on Park property.
- Management reserves the right to refuse pets based on breed/behavior.
- Pets are the exclusive responsibility of their owners. Noisy pets will not be tolerated.
- No pet bathing is permitted in any of the Park facilities.

ALCOHOL, SMOKING, DRUGS AND FIREARMS

- Smoking is prohibited in all Park buildings.
- Dispose of smoking materials in proper receptacles. Do not throw them on the ground. This includes your site area.
- Absolutely no discharge of firearms, or fireworks allowed.
- All weapons shall be kept in compliance with all applicable state and federal laws.
- No alcohol is permitted in any common area. Towerside Ranch RV Park is not responsible for people of any age driving while under the influence.
- No criminal, or drug related activity on Park property will be tolerated.



CONDITIONAL USE PERMIT

Case: CUP-2025-05

Owner Patricia Nail

Agent: Jacob Martin

Requests: A Conditional Use Permit to allow an RV Park

Location: 3201 Dub Wright

Notification: 0 in Favor, 0 in Opposition

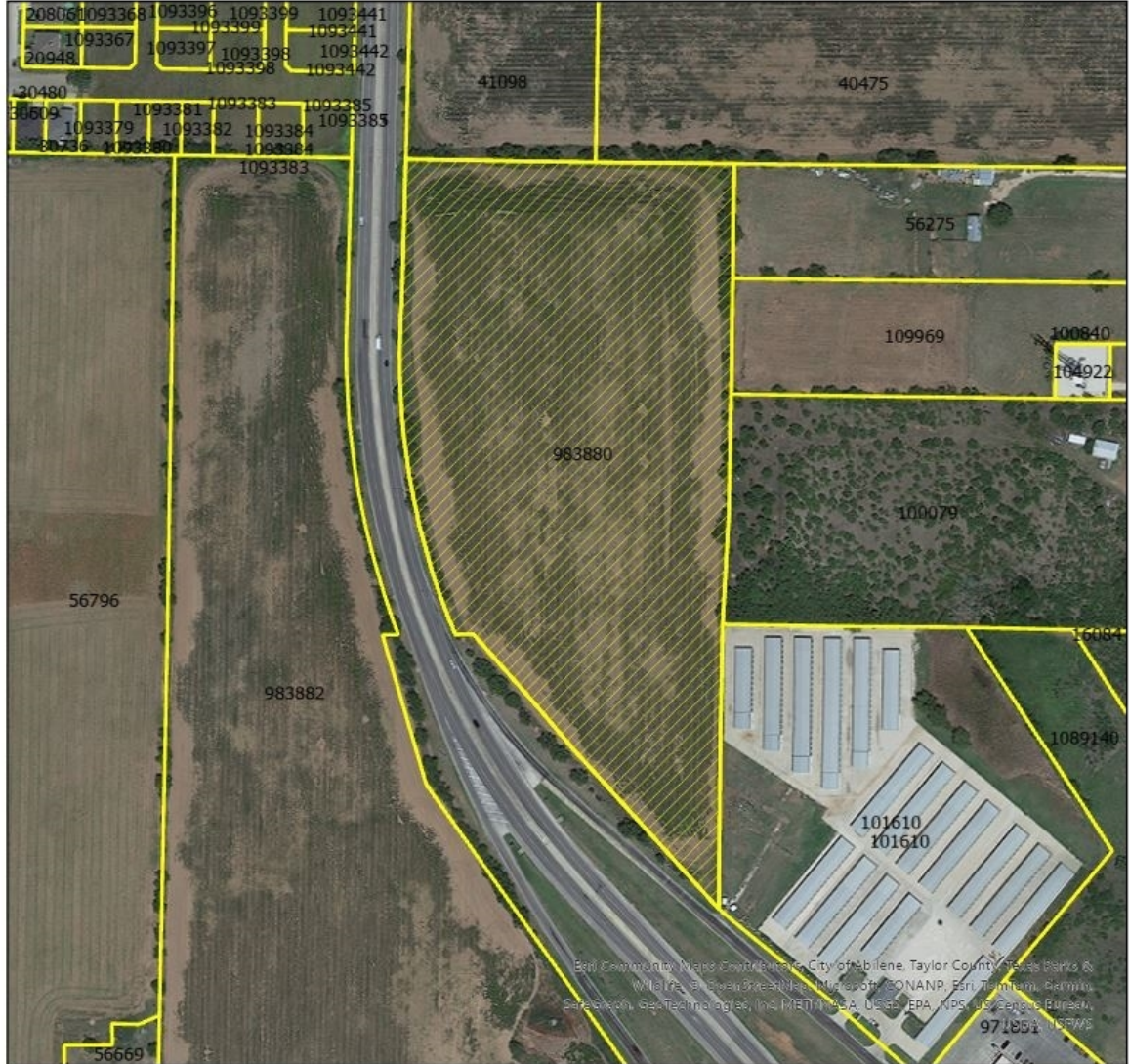
Planning & Zoning: February 4, 2025

Council Hearing: February 27, 2025
March 13, 2025





AERIAL LOCATION MAP

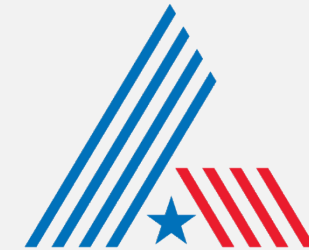


Legend

 CUP-2025-05

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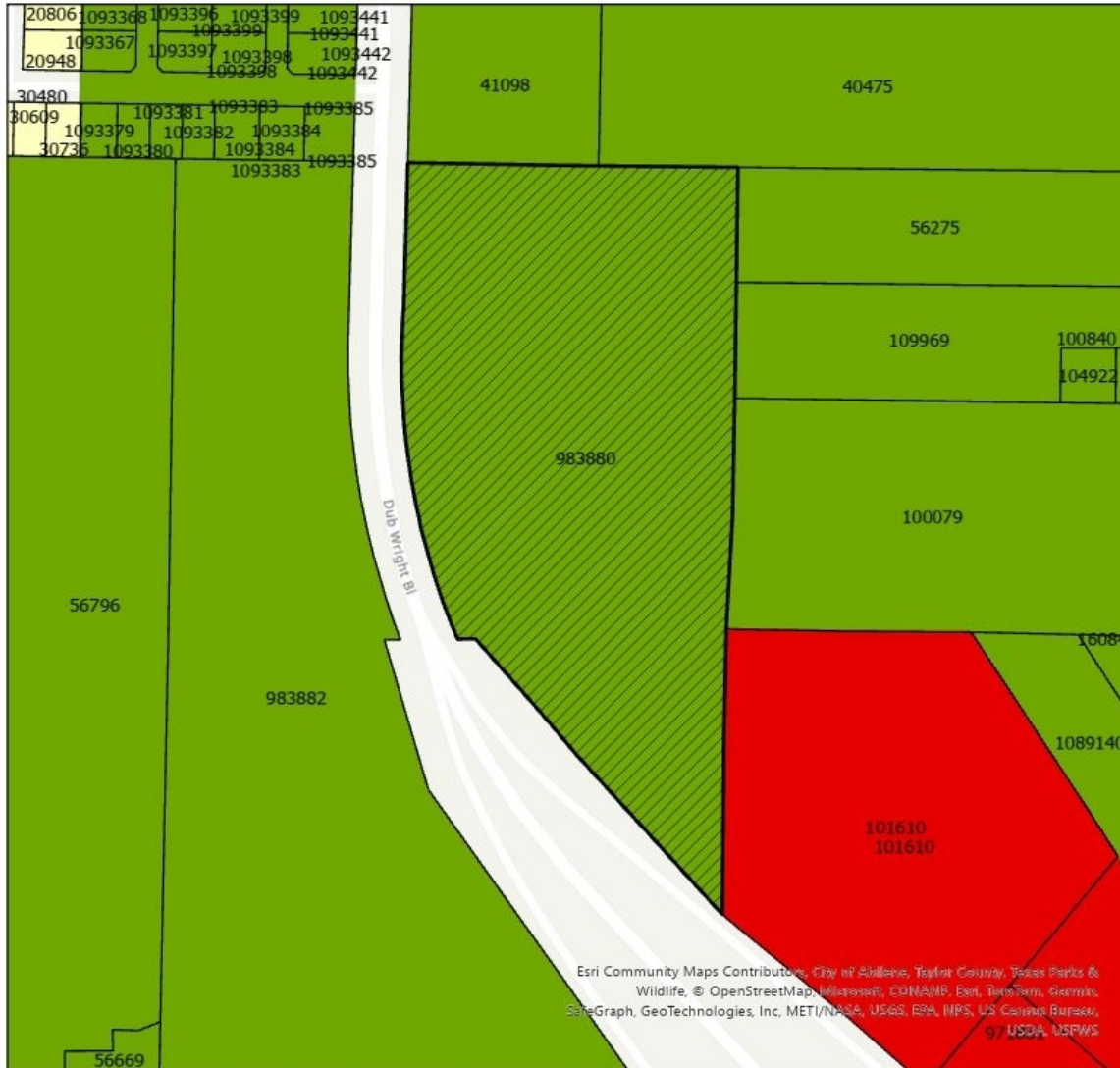
Miles



CITY OF
ABILENE
TEXAS



ZONING MAP



Legend

- CUP-2025-05
- Zoning District
- GC (General Commercial)
- GC (General Commercial)
- RS (Residential - Single Family)
- RS (Residential - Single Family)
- AO (Agricultural Open)
- AO (Agricultural Open)

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0.04

Miles



CITY OF
ABILENE
TEXAS





NEIGHBORING PROPERTY VIEWS

Subject property

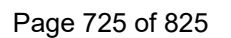
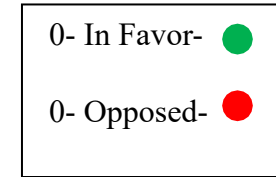


South Neighboring Property



West Neighboring
Property







FINDINGS AND RECOMMENDATION

The proposed request is consistent with:

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

P&Z Recommendation:

P&Z recommends **approval** of the Conditional Use Permit, subject to the submitted concept plan and Plan of Operation





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **33. Ordinance (Final Reading) Z-2025-03:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the Owner, to Change the Zoning of Approximately 22.14 Acres from Agricultural Open (AO) to Multi Family (MF) Located at 6310 Butterfield Trail *(Tim Littlejohn)*

GENERAL INFORMATION

The applicants request to change the zoning of approximately 22.14 acres from Agricultural Open (AO) to Multi Family (MF).

SPECIAL CONSIDERATIONS

The subject property was annexed into the City in 1986 as Agricultural Open (AO) and has remained vacant since.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 5-0.

ATTACHMENTS:

1. Ordinance
2. Staff Report
3. Legal for Proposed MF Zoning
4. Project Overview
5. Proposed MF Zoning
6. FAVOR 6309 Butterfield Tr
7. FAVOR 6610 Butterfield Tr
8. 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 27th day of February, 2025.

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 January, 2025, 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 13th day of March, 2025, 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 13th day of March, 2025.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning of approximately 22.14 acres from Agricultural Open (AO) to Multi Family (MF).

BEING a **22.14 acre** zoning tract out of the John Adams Survey No. 44, Abstract No. 3, City of Abilene, Taylor County, Texas and being out of the remainder of that certain 30 acre tract, known as Tract Two, and the remainder of that certain 15 acre tract, known as Tract One, being more particularly described in a deed to Patricia R. Nail & the Michael J. Wingo II and Maryann Wingo Revocable Living Trust recorded in Instrument Nos. 2012-4609 & 201914103 Official Public Records, Taylor County, Texas. Said **22.14 acre** tract is more particularly described in metes and bounds as follows:

BEGINNING at a point for the northwest corner of this described tract and said 30 acre tract;

THENCE S89°10'09"E, 328.87 feet along the north line of this described tract and said 30 acre tract to a point for northeast corner of this described tract, and being in the west right-of-way line of FM 3438, known as Dub Wright Blvd.;

THENCE along the east line of this described tract and the remainder of said 30 acre tract and 15 acre tract, and along the west right-of-way line of said FM 3438 the following bearings and distances:

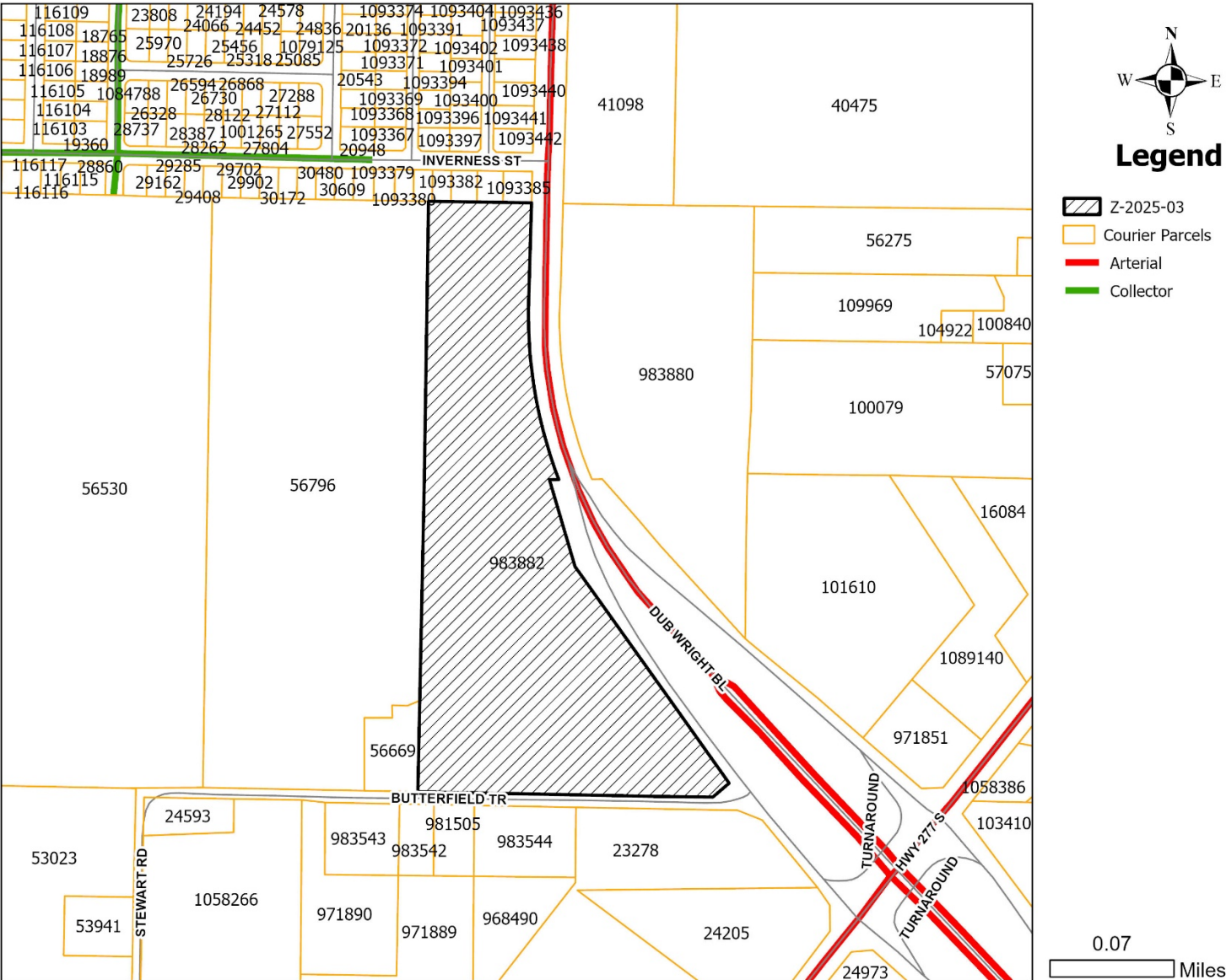
- S01°32'35"W, 326.67 feet to a point for corner, being the beginning of a tangent curve to the left, having a radius of 1482.39 feet, with a delta angle of 23°56'23" and a chord bearing S10°25'45"E, 614.89 feet;
- Along curve to the left an arc length of 619.38 feet to a point for corner;
- S13°00'54"E, 216.09 feet to a point for corner;
- S31°58'04"E, 348.39 feet to a point for corner;
- S34°48'10"E, 220.86 feet to a point for corner;

THENCE S00°56'57"W, 280.49 feet along the east line of this described tract and over and across the remainder of said 15 acre tract to a point for the southeast corner of this described tract, same being in the south line of said 15 acre tract and being in the north right-of-way line of Butterfield Trail;

THENCE N89°00'37"W, 818.89 feet along the south line of this described tract and said 15 acre tract and said 30 acre tract, and along the north right-of-way line of said Butterfield Trail to a point for the southwest corner of this described tract and said 30 acre tract;

THENCE N00°59'50"E along the west line of this described tract and said 30 acre tract, a distance of 1890.08 feet to said **POINT OF BEGINNING** and containing **22.14 acres** of land, more or less.

Located at 6310 Butterfield Trail.



END

ZONING CASE

Z-2025-03

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: February 4, 2025
City Council 1st Reading: February 27, 2025
City Council 2nd Reading: March 13, 2025

Applicant

Agent: Jacob & Martin
Owner: Patricia Nail and Michael J II & Maryann Wingo

Case Manager

Kera Valois – Planner

Request

Change the zoning of approximately 22.14 acres from Agricultural Open (AO) to Multi Family (MF).

Location

Located at 6310 Butterfield Trail. Legal description approximately 22.14 acre tract of the John Adams Survey No. 44, Abstract No. 3, Abilene, Taylor County, Texas.

Background

The subject property was annexed into the City in 1986 as Agricultural Open (AO) and has remained vacant since.

Zoning, Existing and Proposed Land Use

	Zoning	Existing Land Use
North	MD	Vacant Lots
East	AO	Vacant Lot
South	GC	Self-Storage Units
West	AO	Vacant Lot/Residence

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 use is consistent with the Future Land Use and Development Plan Map.

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

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 will be subject to platting and any utilities that may be required will be addressed during that review.

- (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

- PowerPoint Presentation
- Project Overview
- Owner Authorization
- Metes & Bounds

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices on January 17, 2025, 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
ALLSUPS GEORGE D LF EST & CHAMPION MAXINE	56669	6550 BUTTERFIELD TR	
JOHNSON PAUL	56796	6610 BUTTERFIELD TR	F
LEGACY FNERAL HOLDINGS LLC	41098	3009 DUB WRIGHT BL	
MAPLEQUITY PARTNERS LP	983542		
MAPLEQUITY PARTNERS LP	983544	6325 BUTTERFIELD TR	
MAPLEQUITY PARTNERS LP	981505		
MAURER RANDALL	30736	6565 INVERNESS ST	
NAIL PATRICIA	983880	3201 DUB WRIGHT BL	
NAIL PATRICIA	983882	6310 BUTTERFIELD TR	
PAMY HOLDINGS LTD	23278	6309 BUTTERFIELD TR	F
PAMY HOLDINGS LTD	983543	6425 BUTTERFIELD TR	
QUEEN BEE ENTERPRSES LLC	1093380	6549 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093383	6525 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093383	6527 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093397	3089 LYNN LN	
QUEEN BEE ENTERPRSES LLC	1093382	6533 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093367	3088 LYNN LN	
QUEEN BEE ENTERPRSES LLC	1093379	6557 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093385	6509 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093385	6511 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093384	6519 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093384	6517 INVERNESS ST	
QUEEN BEE ENTERPRSES LLC	1093398	3072 GLENNSTER ST	

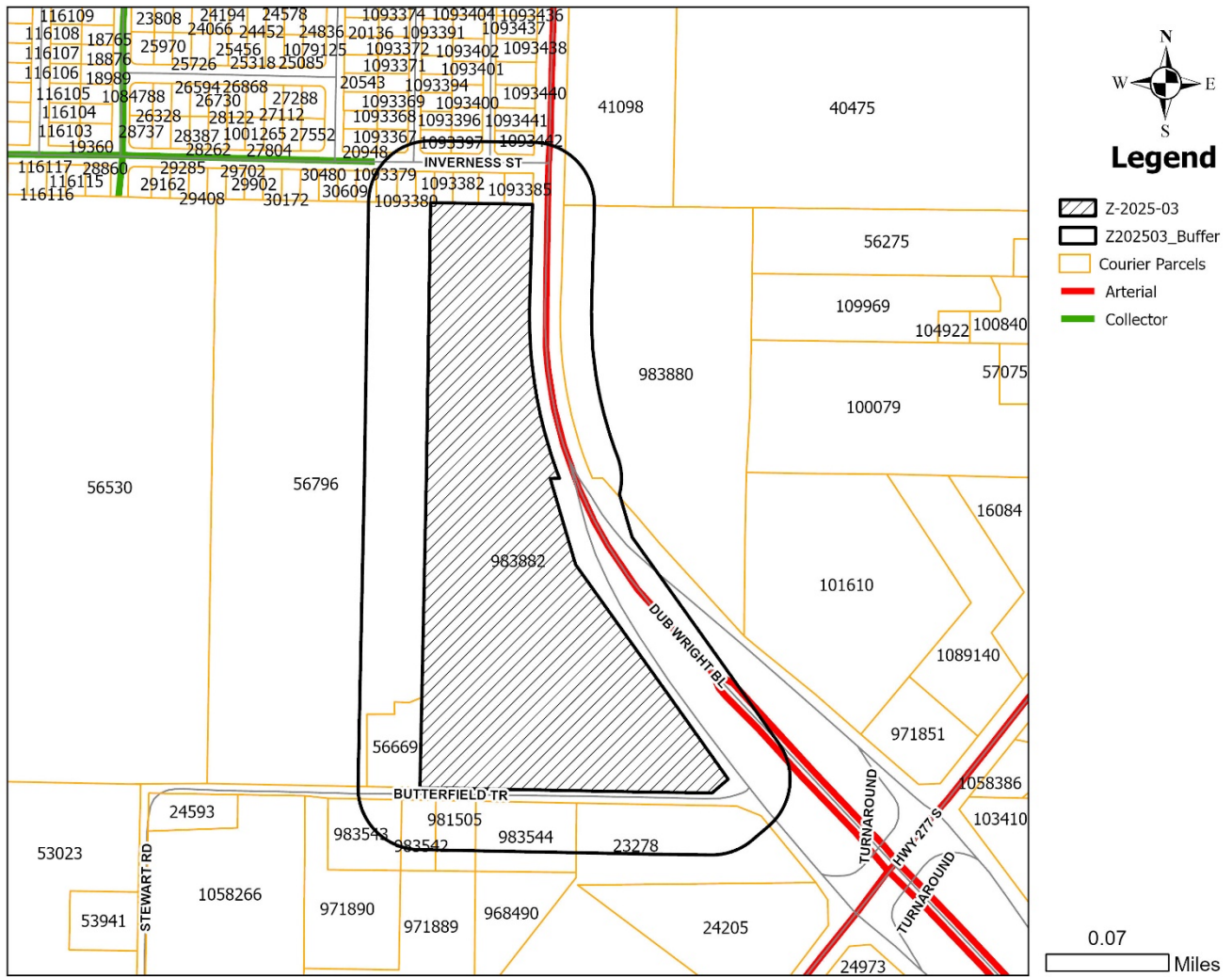
QUEEN BEE ENTERPRSES LLC	1093398	3074 GLENNSTER ST	
QUEEN BEE ENTERPRSES LLC	1093442	3075 GLENNSTER ST	
QUEEN BEE ENTERPRSES LLC	1093442	3073 GLENNSTER ST	
QUEEN BEE ENTERPRSES LLC	1093381	6541 INVERNESS ST	

PROPERTY ID

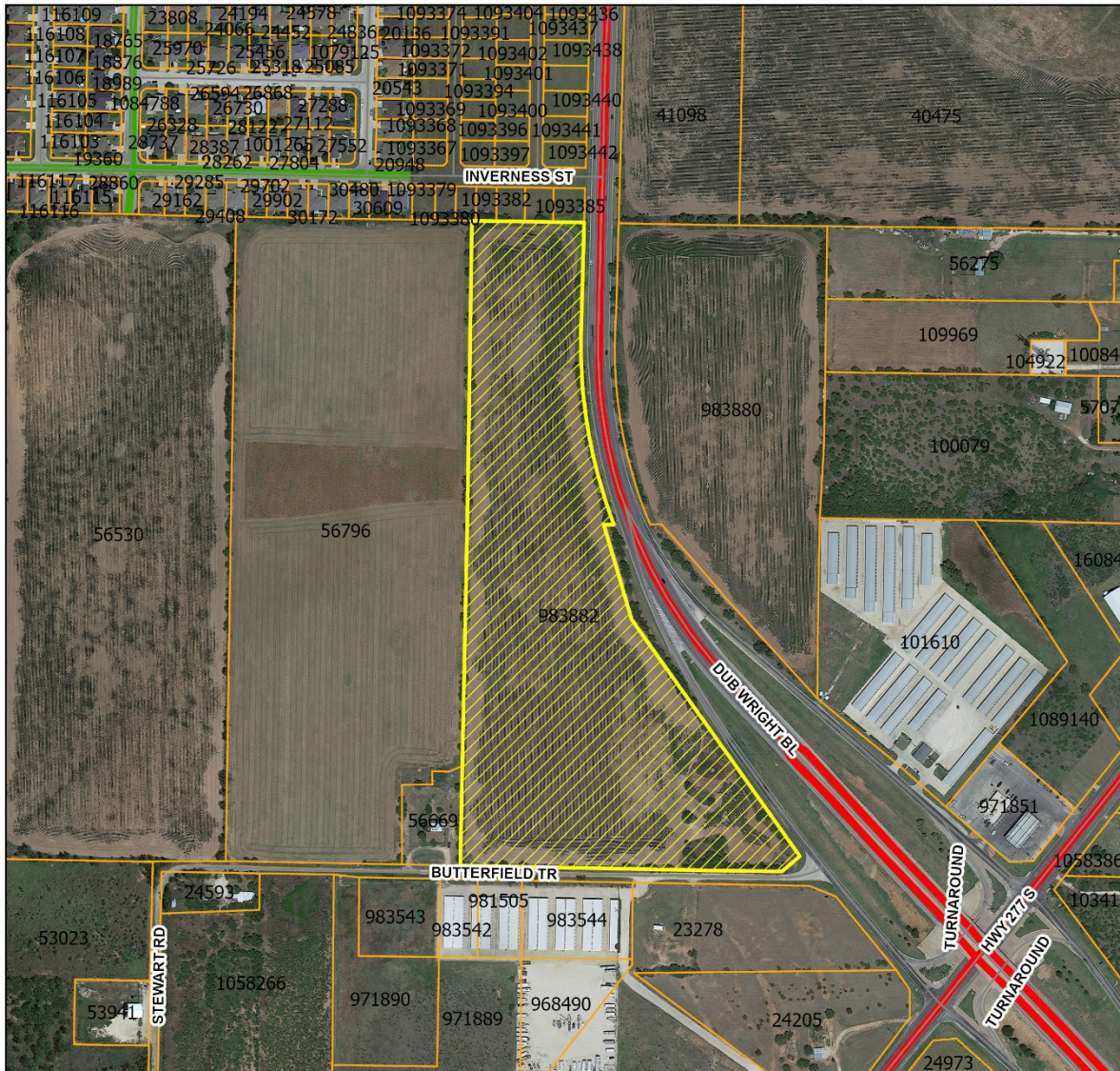
Legend: O - Opposed, F - In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
PAMY HOLDINGS LTD	23278	6309 BUTTERFIELD TR	F
MAURER RANDALL	30736	6565 INVERNESS ST	
LEGACY FUNERAL HOLDINGS LLC	41098	3009 DUB WRIGHT BL	
ALLSUPS GEORGE D LF EST & CHAMPION MAXINE ET AL	56669	6550 BUTTERFIELD TR	
JOHNSON PAUL	56796	6610 BUTTERFIELD TR	F
MAPLEQUITY PARTNERS LP	981505		
MAPLEQUITY PARTNERS LP	983542		
PAMY HOLDINGS LTD	983543	6425 BUTTERFIELD TR	
MAPLEQUITY PARTNERS LP	983544	6325 BUTTERFIELD TR	
NAIL PATRICIA	983880	3201 DUB WRIGHT BL	
NAIL PATRICIA	983882	6310 BUTTERFIELD TR	
QUEEN BEE ENTERPRISES LLC	1093367	3088 LYNN LN	
QUEEN BEE ENTERPRISES LLC	1093379	6557 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093380	6549 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093381	6541 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093382	6533 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093383	6525 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093383	6527 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093384	6519 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093384	6517 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093385	6509 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093385	6511 INVERNESS ST	
QUEEN BEE ENTERPRISES LLC	1093397	3089 LYNN LN	
QUEEN BEE ENTERPRISES LLC	1093398	3072 GLENNSTER ST	
QUEEN BEE ENTERPRISES LLC	1093398	3074 GLENNSTER ST	
QUEEN BEE ENTERPRISES LLC	1093442	3075 GLENNSTER ST	
QUEEN BEE ENTERPRISES LLC	1093442	3073 GLENNSTER ST	

NOTIFICATION MAP



LOCATION MAP

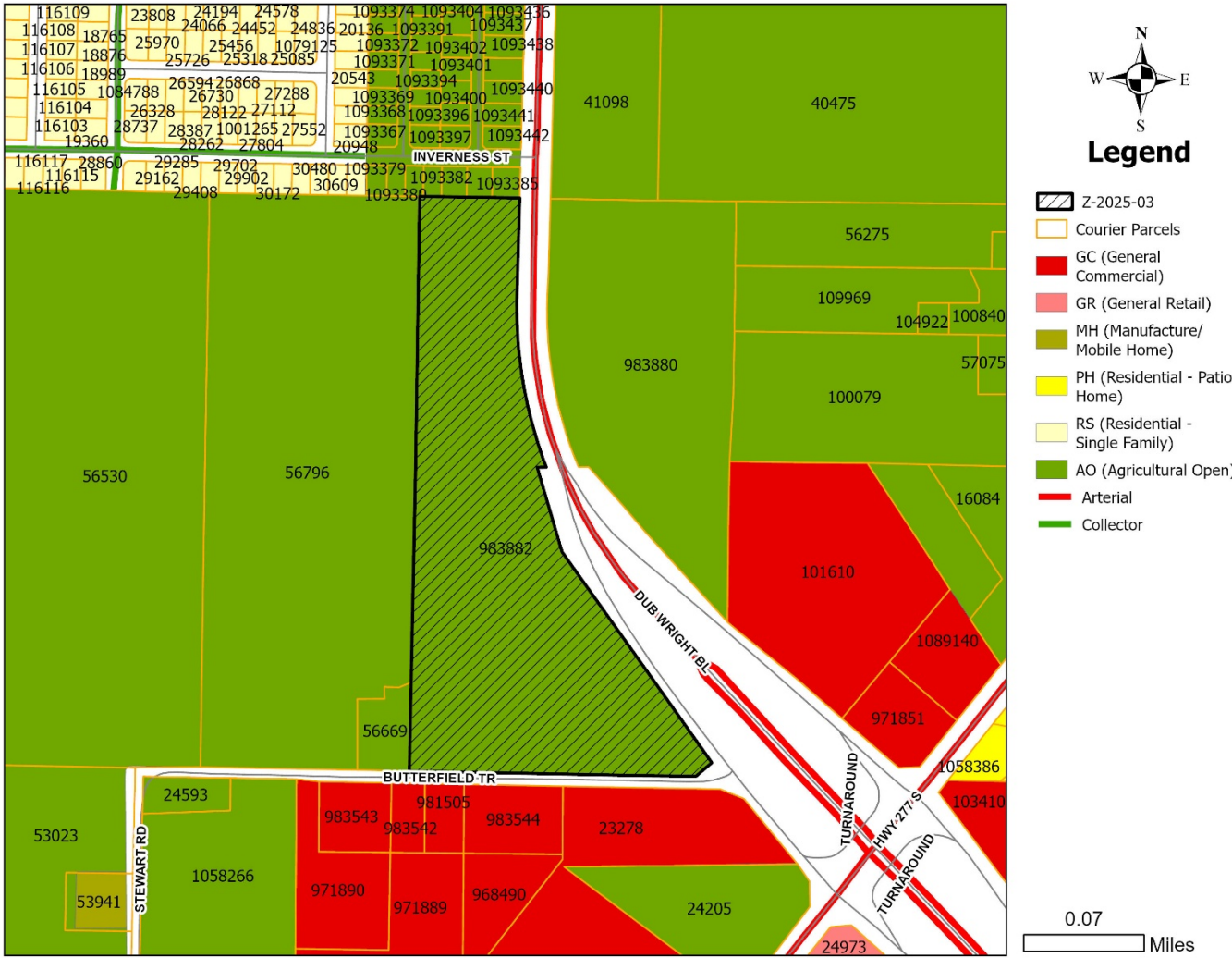


Legend

- Z-2025-03
- Courier Parcels
- Arterial
- Collector

0.07
Miles

ZONING MAP





3465 Curry Lane Abilene, Texas
325-695-1070 www.jacobmartin.com
Firm # 10194493

**METES & BOUNDS DESCRIPTION
PROPOSED "MF" ZONING TRACT
CITY OF ABILENE
TAYLOR COUNTY, TEXAS**

BEING a **22.14 acre** zoning tract out of the John Adams Survey No. 44, Abstract No. 3, City of Abilene, Taylor County, Texas and being out of the remainder of that certain 30 acre tract, known as Tract Two, and the remainder of that certain 15 acre tract, known as Tract One, being more particularly described in a deed to Patricia R. Nail & the Michael J. Wingo II and Maryann Wingo Revocable Living Trust recorded in Instrument Nos. 2012-4609 & 201914103 Official Public Records, Taylor County, Texas. Said **22.14 acre** tract is more particularly described in metes and bounds as follows:

BEGINNING at a point for the northwest corner of this described tract and said 30 acre tract;

THENCE S89°10'09"E, 328.87 feet along the north line of this described tract and said 30 acre tract to a point for northeast corner of this described tract, and being in the west right-of-way line of FM 3438, known as Dub Wright Blvd.;

THENCE along the east line of this described tract and the remainder of said 30 acre tract and 15 acre tract, and along the west right-of-way line of said FM 3438 the following bearings and distances:

- S01°32'35"W, 326.67 feet to a point for corner, being the beginning of a tangent curve to the left, having a radius of 1482.39 feet, with a delta angle of 23°56'23" and a chord bearing S10°25'45"E, 614.89 feet;
- Along curve to the left an arc length of 619.38 feet to a point for corner;
- S13°00'54"E, 216.09 feet to a point for corner;
- S31°58'04"E, 348.39 feet to a point for corner;
- S34°48'10"E, 220.86 feet to a point for corner;

THENCE S00°56'57"W, 280.49 feet along the east line of this described tract and over and across the remainder of said 15 acre tract to a point for the southeast corner of this described tract, same being in the south line of said 15 acre tract and being in the north right-of-way line of Butterfield Trail;

THENCE N89°00'37"W, 818.89 feet along the south line of this described tract and said 15 acre tract and said 30 acre tract, and along the north right-of-way line of said Butterfield Trail to a point for the southwest corner of this described tract and said 30 acre tract;

THENCE N00°59'50"E along the west line of this described tract and said 30 acre tract, a distance of 1890.08 feet to said **POINT OF BEGINNING** and containing **22.14 acres** of land, more or less.

PROJECT OVERVIEW

Project Type: Zoning Application | **Project Title:** Z-2025-03 AO to MF (6310 Butterfield Tr.)

ID # 24-000263 | **Started** 12/04/2024 at 10:50 AM



Address

6310 Butterfield Tr, Abilene, TX USA 79606

Legal

A0003 Sur 44 John Adams Blk Tract 3
A0003 Sur 44 John Adams, Tract 3, Acres 22.74

Description

Rezone property from AO to MF

PROPERTY DETAILS

Property ID	983882
GEO ID	60350
Enforcement Area	Dyess Area

PROPERTY ADDITIONAL INFORMATION

Account Number	A0003000800
Property ID	60350
Land Use	Vacant
High School	Chs
Middle School	Clack
Elementary School	Bassetti
Super Neighborhood	Dyess Area
Courier - Building Square Feet	0

CONTACTS

CONTACT INFO

ADDRESS

CREDENTIALS

ROLE

Clayton Farrow	cfarrow@jacobmartin.com 3256951070	3465 Curry Lane Abilene, TX 79606-2287	Engineer	APPLICANT
Nail Patricia	-	333 Leisure Drive Elgin, SC 29045	-	Property Owner

PROJECT STEPS

DATE & TIME

RESULT

USER

Request	12/31/2024 at 10:53 AM	Accept	Mason Teegardin
Zoning Application Review	12/31/2024 at 10:56 AM	Accepted	Mason Teegardin
Planning Payment	12/31/2024 at 10:56 AM	Paid	Mason Teegardin

Create Agenda for Planning and Zoning Commission	01/22/2025 at 4:28 PM	Created	Kera Valois
Staff Prepares Report & Send Property Notification Letters	01/22/2025 at 4:29 PM	Completed	Kera Valois
P&Z Commission Decision	-	-	-
Appeal P&Z Decision	-	-	-
Prepare City Council Agenda	-	-	-
City Council Decision	-	-	-
Archive	-	-	-

INFORMATION FIELDS

Owner Name

Patricia Nail

Agent Name

Jacob | Martin

Block

-

Lot

-

Acreage

-

Legal Description of property

A0003 SUR 44 JOHN ADAMS, TRACT 3, ACRES 22.74

Subdivision Name

-

Current Zoning

AO

Proposed Zoning

MF

Agree to Terms

Clayton Farrow

INVOICES	DUE DATE	CONTACT	TOTAL	PAID	DUE
24-007201	01/05/2025	Clayton Farrow	\$ 1,500.00	\$ 1,500.00	\$ 0.00
Fees Account No Total Paid Due Zoning - Zone change request 1004002-42001 \$ 1,500.00 \$ 1,500.00 \$ 0.00 Receipts 24-006572					
TOTALS			\$ 1,500.00	\$ 1,500.00	\$ 0.00

CREDENTIALS

Developer

Homeowner

Engineer

Name	Contact Info	Address	Credentials	Availability	Validity
Clayton Farrow	cfarrow@jacobmartin.com (325) 695-1070	3465 Curry Lane Abilene, TX 79606-2287		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	12/31/2024 at 10:56 AM	Approved	Accepted
Create Agenda for Planning and Zoning Commission	01/22/2025 at 4:28 PM	Approved	Created
Staff Prepares Report & Send Property Notification Letters	01/22/2025 at 4:29 PM	Approved	Completed
P&Z Commission Decision	01/22/2025 at 4:29 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
Signed Owner Authorization-.pdf	01/02/2025 at 8:42 AM	Mason Teegardin
Signed Owner Authorization.pdf	12/30/2024 at 3:46 PM	Clayton Farrow
Legal for Proposed MF Zoning.pdf	12/30/2024 at 2:55 PM	Clayton Farrow

EPR DOCUMENTS	ASSOCIATED STEPS	STATUS	LAST REVIEW BY
Civil	Zoning Application Review	Not Uploaded	-

GENERAL COMMENTS

 **Mason Teegardin**, Dec 04, 2024 at 2:34 PM

missing the following information:

1. metes & bounds
2. payment
3. owner authorization

Please have those documents submitted by December 30th for February 4th p&z meeting.

 **Clayton Farrow**, Dec 30, 2024 at 2:55 PM

Attached is the Metes & Bounds.

Payment was turned in

Owner Authorization will be coming shortly.

 **Clayton Farrow**, Dec 30, 2024 at 3:46 PM

Please see attached Owner Authorization form

 **Mason Teegardin**, Jan 02, 2025 at 8:42 AM

additional owner authorization

ZONING NOTIFICATION RESPONSE FORM CASE #: Z-2025-03

You may indicate your position on the zoning change request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must be signed and include your name and address. Please mail the response form to:

Planning and Development Services

PO BOX 60, Abilene, TX 79604-0060.

Alternatively, you may email your response to planning@abilenetx.gov.

Requestor's Parcel ID: 983882

Requestor's Property Zoning: AO

Requestor's Proposed Zoning: MF

Your Name: PAMY HOLDINGS LTD

Your Property Address: 6309 BUTTERFIELD TR

Your Parcel ID: 23278

Signature:

Paul Johnson

I am in favor of the request ☒

I am opposed to the request ☐

FEB 6 AM 10:58

ZONING NOTIFICATION RESPONSE FORM CASE #: Z-2025-03

You may indicate your position on the zoning change request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must be signed and include your name and address. Please mail the response form to:

**Planning and Development Services
PO BOX 60, Abilene, TX 79604-0060.**

Alternatively, you may email your response to planning@abilenetx.gov.

Requestor's Parcel ID: 983882

Requestor's Property Zoning: AO

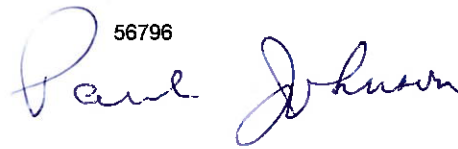
Requestor's Proposed Zoning: MF

Your Name: JOHNSON PAUL

Your Property Address: 6610 BUTTERFIELD TR

Your Parcel ID: 56796

Signature:



I am in favor of the request ☒

I am opposed to the request ☐

FEB 6 AM 10:58



REZONE REQUEST

Case: Z-2025-03

Agent: Jacob & Martin

Request: Change the zoning of approximately 22.14 acres from Agricultural Open (AO) to Multi Family (MF).

Location: Located at 6310 Butterfield Trail.

Notification: 2 in Favor, 0 in Opposition

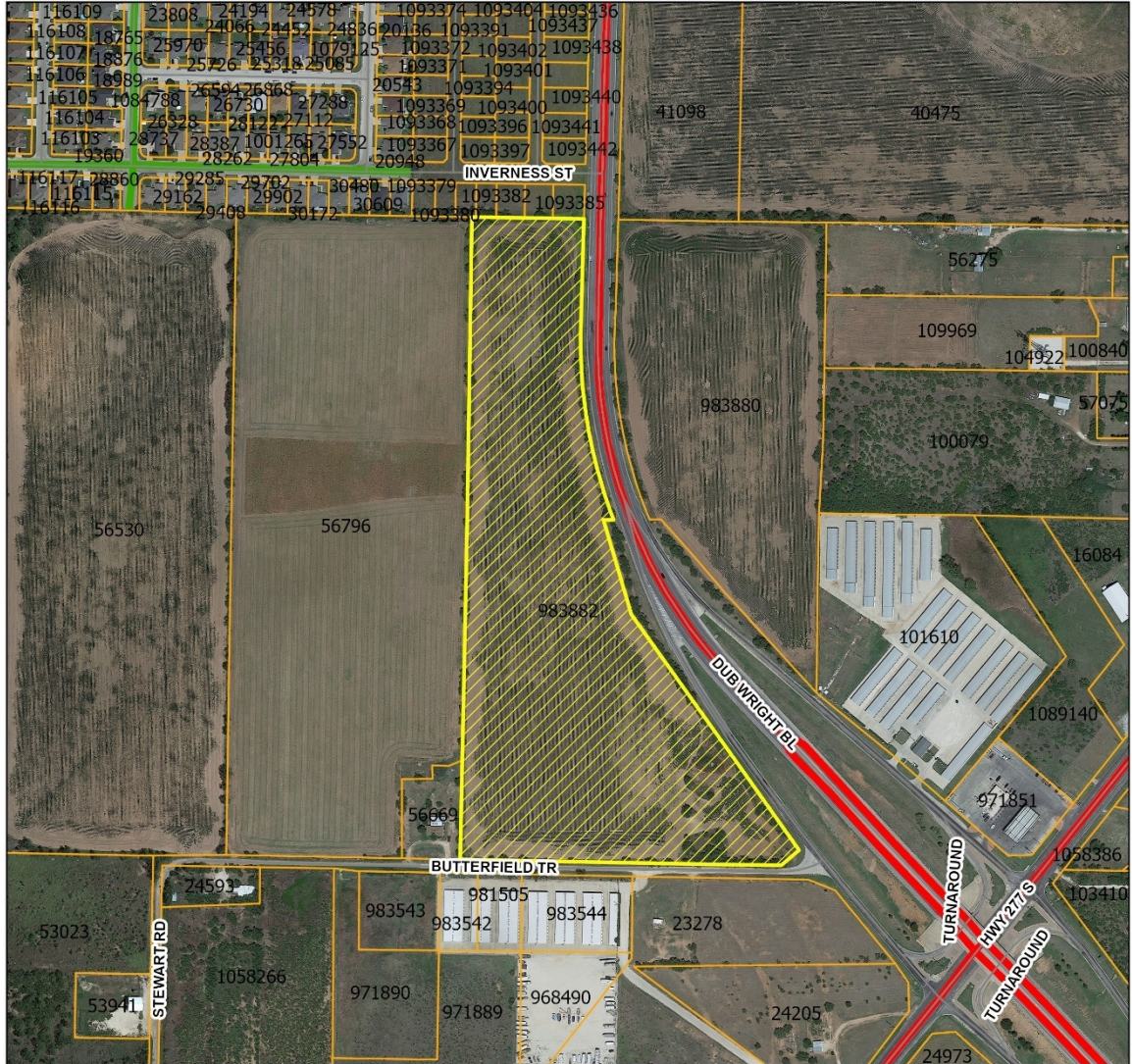
Planning & Zoning: February 4, 2025

Council Hearing: February 27, 2025
March 13, 2025





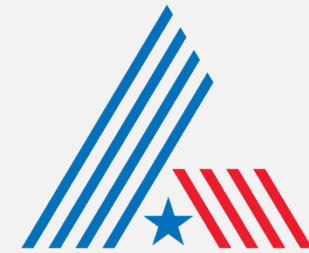
AERIAL LOCATION MAP



Legend

- Z-2025-03
- Courier Parcels
- Arterial
- Collector

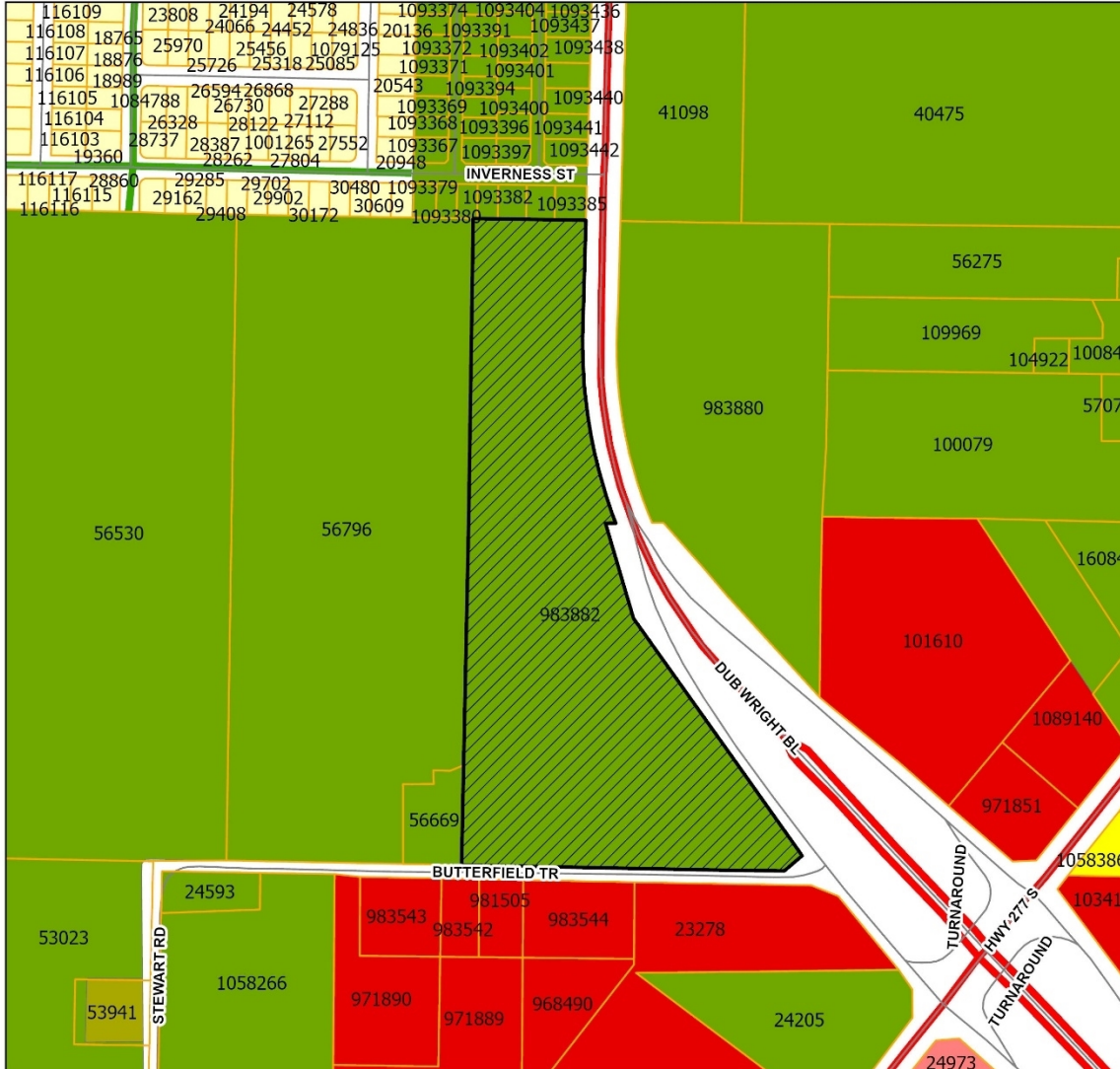
0.07
Miles



CITY OF
ABILENE
TEXAS



ZONING MAP

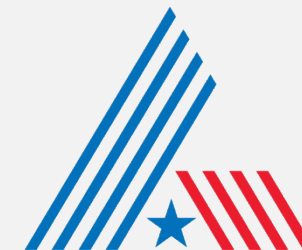


Legend

- Z-2025-03
- Courier Parcels
- GC (General Commercial)
- GR (General Retail)
- MH (Manufacture/ Mobile Home)
- PH (Residential - Patio Home)
- RS (Residential - Single Family)
- AO (Agricultural Open)
- Arterial
- Collector

0.07

Miles

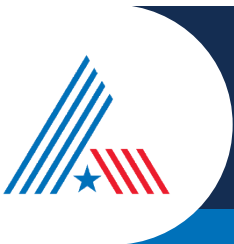


CITY OF
ABILENE
TEXAS



PROPERTY VIEWS





USES IN AGRICULTURAL OPEN ZONING

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling— Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems*

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE:

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES:

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C 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)

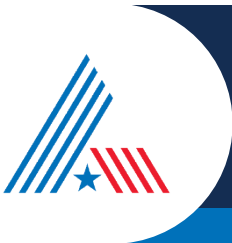
C

Permitted as a Conditional Use Permit, Requiring Approval by City Council

TP

Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





USES IN MULTI-FAMILY ZONING

RESIDENTIAL USES:

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

ACCESSORY AND INCIDENTAL USES:

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

CULTURAL AND RECREATIONAL USES:

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

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

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

EDUCATIONAL AND RELIGIOUS USES:

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

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

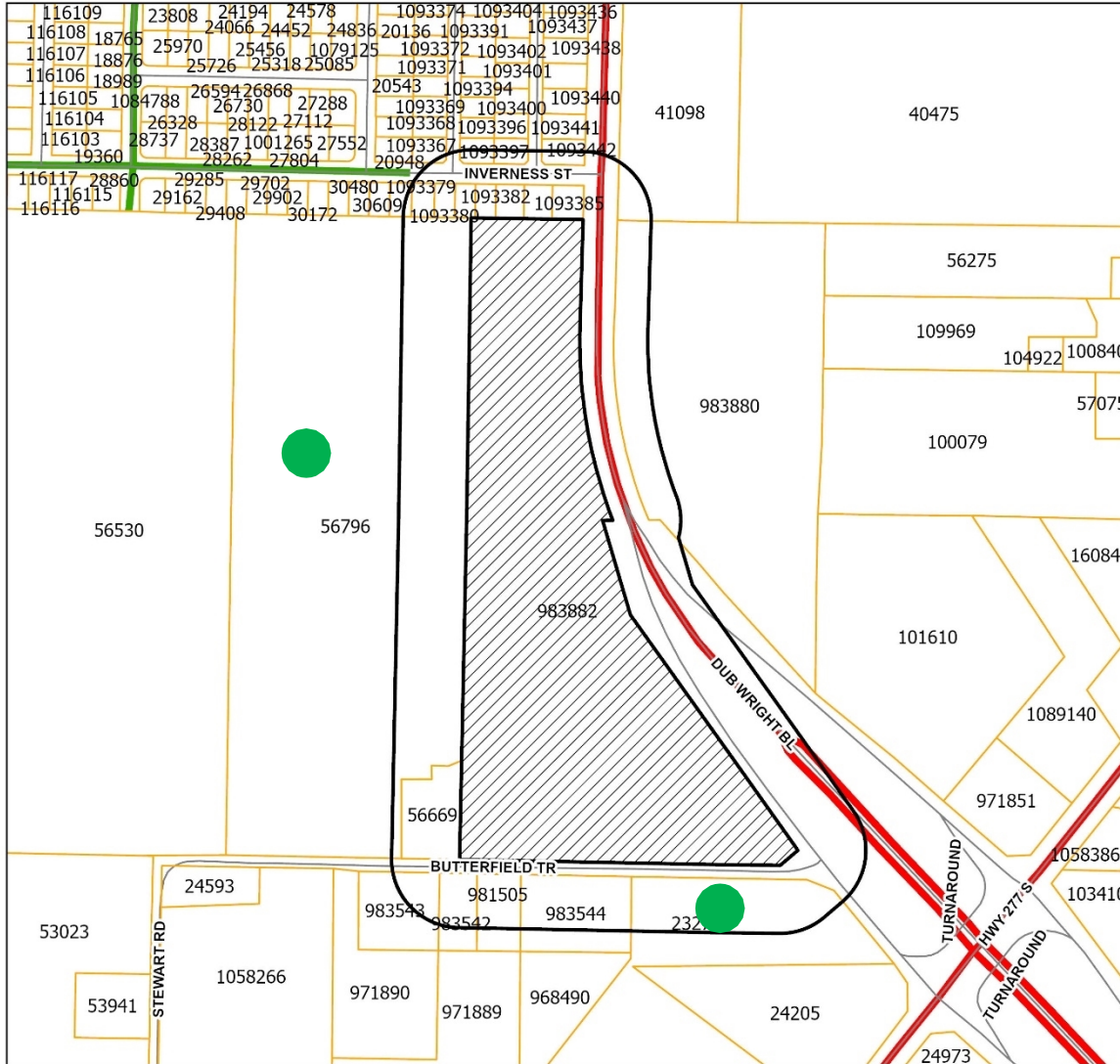
LEGEND

- P 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



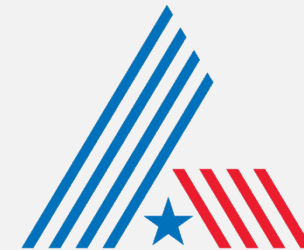
Legend

- Z-2025-03
- Z202503_Buffer
- Courier Parcels
- Arterial
- Collector

2 - in Favor - ●

0 - in Opposition - ●

% OPPOSITION



CITY OF
ABILENE
TEXAS

0.07

Miles



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: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **34. 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 - 31 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 (Tim Littlejohn)

GENERAL INFORMATION

Lancium Abilene, LLC has requested that its property be annexed into the city limits of Abilene. The property is described as:

(1) 15.00 acres of land out of Section 55, Block 16, T & P RR. Co. Surveys, Taylor County, Texas, said 15.00 acres being part of a 31.0 acre tract conveyed to Julian Agapito Garza, III, in Document No. 202001334, Official Public Records, Taylor County, Texas and being all of that same 15.00 acre tract conveyed to Texas Diesel Tuning, LLC, in Document No. 2023-08639, Official Public Records, Taylor County, Texas; and

(2) 16.00 acres of land out of Section 55, Block 16, T & P RR. Co. Surveys, Taylor County, Texas, said 16.00 acres being part of a 31.0 acre tract conveyed to Julian Agapito Garza, III, in Document No. 202001334, Official Public Records, Taylor County, Texas and being all of that same 16.00 acre tract conveyed to Brianna Elizabeth Valenzuela and spouse, Nathan Valenzuela, in Document No. 2023-08937, Official Public Records, Taylor County, Texas.

SPECIAL CONSIDERATIONS

Chapter 43 of the Texas Local Government Code and Section 4 of the Charter of the City of

Abilene provides that the City shall have the power, by ordinance, to fix and change the boundaries and limits of the City and to provide for the extension of additional territory lying adjacent and continuous to the City, with the consent of the owner of the territory annexed. The City of Abilene seeks to annex property owned by Lancium Abilene, LLC, generally described as 31 acres located in Taylor county.

Pursuant to Texas Local Government Code Section 43.016, if applicable, the City has made offers of a development agreement for agricultural, wildlife management or timber land, and the offer has been rejected by the owner. The procedures prescribed by the Charter of the City of Abilene and Texas law are being duly followed with respect to the real property.

Public notice of the public hearing has been posted as required by law.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the annexation of approximately 31 acres of property owned by Lancium Abilene, LLC.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. Annexation Ordinance
2. Exhibit A
3. Exhibit B
4. Municipal Services Agreement_250205_134524 (1)
5. Presentation.Annexation.31 Acres

ORDINANCE NO. _____

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 LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE. AND GRANTING TO ALL THE INHABITANTS OF THE TERRITORY, ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING THE INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF THE CITY OF ABILENE; AND ADOPTING A SERVICE PLAN AGREEMENT

WHEREAS, Chapter 43 of the Texas Local Government Code and Section 4 of the Charter of the City of Abilene, provides that the City shall have the power, by ordinance, to fix and change the boundaries and limits of the City and to provide for the extension of additional territory lying adjacent and contiguous to the City, with the consent of the owner of the territory annexed;

WHEREAS, the property owner of approximately 31 acres of property, being a 15-acre tract and a 16-acre tract, filed a request for annexation with the City of Abilene;

WHEREAS, pursuant to Texas Local Government Code Section 43.016, if applicable, the City has made offer of a development agreement for agricultural, wildlife management or timber land, and that offer has been rejected by the property owner;

WHEREAS, the procedures prescribed by the Charter of the City of Abilene, and Texas law have been duly followed with respect to the following described territory, to wit:

Exhibit "A" and "B", incorporated and made part of this Ordinance for all purposes.

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

PART 1. That the territory set out on Exhibit "A" and "B" attached hereto and made part of this Ordinance for all purposes, lying adjacent and contiguous to the present boundaries of the

City of Abilene, Texas, is hereby added and annexed to the City of Abilene, Texas, and said territory described in Exhibit “A” and “B” shall be included within the boundary limits of the City of Abilene and the present boundary limits of the City of Abilene, at various points contiguous to the area described in Exhibit “A” and “B” are altered and amended so as to include the area within the corporate limits of the City of Abilene, Texas.

PART 2. That upon final passage hereof, the annexed territory shall be a part of the City of Abilene, Texas, and shall be Zoned AO, and the property situated therein shall bear its pro rata portion of the taxes levied by the City of Abilene, and the inhabitants thereof shall be entitled to all of the rights and privileges of all the citizens of the City of Abilene and shall be bound by the acts, resolutions and regulations of the City of Abilene.

PART 3. The Annexation Services Agreement for the annexed territory, attached as Exhibit “C” is hereby approved as a part of this ordinance.

PASSED ON FIRST READING the 27th day of February, 2025.

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 2nd day of March, 2025, the same being on or after the 20th day but before the 10th day before the public hearing being held in the Council Chamber of City Hall in Abilene, Texas, on the 13th day of March, 2025, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 13th day of March, 2025.

ATTEST:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

FIELD NOTES

15.00 ACRE

BEING 15.00 acres of land out of Section 55, Block 16, T & P RR. Co. Surveys, Taylor County, Texas, said 15.00 acres being part of a 31.0 acre tract conveyed to Julian Agapito Garza, III, in Document No. 202001334, Official Public Records, Taylor County, Texas and being all of that same 15.00 acre tract conveyed to Texas Diesel Tuning, LLC, in Document No. 2023-08639, Official Public Records, Taylor County, Texas, said 15.00 acres being more particularly described as follows:

BEGINNING at a mag nail found in Spinks Road at the southwest corner of said 31.00 acre tract, for the southwest corner of this tract, whence a recovered 3/8" rebar for reference on the southwest side of Spinks Road bears S67°22'W 13.5 feet and from said mag nail set, a 3" wood post on the northeast side of said Spinks Road bears N37°27'E 35.0 feet;

THENCE N12°27'00"W 795.49 feet, along said Spinks Road and with the west line of said 31.0 acre tract, to a mag nail found at the northwest corner of said 31.0 acre tract and a southwest corner of a called 191.18 acre tract of record in Document No. 2021-25949, Official Public Records, Taylor County, Texas, for the northwest corner of this tract, whence a recovered 3/8" rebar for reference on the east side of said Spinks Road bears S89°11'01"E 18.9 feet;

THENCE S89°11'01"E 932.69 feet, with the north line of said 31.0 acre tract and a south line of said 191.18 acre tract, to a 3/8" rebar found at the northwest corner of a called 16.00 acre tract, recorded in Document No. 2023-08639, Official Public Records, Taylor County, Texas, for the northeast corner of this tract;

THENCE S00°21'54"W 774.84 feet to a mag nail found in said Spinks Road on the south line of said 31.0 acre tract, at the southwest corner of said 16.00 acre tract, for the southeast corner of this tract, whence a 3/8" rebar found for reference on the north side of Spinks Road bears N00°21'54"E 30.0 feet;

THENCE N89°08'31"W 756.25 feet, with the south line of said 31.0 acre tract and along said Spinks Road, to the place of beginning and containing 15.00 acres of land.

Surveyed on the ground September 4, 2024.

Geotex Property Solutions
4701 S. 3rd Street
Abilene, Texas 79605
(325) 677-6712
File # 202-11-24-15.00c
Firm Registration No. 10194134

James L. Williams Jr
R. P. L. S. #4885

EXHIBIT B

FIELD NOTES

16.00 ACRE

BEING 16.00 acres of land out of Section 55, Block 16, T & P RR. Co. Surveys, Taylor County, Texas, said 16.00 acres being part of a 31.0 acre tract conveyed to Julian Agapito Garza, III, in Document No. 202001334, Official Public Records, Taylor County, Texas and being all of that same 16.00 acre tract conveyed to Brianna Elizabeth Valenzuela and spouse, Nathan Valenzuela, in Document No. 2023-08937, Official Public Records, Taylor County, Texas said 16.00 acres being more particularly described as follows:

BEGINNING at a mag nail found in Spinks Road on the south line of said 31.00 acre tract, at the southeast corner of a called 15.00 acre tract, recorded in Document No. 202001334, Official Public Records, Taylor County, Texas, for the southwest corner of this tract, whence a 3/8" rebar found for reference on the north side of Spinks Road bears N00°21'54"E 30.0 feet and from said mag nail found, another mag nail found at the southwest corner of said 31.00 acre tract bears N89°08'31"W 756.25 feet;

THENCE N00°21'54"E 774.84 feet to a 3/8" rebar found on the north line of said 31.0 acre tract and a south line of a called 191.18 acre tract of record in Document No. 2021-25949, Official Public Records, Taylor County, Texas, at the northeast corner of said 15.00 acre tract, for the northwest corner of this tract;

THENCE S89°11'01"E 898.75 feet, with the north line of said 31.0 acre tract and a south line of said 191.18 acre tract, to a 3/8" rebar found at the northeast corner of said 31.0 acre tract and an interior corner of said 191.18 acre tract, for the northeast corner of this tract;

THENCE S00°21'54"W 775.49 feet, with the east line of said 31.0 acre tract and a west line of said 191.18 acre tract, to a mag nail found in said Spinks Road at the southeast corner of said 31.0 acre tract and an exterior corner of said 191.18 acre tract, for the southeast corner of this tract, whence a 3/8" rebar found for reference on the north side of Spinks Road bears N00°21'54"E 30.0 feet;

THENCE N89°08'31"W 898.75 feet, with the south line of said 31.0 acre tract and along said Spinks Road, to the place of beginning and containing 16.00 acres of land.

Surveyed on the ground September 4, 2024.

Geotex Property Solutions
4701 S. 3rd Street
Abilene, Texas 79605
(325) 677-6712
File # 202-26-23-16.00c
Firm Registration No. 10194134

James L. Williams Jr.
R. P. L. S. #4885

**MUNICIPAL SERVICES AGREEMENT BETWEEN THE
CITY OF ABILENE, AND LANCIUM ABILENE, LLC**

This Municipal Services Agreement ("Agreement") is entered into on this the 5th day of February, 2025, by and between the City of Abilene, Texas, a home rule municipality of the State of Texas, ("City") and Lancium Abilene, LLC ("Owners").

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement;

WHEREAS, Section 43.0671 of the Local Government Code permits the City to annex an area if each owner in the area requests annexation;

WHEREAS, the City elects to annex such area, the City is required to enter into a written agreement with the property owners that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owners own two parcels of land situated in Taylor County, Texas, which consist of approximately 31 acres of land in the City's extraterritorial jurisdiction, such Property being more particularly described as set forth in Exhibit A and B, attached and incorporated herein by reference ("Property");

WHEREAS, Owners have filed a written request with the City for full-purpose annexation of the Property, identified as a petition for annexation dated January 28, 2025;

WHEREAS, City and Owners desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the City Council; and

NOW THEREFORE, in exchange for mutual covenants, conditions and promises contained herein, the City and Owners agree as follows:

1. PROPERTY

This Agreement is applicable to the Property described in Exhibit A and B.

2. INTENT

It is the intent of the City that this Agreement provide for the delivery of full available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. MUNICIPAL SERVICES

- a. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, "providing services"

includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations and policies.

i. Fire – The City's Fire Department will provide emergency and fire protection services.

ii. Police – The City's Police Department will provide protection and law enforcement services.

iii. Emergency Medical Services – The City's Fire Department and Metrocare (or other entity holding a certificate of convenience and necessity) will provide emergency medical services.

iv. Planning, Zoning and Building – The City's Planning and Development Services Department will provide comprehensive planning, land development, land use and building inspection services in accordance with all applicable ordinances, laws, rules and regulations.

v. Publicly Owned Parks, Facilities and Buildings.

1. Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities, (including community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City.

2. In the event the City acquires any other parks, facilities or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.

vi. Stormwater Utility Services – The Property will be included in the City's Stormwater Utility service area and will be assessed a monthly fee. The fees will cover the direct and indirect costs of stormwater management services.

vii. Streets – The City's Public Works Department will maintain the public streets and streetlights over which the City has jurisdiction. The City will provide regulatory signage services in accordance with City policies and procedures and applicable laws.

viii. Water and Wastewater

New homes and structures will be required to connect to the City's water and sewer system at the owner's expense. Once connected to the City's water and sanitary sewer mains, the water and sanitary sewer service will be provided by the City at rates established by the City Council.

ix. Solid Waste Services – The City will provide solid waste collection services in accordance with existing City ordinances and policies, except where prohibited by law.

x. Code Enforcement – The City's Code Compliance Division will provide education, enforcement, and abatement of code violations within the Property.

b. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement.

c. Owners understand and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes applicable divisions and any subsequent City departments that will provide the same or similar services.

5. AUTHORITY

City and Owners represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owners acknowledge that approval of this Annexation is within its sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.

6. SEVERABILITY

If any part, term or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such holding will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision was never part of the Agreement.

7. INTERPRETATION

The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in negotiation and drafting of this Agreement.

8. 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.

9. NO WAIVER

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

10. GOVERNMENTAL POWERS

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

11. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and shall constitute one instrument.

12. SECTIONS AND OTHER HEADINGS

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

12. AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND

This Agreement is binding on and inures to the benefit of both parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owners.

13. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between the parties. This Agreement shall not be amended unless executed in writing by both parties.

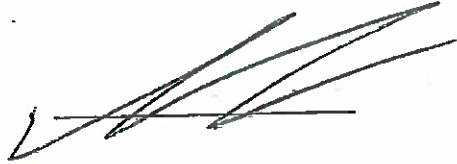
(remainder of page intentionally left blank)

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the date written above, which shall be the effective date of annexation of the Property.

OWNER

Lancium Abilene, LLC

Michael McNamara, CEO
By: Date 2/4/25



THE STATE OF TEXAS
COUNTY OF TAYLOR

This instrument was acknowledged before me on the 4th day of February, 2025, by Michael McNamara, TITLE, on behalf of Lancium Abilene, LLC.



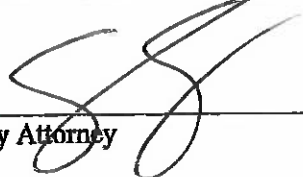

Notary Public, State of Texas

CITY OF ABILENE

Robert Hanna
Robert Hanna, City Manager

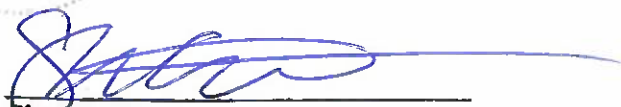
2/5/2025
Date

APPROVED AS TO FORM:


City Attorney



ATTEST:



City Secretary

This instrument was acknowledged before me on the 5th day of February, 2025, by
Robert Hanna City, Manager.



Notary Public, State of Texas

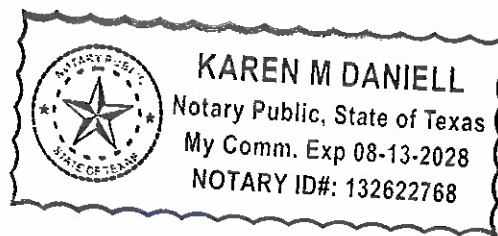


EXHIBIT A

FIELD NOTES

15.00 ACRE

BEING 15.00 acres of land out of Section 55, Block 16, T & P RR. Co. Surveys, Taylor County, Texas, said 15.00 acres being part of a 31.0 acre tract conveyed to Julian Agapito Garza, III, in Document No. 202001334, Official Public Records, Taylor County, Texas and being all of that same 15.00 acre tract conveyed to Texas Diesel Tuning, LLC, in Document No. 2023-08639, Official Public Records, Taylor County, Texas, said 15.00 acres being more particularly described as follows:

BEGINNING at a mag nail found in Spinks Road at the southwest corner of said 31.00 acre tract, for the southwest corner of this tract, whence a recovered 3/8" rebar for reference on the southwest side of Spinks Road bears S67°22'W 13.5 feet and from said mag nail set, a 3" wood post on the northeast side of said Spinks Road bears N37°27'E 35.0 feet;

THENCE N12°27'00"W 795.49 feet, along said Spinks Road and with the west line of said 31.0 acre tract, to a mag nail found at the northwest corner of said 31.0 acre tract and a southwest corner of a called 191.18 acre tract of record in Document No. 2021-25949, Official Public Records, Taylor County, Texas, for the northwest corner of this tract, whence a recovered 3/8" rebar for reference on the east side of said Spinks Road bears S89°11'01"E 18.9 feet;

THENCE S89°11'01"E 932.69 feet, with the north line of said 31.0 acre tract and a south line of said 191.18 acre tract, to a 3/8" rebar found at the northwest corner of a called 16.00 acre tract, recorded in Document No. 2023-08639, Official Public Records, Taylor County, Texas, for the northeast corner of this tract;

THENCE S00°21'54"W 774.84 feet to a mag nail found in said Spinks Road on the south line of said 31.0 acre tract, at the southwest corner of said 16.00 acre tract, for the southeast corner of this tract, whence a 3/8" rebar found for reference on the north side of Spinks Road bears N00°21'54"E 30.0 feet;

THENCE N89°08'31"W 756.25 feet, with the south line of said 31.0 acre tract and along said Spinks Road, to the place of beginning and containing 15.00 acres of land.

Surveyed on the ground September 4, 2024.

Geotex Property Solutions
4701 S. 3rd Street
Abilene, Texas 79605
(325) 677-6712
File # 202-11-24-15.00c
Firm Registration No. 10194134

James L. Williams Jr
R. P. L. S. #4885

EXHIBIT B

FIELD NOTES

16.00 ACRE

BEING 16.00 acres of land out of Section 55, Block 16, T & P RR. Co. Surveys, Taylor County, Texas, said 16.00 acres being part of a 31.0 acre tract conveyed to Julian Agapito Garza, III, in Document No. 202001334, Official Public Records, Taylor County, Texas and being all of that same 16.00 acre tract conveyed to Brianna Elizabeth Valenzuela and spouse, Nathan Valenzuela, in Document No. 2023-08937, Official Public Records, Taylor County, Texas said 16.00 acres being more particularly described as follows:

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THENCE S89°11'01"E 898.75 feet, with the north line of said 31.0 acre tract and a south line of said 191.18 acre tract, to a 3/8" rebar found at the northeast corner of said 31.0 acre tract and an interior corner of said 191.18 acre tract, for the northeast corner of this tract;

THENCE S00°21'54"W 775.49 feet, with the east line of said 31.0 acre tract and a west line of said 191.18 acre tract, to a mag nail found in said Spinks Road at the southeast corner of said 31.0 acre tract and an exterior corner of said 191.18 acre tract, for the southeast corner of this tract, whence a 3/8" rebar found for reference on the north side of Spinks Road bears N00°21'54"E 30.0 feet;

THENCE N89°08'31"W 898.75 feet, with the south line of said 31.0 acre tract and along said Spinks Road, to the place of beginning and containing 16.00 acres of land.

Surveyed on the ground September 4, 2024.

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4701 S. 3rd Street
Abilene, Texas 79605
(325) 677-6712
File # 202-26-23-16.00c
Firm Registration No. 10194134

James L. Williams Jr.
R. P. L. S. #4885

Annexation of approximately 31 Acres into the City Limits of the City of Abilene, Texas

Tim Littlejohn





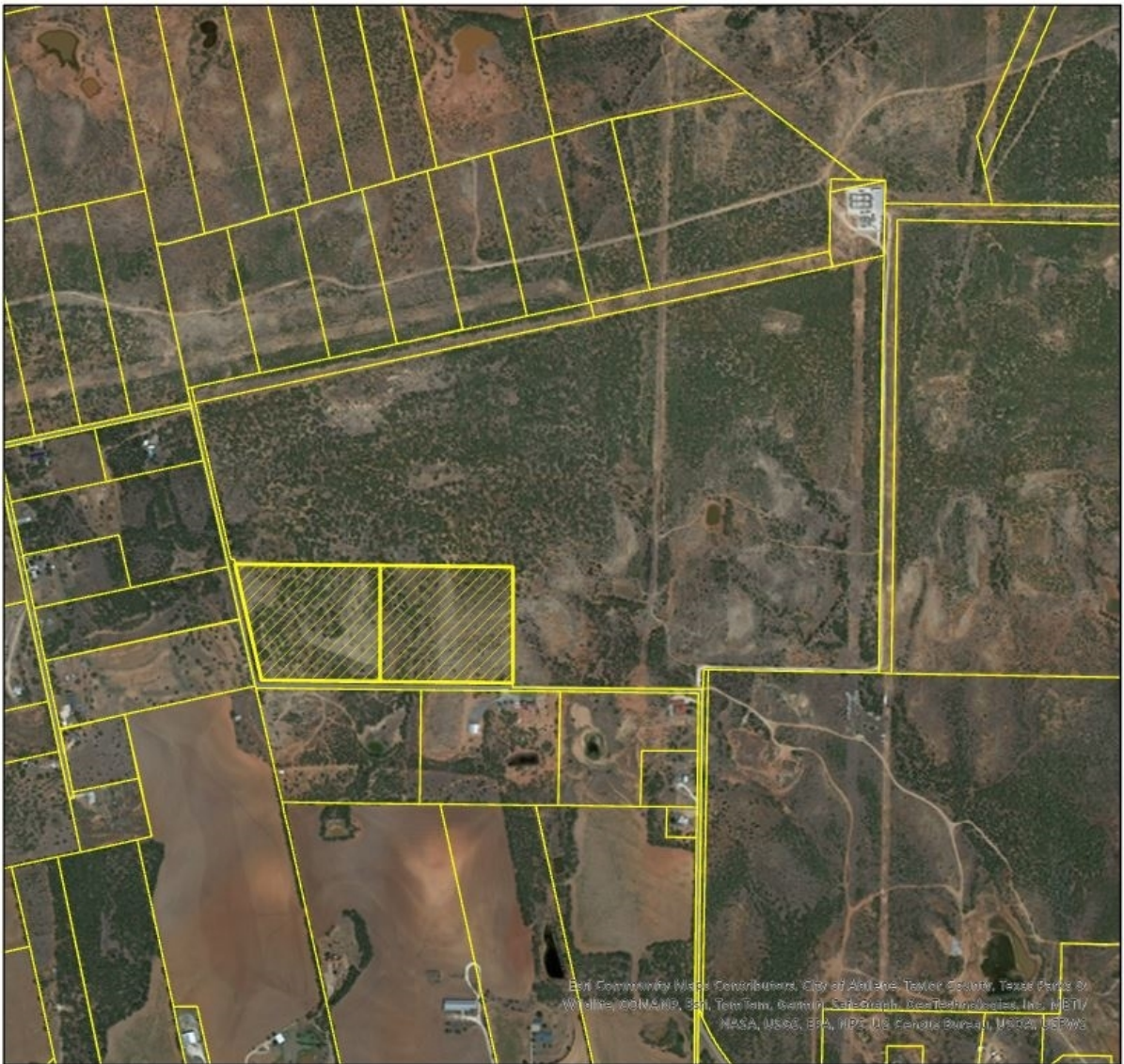
Annexation of approximately 31 Acres into the City Limits of the City of Abilene, Texas

- Lancium Abilene, LLC desires that property they own, described as a 31 acre tract, be annexed into the city limits of the City of Abilene
- Pursuant to Texas Local Government Code Section 43.016, if applicable, the City has made offers of a development agreement for agricultural, wildlife management or timber land, and the offers have been rejected by the property owner.
- The procedures prescribed by the Charter of the City of Abilene and Texas law are being duly followed.
- The annexed territory shall be a part of the City of Abilene, Texas, and shall be Zoned AO
- Staff supports the Annexation Request.





Annexation of approximately 31 Acres into the City Limits of the City of Abilene, Texas



0.15
Miles





Annexation of approximately 31 Acres into the City Limits of the City of Abilene, Texas

QUESTIONS ?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **35. 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 - 28.58 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 (Tim Littlejohn)

GENERAL INFORMATION

Lancium Abilene, LLC has requested that its property be annexed into the city limits of Abilene. The property is described as:

TRACT ONE. Being 14.29 acres out of Section 54, Block 16, T. & P. RR. Company Surveys, Abstract No. 1143, Taylor County, Texas and the Alexander Thompson Survey No. 20, Abstract No. 1415, Taylor County, Texas, said 14.29 acres being part of a 1042.26 acre tract described as Tract One in Instrument Number 201916436, Official Public Records, Taylor County, Texas and being all of that same 14.29 acre tract described in Instrument No. 202008951, Official Public Records, Taylor County, Texas.

TRACT TWO. Being 14.29 acres out of Section 54, Block 16, T. & P. RR. Company Surveys, Taylor County, Texas and the Alexander Thompson Survey No. 20, Taylor County, Texas, said 14.29 acres being part of a 1042.26 acre tract described as Tract One in Instrument Number 201916436, Official Public Records, Taylor County, Texas and being that same 14.29 acre tract described in Instrument No. 202013330, Official Public Records, Taylor County, Texas.

SPECIAL CONSIDERATIONS

Chapter 43 of the Texas Local Government Code and Section 4 of the Charter of the City of Abilene provides that the City shall have the power, by ordinance, to fix and change the boundaries and limits of the City and to provide for the extension of additional territory lying adjacent and continuous to the City, with the consent of the owner of the territory annexed. The City of Abilene seeks to annex property owned by Lancium Abilene, LLC, generally described as 31 acres located in Taylor county.

Pursuant to Texas Local Government Code Section 43.016, if applicable, the City has made offers of a development agreement for agricultural, wildlife management or timber land, and the offer has been rejected by the owner. The procedures prescribed by the Charter of the City of Abilene and Texas law are being duly followed with respect to the real property.

Public notice of the public hearing has been posted as required by law.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of annexation of 28.58 acres of property owned by Lancium Abilene, LLC.

BOARD OR COMMISSION RECOMMENDATION

n/a

ATTACHMENTS:

1. Annexation Ordinance
2. EXHIBIT A
3. EXHIBIT B
4. 2025-02-13 - Lancium - Municipal Services Agreement
5. Presentation - 28.58 Acres

ORDINANCE NO. _____

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 LYING ADJACENT AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF ABILENE. AND GRANTING TO ALL THE INHABITANTS OF THE TERRITORY, ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING THE INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF THE CITY OF ABILENE; AND ADOPTING A SERVICE PLAN AGREEMENT

WHEREAS, Chapter 43 of the Texas Local Government Code and Section 4 of the Charter of the City of Abilene, provides that the City shall have the power, by ordinance, to fix and change the boundaries and limits of the City and to provide for the extension of additional territory lying adjacent and contiguous to the City, with the consent of the owner of the territory annexed;

WHEREAS, the property owner of approximately 28.58 acres of property, being a 14.29-acre tract and another 14.29-acre tract, filed a request for annexation with the City of Abilene;

WHEREAS, pursuant to Texas Local Government Code Section 43.016, if applicable, the City has made offer of a development agreement for agricultural, wildlife management or timber land, and that offer has been rejected by the property owner;

WHEREAS, the procedures prescribed by the Charter of the City of Abilene, and Texas law have been duly followed with respect to the following described territory, to wit:

Exhibit "A" and "B", incorporated and made part of this Ordinance for all purposes.

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

PART 1. That the territory set out on Exhibit "A" and "B" attached hereto and made part of this Ordinance for all purposes, lying adjacent and contiguous to the present boundaries of the

City of Abilene, Texas, is hereby added and annexed to the City of Abilene, Texas, and said territory described in Exhibit “A” and “B” shall be included within the boundary limits of the City of Abilene and the present boundary limits of the City of Abilene, at various points contiguous to the area described in Exhibit “A” and “B” are altered and amended so as to include the area within the corporate limits of the City of Abilene, Texas.

PART 2. That upon final passage hereof, the annexed territory shall be a part of the City of Abilene, Texas, and shall be Zoned AO, and the property situated therein shall bear its pro rata portion of the taxes levied by the City of Abilene, and the inhabitants thereof shall be entitled to all of the rights and privileges of all the citizens of the City of Abilene and shall be bound by the acts, resolutions and regulations of the City of Abilene.

PART 3. The Annexation Services Agreement for the annexed territory, attached as Exhibit “C” is hereby approved as a part of this ordinance.

PASSED ON FIRST READING the 27th day of February, 2025.

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 2nd day of March, 2025, the same being on or after the 20th day but before the 10th day before the public hearing being held in the Council Chamber of City Hall in Abilene, Texas, on the 13th day of March, 2025, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 13th day of March, 2025.

ATTEST:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

TRACT ONE. Being 14.29 acres out of Section 54, Block 16, T. & P. RR. Company Surveys, Abstract No. 1143, Taylor County, Texas and the Alexander Thompson Survey No. 20, Abstract No. 1415, Taylor County, Texas, said 14.29 acres being part of a 1042.26 acre tract described as Tract One in Instrument Number 201916436, Official Public Records, Taylor County, Texas and being all of that same 14.29 acre tract described in Instrument No. 202008951, Official Public Records, Taylor County, Texas.

EXHIBIT B

TRACT TWO. Being 14.29 acres out of Section 54, Block 16, T. & P. RR. Company Surveys, Taylor County, Texas and the Alexander Thompson Survey No. 20, Taylor County, Texas, said 14.29 acres being part of a 1042.26 acre tract described as Tract One in Instrument Number 201916436, Official Public Records, Taylor County, Texas and being that same 14.29 acre tract described in Instrument No. 202013330, Official Public Records, Taylor County, Texas.

**MUNICIPAL SERVICES AGREEMENT BETWEEN THE
CITY OF ABILENE, AND LANCIUM ABILENE, LLC**

This Municipal Services Agreement ("Agreement") is entered into on this the 13th day of February, 2025, by and between the City of Abilene, Texas, a home rule municipality of the State of Texas, ("City") and Lancium Abilene, LLC ("Owners").

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement;

WHEREAS, Section 43.0671 of the Local Government Code permits the City to annex an area if each owner in the area requests annexation;

WHEREAS, the City elects to annex such area, the City is required to enter into a written agreement with the property owners that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owners own two parcels of land situated in Taylor County, Texas, which consist of approximately 28.58 acres of land in the City's extraterritorial jurisdiction, such Property being more particularly described as set forth in Exhibit A, attached and incorporated herein by reference ("Property");

WHEREAS, Owners have filed a request with the City for full-purpose annexation of the Property, identified as a petition for annexation on February 3, 2025;

WHEREAS, City and Owners desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the City Council; and

NOW THEREFORE, in exchange for mutual covenants, conditions and promises contained herein, the City and Owners agree as follows:

1. PROPERTY

This Agreement is applicable to the Property described in Exhibit A.

2. INTENT

It is the intent of the City that this Agreement provide for the delivery of full available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. MUNICIPAL SERVICES

- a. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, "providing services"

includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations and policies.

i. Fire – The City's Fire Department will provide emergency and fire protection services.

ii. Police – The City's Police Department will provide protection and law enforcement services.

iii. Emergency Medical Services – The City's Fire Department and Metrocare (or other entity holding a certificate of convenience and necessity) will provide emergency medical services.

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1. Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities, (including community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City.

2. In the event the City acquires any other parks, facilities or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.

vi. Stormwater Utility Services – The Property will be included in the City's Stormwater Utility service area and will be assessed a monthly fee. The fees will cover the direct and indirect costs of stormwater management services.

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b. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement.

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5. AUTHORITY

City and Owners represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owners acknowledge that approval of this Annexation is within its sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.

6. SEVERABILITY

If any part, term or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such holding will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision was never part of the Agreement.

7. INTERPRETATION

The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in negotiation and drafting of this Agreement.

8. 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.

9. NO WAIVER

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

10. GOVERNMENTAL POWERS

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

11. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and shall constitute one instrument.

12. SECTIONS AND OTHER HEADINGS

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

12. AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND

This Agreement is binding on and inures to the benefit of both parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owners.

13. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between the parties. This Agreement shall not be amended unless executed in writing by both parties.

(remainder of page intentionally left blank)

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the date written above, which shall be the effective date of annexation of the Property.

OWNER

Lancium Abilene, LLC

Jennifer Kennedy 2/13/25
By: _____ Date

Jennifer Kennedy
Tax Director

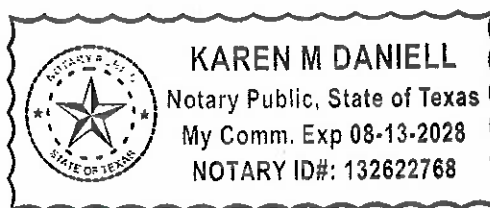
THE STATE OF TEXAS

COUNTY OF TAYLOR

This instrument was acknowledged before me on the 13th day of February, 2025, by Jennifer Kennedy, Tax Director (Title), on behalf of Lancium Abilene, LLC.

Karen M. Daniell
Notary Public, State of Texas

CITY OF ABILENE



Mindy Patterson
Robert Hanna, City Manager
Mindy Patterson, Deputy City Manager

2/7/25
Date

APPROVED AS TO FORM:

[Signature]
City Attorney

ATTEST:


City Secretary

This instrument was acknowledged before me on the 7th day of February, 2025, by Mindy Patterson Deputy, City Manager.


Notary Public, State of Texas

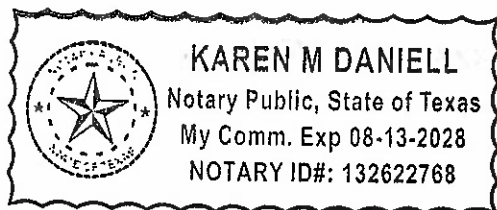


EXHIBIT A

TRACT ONE. Being 14.29 acres out of Section 54, Block 16, T. & P. RR. Company Surveys, Abstract No. 1143, Taylor County, Texas and the Alexander Thompson Survey No. 20, Abstract No. 1415, Taylor County, Texas, said 14.29 acres being part of a 1042.26 acre tract described as Tract One in Instrument Number 201916436, Official Public Records, Taylor County, Texas and being all of that same 14.29 acre tract described in Instrument No. 202008951, Official Public Records, Taylor County, Texas.

TRACT TWO. Being 14.29 acres out of Section 54, Block 16, T. & P. RR. Company Surveys, Taylor County, Texas and the Alexander Thompson Survey No. 20, Taylor County, Texas, said 14.29 acres being part of a 1042.26 acre tract described as Tract One in Instrument Number 201916436, Official Public Records, Taylor County, Texas and being that same 14.29 acre tract described in Instrument No. 202013330, Official Public Records, Taylor County, Texas.

Annexation of approximately 28.58 Acres into the City Limits of the City of Abilene, Texas

Tim Littlejohn





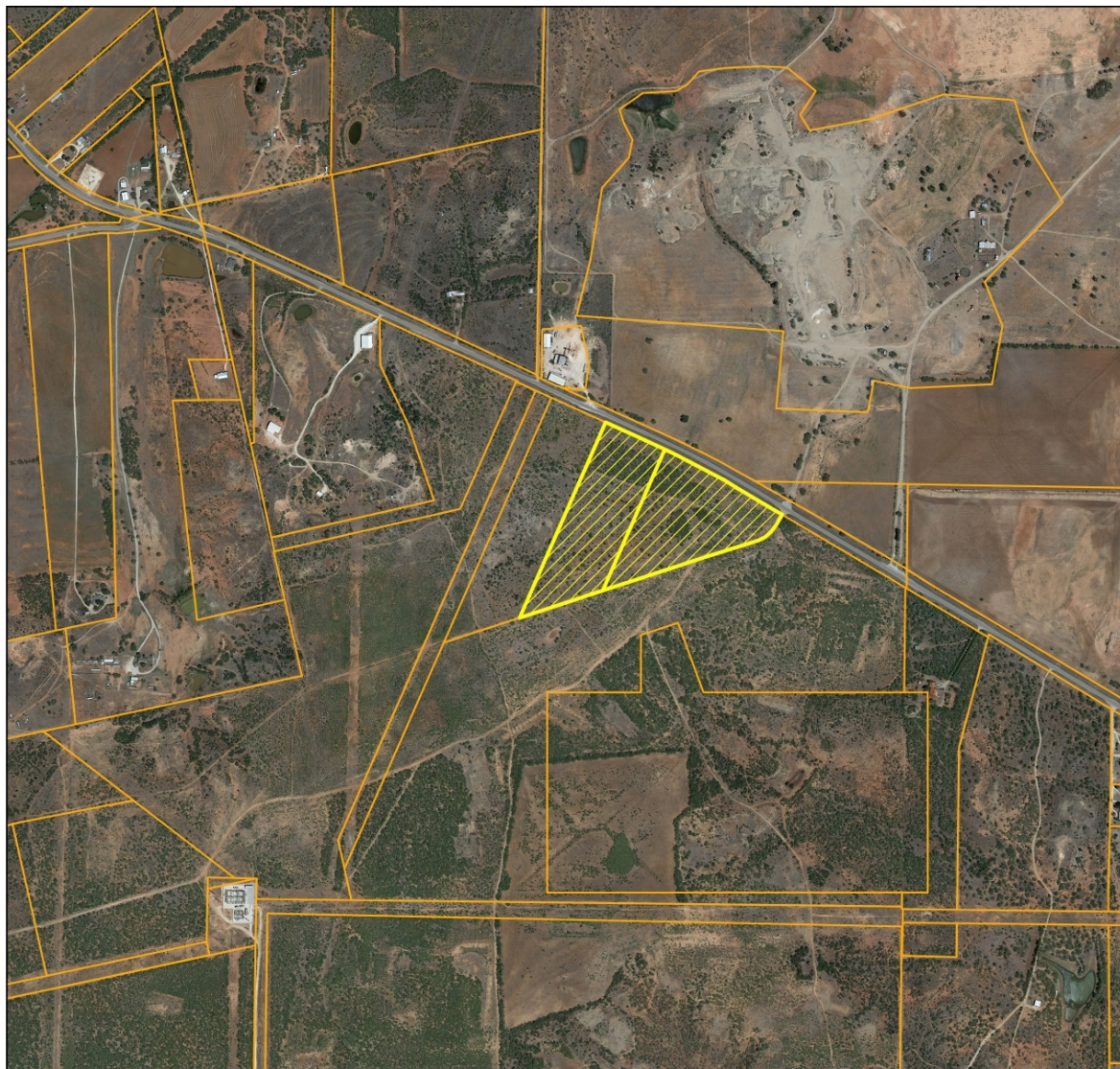
Annexation of approximately 28.58 Acres into the City Limits of the City of Abilene, Texas

- Lancium Abilene, LLC desires that property they own, described as a 28.58 acre tract, be annexed into the city limits of the City of Abilene.
- Pursuant to Texas Local Government Code Section 43.016, if applicable, the City has made offers of a development agreement for agricultural, wildlife management or timber land, and the offers have been rejected by the property owner.
- The procedures prescribed by the Charter of the City of Abilene and Texas law are being duly followed.
- The annexed territory shall be a part of the City of Abilene, Texas, and shall be Zoned AO.
- Staff supports the Annexation Request.





Annexation of approximately 28.58 Acres into the City Limits of the City of Abilene, Texas

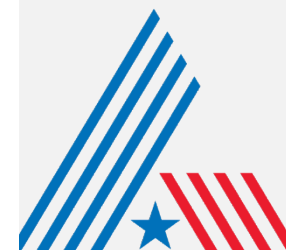


Legend

-  Proposed Annexation
-  Courier Parcels

0.15

 Miles



CITY OF
ABILENE
TEXAS



Annexation of approximately 28.58 Acres into the City Limits of the City of Abilene, Texas

QUESTIONS ?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 36. Presentation: Receive a Report and Hold a Discussion and Public Hearing and Provide Direction on Homeless Initiatives (*Max Johnson*)

GENERAL INFORMATION

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WTHN - City of Abilene 1.30.25
2. Homeless Initiative Presentation (version 3 - 3-7-2025)



West Texas Homeless Network - www.wthnetwork.org
Proposal: Investing in Solutions to Homelessness in Abilene
January 30, 2025

Introduction

The West Texas Homeless Network (WTHN) invites the City of Abilene to join us in creating sustainable solutions for homelessness in our community. To effectively address the needs of our neighbors experiencing homelessness and those at risk, we seek financial support to fund two critical full-time positions: the **WTHN Director** and a **Community Housing Navigator**. These roles are essential for maintaining the network's stability, expanding its impact, and ensuring the continued success of Abilene's efforts to make homelessness rare, brief, and nonrecurring.

Funding Request

- **Amount Requested:** \$200,000
- **Fund Recipient:** Betty Hardwick Center or Community Foundation of Abilene
- **Use of Funds:** Salaries and benefits for two full-time professional positions:
 - **WTHN Director:** A leader for the HUD-required Local Homeless Coalition (LHC), called the West Texas Homeless Network (position previously known as a coordinator).
 - **Community Housing Navigator:** A neutral housing specialist assisting multiple service providers in connecting individuals to stable housing.
- **Funding Terms:** Annual support through the City of Abilene's budget.

Key Benefits to the City of Abilene

1. **Leverages Additional Funding:** City funds can serve as the required "community match" for HUD housing grants, maximizing Abilene's access to federal funding.
2. **Enhances Coordination and Efficiency:** Dedicated leadership will ensure resources are effectively deployed, reducing redundancy and increasing impact.
3. **Improves Communication:** Information and data trends will be regularly shared with City representatives, impacting local policy work, program developments, and other systemic issues.
4. **Creates Sustainability and Commitment:** Consistency in funding creates commitment and ensures long-term community progress.

Position 1: WTHN Director (Previously known as a coordinator; Currently Unfilled)

Essential Duties:

- Strengthen WTHN’s capacity through partnership development and technical assistance.
- Oversee community data collection, analyze trends, and coordinate responses.
- Ensure compliance with HUD funding requirements and Coordinated Entry guidelines.
- Organize and facilitate WTHN activities, including meetings, trainings, and events.

Urgency: Funding for the WTHN coordinator ended on December 31, 2024. A temporary private donation will support a part-time administrative assistant (10 hours/week), but a full-time leadership role remains unfunded.

Position 2: Community Housing Navigator (Newly created position; Currently Unfilled)

Essential Duties:

- Improve housing placement and retention rates by assisting multiple housing providers.
- Build relationships with landlords, expand affordable housing stock, and provide community training.
- Support individuals in navigating housing applications, referrals, and voucher programs.

Urgency: Abilene currently lacks a dedicated housing navigator serving all clients, with existing navigation limited to eligibility-restricted programs (e.g., veterans, HIV/AIDS services). One outreach worker from Hope Haven informally fills this role but is not compensated for these additional responsibilities.

Proven Models of Success

Several municipalities have successfully integrated government support into their homelessness response strategies, leading to measurable improvements:

- **[Denton, Texas](#):** Collaborative support through [Our Daily Bread](#).
- **[Burlington, Vermont](#):** County-backed [Elmwood Emergency Shelter](#) Community.
- **[Nevada County, California](#):** Public funding for [housing navigators](#) and [affordable housing developments](#).
- **[Fairfax County, Virginia](#):** A dedicated [Office to Prevent and End Homelessness](#) within the Department of Housing and Community Development.
- **[Amarillo, Texas](#):** The City of Amarillo funds a community-wide housing navigator.

WTHN seeks to replicate these successes through a strategic partnership with the City of Abilene.

Local Impact: Why This Investment Matters

By funding these two essential positions, the City of Abilene will:

1. **Demonstrate Leadership & Commitment** to ending homelessness in our community.
2. **Directly Impact Hundreds of Lives**, providing critical support to struggling individuals and families.
3. **Strengthen a Nationally Recognized Model**, reinforcing Abilene's credibility as a leader in homelessness solutions.
4. **Prevent Unnecessary Loss of Life**: In 2024, 16 individuals died while experiencing homelessness in Abilene. Each was a member of our community who could have been housed with the right resources.

We urge the City to invest in these essential roles to prevent future tragedies and build a more resilient, compassionate Abilene.

About the West Texas Homeless Network

Established in 2002, the WTHN is a coalition of organizations working to prevent and end homelessness in Abilene. Our mission is to identify systemic challenges and implement data-driven solutions. As the lead collaborative entity addressing homelessness in the region, WTHN follows the Housing First model, prioritizing permanent housing alongside wrap-around social services to support long-term stability.

WTHN operates a **Continuum of Care (CoC) model**, coordinating resources and services to streamline access to housing. A key component of this strategy is **Coordinated Entry (CE)**, which ensures that individuals experiencing homelessness are assessed, prioritized based on vulnerability, and connected to the most appropriate resources. This system is essential for communities seeking HUD funding and has been a cornerstone of Abilene's success in reducing homelessness.

Administrative Support & Funding

- The **Community Foundation of Abilene (CFA)** serves as WTHN's fiscal agent, managing revenues and expenses.
- **Funding History**: WTHN has received significant investment from **Community Solutions**, a national nonprofit supporting homeless response systems. Since 2019, Community Solutions has provided over **\$331,000** to build capacity in Abilene.
- **Previous Salary Support**: A \$150,000 grant from Community Solutions (June 2022) funded the WTHN Coordinator and two part-time assessors, administered by **Betty Hardwick Center**. These funds were fully expended in December 2024.
- **Current Funding Gap**: Without new financial support, WTHN lacks the resources to sustain these critical positions.

Growth & National Recognition

Over the past two decades, WTHN has grown from a networking group to a nationally recognized collaborative. Our data-driven approach and partnerships with organizations like **Community Solutions** and **the Texas Homeless Network** have positioned Abilene as a leader in homelessness response. See a complete breakdown of community data (by HUD-defined sub-populations) at the end of this proposal.

Key Achievements:

- **Functional Zero for Veterans (May 2019)**
- **Functional Zero for Chronic Homelessness (November 2020)**
- **National Case Studies & Media Recognition:**
 - *Next City:* [How This Texas City Ended Veteran and Chronic Homelessness](#)
 - *Planetizen:* [Abilene Declares Victory Against Veteran and Chronic Homelessness](#)
 - *Texas Tribune:* [The Invisible Homeless of Rural Texas](#)

Conclusion: A Bold Step Forward

We respectfully request the City of Abilene's investment in the WTHN Director and Community Housing Navigator roles to maintain and expand the progress our community has made. This investment will not only enhance Abilene's ability to prevent and end homelessness but will also save lives and create long-term cost savings for the City. Together, we can ensure that homelessness in Abilene remains **rare, brief, and nonrecurring**.

We look forward to collaborating with the City and welcome the opportunity to discuss this proposal further.

WTHN Executive Committee Contacts:

- Jenny Goode, Chair - jgoode@bettyhardwick.org
- Nathan Adams, Vice Chair - nathan@pioneerdrive.org
- Bridget Cloud, Secretary - bcloud@bettyhardwick.org
- Michelle Parrish, Treasurer - mparrish@cfabilene.org
- Courtney Horton, CE Point Lead, Abilene Hope Haven - chorton@abilenehh.onmicrosoft.com
- Mark Young, CE Point Lead, BCFS-HHS - my4475@bcfs.net
- John Meier, CE Point Lead and CEPE Chair, WCTRF-SSVF - jmeier@westcentraltexas.org
- Joshua McKain, CE Point Lead, Salvation Army - joshua.mckain@uss.salvationarmy.org
- Elizabeth Henry, Housing Navigation Chair - eehenry@hendrickhealth.org
- Michael Prado, Data & Outreach Co-Chair - mprado@goodwillwesttexas.org
- Jeff Scott, Data & Outreach Co-Chair - scott.jeff@mcm.edu

Veterans

Month, Year of Month	Actively Homeless Number	Housing Placements	Moved to Inactive	No Longer Meets Population Criteria	Newly Identified	Return from Housed	Return from Inactive	1 Mo Net Change	Data Reliability Score - 1 Month
December 2024	0	7	0	0	6	0	0	-1	
November 2024	1	8	0	0	3	1	2	-2	0%
October 2024	3	6	0	0	5	2	0	1	0%
September 2024	2	8	0	0	7	0	0	-1	0%
August 2024	3	2	0	0	3	1	0	2	0%
July 2024	1	7	0	0	5	1	1	0	0%
June 2024	1	3	0	0	4	0	0	1	0%
May 2024	0	5	0	0	1	0	0	-4	
April 2024	4	3	0	0	3	1	0	1	0%
March 2024	3	4	1	0	6	1	0	2	0%
February 2024	1	3	0	0	3	0	0	0	0%
January 2024	1	6	0	0	4	1	1	0	0%
December 2023	1	5	0	0	3	0	1	-1	0%
November 2023	2	5	0	0	2	1	1	-1	0%
October 2023	3	7	0	0	2	1	2	-2	0%
September 2023	5	5	0	0	5	2	1	3	0%
August 2023	2	8	0	0	5	1	1	-1	0%
July 2023	3	5	0	0	4	1	0	0	0%
June 2023	3	2	2	0	3	0	1	0	0%
May 2023	3	4	0	0	3	1	0	0	0%
April 2023	3	6	1	0	5	0	1	-1	0%
March 2023	4	1	1	0	2	0	0	0	0%
February 2023	4	4	0	0	2	0	0	-2	0%
January 2023	6	6	0	0	4	4	0	2	0%

Singles

Month, Year of Month	Actively Homeless Number	Housing Placements	Moved to Inactive	No Longer Meets Population Criteria	Newly Identified	Return from Housed	Return from Inactive	1 Mo Net Change	Data Reliability Score - 1 Month
December 2024	37	8	3	0	12	2	1	4	0%
November 2024	33	18	3	0	10	2	3	-6	0%
October 2024	39	15	4	0	13	1	1	-4	0%
September 2024	43	7	2	0	9	0	1	1	0%
August 2024	42	13	4	0	4	2	2	-9	0%
July 2024	51	10	5	0	18	1	6	10	0%
June 2024	41	2	2	0	18	0	3	17	0%
May 2024	24	5	0	0	2	0	1	-2	0%
April 2024	26	8	2	0	4	2	0	-4	0%
March 2024	30	6	6	0	8	1	0	-3	0%
February 2024	33	8	1	0	7	0	0	-2	0%
January 2024	35	5	8	0	4	1	0	-8	0%
December 2023	43	16	1	0	3	0	1	-13	0%
November 2023	56	15	8	0	7	1	1	-14	0%
October 2023	70	9	2	0	6	1	2	-2	0%
September 2023	72	8	4	0	10	2	2	2	0%
August 2023	70	12	5	0	13	1	1	-2	0%
July 2023	72	5	0	0	7	3	3	8	0%
June 2023	64	10	12	0	14	1	4	-3	0%
May 2023	67	14	9	0	11	0	0	-12	0%
April 2023	79	11	8	0	8	1	4	-6	0%
March 2023	85	7	3	0	8	0	1	-1	0%
February 2023	86	7	0	0	7	0	0	0	0%
January 2023	86	5	0	0	4	5	0	4	0%

Youth

Month, Year of Month	Actively Homeless Number	Housing Placements	Moved to Inactive	No Longer Meets Population Criteria	Newly Identified	Return from Housed	Return from Inactive	1 Mo Net Change	Data Reliability Score - 1 Month
December 2024	6	0	0	0	3	0	0	3	0%
November 2024	3	2	0	0	2	0	0	0	0%
October 2024	3	0	0	0	1	0	0	1	0%
September 2024	2	0	0	0	0	0	0	0	0%
August 2024	2	0	0	0	1	0	0	1	0%
July 2024	1	3	5	0	0	0	0	-8	0%
June 2024	9	0	1	0	1	0	0	0	0%
May 2024	9	0	0	0	0	0	0	0	0%
April 2024	9	1	0	0	0	0	0	-1	0%
March 2024	10	0	2	0	0	0	0	-2	0%
February 2024	12	3	0	0	2	0	0	-1	0%
January 2024	13	0	3	0	0	0	0	-3	0%
December 2023	16	1	0	0	1	0	0	0	0%
November 2023	16	2	2	0	1	0	0	-3	0%
October 2023	19	1	0	0	1	0	0	0	0%
September 2023	19	1	17	0	1	0	0	-17	0%
August 2023	36	1	0	0	7	0	0	6	0%
July 2023	30	0	0	0	0	0	0	0	0%
June 2023	30	1	0	0	2	0	0	1	0%
May 2023	29	0	1	0	3	0	0	2	0%
April 2023	27	0	334	0	1	0	0	-333	0%
March 2023	360	0	0	0	37	0	0	37	0%
February 2023	323	0	0	0	3	0	0	3	0%
January 2023	320	0	0	0	10	0	0	10	0%

Chronic

Month, Year of Month	Actively Homeless Number	Housing Placements	Moved to Inactive	No Longer Meets Population Criteria	Newly Identified	Return from Housed	Return from Inactive	1 Mo Net Change	Data Reliability Score - 1 Month
December 2024	9	3	1	0	4	1	1	2	0%
November 2024	7	6	2	0	1	0	0	-7	0%
October 2024	14	10	1	0	2	2	1	-6	0%
September 2024	20	4	1	0	6	0	0	1	0%
August 2024	19	2	2	0	1	0	2	-1	0%
July 2024	20	0	0	0	7	0	2	9	0%
June 2024	11	0	1	0	9	0	1	9	0%
May 2024	2	1	0	0	1	0	1	1	0%
April 2024	1	2	1	0	3	0	0	0	0%
March 2024	1	2	1	0	2	0	0	-1	0%
February 2024	2	0	1	0	2	0	0	1	0%
January 2024	1	1	0	0	1	0	0	0	0%
December 2023	1	4	0	0	2	0	1	-1	0%
November 2023	2	3	5	0	2	0	0	-6	0%
October 2023	8	2	0	0	0	1	0	-1	0%
September 2023	9	3	3	0	2	1	0	-3	0%
August 2023	12	6	2	0	3	0	0	-5	0%
July 2023	17	1	0	0	1	0	1	1	0%
June 2023	16	3	1	0	4	1	0	1	0%
May 2023	15	5	1	0	5	0	0	-1	0%
April 2023	16	4	5	0	3	0	3	-3	0%
March 2023	19	4	2	0	1	0	0	-5	0%
February 2023	24	3	0	0	3	0	0	0	0%
January 2023	24	0	0	0	2	0	0	2	0%

Families

Month, Year of Month	Actively Homeless Number	Housing Placements	Moved to Inactive	No Longer Meets Population Criteria	Newly Identified	Return from Housed	Return from Inactive	1 Mo Net Change	Data Reliability Score - 1 Month
December 2024	0	3	0	0	2	0	0	-1	
November 2024	1	2	0	0	2	0	0	0	0%
October 2024	1	8	0	0	2	1	0	-5	0%
September 2024	6	5	0	0	2	0	1	-2	0%
August 2024	8	0	0	0	3	0	0	3	0%
July 2024	5	1	0	1	2	0	0	0	0%
June 2024	5	1	0	0	4	0	0	3	0%
May 2024	2	1	0	0	1	0	0	0	0%
April 2024	2	0	0	0	0	0	0	0	0%
March 2024	2	1	0	0	1	0	0	0	0%
February 2024	2	2	0	0	3	0	0	1	0%
January 2024	1	1	0	0	0	0	2	1	0%
December 2023	0	3	1	0	2	0	0	-2	
November 2023	2	3	3	0	2	0	0	-4	0%
October 2023	6	3	0	0	2	0	0	-1	0%
September 2023	7	1	1	0	2	0	0	0	0%
August 2023	7	6	1	0	3	1	1	-2	0%
July 2023	9	1	0	0	2	0	0	1	0%
June 2023	8	4	0	0	1	0	1	-2	0%
May 2023	10	0	0	0	4	1	0	5	0%
April 2023	5	4	0	0	3	0	0	-1	0%
March 2023	6	2	2	1	1	0	0	-4	0%
February 2023	10	1	0	0	1	0	0	0	0%
January 2023	10	4	0	0	3	0	0	-1	0%

Presentation: Abilene Homeless Initiative

(Max Johnson)





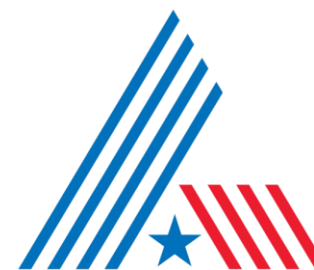
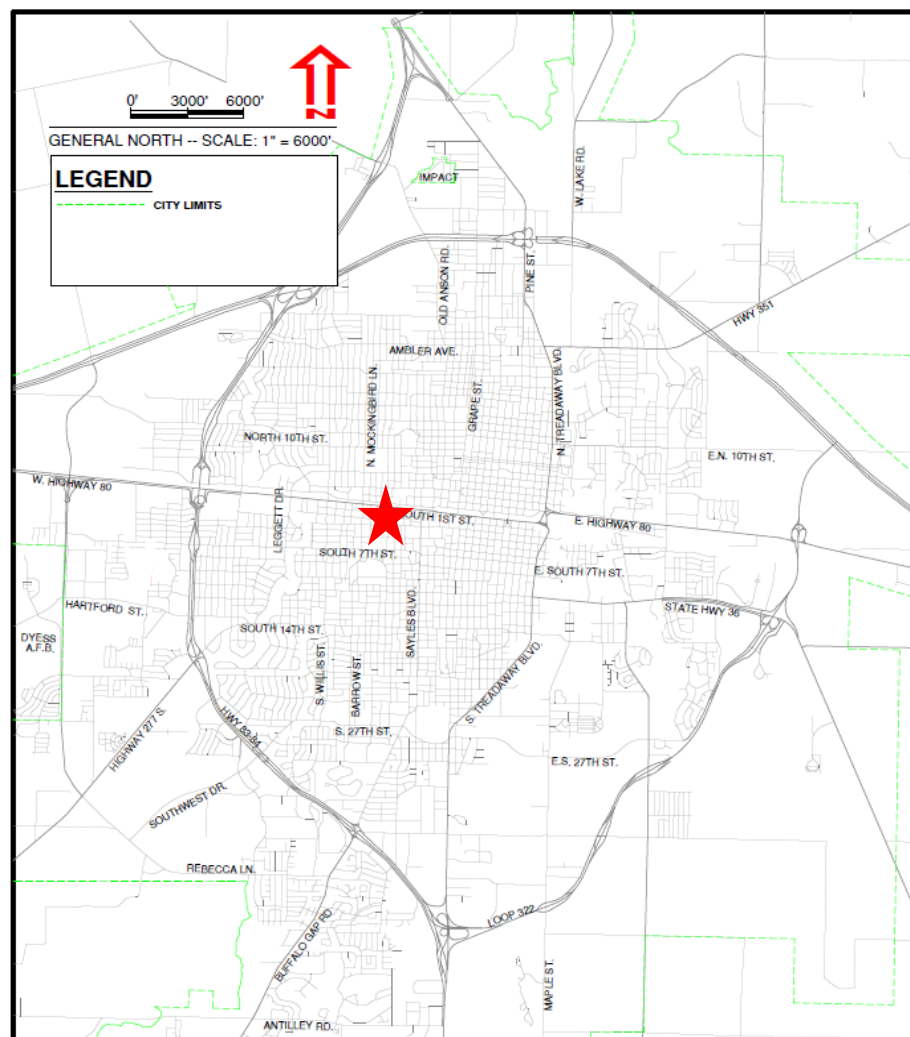
Abilene Homeless Initiative

- Numerous known areas utilized by homeless population as encampments
- Without water or sanitation, sites become unsightly and unsafe
- In 2024, APD received over 4,000 Calls For Service (CFS) with homeless connection
- Once identified or complaint received, Staff initiates actions for potential dispersing of encampment(s)
- Once dispersed, homeless individuals often move to other known locations
- If required, City Staff engages in cleanup efforts for property, rubbish, and waste left behind
- Cleanup efforts have lasted hours at some locations and days at others
- For City property: Once cleanups are finalized, signs posted for No Trespassing/No Camping





Abilene Homeless Initiative – Elm Creek at S 1st



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ABILENE
TEXAS



Abilene Homeless Initiative – Elm Creek at S 1st

Pre-cleanup Efforts – January/February 2024





Abilene Homeless Initiative – Elm Creek at S 1st

Post-cleanup Efforts – February 2024





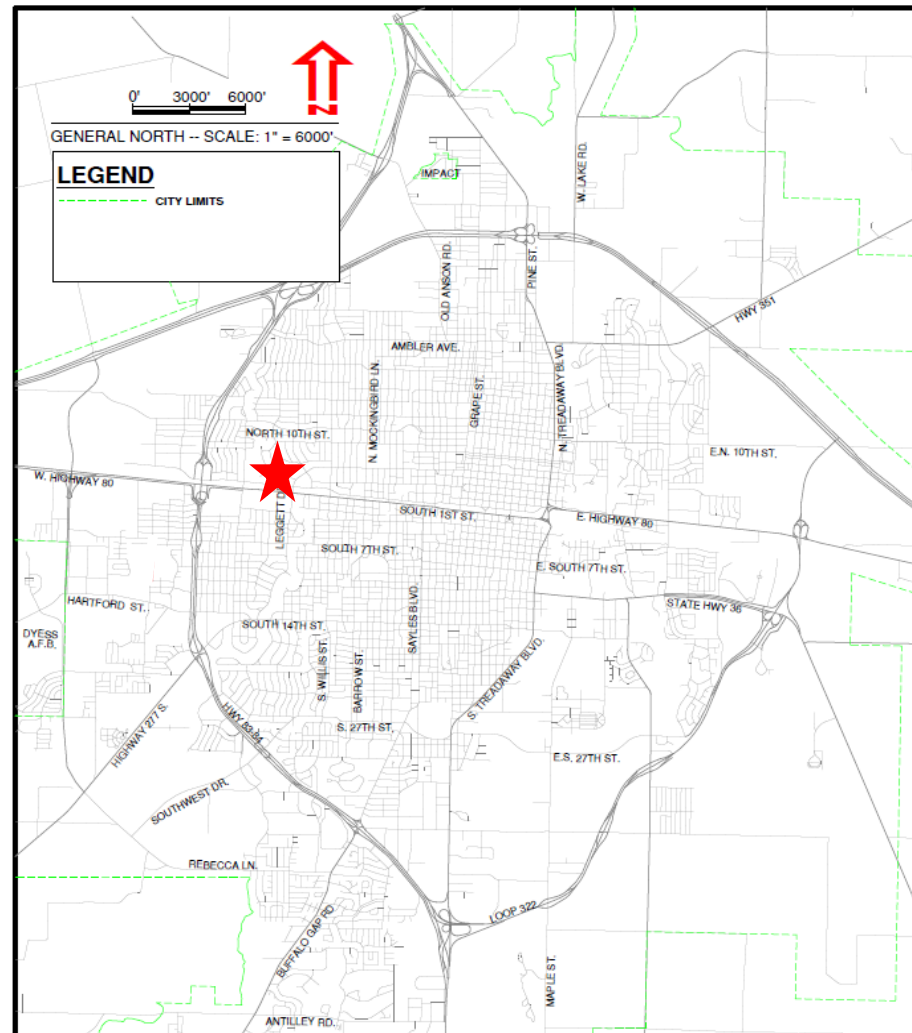


Abilene Homeless Initiative – Hwy 80 Property





Abilene Homeless Initiative – Proctor Site



Cleanup Efforts: Initiated 3-5-2025





Abilene Homeless Initiative – Proctor Site





Abilene Homeless Initiative – Estimated Costs

Costs of Cleanups

- Elm Creek (2024) - \$8,500
- Hwy 80 (2024/2025) - \$15,000
- Proctor (2025) - \$24,000 (ongoing)
- ES11th Property (2024) - \$21,000
- City Prop (2024) - \$5000
- Other (2024/2025) - \$14,000

Total Est. Cleanup Costs (2024/2025)

- Labor, Equip, Mat'l: \$87,500
- Admin Costs: \$9,000
- Total: **\$96,500**

APD Est. Costs (2024)

- 2x Officers Response
- Avg 1 hr per call
- Salary of 8 yr patrol officer (avg)
- 4000 calls for service (2024)

Total Est. APD Costs (2024)

\$385,000





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Honorable Mayor & Members of the City Council

FROM: Stanley Smith, City Attorney

SUBJECT: 37. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

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

A. 551.071 (Consultation with Attorney)

1. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
2. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
3. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
4. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
6. Richard Scheriger, et al. v. City of Abilene; Cause No. CV33253, In the 90th Judicial District Court, Stephens County, Texas, filed April 21, 2023
7. The Woodlands Pride, Inc., et al. v. Ken Paxton, Attorney General of Texas, et al., Case No. 4:23-cv-02847, In the United States District Court, Southern District of Texas, Houston Division, filed August 2, 2023
8. PFAS Litigation
9. Ginger Robertson v. City of Abilene and Abilene Zoological Society; Cause No. 13179-D, In the 350th Judicial District Court, Taylor County, Texas; filed December 5, 2023
10. City of Dallas, et al, v. Disney DTC, LLC, et al., Cause No. DC-22-09128, In the 14th Judicial District Court, Dallas County, Texas, filed August 3, 2022
11. Patricia Anderson v. City of Abilene; Cause No. 51867-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 1, 2024

12. Mary Lou Gonzales v. City of Abilene, Board of Building Standards; Cause No. 29156-B; In the District Court, 104th Judicial District, Taylor County, Texas; filed April 10, 2024

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

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

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 38.

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*)

- Landmarks Commission
- Street Maintenance Advisory & Appeals Board

GENERAL INFORMATION

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

SPECIAL CONSIDERATIONS

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

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

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

RESOLUTION NO. _____

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

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

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

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

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

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

PASSED this 13th day of March, 2025.

ATTEST:

Shawna Atkinson, City Secretary

Weldon Hurt, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Landmarks Commission</i>	
Derek Hood [Alternate] [New]	November 2025
<i>Street Maintenance Advisory & Appeals Board</i>	
Joey Devora [Reappointment]	March 2027
Branson Hurt [Reappointment]	March 2027



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

- Landmarks Commission
 - Derek Hood [New]
- Street Maintenance Advisory & Appeals Board
 - Joey Devora[Reappointment]
 - Branson Hurt[Reappointment]





**City Council
Agenda Memo**

City Council Meeting Date: 3/13/2025

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: **39. Oral Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Appointing Mindy Patterson as the City Manager (Robert Hanna)

GENERAL INFORMATION

Information will be presented at the meeting.

SPECIAL CONSIDERATIONS

N/A

FUNDING/FISCAL IMPACT

N/A

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. City Manager

Oral Resolution: Appointing Mindy Patterson as City Manager

