



## City of Abilene City Council Agenda

Shane Price, Council Member  
Bruce Kreidler, Council Member  
Kyle McAlister, Council  
Member  
Robert Hanna, City Manager

Norm Archibald,  
Mayor

Anthony Williams, Mayor Pro-tem  
Jay Hardaway, Council Member  
Steve Savage, Council Member  
Stanley Smith, City Attorney  
Danette Dunlap, City Secretary

**Notice is hereby given of a meeting of the City Council of City of Abilene to be held on Thursday, September 22, 2016 at 8:30 AM at 555 Walnut Street, 2nd Floor Council Chambers, 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.**

**1. CALL TO ORDER**

**2. INVOCATION**

1. Mayor Archibald

**3. PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG**

**4. PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS**

**5. MINUTES**

1. Approval of the Minutes from the Regular Council Meeting on September 8th 2016.

**6. CONSENT AGENDA**

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

1. **Resolution:** Approving renewal of software maintenance agreement for Public Safety Systems with Intergraph Corporation. **(Kidd)**
2. **Resolution:** Bid Award #CB-1670 Elm Creek Bridge Guardrail Project. **(Rice)**
3. **Resolution:** Authorizing Physio-Control, Inc. to provide a 4-year service contract to City of Abilene for thirteen LifePak 15 cardiac monitors. **(Bell)**
4. **Resolution:** Purchase of Level IV body armor for Police Department and Marshals Division. **(Standridge)**

5. **Resolution:** Purchase of (151) Patrol rifles in support of Departmental Program. **(Standridge)**
6. **Ordinance:** *(First Reading)* **Z-2016-39** A request from the City of Abilene to rezone property from an AO (Agricultural Open Space) zone to a PD (Planned Development) district located at the southeast corner of Ben Richey Dr. and Boys Ranch Rd.; Setting a public hearing for October 13, 2016. **(Schoening)**
7. **Ordinance:** *(First Reading)* **TC-2016-02** A request from Hendrick Medical Center to abandon all of the portions of Wilson Street between Cedar and Hickory Streets, and the alley between Cedar and Hickory Street, both between N. 16th and N. 17th Streets; Setting a public hearing for October 13, 2016. **(Schoening)**

## 7. **REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS**

1. **Ordinance and Public Hearing:** *(Final Reading)* Proposed Amendment to Code of Ordinances, Chapter 8, Division 4, Section 8-151 Demolition Permit Conditions, and adding Section 8-152 Definitions for "Slab on Grade". **(Schoening)**
2. **Resolution & Public Hearing:** Proposed Increases to the fares for all CityLink services. **(Green)**
3. **Policy Statement:** Consider the adoption of Council Policy 2016-003 - City Sponsored Events. **(Hanna)**
4. **Resolution:** Authorize the City Manager to execute a Professional Services Agreement with Freese & Nichols to provide Construction Oversight Services for current 2015 Bond Projects. **(Lisenbee)**
5. **Resolution:** Approval of the Guaranteed Maximum Price (GMP) from the CMAR, W.B. Kibler, for the construction of the Abilene Aquatic Center at Rose Park; Authorizing the City Manager to execute all related documents; and, approving participation in the project by the Water Utilities Department for water and sewer system upgrades. **(Lisenbee)**
6. **Resolution** Awarding Bid for Replacement Laboratory Furniture for the Abilene Environmental Laboratory. **(Taylor)**

## 8. **EXECUTIVE SESSION**

**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, as authorized by Texas Government Code Sections**

### **1. 551.071 (Consultation with Attorney)**

- A) TML- Roofs
- B) DCOA - Contract with City

The following pending litigation subjects which may be discussed are:

1. City of Abilene, Texas v. Aurora Bumgarner; 104th Judicial District Court, Taylor County, Texas; filed November 17, 2011
2. Chad Carter v. City of Abilene, Texas; Cause No. 10138-D, In the 350th Judicial District Court, Taylor County, Texas, filed June 17, 2014
3. Gary Lee and Marilu Lee Corpian v. City of Abilene, Cause No. 48,766-A in the 42<sup>nd</sup> District Court, filed August 7, 2014

4. Margarita Mitchell, et al. v. The City of Abilene, et al., filed in the 350th Judicial District Court, Taylor County, Texas, on October 21, 2015
5. Susan Lewis King & Austin King MD vs Ken Paxton, Attorney General of Texas and the City of Abilene. Cause No. D-1-GN-16-001160, filed March 16, 2106.
6. Abilene Matera LLC v. Board of Building Standards for the City of Abilene and City of Abilene, Cause No. 10696-D. March 17, 2016.
7. Ruby Flores and Cory Almanza v. Jesus Verastegui, Alfredo Verastegui, Rosalva Verastegui, and City of Abilene, Cause No. 49368-A, 42nd District Court, Abilene, Taylor County, Texas, filed April 13, 2016
8. E.G., et al. v. Barry Bond, City of Abilene, and Abilene Independent School District, Case 1:16-cv-00068-BL, U.S. District Court, Northern District, Abilene Division, filed April 28, 2016
9. Gary Corpian and Marilu Lee Corpian v. City of Abilene, Texas, Cause No. 49451-A, In the 42nd Judicial District Court, Taylor County, Texas, filed June 24, 2016
10. Mike Rodriguez, Lauren Rodriguez, Laura Gentry Edwards, Mike Gentry, and Lucy Gentry v. City of Abilene, Case No. 1-16CV-080-BL; In the United States District Court, Northern District of Texas, Abilene Division, filed May 17, 2016, served September 2, 2016

## **2. 551.072 (Deliberations about Real Property)**

## **3. 551.073 (Deliberations about Gifts and Donations)**

## **4. 551.074 (Personnel Matters)**

City Council may consider appointment, employment, 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.

### **The following Boards and Commissions may be discussed:**

Abilene Economic Development Company, Inc.  
Abilene Health Facilities Development Corp.  
Abilene Higher Education Facilities Corporation  
Abilene-Taylor County Events Venue District  
Board of Adjustments  
Board of Building Standards  
Civic Abilene, Inc.  
Civil Service Commission  
Development Corporation of Abilene, Inc.  
Firemen's Pension Fund Board  
Friends of Safety City Board  
Frontier Texas! Board of Directors  
Abilene Housing Authority  
Landmarks Commission  
Library Board  
Mechanical/Plumbing/Electrical & Swimming Pool Board of Appeals  
Mental Health-Mental Retardation Board of Trustees  
9-1-1 Emergency Communications District Board of Managers  
Parks & Recreation Board  
Planning and Zoning Commission

Taylor County Appraisal District  
West Central Texas Municipal Water District  
Tax Increment Reinvestment Zone Board

**5. 551.087 (Business Prospect/Economic Development)**

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**6. 551.076 (Deliberations about Security Devices)**

**9. RECONVENE**

1. Action if needed from Executive Session.

**10. REGULAR AGENDA**

**11. 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 contact Danette Dunlap, City Secretary, at 325-676-6202.*

**CERTIFICATION**

I hereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the \_\_\_\_\_ day of September, 2016, at

\_\_\_\_\_.

\_\_\_\_\_

*Danette Dunlap, City Secretary*





**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Ronnie Kidd, Managing Director for Administration**

**SUBJECT: Resolution: Approving renewal of software maintenance agreement for Public Safety Systems with Intergraph Corporation. *(Kidd)***

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**GENERAL INFORMATION**

Intergraph Corporation d/b/a Hexagon Safety & Infrastructure provides maintenance support through an annual maintenance agreement for the public safety dispatch, records management and mobile data systems (CAD/RMS/MDS). The annual maintenance agreement period runs from November 1 through October 31. Examples of support provided through the maintenance agreement include help desk technical support, resolution of program operational issues, patches and updates to software for identified program fixes and 24/7 knowledge base access. Additionally, the agreement provides for after hours and holiday support for critical software errors that bring the system down. Police and Fire services and first responder safety would be adversely impacted without the ability to access the services provided through the maintenance agreement to troubleshoot and resolve system issues in a timely manner.

**SPECIAL CONSIDERATIONS**

The initial renewal quote for the Intergraph maintenance agreement was for \$271,395. However, since we are in the process of converting to the Spillman system solution and replacing Intergraph, we asked for the Intergraph agreement to be prorated for an 8 month period instead of 12 months. We also worked to eliminate support on test licenses and non-critical features. This resulted in lowering the renewal quote to \$140,847.

**FUNDING/FISCAL IMPACT**

The cost for the Intergraph maintenance agreement is \$140,847 and is included in the FY 17 Technology Fund budget approved by Council as part of the overall City budget process.

**STAFF RECOMMENDATION**

Staff recommends approval of the attached resolution approving the Intergraph maintenance agreement

**BOARD OR COMMISSION RECOMMENDATION**

N/A

**ATTACHMENTS:**

Description

Type

- |  |                   |
|--|-------------------|
| ▣ Resolution for Maintenance Agreement with Intergraph | Resolution Letter |
| ▣ Maintenance Quotation and Agreement                  | Backup Material   |
| ▣ Summary Presentation                                 | Presentation      |

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPROVING THE RENEWAL OF A SOFTWARE MAINTENANCE AGREEMENT BETWEEN THE CITY OF ABILENE AND INTERGRAPH CORPORATION.**

**WHEREAS**, the City of Abilene has a maintenance services contract with Intergraph Corporation, doing business as Hexagon Safety & Infrastructure, and

**WHEREAS**, the current contract agreement expires on October 31, 2016, and

**WHEREAS**, the City of Abilene wishes to continue with a maintenance services contract with Intergraph Corporation to provide services in support of the City's Public Safety System through June 30, 2017, and

**WHEREAS**, the City of Abilene has budgeted for this expense in its FY 2017 Technology Fund vendor maintenance budget as approved by the City Council,

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

Part 1. That the City Manager is hereby authorized to execute the contract with Intergraph Corporation for the continuation of maintenance services through June 30, 2017.

**ADOPTED** this the 22<sup>nd</sup> day of September 2016.

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norm Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

# MAINTENANCE QUOTATION SUMMARY

Agreement: 1-LK4IG2

Performance Period: 1/01/2016 through 06/30/2017  
Payment Type: Prepaid Annually  
Currency: USD



Bill To:

Abilene TX City Of  
ATTN: Sheryl Fillmon  
450 Pecan Street  
Abilene, TX 79604  
USA

Ship To:

Abilene TX City Of  
ATTN: Sheryl Fillmon  
450 Pecan Street  
Abilene, TX 79604  
USA

Quotation Summary:

SW Maint

\$140,846.92

**Total Services Cost\***

**\$140,846.92**

**\* Total is exclusive of applicable taxes. Applicable taxes will be added to the invoice.**

The maintenance services quoted herein are subject to the attached Hexagon Safety & Infrastructure Maintenance Terms and Conditions. This agreement shall only become binding and effective upon the written acceptance by Hexagon Safety and Infrastructure. This quotation expires ninety (90) days from the date of issue by Hexagon Safety and Infrastructure.

## THIS IS NOT AN INVOICE

Offered by: Intergraph Corporation

Accepted by:

Signature: *Trey Sampson*

Signature:

Name: Trey Sampson

Name:

Maintenance Contract Administrator

Title:

Date: 07/25/2016

Date:

Email: trey.sampson@hexagonsi.com

Email:

Telephone: 256-730-2389

Telephone:

Fax: 256-730-5641

Fax:

☐ A Purchase Order will not be issued.  
Customer signature above constitutes notice to proceed with this agreement.

Please mark one of the following options when submitting your acceptance:

☐ A Purchase Order will be issued and shall reference the terms and conditions of above referenced quote.

# MAINTENANCE QUOTATION DETAIL

Abilene TX City Of

Account Nbr: MDC-3276

Quote: 1-LK4IG2-Abilene TX City of 2016-2017

Bill To:

Abilene TX City Of  
ATTN: Sheryl Fillmon  
450 Pecan Street  
Abilene, TX 79604  
USA

Ship To:

Abilene TX City Of  
ATTN: Sheryl Fillmon  
450 Pecan Street  
Abilene, TX 79604  
USA

PO#:

Performance Period: 11/01/2016 through 06/30/2017

Currency: USD



Site Number:	Base Part	Description	Serial	Begin	End	Service Level	Mths	Qty	Mth Cost	Total Cost
50000067										
1	IPS0002	I/Dispatcher NL	1-221725401	11/01/2016	06/30/2017	Premium	8	19	\$325.00	\$49,400.00
8	IPS0004	TLETS/TCIC/NCIC/NLETS	1-221725195	11/01/2016	06/30/2017	Premium	8	1	\$435.00	\$3,480.00
9	IPS0004A	I/Informer to I/LEADS NL	1-221727998	11/01/2016	06/30/2017	Premium	8	1	\$0.00	\$0.00
12	IPS0004TXR	I/LEADS Message Suite for Texas State Switch CC	1-247320676	11/01/2016	06/30/2017	Premium	8	1	\$517.00	\$4,136.00
13	IPS0007	I/Executive 2 NL	1-221725179	11/01/2016	06/30/2017	Premium	8	1	\$552.30	\$4,418.40
15	IPS0009	I/Mobile Data Terminal NL	1-221725227	11/01/2016	06/30/2017	Premium	8	1	\$869.00	\$6,952.00
17	IPS0015	I/Tracker NL	1-221727978	11/01/2016	06/30/2017	Premium	8	1	\$491.00	\$3,928.00
19	IPS0019	I/LEADS-Server NL	1-221725337	11/01/2016	06/30/2017	Premium	8	1	\$413.00	\$3,304.00
21	IPS0020	I/LEADS-Records Management System CC - Desktop Client	1-221728008	11/01/2016	06/30/2017	Premium	8	100	\$31.00	\$24,800.00
23	IPS0022	I/LEADS-Incident Based Reporting CC	1-221727993	11/01/2016	06/30/2017	Premium	8	1	\$188.00	\$1,504.00
25	IPS0030	I/LEADS-CAD Link NL	1-221725353	11/01/2016	06/30/2017	Premium	8	1	\$0.00	\$0.00
27	IPS0031	I/Mgt. Analysis & Reporting Sys - Server NL	1-221727983	11/01/2016	06/30/2017	Premium	8	1	\$486.54	\$3,892.32
29	IPS0032	I/Mgt. Analysis & Reporting System - Client CC	1-221727929	11/01/2016	06/30/2017	Premium	8	5	\$22.05	\$882.00
33	IPS0038	I/Mobile CC	MME-1-4083EF	11/01/2016	06/30/2017	Premium	8	49	\$23.00	\$9,016.00
38	IPS0048	I/FRMS-CADLink NL	1-221725305	11/01/2016	06/30/2017	Premium	8	1	\$198.00	\$1,584.00
40	IPS0050	I/InterCAD NL - First License	1-221725321	11/01/2016	06/30/2017	Premium	8	1	\$788.00	\$6,304.00
42	IPS0052	I/Fire Station Alerting NL	1-221727973	11/01/2016	06/30/2017	Premium	8	1	\$198.00	\$1,584.00
45	IPS0053	I/Fire Station Printing NL	1-221725250	11/01/2016	06/30/2017	Premium	8	1	\$198.00	\$1,584.00
48	IPS1163C	I/Map Editor CC - Comp	17FYXC250000067	11/01/2016	06/30/2017	Premium	8	1	\$80.00	\$640.00
49	IPS0004	Informer for Firehouse/F	MME-1-4UT2KV	11/01/2016	06/30/2017	Premium	8	1	\$435.00	\$3,480.00
56	IPS0038	I/Mobile CC	MME-1-5W8PDK	11/01/2016	06/30/2017	Premium	8	10	\$23.00	\$1,840.00
57	GSPX5007C	GeoMedia Professional CC - Component	1C0WNX350000067QZ LJJ	11/01/2016	06/30/2017	Premium	8	1	\$214.00	\$1,712.00
58	IPS0001	I/Executive NL	1-221727373	11/01/2016	06/30/2017	Premium	8	1	\$774.90	\$6,199.20
60	IPS0038	I/Mobile CC		11/01/2016	06/30/2017	Premium	8	1	\$23.00	\$184.00

# MAINTENANCE QUOTATION DETAIL

Abilene TX City Of  
Account Nbr: MDC-3276  
Quote: 1-LK4IG2-Abilene TX City of 2016-2017

PO#:  
Performance Period: 11/01/2016 through 06/30/2017  
Currency: USD



Site Number:		Billing		Subtotal for Site Number		50000067	\$140,823.92			
Ln	Base Part	Description	Serial	Begin	End	Service Level	Mths	Qty	Mth Cost	Total Cost
61	Adjustment3	11/1/16-11/30/16 maintenance for //Mobile add on		11/01/2016	11/30/2016	Premium	1	1	\$23.00	\$23.00
						Subtotal for Site Number		Billing	\$23.00	
						Grand Total Excluding Tax				\$140,846.92



## **Hexagon Safety & Infrastructure**

### **U.S. Maintenance Terms and Conditions for Software**

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This document ("Terms and Conditions") and the Quote to which these Terms and Conditions are attached set forth the terms and conditions for the maintenance of software and related support services by Intergraph Corporation doing business as Hexagon Safety & Infrastructure ("Hexagon") for Customer.

#### **1. DEFINITIONS**

- 1.1. "Affiliate" means any entity or person controlled by or under common control of Hexagon. For the purposes of this Agreement, the term "control" means ownership, directly or indirectly, of equity securities entitling the owner to exercise in the aggregate equal or more than twenty-five percent (25%) of the voting power of the entity in question. For the avoidance of doubt, any Affiliate of Hexagon is as well deemed an Affiliate of any other Affiliate of Hexagon; also Hexagon is an Affiliate of any of its Affiliates.
- 1.2. "Agreement" means (1) the binding contract incorporating these Terms and Conditions as well as the Quote submitted to Customer under Section 2 and/or, if applicable, (2) the binding contract incorporating a Quote submitted to Customer under Section 3.2 and/or Section 12.1 as well as the maintenance service contract terms and conditions referenced therein.
- 1.3. "Coverage Period" means the period of performance set forth in the Quote.
- 1.4. "Covered Products" means the software listed on the Quote for which Services are to be provided to Customer by Hexagon. Covered Products shall also include additional copies of the software (i) where the original software is already covered by the Agreement and (ii) for which additional licenses are purchased or otherwise obtained by Customer during the Coverage Period. Covered Products may include Software Products, as well as Third Party Software.
- 1.5. "Customer" means the entity or person purchasing Services.
- 1.6. "Quote" means a quotation for Services submitted to Customer by Hexagon or an authorized Hexagon partner, along with a product quotation at time of purchase of the product to be maintained, according to Section 2, or a quotation for Services submitted to Customer by Hexagon, according to, Section 3.2 and/or Section 12.1.
- 1.7. "Services" means the maintenance and support services for Covered Products that are further described in the Agreement.
- 1.8. "Software Product" includes Hexagon's or Hexagon's Affiliate's computer software and all of the contents of the files, disk(s), CD-ROM(s) or other media with which the software is provided, including any templates, data, printed materials, and "online" or electronic documentation, all copies, and any Updates of such Software Products. Software Products are subject to all of the terms and conditions of the End-User License Agreement ("EULA") provided with the Software Product.
- 1.9. "Third Party Software" means computer software or other technology in which any person or entity, other than Hexagon or Hexagon's Affiliate, has any right, title or interest, including any restrictions or obligations (such as obligations to obtain consents or approvals and restrictions that may be eliminated only by obtaining such consents or approvals)

applicable to the computer software or technology, but does not include software embedded in the Software Products by license from third parties. The use of Third Party Software is subject to all of the terms and conditions of the third party's software license or similar agreement ("SLA") provided with the Third Party Software.

- 1.10. "Update(s)" means any Upgrade, modified version, fix, patch and/or update of Covered Products. The use of Updates is subject to all of the terms and conditions of the EULA or SLA provided with Customer's current version of the Covered Products.
- 1.11. "Upgrade(s)" means each new release of Covered Products. Upgrades require a full installation and may be provided with a separate EULA or SLA. Any EULA or SLA delivered with the Upgrade will supersede any EULA or SLA associated with prior releases of the Covered Products.

## 2. AUTHORIZATION OF SERVICES

By either (a) returning a signed Quote; (b) submitting a signed purchase order referencing a Quote; (c) paying any charges as set forth on a Quote; or (d) accepting delivery of Services as set forth on a Quote, Customer authorizes Hexagon to provide the Services for Covered Products during the Coverage Period in accordance with the Agreement. The Services will be provided by Hexagon in accordance with the Scope of Coverage as set forth in Section 5. The Agreement shall only become binding and effective upon the written acceptance by Hexagon or the first delivery of the Services set forth in the Quote, whichever is earlier.

## 3. TERM

- 3.1. Term. This Agreement shall begin, retroactively (if applicable), on the first calendar day of the first month of the applicable Coverage Period, and shall expire at the end of the Coverage Period unless terminated earlier as provided in Section 18, or renewed by mutual agreement of the parties in accordance with Section 3.2. The Coverage Period shall be for whole months only.
- 3.2. Renewal. Approximately ninety (90) days prior to the expiration date of any Coverage Period, Hexagon will submit to Customer a renewal Quote that includes pricing for the upcoming Coverage Period. Section 2 shall apply mutatis mutandis to the formation of the Agreement based on the renewal Quote as well as the maintenance service contract terms and conditions referenced therein or made available to Customer together with the renewal Quote. If the Agreement is not entered into based on the renewal Quote as well as the maintenance service contract terms and conditions referenced therein, Hexagon, after the preceding Coverage Period has expired, shall be entitled to discontinue Services for the affected Covered Products, including access to system support or knowledge base, and/or end the ability of Customer to log or check support requests.

## 4. REINSTATEMENT OF MAINTENANCE SUPPORT COVERAGE

- 4.1. Lapse in Software Maintenance Coverage. To reinstate Services after any termination or suspension thereof, Customer must pay a reinstatement fee. The Coverage Period for any reinstated Services (the "Renewal Coverage Period") shall begin on the first day after the expiration or termination of the last paid-in-full Coverage Period and extend until the next purchase anniversary date of the lapsed Covered Products. The reinstatement fee will equal twenty-five percent (25%) of the past due maintenance charges (rounded up to whole months only) for the Renewal Coverage Period, and shall be in addition to the total maintenance charges due for the Renewal Coverage Period, all calculated at the current maintenance list price. Upon request of Customer, Hexagon will provide a Quote for the Renewal Coverage Period, to include the reinstatement fee, which is applicable only for reinstatement made in the then-current month.



- 4.2. Failure to Obtain Maintenance Coverage. In the event Services were not purchased at the time that the Covered Product was originally purchased, in order to obtain Services, Customer must pay one hundred twenty-five percent (125%) of all maintenance payments from the date the original Covered Product was purchased up to the date the Services are actually purchased, plus one hundred percent (100%) of the remaining Coverage Period that expires upon the anniversary date of the original Covered Product purchase, all calculated at the current maintenance list price. The Coverage Period for such Covered Products will begin on the first day of the month in which the Covered Products were originally purchased.

## 5. SCOPE OF COVERAGE FOR SOFTWARE PRODUCTS

Services described in this Section apply to Software Products only. Services for Third Party Software are set forth in Section 10.

Hexagon offers two levels of Services for Software Products included in the Covered Products: Standard Support and Premium Support. Under both levels of Services, Hexagon shall provide reasonable commercial efforts to aid in the diagnosis and correction of defects in and provide general advice as to the use of the Software Products included in the Covered Products. The level of Services will be set forth on the Quote and will include the following:

- 5.1. **Standard Support:** Standard Support will include and be limited to the following:
- 5.1.1. Help Desk Support. Out-of-the-box functionality support via the Help Desk (telephone or eService via Hexagon's Customer Support Web Site where available at <https://support.hexagonsafetyinfrastructure.com>). Phone support for all priority levels of software errors is available on Monday through Friday from 8AM – 5PM at Customer's local time, excluding Hexagon-observed holidays. Local variances in support hours will be posted on the Customer Support Web Site or applicable local support website, or can be determined by contacting Customer's local Hexagon office.
  - 5.1.2. Updates. Access to all available Updates of Software Products included in the Covered Products. Hexagon will notify Customer when Updates are made available for any Software Products for which Service has been purchased, by way of posting notices of such to the "Support Notices and Announcements" section on the Customer Support Web Site or applicable local support website or via direct notification by Hexagon. If applicable, Customer may also register on the Customer Support Web Site or applicable local support website to automatically receive email notifications when a new release of a Software Product is made available by Hexagon. Updates are shipped to Customer upon Customer request. Hexagon is not obligated to produce any Updates.
  - 5.1.3. Knowledge Base. Twenty-four-hour-per-day/seven-day-per-week access to problem Knowledge Base, an on-line self-help tool.
- 5.2. **Premium Support:** Premium Support will include all of the features available under Standard Support. Additionally, when the software error is considered to be critical (meaning production is down), then phone support is also available after-hours and on Hexagon-observed holidays.

Hexagon may not provide both levels of support for all Software Products in all countries. Customer may choose any level of Services offered, however all Software Products included in the Covered Products under the Agreement must have the same level of Services when available.

Services are only available for the current version and the one version prior to the current version of a particular Software Product. Services are limited to the specific Software Products listed on the Quote and functioning on the appropriate Hexagon-supported operating system.

## 6. MINIMUM SYSTEM REQUIREMENTS; CUSTOMER'S OBLIGATIONS

Performance of Services by Hexagon is specifically conditioned upon the following minimum system requirements and fulfillment by Customer of the following obligations (collectively, minimum system requirements and customer obligations hereinafter referred to as "Customer Obligations"):

- 6.1. Customer's hardware and operating system software must meet the minimum system requirements specified by Hexagon and made available to Customer upon request.
- 6.2. Customer's system must have input and output devices that enable the use of Hexagon's diagnostic programs and supplemental tests. The specifications of such devices shall be made available to Customer by Hexagon upon request.
- 6.3. Customer will be responsible for any required adjustments or updates to its hardware and/or operating system software required to accommodate Updates of Covered Products.
- 6.4. Customer will ensure availability of its own system technical support personnel so that Hexagon can fulfill its Service obligations.
- 6.5. When reporting problems to Hexagon's Help Desk, Customer will provide a complete problem description, along with all necessary documents and information that is available to Customer and required by Hexagon to diagnose and resolve the problem. Customer will grant all necessary access to all required systems as well as to the Covered Products, and any other reasonable assistance needed.
- 6.6. Customer will carry out any reasonable instructions on troubleshooting or circumvention of the problem provided by Hexagon through the Authorized Contact (as defined below in Section 8.1) immediately and in conformity with these instructions, and will install any necessary patches, defect corrections or new versions from Hexagon.
- 6.7. Customer is solely responsible for assuring the compatibility of non-Hexagon products with products provided by Hexagon.
- 6.8. Customer is solely responsible for ensuring its systems, software, and data are adequately backed up. Hexagon will not be liable for lost data.

In addition, Customer shall provide for any other requirements reasonably specified by Hexagon and related to the rendition of the Services to be met.

If Customer fails to fulfill its Customer Obligations, Hexagon is entitled to bill Hexagon's time and effort made necessary by Customer's failure at Hexagon's currently stated hourly rates.

## 7. EXCLUDED SOFTWARE SERVICES

Services for the following are outside the scope of this Agreement and may be available under separate agreement at an additional charge (collectively "Excluded Services"):

- 7.1. Installation of any Covered Product, Update, or interface software
- 7.2. Network configuration
- 7.3. Configuration or customization of Covered Products to customer requirements.
- 7.4. System-level tuning and optimization and system administration support
- 7.5. Programming or software development
- 7.6. Training
- 7.7. Services required because the Authorized Contact is not available or is not trained in accordance with Section 8

- 7.8. On-site Services
- 7.9. Services outside of the regular business hours associated with the applicable level of Services
- 7.10. Services required due to modifications of Covered Products by Customer. In the case of Hexagon software modules which assist in the creation and use of Customer software, the performance of Services under the Agreement is restricted to unmodified components of these Covered Products
- 7.11. Services required due to use other than in the ordinary manner intended for the Covered Products, or use in a manner that contravenes terms hereunder, or Customer's disregard of the installation and operating instructions according to the documentation provided with the Covered Products
- 7.12. Services required due to failure of software or hardware not supplied by Hexagon and not covered in the Agreement
- 7.13. Services required due to Customer's use of hardware or software that does not meet Hexagon specifications or failure of Customer to maintain or perform industry standard maintenance on Customer's hardware or software
- 7.14. Services required due to software or portions thereof that were incorrectly installed or configured, or use in an environment inconsistent with the support environment specified by Hexagon, or used with peripherals, operational equipment or accessories not conforming to Hexagon's specifications
- 7.15. Services required due to cases of force majeure, especially lightning strikes, fire or flood or other events not caused through Hexagon's fault.
- 7.16. Services required due to customer's failure to fulfill the Customer Obligations set forth in Section 6
- 7.17. Services required due to faulty or incomplete Customer data.

When ordered by Customer, Excluded Services or other software maintenance support services that are outside the scope of this Agreement will be billed by Hexagon according to the stated hourly rates and material prices in effect at the time such service is performed.

## 8. SYSTEM SUPPORT TECHNICIAN

- 8.1. Customer will appoint a minimum of two and a maximum of three contact people who are each authorized to make use of the Services ("Authorized Contacts").
- 8.2. Customer must make sure that the Authorized Contacts have adequate expertise and experience to make possible a targeted and professionally accurate description of malfunctions and make it possible for Hexagon to handle them efficiently. Authorized Contacts must have successfully completed Hexagon product training or complete it at the next available scheduled opportunity, for those products for which formal training is available. Customer will bear the cost of this training. Customer is obligated to select only those personnel for this task who are suitable for it by means of training and function, and who have knowledge of Customer's operating system, network, and hardware and software systems. Customer agrees to promptly notify Hexagon of any replacement of an Authorized Contact.

## 9. REMOTE ACCESS

Customer will permit Hexagon to electronically access Customer's system via SecureLink™. SecureLink™ is a tool for providing secure, auditable remote access to Customer's system in order for Hexagon support personnel ("Customer Support") to effectively troubleshoot critical or complex problems and to expedite resolution of such issues. The Authorized Contacts should be available to assist Hexagon Customer Support as needed during this entire process. Customer Support will only access Customer's system with the knowledge and consent of Customer. For local variances specific

to the use of remote access tools other than SecureLink™, Customer should contact the local Hexagon support office.

## 10. THIRD PARTY SOFTWARE

Support and Updates of Third Party Software shall be provided in the fashion and to the extent or duration that Hexagon is authorized to provide such by the third party manufacturer of the Third Party Software, and such Third Party Software Services may be subject to additional terms and conditions of the third party manufacturer of the Third Party Software.

Services and Updates for any Third Party Software that are not listed on the Quote must be obtained from the third party owner of the products or their designated representative.

## 11. REQUIRED COVERAGE

- 11.1. Multiple or Interdependent Licenses. Customer may not decline maintenance for individual licenses of a Covered Product for which Customer has multiple copies under Service at one site or for Covered Products that are being used interdependently at a single site, except in accordance with the relinquishment process described in Section 12.2.
- 11.2. Prerequisite Licenses. All prerequisite Hexagon software licenses that are necessary to operate the Covered Products for which Customer desires Services under the Agreement must also be included as Covered Products and listed on the Quote.

## 12. ADDITIONS AND REMOVALS OF COVERED PRODUCTS

### 12.1. Additions of Covered Products to Maintenance.

- 12.1.1. Additional Software Products from Hexagon. In the event Customer purchases additional licenses of Software Products from Hexagon during the term of this Agreement, Hexagon will provide Customer with a written extension Quote that reflects the additional licenses, the effective date of Service, and charges for the additional licenses, pursuant to the Agreement.
- 12.1.2. Additional Software Products from a third party. In the event Customer obtains additional licenses of Software Products from an authorized reseller or by any other means, Customer agrees to promptly notify Hexagon in writing about the newly acquired Software Products, and upon receipt of such notice, Hexagon will provide Customer with a written extension Quote that reflects the additional licenses, the effective date on which Hexagon may commence the Services with respect to the copies of the Software Product pertaining to the additional licenses, and the charges that would be due in return for these Services pursuant to the Agreement.
- 12.1.3. Section 2 shall apply mutatis mutandis to the formation of the Agreement based on the extension Quote submitted to Customer under Section 12.1.1 or Section 12.1.2 as well as the maintenance service contract terms and conditions referenced therein or made available to Customer together with the extension Quote. If the Agreement is not entered into based on the extension Quote as well as the maintenance service contract terms and conditions referenced therein, then the terms and conditions in Section 4 regarding reinstatement of Services will apply to the additional licenses of Software Products. If, however, the additional Software Products are multiple, interdependent, or prerequisite licenses as described in Section 11 above, Services may not be declined, and Services and the appropriate monthly charges will begin on the effective date as shown on the extension Quote.
- 12.1.4. Additional Software Products via Software Transfer Policy. Customer shall purchase Services on all additional licenses of Software Products for a site obtained via software license transfer. Any such software license transfers shall be in accordance with the

then-current Hexagon Software Transfer Policy and the EULA or other applicable Software License Agreement delivered with the Software Product.

- 12.2. Removal of Covered Products from Maintenance. Either party may provide written notice to the other party at least sixty (60) calendar days prior to the end of any Coverage Period of its intent to remove any individual Covered Products from the Agreement for the renewal period. Neither party may remove Covered Products except upon Agreement renewal. Customer may not remove from the Agreement individual software licenses of a Covered Product for which Customer has multiple copies under Service at one site or for Covered Products that are being used interdependently at a single site, unless Customer has first certified to Hexagon on a "Software Relinquishment Agreement" that the copies of the Covered Product for which Customer desires to cease Services (the "Relinquished Licenses") for the renewal Coverage Period have been uninstalled and removed from its system(s). Should Customer desire to reinstate Services for the Relinquished Licenses at a later date, Customer must re-purchase the licenses at the then current list price.

### 13. PAYMENT

- 13.1. Terms of Payment. Charges for Services are due and payable annually and in advance. For Customers desiring to pay quarterly and in advance instead of annually and in advance, Customer must request a revised Quote which shall include a convenience fee increase of fifteen percent (15%) of the total annual charges, which convenience fee Customer agrees to pay. The convenience fee shall be prorated and charged to the four quarterly invoices. All charges are due net thirty (30) calendar days from the date of invoice or prior to the beginning of the applicable Coverage Period, whichever is earlier. Charges for Covered Products added during a Coverage Period shall be prorated to the remaining months of the Coverage Period, in whole month increments only, and such charges shall be due and payable in full upon receipt of invoice.

- 13.2 Past Due Accounts. HEXAGON RESERVES THE RIGHT TO REFUSE SERVICE TO ANY CUSTOMER WHOSE ACCOUNT IS PAST DUE. At the discretion of Hexagon, Customers who have not paid any charges when due (i) under this Agreement, (ii) under any other agreement between the parties, or (iii) under any agreement between Hexagon and Customer's parent and/or subsidiary at least fifty percent (50%) owned by Customer, may not be rendered Services until all past due charges are paid in full. Additionally, Hexagon shall charge and Customer agrees to pay interest at the rate of two percent (2%) per month or the maximum amount allowed by law, whichever is less, for all amounts not received when due. The start of the Coverage Period shall not be postponed due to delayed payment of any charges. If Hexagon is required to use a collection agency or attorney to collect money owed by Customer, Customer agrees to pay the reasonable costs of collection. These collection costs include, but are not limited to, any collection agency's fees, reasonable attorneys' fees and court costs.

- 13.3 Customer's Responsibilities Concerning Invoice Questions. Subject to applicable law, if Customer intends to dispute a charge or request a credit, Customer must contact Hexagon within ten (10) calendar days of the date on the invoice. Customer waives any right to dispute a charge or receive a credit for a charge or Services that Customer does not report within such period.

## 14. CUSTOMER WARRANTIES

During the Coverage Period, Customer shall commit to the following:

- 14.1. Subject to Section 12.2, Customer warrants that for all Covered Products supported under the Agreement, all licenses of a Covered Product for which Customer has multiple copies in its possession and that are located at the site referenced on the Quote, and all prerequisite licenses necessary to operate Covered Products, are listed on the Quote. If all like Covered Products or prerequisite software licenses are not listed on the Quote, Customer agrees to notify Hexagon so that Hexagon may issue a revised Quote to Customer.
- 14.2. Customer warrants that Services provided herein shall be utilized only for the quantity of Covered Products licenses listed on the Quote.
- 14.3. Customer shall, and Customer shall cause each of Customer's employees and representatives to, comply with each and every term and condition of the EULA and/or SLA applicable to the Covered Products supported under the Agreement.

## 15. INTELLECTUAL PROPERTY

- 15.1. Software License. Any Upgrades furnished hereunder shall remain the property of Hexagon, Hexagon's Affiliate or applicable third party, and are licensed in accordance with the then current Hexagon EULA, EULA of Hexagon's Affiliate or third party SLA, which shall supersede any EULA or SLA associated with prior releases of the Software Products or Third Party Software. Upon Customer's request, Hexagon shall provide customer with such EULA or SLA. Upon Hexagon's request, Customer agrees to execute a EULA or SLA, as applicable, for Covered Products provided without an included EULA or SLA.
- 15.2. Confidential Information. Hexagon and Customer each acknowledge that they may be furnished with, receive, or otherwise have access to information of or concerning the other party which such party considers to be confidential, proprietary, a trade secret or otherwise restricted. As used in this Agreement "Confidential Information" shall mean all information, which may include third party information, in any form, furnished or made available directly or indirectly by one party to the other that is marked confidential, restricted, proprietary, or with a similar designation. The terms and conditions, and existence, of this Agreement shall be deemed Confidential Information. Confidential Information also shall include, whether or not designated "Confidential Information" (i) all specifications, designs, documents, correspondence, software, documentation, data and other materials and work products produced by either Hexagon or its subcontractors, and (ii) with respect to either party, all information concerning the operations, financial affairs and businesses, and relations with its employees and service providers.

Each party's Confidential Information shall remain the property of that party or relevant third party except as expressly provided otherwise by the other provisions of this Agreement. Customer and Hexagon shall each use at least the same degree of care, but in any event no less than a reasonable degree of care, to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own information of a similar nature.

The parties shall take reasonable steps to ensure that their respective employees comply with these confidentiality provisions. This Section shall not apply to any particular information which either party can demonstrate (i) was, at the time of disclosure to it, generally publicly available; (ii) after disclosure to it, is published or otherwise becomes generally publicly available through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without restriction on disclosure; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such

information to it without any obligation to restrict its further use or disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the disclosing party. In addition, a party shall not be considered to have breached its obligations by disclosing Confidential Information of the other party as required to satisfy any legal requirement of a competent government body provided that, immediately upon receiving any such request and to the extent that it may legally do so, such party advises the other party promptly and prior to making such disclosure in order that the other party may interpose an objection to such disclosure, take action to assure confidential handling of the Confidential Information, or take such other action as it deems appropriate to protect the Confidential Information.

## 16. LIMITED WARRANTIES; WARRANTY DISCLAIMERS

### 16.1. Limited Warranties.

16.1.1. **Hexagon Services Warranty.** Hexagon warrants for a period of thirty (30) days from the date of Services that the Services provided pursuant to this Agreement, in the form of a defect correction and/or maintenance services, will be performed with reasonable skill and care in accordance with the requirements set forth herein, provided the Covered Products for which the Services are provided are used under normal conditions and in strict accordance with the terms and conditions herein. Customer agrees to promptly notify Hexagon of any unauthorized use, repair, or modification, or misuse, as well as suspected defects in any Services provided pursuant to this Agreement.

16.1.2. **Hexagon Software Warranty.** Hexagon warrants for a period of thirty (30) days from the date of shipment of any Software Product that, under normal use, software delivery media shall be free from defect in material or workmanship. Additional warranties for Software Products may be provided in the applicable Hexagon Terms and Conditions for Sale or other agreement between the parties governing the delivery of Software Products.

16.1.3. **Pass-Through Third Party Warranties.** Third Party Software is only warranted pursuant to a pass-through warranty to Customer from the applicable Third Party Software manufacturer and only to the extent warranted by the applicable Third Party Software manufacturer.

16.1.4. **NO OTHER WARRANTIES.** THE ABOVE LIMITED WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND REPRESENT THE FULL AND TOTAL OBLIGATION AND/OR LIABILITY OF HEXAGON. THE LIMITED WARRANTIES PROVIDE CUSTOMER WITH SPECIFIC LEGAL RIGHTS. CUSTOMER MAY HAVE OTHER RIGHTS, WHICH VARY JURISDICTION TO JURISDICTION. IF A GREATER WARRANTY IS MANDATED PURSUANT TO THE LAW HELD APPLICABLE TO THIS AGREEMENT, THEN HEXAGON WARRANTS THE SERVICES OR COVERED PRODUCTS TO THE MINIMUM EXTENT REQUIRED BY SAID LAW.

16.2. **Remedies.** In the event a warranted Service, Covered Product, or Update provided pursuant to this Agreement does not substantially comply with the limited warranties set forth in the Agreement, Hexagon's entire liability and Customer's exclusive remedy shall be, in Hexagon's sole and absolute discretion, either (i) providing of a Service, Covered Product, or Update which conforms substantially with the warranty; or (ii) a refund of the purchase price of the particular warranted Service, Covered Product, or Update for the period of time that the warranted Service, Covered Product, or Update did not substantially conform to the limited warranties set forth in this Agreement.

Hexagon is acting on behalf of its suppliers for the sole purpose of disclaiming, excluding and/or limiting obligations and liability as provided in this Agreement, but in no other respects and for no other purpose.

- 16.3. WARRANTY DISCLAIMERS. ANY WARRANTIES HEREUNDER ARE VOID IF FAILURE OF A WARRANTED ITEM RESULTS DIRECTLY, OR INDIRECTLY, FROM AN UNAUTHORIZED MODIFICATION OF A WARRANTED ITEM; AN UNAUTHORIZED ATTEMPT TO REPAIR A WARRANTED ITEM; OR MISUSE OF A WARRANTED ITEM, INCLUDING WITHOUT LIMITATION, USE OF WARRANTED ITEM UNDER ABNORMAL OPERATING CONDITIONS OR WITHOUT ROUTINELY MAINTAINING A WARRANTED ITEM. CUSTOMER SHALL PROMPTLY NOTIFY HEXAGON OF ANY SUSPECTED DEFECTS IN COVERED PRODUCTS DELIVERY MEDIA. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HEXAGON AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, RELATING TO THE SERVICES, COVERED PRODUCTS, AND UPDATES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. HEXAGON DOES NOT WARRANT THAT ANY SERVICES, COVERED PRODUCTS, AND UPDATES PROVIDED PURSUANT TO THIS AGREEMENT WILL MEET CUSTOMER'S REQUIREMENTS, AND UNDER NO CIRCUMSTANCES DOES HEXAGON WARRANT THAT ANY SERVICES, COVERED PRODUCTS, AND UPDATES WILL OPERATE UNINTERRUPTED OR ERROR FREE. IF ANY PART OF THIS DISCLAIMER OF EXPRESS OR IMPLIED WARRANTIES IS RULED INVALID, THEN HEXAGON DISCLAIMS EXPRESS OR IMPLIED WARRANTIES TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW. HEXAGON MAY SHARE INFORMATION FROM TIME TO TIME RELATED TO ITS EXPECTED DIRECTION, ROADMAP, OR VISION FOR ITS PRODUCTS AND SERVICES, ALL OF WHICH IS SUBJECT TO CHANGE AT ANY TIME IN HEXAGON'S SOLE DISCRETION. CUSTOMER SHOULD NOT RELY UPON STATEMENTS, PRESENTATIONS, OR INFORMATION REGARDING FUTURE FEATURES, FUNCTIONS, OR PRODUCTS FOR ANY PURPOSE IN ABSENCE OF HEXAGON'S FORMAL AND EXPRESS CONTRACTUAL COMMITMENT TO DELIVER THE SAME.

#### 17. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL HEXAGON OR ITS SUPPLIERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE OR PRODUCTION, LOSS OF REVENUE OR PROFIT, LOSS OF DATA, LOSS OF BUSINESS INFORMATION, BUSINESS INTERRUPTION, CLAIMS OF THIRD PARTIES OR ANY OTHER PECUNIARY LOSS ARISING OUT OF THIS AGREEMENT, EVEN IF HEXAGON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. HEXAGON'S ENTIRE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY CUSTOMER TO HEXAGON DURING THE PAST TWELVE MONTHS UNDER THIS AGREEMENT AS OF THE DATE THE EVENT GIVING RISE TO THE CLAIM OCCURS. EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, NO CLAIM, REGARDLESS OF FORM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN TWO (2) YEARS FOLLOWING THE INITIAL EVENT GIVING RISE TO THE CAUSE OF ACTION. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE ABOVE LIMITATION MAY NOT APPLY TO CUSTOMER. IF ANY PART OF THIS SECTION IS HELD INVALID, THEN HEXAGON LIMITS ITS LIABILITY TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW.



## 18. TERMINATION

This Agreement may only be terminated prior to its expiration in the following ways:

- 18.1. Either party petitions for reorganization under the Bankruptcy Act or is adjudicated as bankrupt, or a receiver is appointed for the other party's business.
- 18.2. Customer fails to pay Hexagon any amount when due (i) under this Agreement; or (ii) under any other agreement between the parties.
- 18.3. Customer's license to the Covered Products for which Customer has purchased Services is terminated.

## 19. RESTRICTIONS

- 19.1. **Non-Solicitation of Employees.** Customer agrees that it will not, without the prior written consent of Hexagon, solicit or hire any Hexagon employee, or induce such employee to leave Hexagon's employment, directly or indirectly, during the term of this Agreement and for a period of twelve (12) months after the Agreement expires or is terminated. Customer agrees that a breach of this provision would cause actual and substantial damages to Hexagon such that it would be very difficult to calculate actual damages. Accordingly, any such breach will entitle Hexagon to recover liquidated damages from Customer in the amount equal to one (1) year of the affected employee's annual salary plus benefits for each such breach, as well as expenses, costs, and reasonable attorneys' fees incurred by Hexagon in seeking enforcement of this Agreement. Customer agrees that the foregoing amount is intended to be, and in fact is, a reasonable estimate of the actual damages that would be incurred by Hexagon if Customer were to breach this provision, and that this amount is not intended to be, and in fact is not, a penalty. In addition, Hexagon shall be entitled to equitable or injunctive relief to prevent further breaches. For purposes of this Section, the term "employee" means employees of Hexagon and/or any Hexagon subsidiary and/or any of Hexagon's subcontractors who directly support Customer.
- 19.2. **United States Government Restricted Rights.** If a Covered Product (including any Updates, documentation or technical data related to such Covered Products) is licensed, purchased, subscribed to or obtained, directly or indirectly, by or on behalf of a unit or agency of the United States Government, then this Section also applies.
  - 19.2.1. For civilian agencies: The Covered Product was developed at private expense and is "restricted computer software" submitted with restricted rights in accordance with the Federal Acquisition Regulations ("FAR") 52.227-19 (a) through (d) (Commercial Computer Software – Restricted Rights).
  - 19.2.2. For units of the Department of Defense ("DoD"): The Covered Product was developed at private expense and is "commercial computer software" submitted with restricted rights in accordance with the Defense Federal Acquisition Regulations ("DFARS") DFARS 227.7202-3 (Rights in commercial computer software or commercial computer software documentation).
  - 19.2.3. **Notice:** The Covered Product is "commercial computer software" as defined in DFARS 252.227-7014 (Rights in Noncommercial Computer Software) and FAR 12.212 (Computer Software), which includes "technical data" as defined in DFARS 252.227-7015 (Technical Data) and FAR 12.211 (Technical Data). All use, modification, reproduction, release, performance, display or disclosure of this "commercial computer software" shall be in strict accordance with the manufacturer's standard commercial license, which is attached to and incorporated into the governing Government contract. Hexagon and any applicable Third Party Software manufacturers are the manufacturers. This Covered Product is unpublished and all rights are reserved under the Copyright Laws of the United States.

- 19.3. Export Restrictions. All Software Products and all Third Party Software (including any Updates, documentation or technical data related to such software products) licensed, purchased, subscribed to or obtained, directly or indirectly, from Hexagon, its subsidiaries or distributors (collectively, "Export Controlled Products") are subject to the export control laws and regulations of the United States. Diversion contrary to United States law is prohibited. The Export Controlled Products, and the direct product thereof, shall not be exported or re-exported, directly or indirectly (including via remote access), under the following circumstances:
- 19.3.1. To Cuba, Iran, North Korea, Sudan, or Syria, or any national of these countries.
  - 19.3.2. To any person or entity listed on any United States government denial list, including but not limited to, the United States Department of Commerce Denied Persons, Entities, and Unverified Lists ([www.bis.doc.gov/complianceand enforcement/liststocheck.htm](http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm)), the U.S. Department of Treasury Specially Designated Nationals List ([www.treas.gov/offices/enforcement/ofac/](http://www.treas.gov/offices/enforcement/ofac/)), and the U.S. Department of State Debarred List (<http://www.pmddtc.state.gov/compliance/debar.html>).
  - 19.3.3. To any entity if Customer knows, or has reason to know, the end use of the Export Controlled Product is related to the design, development, production, or use of missiles, chemical, biological, or nuclear weapons, or other unsafeguarded or sensitive nuclear uses.
  - 19.3.4. To any entity if Customer knows, or has reason to know, that an illegal reshipment will take place.

Any questions regarding export or re-export of an Export Controlled Product should be addressed to Hexagon's Export Compliance Department, 305 Intergraph Way, Madison, Alabama, United States 35758 or at [exportcompliance@intergraph.com](mailto:exportcompliance@intergraph.com).

## 20. TAXES

All charges under this Agreement are exclusive of each and every country's federal, provincial, state, municipal, or other governmental, withholding, excise, sales, use, value added or other taxes, tariffs, custom duties and importing fees ("Taxes"). Customer shall be liable for, and shall indemnify and hold Hexagon harmless from and against, any and all Taxes. Taxes shall expressly exclude any federal, state, municipal, or other governmental income taxes, franchise taxes, business license fees and other like taxes measured by Hexagon's income, capital and/or assets. The total invoice amount for charges under this Agreement is subject to increase by the amount of any Taxes which Hexagon is required to withhold, collect, or pay regarding the transactions under this Agreement so that Hexagon receives the full amount of the charges on Hexagon's invoices. Any certificate to exempt the Agreement from tax liability or other documentary evidence of statutory exemption shall be obtained by Customer at Customer's expense.

## 21. GENERAL

- 21.1. Third Party Providers. Hexagon reserves the right to provide Services through a third party provider.
- 21.2. Entire Agreement. The Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. The Agreement supersedes any and all prior discussions and/or representations, whether written or oral, relating to the subject matter of the Agreement and no reference to prior dealings may be used to in any way modify the expressed understandings of the Agreement. Hexagon does not accept any contradictory or additional terms and conditions, even by accepting a purchase order referencing different terms and conditions. The Agreement may be amended only by a written instrument signed by authorized representatives of both parties, and cannot be amended by subsequent purchase order or writing received from Customer without the express

- written consent of Hexagon. Any reproduction of the Agreement made by reliable means (for example, photocopy or facsimile) will be deemed an original.
- 21.3. **Order of Precedence.** In the event of a conflict between the documents that form the Agreement, the order of precedence will be as follows: (i) any addenda executed by Hexagon and Customer, with the latest addendum taking precedence over any earlier addenda; (ii) the Quote; and (iii) these Terms and Conditions.
- 21.4. **Severability.** Whenever possible, each provision of the Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. However, if any provision of the Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of the Agreement.
- 21.5. **Headings.** The various headings in these Terms and Conditions are inserted for convenience only and shall not affect the meaning or interpretation of these Terms and Conditions or any section or provision of these Terms and Conditions.
- 21.6. **No Waiver.** Any failure by either party to enforce performance of the Agreement shall not constitute a waiver of, or affect said party's right to avail itself of, such remedies as it may have for any subsequent breach of the terms of the Agreement.
- 21.7. **Notices.** Any notice or other communication ("Notice") required or permitted under the Agreement shall be in writing and either delivered personally or sent by overnight delivery, express mail, or certified or registered mail, postage prepaid, return receipt requested. A Notice delivered personally shall be deemed given only if acknowledged in writing by the person to whom it is given. A Notice sent by overnight delivery or express mail shall be deemed given twenty-four (24) hours after having been sent. A Notice that is sent by certified mail or registered mail shall be deemed given forty-eight (48) hours after it is mailed. If any time period in this Agreement commences upon the delivery of Notice to any one or more parties, the time period shall commence only when all of the required Notices have been deemed given. Hexagon's address for Notices is Hexagon Safety & Infrastructure, 305 Intergraph Way, Madison, Alabama 35758, Attn: Legal Department, 256-730-2333.
- 21.8. **Assignment.** Neither party shall have the right to assign any of its rights nor delegate any of its obligations under this Agreement without the prior written consent of the other party, except that Hexagon may assign its rights and obligations under this Agreement, without Customer's approval, to (i) an entity which acquires all or substantially all of the assets of Hexagon or the Hexagon division providing a product or service under this Agreement; (ii) an entity which acquires all or substantially all of the Software Products or product line assets subject to this Agreement; or (iii) any subsidiary, affiliate or successor in a merger or acquisition of Hexagon. Any attempt by Customer to sublicense, assign or transfer any of Customer's rights or obligations under this Agreement, except as expressly provided in this Agreement, is void.
- 21.9. **Force Majeure.** Except for payment obligations under the Agreement, neither party shall be liable for any failure to perform or observe any of its obligations under this Agreement for as long as and to the extent that such performance is prevented or hindered by any circumstances beyond its reasonable control. By way of example, and not limitation, such causes may include acts of God or public enemies; labor disputes; acts of local, state, or national governments or public agencies; utility or communications failure; fire; flood; epidemics; riots; or strikes. The time for performance of any right or obligation delayed by such events will be postponed for a period equal to the delay. If, however, a party is subject to a force majeure that endures for more than sixty (60) calendar days, the other party has a right to terminate the Agreement upon providing thirty (30) calendar days prior written notice to the party subject to the force majeure.
- 21.10. **Governing Law.** This Agreement shall for all purposes be construed and enforced under and in accordance with the laws of the State of Alabama and shall be deemed to have been accepted in Madison, Alabama, United States. The parties agree that any legal

action or proceeding relating to this Agreement shall be instituted in the Circuit Court for Madison County, Alabama, or the United States District Court for the Northern District of Alabama, Northeastern Division. The parties agree to submit to the jurisdiction of and agree that venue is proper in these courts in any such legal action or proceedings. This Agreement shall not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

- 21.11 Waiver of Jury Trial. Hexagon and Customer each hereby waive, to the fullest extent permitted by applicable law, any right either may have to a trial by jury for any legal proceeding arising, directly or indirectly, out of or relating to this Agreement.
- 21.12 Injunctive Relief; Cumulative Remedies. Customer acknowledges and agrees that a breach of the Agreement by Customer could cause irreparable harm to Hexagon for which monetary damages may be difficult to ascertain or may be an inadequate remedy. Customer agrees that Hexagon will have the right, in addition to its other rights and remedies, to seek and obtain injunctive relief for any breach of the Agreement by Customer, and Customer expressly waives any objection that Hexagon has or may have an adequate remedy at law with respect to any such breach. The rights and remedies set forth in this Agreement are cumulative and concurrent and may be pursued separately, successively or together.
- 21.13 Attorneys' Fees and Costs. In the event of any legal proceeding arising out of or relating to this Agreement, the prevailing party in such action shall be entitled to an award of its reasonable attorneys' fees and costs for all such legal proceedings, including for trial and all levels of appeal.
- 21.14 Governing Language. The controlling language of this Agreement is English. If Customer has received a translation into another language, it has been provided for Customer's convenience only.
- 21.15 Survival. The provisions of the Agreement which require or contemplate performance after the expiration or termination of the Agreement shall be enforceable notwithstanding said expiration or termination.

SGI-10012015



**HEXAGON**  
SAFETY & INFRASTRUCTURE

## Hexagon Safety & Infrastructure Addendum to the U.S. Maintenance Terms & Conditions for Software and Hardware

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This Addendum ("Addendum") to the Intergraph Corporation d/b/a Hexagon Safety & Infrastructure U.S. Maintenance Terms & Conditions for Software ("Terms & Conditions") consists of this cover page, the additional terms and conditions on the next page, and the additional Scopes of Coverage marked below (the "Additional Scopes"). This Addendum modifies the Agreement (comprised of the Terms & Conditions and the quote) between Customer and Hexagon Safety & Infrastructure to include the Additional Scopes. By signing this Addendum, the parties agree to be bound by the terms of this Addendum. Once signed, 1) the parties agree any reproduction of the Addendum made by reliable means (for example, photocopy or facsimile) is considered an original, and 2) the Agreement is subject to it.

This Addendum replaces all prior oral or written communications between the parties regarding the Additional Scopes. This Addendum shall only modify, alter, or waive those specific provisions or language of the Terms & Conditions addressed or referred to herein regarding the Additional Scopes, with all other provisions of the Terms & Conditions remaining in full force and effect, and reflecting the continued intent of the parties for Services of Covered Products.

This Addendum shall be incorporated into the Terms & Conditions and construed and interpreted according to the entirety of the Terms & Conditions. This Addendum shall remain effective for the term of the Agreement, unless terminated earlier.

### Scopes of Coverage

If checked below, the following Scopes of Coverage are made a part of the Agreement:

- ☐ System Optimization Funds
- ☒ Custom Interface Software Services
- ☐ Third-Party Hardware Services

In witness whereof, the parties have hereto executed this Addendum as of the date of execution by Hexagon Safety & Infrastructure.

**Intergraph Corporation, d/b/a  
Hexagon Safety & Infrastructure**

Signature: Trey Sampson

Printed Name: Trey Sampson

Title Contract Administrator

Date: 6/11/2016

**Abilene TX City of**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Hexagon Safety & Infrastructure -US-092410-Addendum-rev1**

**DJA745010**

*Customer Services Administration  
P.O. Box 6695, Huntsville, AL 35813*

## **ADDITIONAL TERMS & CONDITIONS**

The following additional terms and conditions apply to the items identified in this Addendum. In case of conflict between any of the parts of the Terms & Conditions, the order of precedence shall be as follows: 1) any addenda executed by the Customer and Hexagon Safety & Infrastructure, with the latest addendum taking precedence over any earlier addenda in which a conflict may appear; and 2) the unmodified Terms & Conditions.

Section 1, DEFINITIONS of the Terms & Conditions is modified by adding the following definitions:

- 1.12 "System Optimization Funds" means amount included on the quote to cover expenses for services related to Customer's Hexagon Safety & Infrastructure system during the Coverage Period that are otherwise considered Excluded Services under the Agreement.
- 1.13 "Custom Interface Software" means one or more software interfaces previously developed by Hexagon Safety & Infrastructure for Customer that work in conjunction and function with specific Covered Products (the specific Covered Products hereinafter referred to as the "Interfaced Covered Products").
- 1.14 "Third-Party Hardware" means the hardware products of any entity other than Hexagon Safety & Infrastructure that are listed on the quote and for which services are offered.

## **Scope of Coverage for System Optimization Funds**

Upon Customer's request and prepayment of System Optimization Funds, Hexagon Safety & Infrastructure will establish an account for Customer's System Optimization Funds.

### **1. Designation of System Optimization Funds**

Once payment is received by Hexagon Safety & Infrastructure, Hexagon Safety & Infrastructure will hold System Optimization Funds as advance payment for future purchases of goods and services not provided for under the Agreement, which may include installation of Upgrades, user group registration fees, upgrade of Custom Interface Software, and/or training and installation of Custom Interface Updates (as defined in part 1.(c) of the Scope of Coverage for Custom Interface Software Services).

### **2. Quote and Statement of Work for Use of System Optimization Funds**

Upon the request of the Customer, Hexagon Safety & Infrastructure will provide to the Customer a quotation and statement of work detailing the scope of proposed services against which System Optimization Funds are to be applied.

### **3. Use of System Optimization Funds**

If Customer accepts the quotation and statement of work by signing and returning to Hexagon Safety & Infrastructure the quotation and statement of work, Hexagon Safety & Infrastructure will deliver the proposed services detailed in the statement of work according to a mutually agreed schedule, and will credit the quoted amount against Customer's System Optimization Funds balance. In the event the accepted quotation exceeds the balance of System Optimization Funds held in account for Customer by Hexagon Safety & Infrastructure, Customer shall provide a purchase order to Hexagon Safety & Infrastructure for the amount of the quotation in excess of Customer's System Optimization Funds balance before Hexagon Safety & Infrastructure shall undertake any effort identified in the particular statement of work.

### **4. Expiration of System Optimization Funds**

Unused System Optimization Funds expire on a three (3) year rolling basis from the date of receipt.

## **Scope of Coverage for Custom Interface Software Services**

### **1. CUSTOM INTERFACE SOFTWARE SERVICES**

Hexagon Safety & Infrastructure will provide services for Custom Interface Software, subject to the following.

- (a) Services are limited to Custom Interface Software listed on the quote.
- (b) Hexagon Safety & Infrastructure will provide Help Desk support to the Customer for Custom Interface Software commensurate with the level of Help Desk support of the Interfaced Covered Products.
- (c) Hexagon Safety & Infrastructure will provide updates, upgrades, fixes, patches, and/or enhancements for Custom Interface Software only to the extent required for Custom Interface Software to function with Updates of Interfaced Covered Products (such updates, upgrades, fixes, patches, and enhancements of Custom Interface Software are referred to as the "Custom Interface Updates").

### **2. EXCLUDED CUSTOM INTERFACE SOFTWARE SERVICES**

Support for the following are outside of the scope of coverage for Custom Interface Software services and may be available through a separate agreement for which Hexagon Safety & Infrastructure will provide a quotation at Hexagon Safety & Infrastructure's prevailing rates:

- (a) Upgrades, updates, fixes and enhancements of Custom Interface Software that are requested by the Customer (other than those specified in Section 1.0., part (c) above).
- (b) Upgrades, updates, fixes and enhancements of Custom Interface Software for the purpose of operating with third party software or systems.
- (c) Installation of Custom Interface Software or Custom Interface Updates.



## **Scope of Coverage for Third-Party Hardware Services**

### **THIRD-PARTY HARDWARE SERVICES**

Calls from Customer for Third-Party Hardware services shall be passed by Hexagon Safety & Infrastructure directly to the third-party manufacturer of the hardware or their designated service representative (the "Service Provider"). Third-Party Hardware services are provided to the Customer by the Service Provider in accordance with the Service Provider's support policies. Hexagon Safety & Infrastructure has no obligation for Third-Party Hardware services other than to pass Customer's support call to the Service Provider.

Customer or Hexagon Safety & Infrastructure may provide a thirty (30) day written notice of their intent to remove any hardware products from coverage under this Contract.

Services for any third-party hardware that are not listed on the quote must be obtained by Customer directly from the Service Provider.



# MAINTENANCE RENEWAL POLICIES

## LATE RENEWAL

If your maintenance renewal is not received prior to the performance period begin date, in addition to any reinstatement fees that may be charged as described below, maintenance services for the new coverage period may be terminated or suspended by Intergraph Corporation d/b/a Hexagon Safety & Infrastructure. This includes your ability to access system support or the knowledge base, and the ability to log or check support requests. Therefore it is important that you do not delay in renewing your maintenance service contract.

## REINSTATEMENT FEE FOR LAPSE IN HEXAGON MAINTENANCE COVERAGE

Hexagon charges a 25% reinstatement fee when maintenance coverage lapses because a renewal is not received by the performance period begin date. Notwithstanding the foregoing, for all Oracle products there is a 50% reinstatement fee when maintenance coverage lapses because a renewal is not received by the performance period begin date. The reinstatement fee will be calculated and assessed for each month in which there has been a lapse in coverage. The details of this fee may be found in Section 4.1 of the Terms and Conditions. To ensure you are not assessed a reinstatement fee, please return your renewal instructions before the performance period begin date.

## LICENSE RE-PURCHASE FOR LAPSE IN MICROSOFT SQL SERVER AND BIZTALK MAINTENANCE COVERAGE

Hexagon's agreement with Microsoft for reinstating maintenance that has lapsed on Microsoft SQL Server and BizTalk licenses obtained from Hexagon and for which Hexagon provides maintenance and support. Microsoft only allows Hexagon to provide maintenance (including upgrades of the Microsoft products) to you if you provide renewal instructions prior to the performance period begin date shown in the attached quote and without any lapse in coverage. Any maintenance renewal received on or after the performance period begin date is considered to be a lapse in coverage and will not be accepted by Hexagon. Therefore, if your renewal for the Microsoft license maintenance is not received by Hexagon by the performance period begin date, when you wish to upgrade to a new version of SQL Server and/or BizTalk, [you are](#)





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required to re-purchase the licenses for the Microsoft products at the then current list price of those products, plus one year of maintenance coverage from the date of re-purchase. You will not be eligible to obtain support services from Hexagon during any lapse in maintenance coverage for SQL Server and/or BizTalk.

## BUSINESS INTELLIGENCE MAINTENANCE BEGINS WITH LICENSE PURCHASE; MAINTENANCE RENEWALS MUST BE RECEIVED BEFORE CURRENT MAINTENANCE TERM EXPIRES

Due to constraints related to third-party content in the Business Intelligence suite, the maintenance term must begin when Business Intelligence licenses are purchased. The maintenance must renew, if elected, on the anniversary of the license purchase; therefore, your renewal instructions must be received prior to the performance period begin date shown in the attached quote and without any lapse in coverage. Any maintenance renewal received on or after the performance period begin date is considered to be a lapse in coverage and will not be accepted by Hexagon. Therefore, if your renewal for the Business Intelligence license maintenance is not received by Hexagon by the performance period begin date, when you wish to upgrade to a new version of Business Intelligence, you are required to purchase an upgrade of the Business Intelligence products at a price that is fifty percent (50%) of the then current list price, plus one year of maintenance coverage from the date of the upgrade purchase. You will not be eligible to obtain support services from Hexagon during any lapse in maintenance coverage for the Business Intelligence products.

## CHARGES ARE PAYABLE ANNUALLY AND IN ADVANCE

Hexagon's payment terms are annual, in advance, for maintenance service contracts. If you wish to instead pay quarterly in advance, please request a revised quotation. A convenience fee of 15% will be added to contracts with quarterly payment schedules instead of annual. The convenience fee will be prorated across the four quarterly invoices.

## **Resolution Approving Renewal of Software Maintenance Agreement with Intergraph Corporation**

- The City has a software maintenance agreement with Intergraph Corporation (Hexagon) for public safety dispatch, records management and mobile data systems
- The agreement expires October 31, 2016
- Staff has negotiated a prorated renewal agreement for 8 months (November 1, 2016 through June 30, 2017) that we will continue to use Intergraph before relying upon the new Spillman system
- The prorated agreement cost is \$140,847
- Funding is included in the FY 2017 Technology Fund budget as approved by Council





**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Michael G. Rice, P.E., Director of Public Works**

**SUBJECT: Resolution: Bid Award #CB-1670 Elm Creek Bridge Guardrail Project. *(Rice)***

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**GENERAL INFORMATION**

This Project was advertised as a Public Notice on August 21st and 28th of 2016 with a bid opening dated September 6th 2016. This contract involves the removal and replacement of guardrail on the Elm Creek Bridge located on Rebecca Ln.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

Funding for this project is allocated from multiple CO's and General Funds dating back to 2004.

**STAFF RECOMMENDATION**

Staff recommends bid award to Bontke Brothers Construction Co. of Abilene Texas in the amount of \$122,315.00.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

Description	Type
❑ Resolution	Resolution Letter
❑ Project Location Map	Exhibit
❑ Bid Tab	Backup Material
❑ Slide	Presentation

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AWARDING BID TO BONTKE BROTHERS CONSTRUCTION CO., ABILENE,  
TEXAS**

**WHEREAS**, the City of Abilene duly advertised and gave such notice, as required by law, for bids for the Elm Creek Bridge Guardrail Project; and

**WHEREAS**, the project involves the removal and replacement of guardrail on the Elm Creek bridge located on Rebecca Ln.: and

**WHEREAS**, the following bids were received and opened on the September 6, 2016:

Bontke Brothers Construction Co., Abilene, Texas	\$122,315.00
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SCR Civil Construction LLC, Richmond, Texas	\$224,870.00
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**WHEREAS**, Bontke Brothers Construction Co., Abilene, Texas submitted the low bid in the amount of \$122,315.00 with the bid meeting specifications. Staff recommends awarding the bid to the low bidder, Bontke Brothers Construction Co., Abilene, Texas.

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

PART 1: That the City Council approves this bid in the amount of \$122,315.00.

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

**ADOPTED** this 22<sup>th</sup> day of September, 2016.

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norm Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

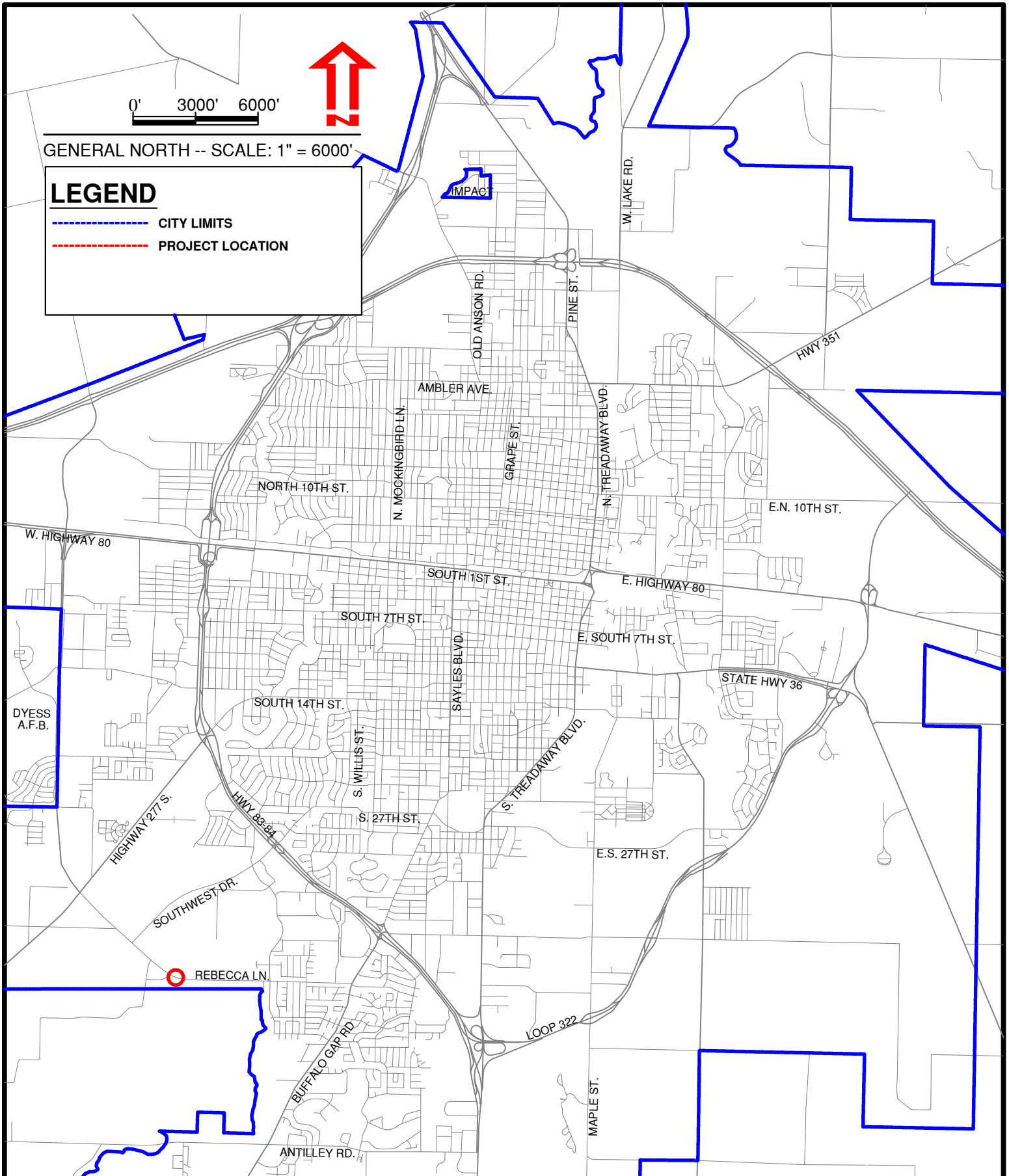
0' 3000' 6000'



GENERAL NORTH -- SCALE: 1" = 6000'

## LEGEND

- CITY LIMITS
- PROJECT LOCATION



Sheet  
1  
of  
1

CITY OF ABILENE, TEXAS  
PUBLIC WORKS DEPARTMENT  
ENGINEERING DIVISION

## ELM CREEK BRIDGE GUARDRAIL PROJECT

Designed By: LARRY WRIGHT

Drawn By: MICHAEL MILLER

Checked By: LARRY WRIGHT

Horizontal Scale: 1"=6000'

Vertical Scale: N.T.S.

Folder: MISC.  
PROJECTS

Computer File Name:  
ELM CREEK  
BRIDGE GUARDRAIL  
PROJECT

Date: SEPT. 2016

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

PAGE  
1 OF 1

**DEPARTMENT:** ENGINEERING  
**BID NO.:** CB-1670  
**TIME OF OPENING:** 11:00 A.M.  
**DATE OF OPENING:** SEPTEMBER 6, 2016

BONTKE BROTHERS  
CONSTRUCTION CO., INC.  
ABILENE, TX

SCR CIVIL CONSTRUCTION,  
LLC  
RICHMOND, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	ELM CREEK BRIDGE GUARDRAIL PROJECT				122,315.00		224,870.00								
BASE BID					122,315.00		224,870.00								
DISCOUNT															
TOTAL BID					*122,315.00		224,870.00								

\*NOTES: INDICATES RECOMMENDED AWARD



# Agenda Item

**Resolution: Bid Award #CB-1670 Elm Creek Bridge Guardrail  
Project. (*Rice*)**



# Agenda Item

- Construction Contract for the replacement of existing guardrail located at Elm Creek Bridge on Rebecca Ln.
- Project Advertised August 21<sup>st</sup> & 28<sup>th</sup>, Bids Opened September 6<sup>th</sup>.
- Two bids were received.
- Staff recommends award of contract to Bontke Brothers Construction in the amount of \$122,315.00.



**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Cande Flores, Deputy Fire Chief**

**SUBJECT: Resolution: Authorizing Physio-Control, Inc. to provide a 4-year service contract to City of Abilene for thirteen LifePak 15 cardiac monitors. (Bell)**

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**GENERAL INFORMATION**

The Abilene Fire Department currently retains a service contract for thirteen LifePak 15 cardiac monitors. The cardiac monitors are covered through Physio-Control, Inc. and covers equipment malfunctions, software updates, scheduled service and calibration, batteries, and some of the cabling. Each year there has been a price increase for this service. The 2016 fiscal year rate is \$1,540 per unit per year. Without the 4-year contract, the 2017 fiscal year rate would be \$1,680 per unit per year, with potential increases each additional year. Total base proposal price for a 4-year service contract is \$75,817.

**SPECIAL CONSIDERATIONS**

The 4-year service contract would lock in the rate on eleven of the thirteen cardiac monitors at \$1,428 per unit per year. Two of the newest monitors will be prorated for the first year at a rate of \$1,596 per unit per year. These two monitors and monitors purchased in the future will be serviced at the rate of \$1,596 per unit per year. AFD also retains two older reserve monitors that do not require service plans.

**FUNDING/FISCAL IMPACT**

A 4-year service plan, rather than a year to year plan, would save the City approximately \$12,800.

**Base Proposal Pricing for 4-years**

2017	\$17,857
2018	\$18,900
2019	\$18,900
2020	\$18,900

**STAFF RECOMMENDATION**

Staff recommends a 4-year service contract be granted to Physio-Control, Inc. at a total base proposal price of \$75,817.

## **BOARD OR COMMISSION RECOMMENDATION**

N/A

### **ATTACHMENTS:**

Description	Type
▣ Service Plan Options	Backup Material
▣ Service Contract	Backup Material
▣ Resolution	Resolution Letter
▣ Presentation	Presentation

# LIFEPAK 15 SERVICE PLANS

## ABILENE FIRE DEPARTMENT

### CURRENT SERVICE PLAN

Contract Status	Fiscal Year	Monitors	Contract Price	Total	
No Contract	2016	13	\$1,540	\$20,020	
No Contract	2017	13	\$1,680	\$21,840	

### BASE PROPOSAL FOR 4-YEAR CONTRACT

Contract Status	Fiscal Year	Monitors	Contract Price	Total	2017 Total
4-year Contract	2017	11	\$1,428	\$15,708	\$17,857
4-year Contract	2017	1 (*8 mos)	\$1,596	\$1,064	
4-year Contract	2017	1 (*5 mos)	\$1,596	\$665	
4-year Contract	2018	11	\$1,428	\$16,128	<b>2018 Total</b>
4-year Contract	2018	2	\$1,596	\$3,192	\$18,900
4-year Contract	2019	11	\$1,428	\$16,128	<b>2019 Total</b>
4-year Contract	2019	2	\$1,596	\$3,192	\$18,900
4-year Contract	2020	11	\$1,428	\$16,128	<b>2020 Total</b>
4-year Contract	2020	2	\$1,596	\$3,192	\$18,900

### REPLACEMENT PLAN PROJECTIONS (2 MONITORS PER YEAR)

Contract Status	Fiscal Year	Monitors	Contract Price	Total	2017 Total
4-year Contract	2017	11	\$1,428	\$15,708	\$17,857
4-year Contract	2017	1 (*8 mos)	\$1,596	\$1,064	
4-year Contract	2017	1 (*5 mos)	\$1,596	\$665	
4-year Contract	2018	9	\$1,428	\$12,852	<b>2018 Total</b>
4-year Contract	2018	2	\$1,596	\$3,192	\$16,310
4-year Contract	2018	2 (* 1 mo)	\$1,596	\$266	
4-year Contract	2019	7	\$1,428	\$9,996	<b>2019 Total</b>
4-year Contract	2019	4	\$1,596	\$6,384	\$16,646
4-year Contract	2019	2 (* 1 mo)	\$1,596	\$266	
4-year Contract	2020	5	\$1,428	\$7,140	<b>2020 Total</b>
4-year Contract	2020	6	\$1,596	\$9,576	\$16,982
4-year Contract	2020	2 (* 1 mo)	\$1,596	\$266	
Contract End Credit	2021	2 (*11 mos)	\$1,596	\$2,926	

\*PRORATED AMOUNT AT \$133.00 PER MONTH

## **CURRENT SERVICE PLAN**

This plan displays the current cost of our service contract, at \$1540 per cardiac monitor. It also shows the projected cost of 2017 using the increased amount of \$1680 per cardiac monitor. This is the service contract cost if we continue with paying year to year. Since the initial purchase of these service plans, the cost has increased each year and we expect this trend to continue.

## **BASE PROPOSAL FOR 4-YEAR CONTRACT**

This chart is based on the quote, from Physio Control, for a 4-year service contract. These numbers are based solely on AFD's current inventory of cardiac monitors. Eleven monitors are priced at \$1428 due to the time that they were purchased. The two newest monitors are subject to a rate of \$1596 per year. In 2017, these monitors will still have several months of their initial 1-year warranty remaining and, therefore, their totals are prorated. This chart displays pricing for the next four years if we maintain our inventory and do not continue with our cardiac monitor replacement plan.

## **REPLACEMENT PLAN PROJECTIONS**

These figures are based on both the terms of the 4-year service contract, and the continuation of our cardiac monitor replacement plan. The replacement plan involves the purchase of (2) new cardiac monitors, each year, to replace the (2) oldest units that are in service. The oldest units are used as reserves for the year, until they are traded in for credit towards the purchase of additional units. The greatest benefit comes when the monitors are purchased immediately after the new fiscal year. This allows one month for purchase and delivery, and then the monitor is covered under the factory warranty for the next eleven months of the fiscal year. Physio Control stated that we would receive credit for any months that are covered by the factory warranty. Due to the fact that each service plan year is paid up front, the credit would reflect on the next year's invoice.

### **Pricing Summary for 4-years (2017-2020)**

Current Service Plan Total	\$87,360.00
Base Proposal Total	\$74,557.00
Replace Plan Total	\$67,795.00



**Physio-Control, Inc**  
11811 Willows Road NE  
P.O. Box 97006  
Redmond, WA 98073-9706 U.S.A.  
www.physio-control.com  
tel 800.442.1142  
fax 800.732.0956

To Derek Briggs  
ABILENE FD  
SUPPORT SERVICES DIVISION, 250 GRAPE  
ST  
ABILENE, TX 79601  
(325) 721-6100  
[derek.briggs@abilenetx.com](mailto:derek.briggs@abilenetx.com)

Quote Number 00049311  
Revision # Renewal  
Created Date 8/12/2016  
Sales Consultant MichaelGlass  
903-654-1202  
FOB Redmond, WA  
Terms All quotes subject to credit approval and the  
following terms and conditions  
NET Terms NET 30

Renewal of PB16T525  
\*Add 1 LP15 effective 2/02/17 & 1 LP15 effective  
5/02/17.

Coverage Period: 10/03/2016-10/02/2020  
Payable in Annual Installments  
Fax: 800-772-3340

Territory Code: WECC58  
15% DISCOUNT ON ALL ACCESSORIES  
15% DISCOUNT ON ALL ELECTRODES

End User #: 00939901  
Bill To #: 00939902  
PO#:

\*Please return a signed quote, and PO or PO  
Waiver with this Service Plan.

Expiration Date 10/2/2016

Product	Product Description	Quantity	List Price	Unit Discount	Unit Sales Price	Total Price
50999-000121	Zone5: (151 to 200Mi) or (243 to 322Km)	4.00	420.00	0.00	420.00	1,680.00
LP15-OSCOMP-4	LIFEPAK 15 Service - 4 YEAR. On-site Comprehensive Coverage.	1.00	5,852.00	0.00	5,852.00	5,852.00
LP15-OSCOMP-4	LIFEPAK 15 Service - 4 YEAR. On-site Comprehensive Coverage.	1.00	5,453.00	0.00	5,453.00	5,453.00
LP15-OSCOMP-4-POS	LIFEPAK 15 Service - 4 YEAR. On-site Comprehensive Coverage. Annual Payments.	11.00	6,720.00	-1,008.00	5,712.00	62,832.00

Subtotal USD 75,817.00  
Estimated Tax USD 0.00

Quote Number: 00049311

Estimated Shipping & Handling

USD 0.00

Grand Total

USD 75,817.00

Pricing Summary Totals

List Price Total	USD 86,905.00
Total Contract Discounts Amount	USD -11,088.00
Total Discount	USD 0.00
Trade In Discounts	USD 0.00
Tax + S&H	USD 0.00

GRAND TOTAL FOR THIS QUOTE

USD 75,817.00

PHYSIO-CONTROL, INC. REQUIRES WRITTEN VERIFICATION OF THIS ORDER. A PURCHASE ORDER IS REQUIRED ON ALL ORDERS \$5,000 OR GREATER BEFORE APPLICABLE FREIGHT AND TAXES. THE UNDERSIGNED IS AUTHORIZED TO ACCEPT THIS ORDER IN ACCORDANCE WITH THE TERMS AND PRICES DENOTED HEREIN.

CUSTOMER APPROVAL (AUTHORIZED SIGNATURE)

NAME

TITLE

DATE

Reference Number JS/00939901/107514



**General Terms for all Products, Services and Subscriptions.**

Physio-Control, Inc. ("Physio") accepts Buyer's order expressly conditioned on Buyer's assent to the terms set forth in this document. Buyer's order and acceptance of any portion of the goods, services or subscriptions shall confirm Buyer's acceptance of these terms. Unless specified otherwise herein, these terms constitute the complete agreement between the parties. Amendments to this document shall be in writing and no prior or subsequent acceptance by Seller of any purchase order, acknowledgment, or other document from Buyer specifying different and/or additional terms shall be effective unless signed by both parties.

**Pricing.** Prices do not include freight insurance, freight forwarding fees, taxes, duties, import or export permit fees, or any other similar charge of any kind applicable to the goods and services. Sales or use taxes on domestic (USA) deliveries will be invoiced in addition to the price of the goods and services unless Physio receives a copy of a valid exemption certificate prior to delivery. Discounts may not be combined with other special terms, discounts, and/or promotions.

**Payment.** Payment for goods and services shall be subject to approval of credit by Physio. Unless otherwise specified by Physio in writing, the entire payment of an invoice is due thirty (30) days after the invoice date for deliveries in the USA, and sight draft or acceptable (confirmed) irrevocable letter of credit is required for sales outside the USA.

**Minimum Order Quantity.** Physio reserves the right to charge a service fee for any order less than \$200.00.

**Patent Indemnity.** Physio shall indemnify Buyer and hold it harmless from and against all demands, claims, damages, losses, and expenses, arising out of or resulting, from any action by a third party against Buyer that is based on any claim that the services infringe a United States patent, copyright, or trademark, or violate a trade secret or any other proprietary right of any person or entity. Physio's indemnification obligations hereunder will be subject to (i) receiving prompt written notice of the existence of any claim; (ii) being able to, at its option, control the defense and settlement of such claim (provided that, without obtaining the prior written consent of Buyer, Physio will enter into no settlement involving the admission of wrongdoing); and (iii) receiving full cooperation of Buyer in the defense of any claim.

**Limitation of Interest.** Through the purchase of Physio products, services, or subscriptions, Buyer does not acquire any interest in any tooling, drawings, design information, computer programming, patents or copyrighted or confidential information related to said products or services, and Buyer expressly agrees not to reverse engineer or decompile such products or related software and information.

**Delays.** Physio will not be liable for any loss or damage of any kind due to its failure to perform or delays in its performance resulting from an event beyond its reasonable control, including but not limited to, acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Physio's inability to obtain goods from its usual sources.

**Limited Warranty.** Physio warrants its products and services in accordance with the terms of the limited warranties located at <http://www.physio-control.com/Documents/>. The remedies provided under such warranties shall be Buyer's sole and exclusive remedies. Physio makes no other warranties, express or implied, including, without limitation, **NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.**

**Compliance with Confidentiality Laws.** Both parties acknowledge their respective obligations to maintain the security and confidentiality of individually identifiable health information and agree to comply with applicable federal and state health information confidentiality laws.

**Compliance with Law.** The parties agree to comply with any and all laws, rules, regulations, licensing requirements or standards that are now or hereafter promulgated by any local, state, and federal governmental authority/agency or accrediting/administrative body that governs or applies to their respective duties and obligations hereunder.

**Regulatory Requirement for Access to Information.** In the event 42 USC § 1395x(v)(1)(I) is applicable, Physio shall make available to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of these terms, such books, documents and records as are necessary to certify the nature and extent of the costs of the products and services provided by Physio.

**No Debarment.** Physio represents and warrants that it and its directors, officers, and employees (i) are not excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services; and (iii) are not under investigation which may result in Physio being excluded from participation in such programs.

**Choice of Law.** The rights and obligations of Physio and Buyer related to the purchase and sale of products and services described in this document shall be governed by the laws of the state where Buyer is located. All costs and expenses incurred by the prevailing party related to enforcement of its rights under this document, including reasonable attorney's fees, shall be reimbursed by the other party.

**Additional Terms for Purchase and Sale of Service Plans.**

In addition to the General Terms above, the following terms apply to all Physio Service Plans.

**Service Plans.** Physio shall provide services according to the applicable Service Plan purchased by Buyer and described at <http://www.physio-control.com/ServicePrograms.aspx> for the length of the subscription purchased and for the devices specified as covered by the Service Plan ("Covered Equipment").

**Pricing.** If the number or configuration of Covered Equipment changes during the Service Plan subscription, pricing shall be pro-rated accordingly. For Preventative Maintenance, Inspection Only, Comprehensive, and Repair & Inspect Service Plans, Buyer is responsible to pay for preventative maintenance and inspections that have been performed since the last anniversary of the subscription start date and such services shall not be pro-rated.

**Device Inspection Before Acceptance.** All devices that are not covered under Physio's Limited Warranty or a current Service Plan must be inspected and repaired (if necessary) to meet specifications at then-current list prices prior to being covered under a Service Plan.

**Unavailability of Covered Equipment.** If Covered Equipment is not made available at a scheduled service visit, Buyer is responsible to reschedule with the Physio Service Technician, or ship-in the Equipment to a Physio service depot. Physio reserves the right to charge Buyer a surcharge for a return visit. Surcharges will be based on then-current Physio list price of desired services, less 10% for labor and 15% for parts, plus applicable travel costs. The return visit surcharge will be in addition to the subscription price of the Service Plan. To avoid the surcharge, Buyer may ship devices to a Physio service depot. Buyer shall be responsible for round-trip freight for ship-in service.

**Unscheduled or Uncovered Services.** If Buyer requests services to be performed on Covered Equipment which are not covered by a Service Plan, or are outside of designated Services frequency or hours, Physio-Control will charge Buyer for such services at 10% off Physio-Control's standard rates (including overtime, if appropriate) and applicable travel charges. Repair parts required for such repairs will be made available at 15% off the then-current list price.

**Loaners.** If Covered Equipment must be removed from service to complete repairs, Physio will provide Buyer with a loaner device, if one is available. Buyer assumes complete responsibility for the loaner and shall return the loaner to Physio in the same condition as received, normal wear and tear exempted, upon the earlier of the return of the removed Covered Equipment or Physio's request.

**Cancellation.** Buyer may cancel a Service Plan upon sixty (60) days' written notice to Physio. In the event of such cancellation, Buyer shall be responsible for the portion of the designated price which corresponds to the portion of the Service Plan subscription prior to the effective date of termination and the list-price cost of any preventative maintenance, inspections, or repairs rendered after the last anniversary date of the subscription start date.

**No Solicitation.** During the Service Plan subscription and for one (1) year following its expiration Buyer agrees to not to actively and intentionally solicit anyone who is employed by Physio to provide services such as those described in the Service Plan.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE CITY MANAGER TO EXECUTE A 4-YEAR SERVICE  
CONTRACT WITH PHYSIO-CONTROL, INC.**

**WHEREAS**, the Abilene Fire Department currently retains a service contract for thirteen LifePak 15 cardiac monitors.

**WHEREAS**, these cardiac monitors are covered through Physio-Control, Inc. and covers equipment malfunctions, software updates scheduled service and calibration, batteries, and some of the cabling.

**WHEREAS**, each year there has been a price increase for this service. The 2016 fiscal year rate is \$1,540 per unit per year. Without the 4-year contract, the 2017 fiscal year rate would be \$1,680 per unit per year, with potential increases each additional year. Total base proposal price for a 4-year service contract is \$75,817.

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

PART 1: that the City Council authorizes the City manager to execute a 4-year contract with Physio-Control, Inc. to provide a service contract for thirteen LifePak 15 cardiac monitors.

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

**ADOPTED** this 22nd day of September, 2016.

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norm Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

# **LifePak 15 Cardiac Monitor Service Plan Contract**

September 22, 2016



## **CARDIAC MONITOR SERVICE PLAN**

- Yearly updates and maintenance
- Monitor repairs
- Battery replacement
- Loaner equipment
- Discount on accessories



## SERVICE PLAN PRICING

- 2016 Fiscal Year Pricing : \$1540 per monitor
- 2017 Fiscal Year Pricing : \$1680 per monitor



## 4-YEAR CONTRACT PRICING

Monitors purchased before 2016 : \$1428 per monitor

Monitors purchased after January, 2016 : \$1596 per monitor





**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Stan Standridge, Chief of Police**

**Resolution: Purchase of Level IV body armor for Police Department and Marshals**  
**SUBJECT: Division. (*Standridge*)**

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**GENERAL INFORMATION**

The Police Department and the Marshals Division provide Level II body armor for all sworn employees, and it is routinely replaced after 5 years. Such armor protects officers from handguns but not rifles. Each set of armor costs approximately \$630.

The Department and the Marshals Division seeks the addition of Level IV body armor and carriers to further enhance officer safety. Officers and Marshals are willing to reimburse the City for these expenses, thus allowing for personal ownership and their ability to configure the equipment to their individual needs.

The specific plates that were approved by Police Administration are Protech Level IV Armor Piercing Plates, which are rated by the National Institute of Justice as Type IV compliant. By purchasing ceramic plates versus steel, there are fewer concerns with the spalling of impacting rounds. The plates will be contained within a tan carrier with police markings on the front and back, and each carrier will have a double magazine pouch as well as a medic kit for tourniquets, scissors, gauze and hemostatic agents.

**SPECIAL CONSIDERATIONS**

The request for Level IV armor preceded the events in Dallas, Tx. Officers approached Police Administration and asked if the City would consider purchasing the armor for the officers, and thereafter allow the officers to reimburse the City. This would be done in conjunction with the proposed rifle purchases.

**FUNDING/FISCAL IMPACT**

The purchase of the armor will be reflected as an accounts receivable from the individual officers on the City's books (similar to a pay advance). Each pay period an equal amount will be payroll deducted from the officers paycheck in order to fully pay back the receivable within one year's time. No budgeted funds will be used in this purchase.

**STAFF RECOMMENDATION**

Staff recommends the bid be awarded to GT Distributors pursuant to Buyboard Contract # 432-12.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

Description	Type
▣ Resolution	Resolution Letter
▣ Overview of Order	Backup Material
▣ Presentation	Presentation
▣ Bid reflecting Buyboard pricing	Backup Material



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO PURCHASE LEVEL IV  
BODY ARMOR FROM GT DISTRIBUTORS IN EXCESS OF \$50,000.**

**WHEREAS**, this City Council finds that Abilene Police Officers and City Marshals desire to purchase for themselves Level IV AP Body Armor in support of an existing Body Armor Program, as authorized by operating procedures.

**WHEREAS**, the City of Abilene will not use budgeted funds for this purchase. These purchases will be reflected as an accounts receivable from the individual officers on the City's books (similar to a pay advance). Each pay period an equal amount will be payroll deducted from the officer's paycheck in order to fully pay back the receivable within one years' time.

**WHEREAS**, the purchase will increase officer / marshal and citizen safety; and

**WHEREAS**, the Abilene Police Department has identified a proper vendor through BuyBoard.

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

PART 1: The City approves the purchase of approximately (131) Level IV body armor sets from GT Distributors for \$493 each.

PART 2: The City will utilize BuyBoard contract # 432-12

PART 3: The City Manager or his designee is authorized to execute the necessary transaction(s) enabling Abilene Police Officers and City Marshals to purchase armor and then fully reimburse the City 100%.

PART 4: That this Resolution shall take effect immediately from and after passage.

Adopted the \_\_\_\_ day of September, 2016

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norman Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

## GT Distributor Armor Order

Item	Price	Qty	Total
Protech Plate Holder Molle	\$142	131	\$18,602
Protech Level IV AP Plate	\$145	287	\$41,615
Protech 2 inch Police Patch	\$8	254	\$2,032
Protech M4 Double Mag Pouch	\$17	127	\$2,159
Protech Medic Pouch	\$28	127	\$3,556
Armor Order Total -	\$67,964 +tax	=	\$73,571.03
Troy AR-15 w/accessories +tax =	\$1,050.01	151	\$158,551.51
Overall Total -			\$232,122.54

Quote Reflects Buyboard Contract 432-12

Contract Period expires 03/31/17

# Level IV Armor Purchase

Chief Stan Standridge



# Body Armor; Operating Procedure D-16

- Three bids were obtained for the purchase of approximately (131) Protech Level IV Armor Piercing Plates with carrier, which are rated by the National Institute of Justice as Type IV compliant.
- Molle carriers will be tan with 2” POLICE on front and back, as well as having a double magazine pouch and medic pouch.

# Body Armor; Operating Procedure D-16

- Costs for a single carrier with attachments is \$493.
- No budgeted funds will be used in this purchase.
- The City will be reimbursed 100%.
- Questions?



GT Distributors - Austin  
P.O. Box 16080  
Austin TX 78761  
(512) 451-8298 Ext. 0000

Quote	QTE0036828
Date	7/25/2016
Page:	1

**Bill To:**

Abilene City of (TX)  
P O Box 60  
Attn: Accounting Division  
Abilene TX 79604

**Ship To:**

Abilene City of (TX)  
4557 East Lake Rd  
Abilene TX 79601

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
TAC- PR QUOTE	001732	DJ	FEDEX-STAND-NC	NET 15	0/0/0000	1,490,669
Quantity	Item Number	Description	UOM	Unit Price	Ext. Price	
150	PTA-TAC-PR-MOLLE*	Protech-Plate Holder-Molle Specify Size/Color	EA	\$142.00	\$21,300.00	
300	PTA-PLT-2014G*	Protech Level IV AP Plate	Each	\$145.00	\$43,500.00	
150	PTA-TAC-PH-DN6458*	Protech TAC PH DN#6458 MOLLE Plate Carri	EA	\$79.95	\$11,992.50	
300	PTA-E2-POLICE*	Protech-2 Inch Police ID Patch	EA	\$8.00	\$2,400.00	
150	PTA-TP5A	Protech M4 Double Mag Pouch, Specify Color	EA	\$17.00	\$2,550.00	
150	PTA-TP20*	Protech Medic Pouch	EA	\$28.00	\$4,200.00	
1	NOTES*	Notes:  Quotation reflects Buyboard Contract 432-13 Contract period 04/01/14-03/31/17. Fax BuyBoard PO's to 1-800-211-5454 only.	EA	\$0.00	\$0.00	

All returns must be authorized by GT Distributors. Interest charges on past due invoices at the maximum rate allowed by law.

Your salesman is Dick Jensen. Thank you!

Subtotal	\$85,942.50
Misc	\$0.00
Tax	\$0.00
Freight	\$0.00
Total	\$85,942.50



**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Stan Standridge, Chief of Police**

**Resolution: Purchase of (151) Patrol rifles in support of Departmental Program.**

**SUBJECT: (Standridge)**

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**GENERAL INFORMATION**

The Police Department and the Marshals Division seek the purchase of (151) patrol rifles in support of the Patrol Rifle Program. These will be 5.56 x 45 mm NATO chambered AR15 style semi-automatic, gas impingement rifles. The Police Department has a long-standing Patrol Rifle Program wherein officers are authorized to carry standardized rifles of .223 caliber. Patrol rifles have been recognized as an enhancement to officer safety during high-risk calls for service, as seen throughout the nation on many occasions. Policies and training standards govern the Department's Patrol Rifle program, as well as the Marshal's program. Participating sworn employees will, after proper federal firearm license transfers have occurred and full reimbursement is made to the City, own and maintain the new rifles. Before sworn personnel can carry these rifles, however, they must complete a qualification course of a minimum of (20) hours.

**SPECIAL CONSIDERATIONS**

Accreditation standards require professional police agencies to adopt Use of Force policies and review and examine weapons use to ensure they are in conformance with the law, departmental policies and community expectations. The Police Department has a comprehensive Use of Force Policy as outlined in Operating Procedures D-4 and a comprehensive Use of Firearms policy as outlined in D-19. The Marshals Division has similar policies that contain the same standards.

**FUNDING/FISCAL IMPACT**

The purchase of the rifles will be reflected as an accounts receivable from the individual officers on the City's books (similar to a pay advance). Each pay period an equal amount will be payroll deducted from the officer's paycheck in order to fully pay back the receivable within one year's time. No budgeted funds will be used in this purchase.

**STAFF RECOMMENDATION**

Bids were sent to several local firearms providers, as well as national vendors. Only two bids were returned.

Staff recommends the bid be awarded to Troy Industries, Inc.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

Description	Type
▣ Resolution	Resolution Letter
▣ Presentation	Presentation
▣ Bid tab	Backup Material
▣ Armor & Rifle Overview	Backup Material



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO PURCHASE 5.56 PATROL  
RIFLES FROM TROY INDUSTRIES, INC., IN EXCESS OF \$50,000.**

**WHEREAS**, this City Council finds that Abilene Police Officers and City Marshals desire to purchase for themselves a Patrol Rifle in support of existing Patrol Rifle Deployment Programs, as authorized by Operating Procedures.

**WHEREAS**, the City of Abilene will not use budgeted funds for this purchase. These purchases will be reflected as an accounts receivable from the individual officers on the City's books (similar to a pay advance). Each pay period an equal amount will be payroll deducted from the officer's paycheck in order to fully pay back the receivable within one years' time. Officers and Marshals will fully reimburse the City.

**WHEREAS**, the purchase will increase officer/marshal and citizen safety; and

**WHEREAS**, the Abilene Police Department has received a sealed, written bid that met all bid specifications.

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

PART 1: The City approves the purchase of approximately (151) rifles from Troy Industries, Inc. for \$960.16 each.

PART 2: The City will utilize a written bid that was received.

PART 3: The City Manager or his designee is authorized to execute the necessary transaction(s) enabling Abilene Police Officers and City Marshals to purchase rifles that will be processed through a Federal Firearms Licensed Dealer, for an approximate cost of \$158,551.

PART 4: That this Resolution shall take effect immediately from and after passage.

Adopted the \_\_\_\_ day of September, 2016

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norman Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, Interim City Attorney

# Patrol Rifle Program

Chief Stan Standridge



# Patrol Rifle Deployment; Operating Procedure D-19

- Written, sealed bids were requested of several local vendors as well as national vendors
- Only two bids returned: \$1,492 per rifle and \$960.16 per rifle
- Recommend approval of bid to Troy Industries, Inc., for approximately \$158,551 for (151) 5.56 x 45 mm NATO chambered AR15 style semi-automatic rifles

# Patrol Rifle Deployment; Operating Procedure D-19

- No budgeted funds will be used in this purchase.
- The City will be reimbursed 100%.
- Questions?

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

PAGE  
1 OF 1

**DEPARTMENT:** POLICE  
**BID NO.:** CB-1669  
**TIME OF OPENING:** 11:00 A.M.  
**DATE OF OPENING:** SEPTEMBER 2, 2016

TROY INDUSTRIES, INC.  
WEST SPRINGFIELD, MA

DANIEL DEFENSE, INC.  
BLACK CREEK, GA

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	POLICE WEAPON PURCHASE – RIFLE PACKAGE	147	EA	960.16	141,143.52	1,492.00	219,324.00								
BASE BID															
DISCOUNT															
TOTAL BID															

\*NOTES: INDICATES RECOMMENDED AWARD

**GT Distributor Armor Order**  
and AR-15 Rifles

Item	Price	Qty	Total
Protech Plate Holder Molle	\$142	145	\$20,590
Protech Level IV AP Plate	\$145	287	\$41,615
Protech 2 inch Police Patch	\$8	254	\$2,032
Protech M4 Double Mag Pouch	\$17	127	\$2,159
Protech Medic Pouch	\$28	127	\$3,556
Armor Order Total -	\$69,952 +tax	=	\$75,723.04
Troy AR-15 w/accessories +tax =	\$1,050.01	151	\$158,551.51
Overall Total -			\$234,274.55

Quote Reflects Buyboard Contract 432-12

Contract Period expires 03/31/17



**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Dana Schoening, Director of Planning and Development Services**

**Ordinance: (First Reading) Z-2016-39 A request from the City of Abilene to rezone property from an AO (Agricultural Open Space) zone to a PD (Planned Development) district located at the southeast corner of Ben Richey Dr. and Boys Ranch Rd.; Setting a public hearing for October 13, 2016. *(Schoening)***

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**GENERAL INFORMATION**

Currently, the subject property is zoned AO. The majority of the subject property is being used as the Ben Richey's Boys Ranch which, "...is a private, non-profit basic child care facility. Ben Richey Boys Ranch provides clean, comfortable and safe homes for each boy at the Ranch...Boys on the Abilene campus attend Jackson Elementary, Madison Middle School, and Cooper High School...Boys raise livestock and vegetable gardens are planted each year and cared for by the boys. The boys are also active participants in the newly formed horse program at Ben Richey Boys Ranch" (Boys, 2016). In addition to the Boys Ranch Program, the property owners are also starting a program for single mothers to be able to reside on the property as well. "The Family Program exists to restore single mothers and their children with hope, comfort, and shelter while they locate resources they need to move toward successful independent living... While the mother works toward setting goals with the guidance of dedicated and supportive staff, she lives in a comfortable residential setting with her children... Mothers and their children live in shared homes with private bedrooms and bathrooms that are assigned to their families..." until they are able to support themselves and their children without the support of someone else (Family, 2016). In order to accommodate these families, the Ranch is looking to construct more institutional housing located on the western portion of the subject property. This would require their property line to be extended west all the way to Boys Ranch Rd. The majority of the properties nearby are AO (Agricultural Open Space), with HI (Heavy Industrial) to the east and northeast. After extending the property line west, the PD would allow for institutional housing and a waiver of the sidewalk and street improvement requirements on Ben Richey Dr. and Boys Ranch Rd. that are associated with the new development. The proponents desire for the base zoning of the PD to remain AO so that the Ranch can continue to provide the farming, gardening, and horse programs that are in place. They desire to add institutional housing within the proposed PD because that is how they are currently housing the boys and will eventually house the single mothers at the Ranch.

The Future Land Use section of the Comprehensive Plan designates this property as 'business/industrial'. The PD will have a base of AO zoning, which is what the property is currently zoned as. The requested overlay zoning is compatible with the Future Land Use Map and the adjacent properties.

**SPECIAL CONSIDERATIONS**

## **FUNDING/FISCAL IMPACT**

## **STAFF RECOMMENDATION**

Staff recommends approval.

## **BOARD OR COMMISSION RECOMMENDATION**

The Planning & Zoning Commission recommends approval of this request by a vote of five (5) in favor (Bixby, Dunnahoo, Famble, Smith and McClarty) and none opposed.

## **ATTACHMENTS:**

Description	Type
▣ Ordinance Exhibit	Cover Memo
▣ Staff Report With Maps	Exhibit
▣ PowerPoint	Presentation



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-158 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

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

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

PASSED ON FIRST READING this 22<sup>nd</sup> day of September A.D. 2016.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19<sup>th</sup> day of August, 2016, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 p.m., on the 13<sup>th</sup> day of October, 2016, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 13<sup>h</sup> day of October, A.D. 2016.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_

Exhibit "A"

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

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

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

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

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

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 2

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

A0801 SUR 66 B A L SE/4, TRACT ABILENE BOYS RANCH, ACRES 20.54; WESTERN PORTION OF A0801 SUR 66 B A L SE/4, ADJACENT TO BOYS RANCH PROPERTY, ACRES 7.7



Location:

Southeast corner of Ben Richey Dr. and Boys Ranch Rd.

ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

PAGE 3

PART 6: Purpose. The purpose of the Planned Development (PD) request is to allow for AO (Agricultural Open Space) uses, institutionalized housing, and to waive the sidewalk and street improvement requirements associated with new development.

PART 7: Specific Modifications. This Planned Development shall be subject to the requirements of the AO (Agricultural Open Space) zoning district, except as modified below:

1) PERMITTED USES:

- a. Institutionalized Housing

2) DEVELOPMENT REGULATIONS:

- a. The requirements to improve the sidewalks and streets along both Ben Richey Dr. and Boys Ranch Rd., instigated by the new development on the property, will be waived.

-END-

# ZONING CASE Z-2016-39

## STAFF REPORT



### APPLICANT INFORMATION:

City of Abilene

### HEARING DATES:

P & Z Commission: September 6, 2016

City Council 1<sup>st</sup> Reading: September 22, 2016

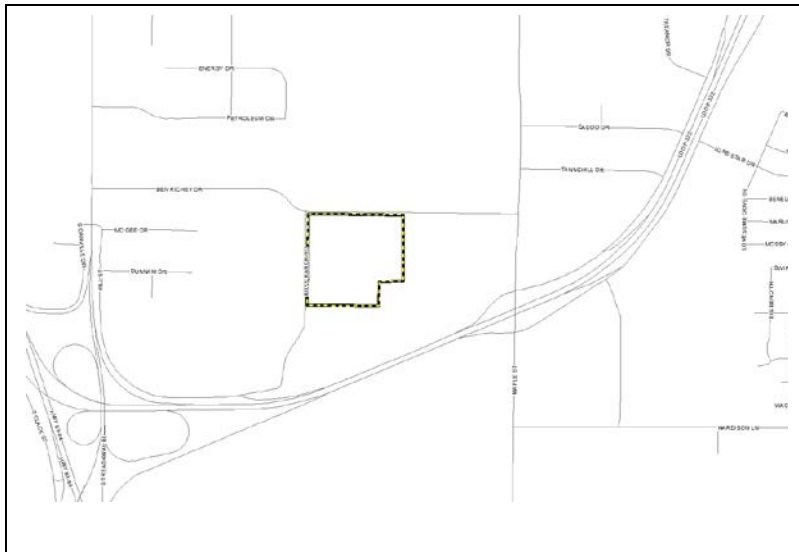
City Council 2<sup>nd</sup> Reading: October 13, 2016

### LOCATION:

Southeast corner of Ben Richey Dr. and Boys Ranch Rd.

### REQUESTED ACTION:

Rezone property from an AO (Agricultural Open Space) zone to a PD (Planned Development) district



### SITE CHARACTERISTICS:

The subject parcel totals approximately 28.24 acres and is currently zoned AO. The adjacent properties are zoned AO to the north, south, and west, and HI (Heavy Industrial) to the east and northeast.

### ZONING HISTORY:

The property has been AO zoning since the zoning map was initially adopted in 1974.

### ANALYSIS:

- Current Planning Analysis

Currently, the subject property is zoned AO. The majority of the subject property is being used as the Ben Richey's Boys Ranch which, "...is a private, non-profit basic child care facility. Ben Richey Boys Ranch provides clean, comfortable and safe homes for each boy at the Ranch...Boys on the Abilene campus attend Jackson Elementary, Madison Middle School, and Cooper High School...Boys raise livestock and vegetable gardens are planted each year and cared for by the boys. The boys are also active participants in the newly formed horse program at Ben Richey Boys Ranch" (Boys, 2016). In addition to the Boys Ranch Program, the property owners are also starting a program for single mothers to be able to reside on the property as well. "The Family Program exists to restore single mothers and their children with hope, comfort, and shelter while they locate resources they need to move toward successful independent living... While the mother works toward setting goals with the guidance of dedicated and supportive staff, she lives in a comfortable residential setting with her children... Mothers and their children live in shared homes with private bedrooms and bathrooms that are assigned to their families..." until they are able to support themselves and their children without the support of someone else (Family, 2016). In order to accommodate these families, the Ranch is looking to construct more institutional housing

located on the western portion of the subject property. This would require their property line to be extended west all the way to Boys Ranch Rd.

The majority of the properties nearby are AO (Agricultural Open Space), with HI (Heavy Industrial) to the east and northeast. After extending the property line west, the PD would allow for institutional housing and a waiver of the sidewalk and street improvement requirements on Ben Richey Dr. and Boys Ranch Rd. that are associated with the new development. The proponents desire for the base zoning of the PD to remain AO so that the Ranch can continue to provide the farming, gardening, and horse programs that are in place. They desire to add institutional housing within the proposed PD because that is how they are currently housing the boys and will eventually house the single mothers at the Ranch.

Kirgan, Lee. "Boys Ranch - Ben Richey Boys Ranch and Family Program." *Ben Richey*. N.p., n.d. Web. 12 Aug. 2016. <<http://benrichey.org/boys-ranch-2/>>.

Kirgan, Lee. "Family Program - Ben Richey Boys Ranch and Family Program." *Ben Richey Boys Ranch and Family Program*. N.p., n.d. Web. 12 Aug. 2016. <<http://benrichey.org/programs/>>.

- **Comprehensive Planning Analysis**

The Future Land Use section of the Comprehensive Plan designates this property as 'business/industrial'. The PD will have a base of AO zoning, which is what the property is currently zoned as. The requested overlay zoning is compatible with the Future Land Use Map and the adjacent properties.

## **PLANNING STAFF RECOMMENDATION:**

Staff recommends approval.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission will consider this request at their September 6, 2016 meeting.


## **NOTIFICATION:**

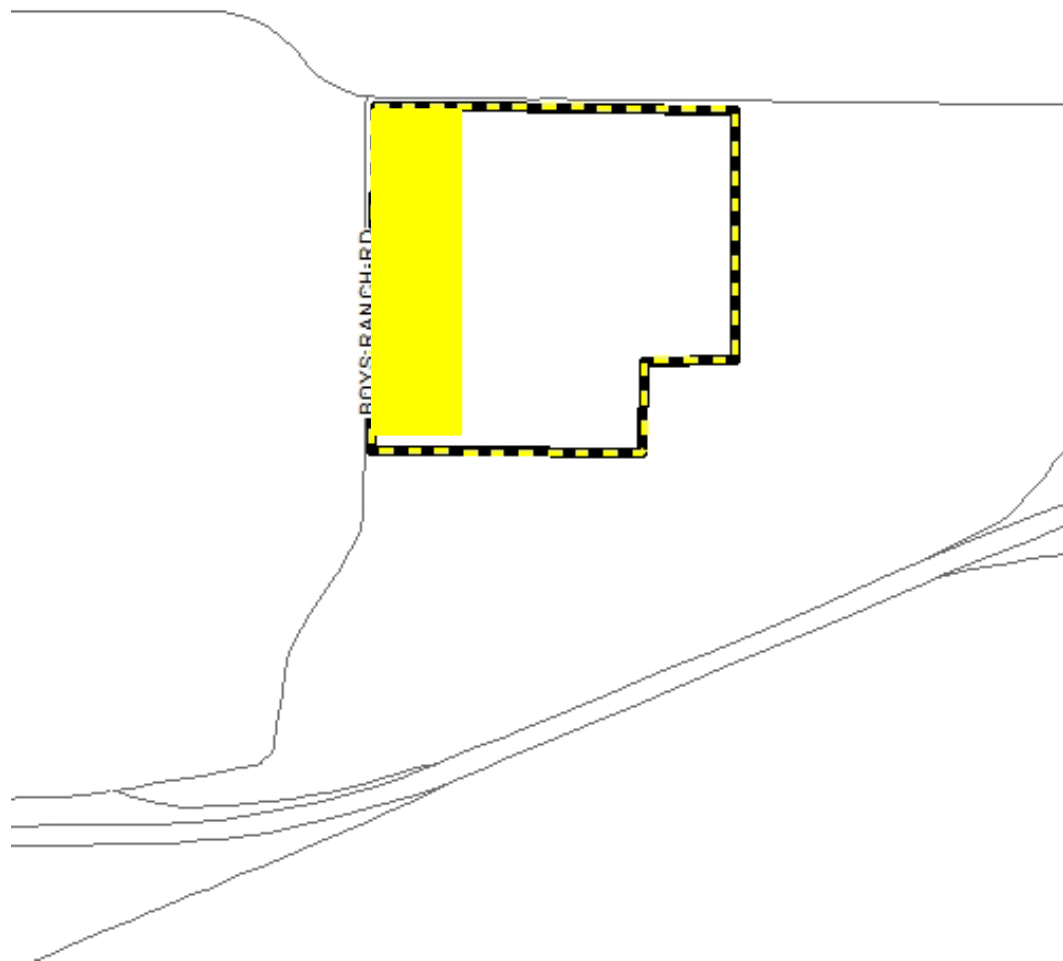
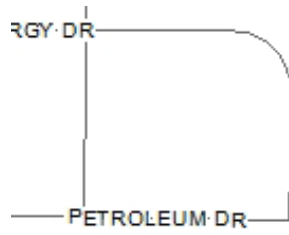
Property owners within a 200-foot radius were notified of the request.

OWNER	ADDRESS	RESPONSE
City of Abilene	501 Ben Richey Dr.	
Mrs. Bonita June Hanson	401 Ben Richey Dr.	
Herb Pittman	888 Ben Richey Dr.	
Pak Harris Enterprises LTD	1001 Ben Richey Dr.	In Favor
Pak Harris Enterprises LTD	902 Ben Richey Dr.	In Favor
MB Rentals LTD	4750 Boys Ranch Rd.	
City of Abilene	5602 Maple St.	

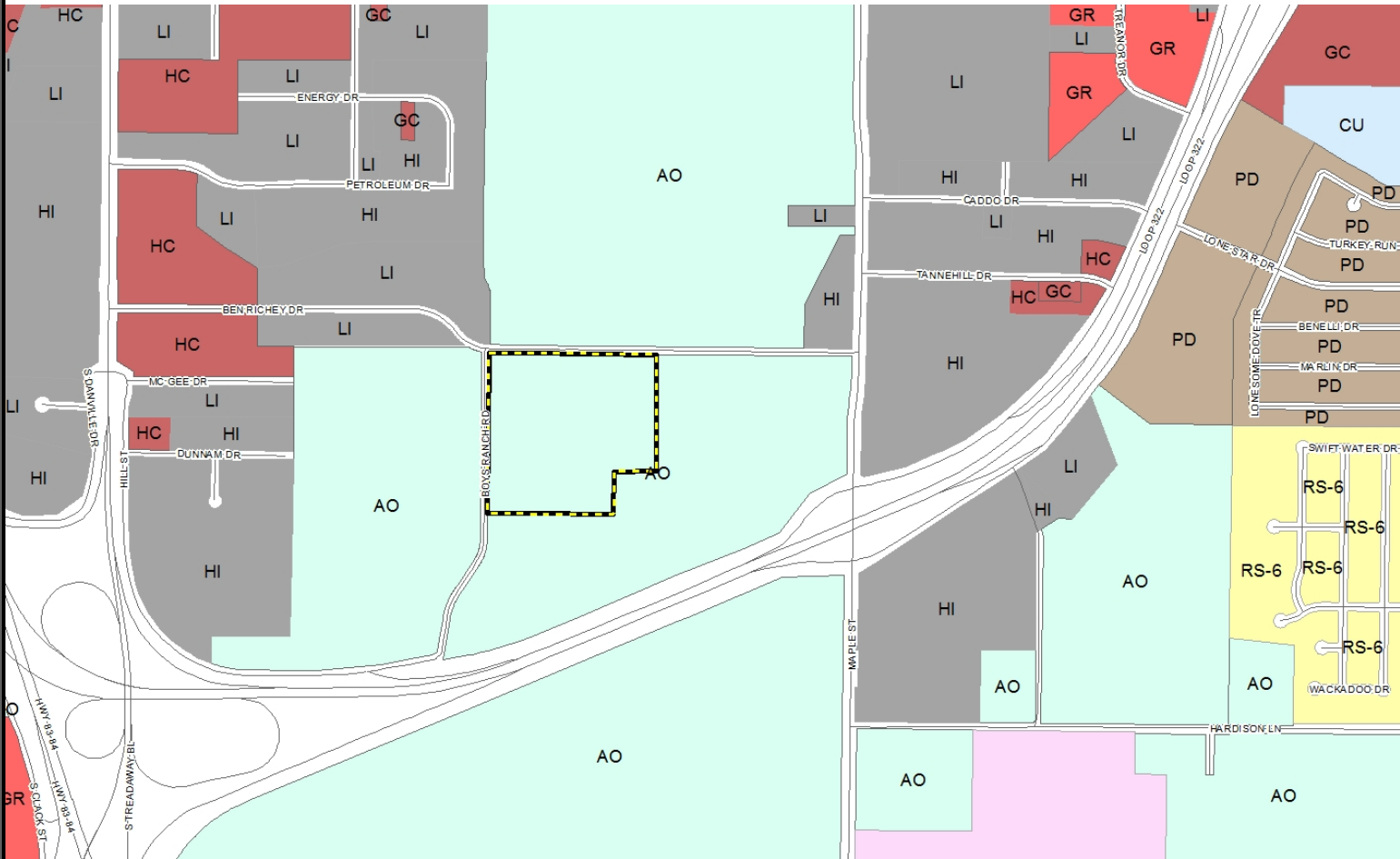
2 in Favor- **Y**  
0 Opposed- **N**



 - Portion of boundary to be extended













# Z-2016-39

**Request:** Rezone from AO to PD zoning

**Location:** Southeast corner of Ben Richey Dr. and Boys Ranch Rd.

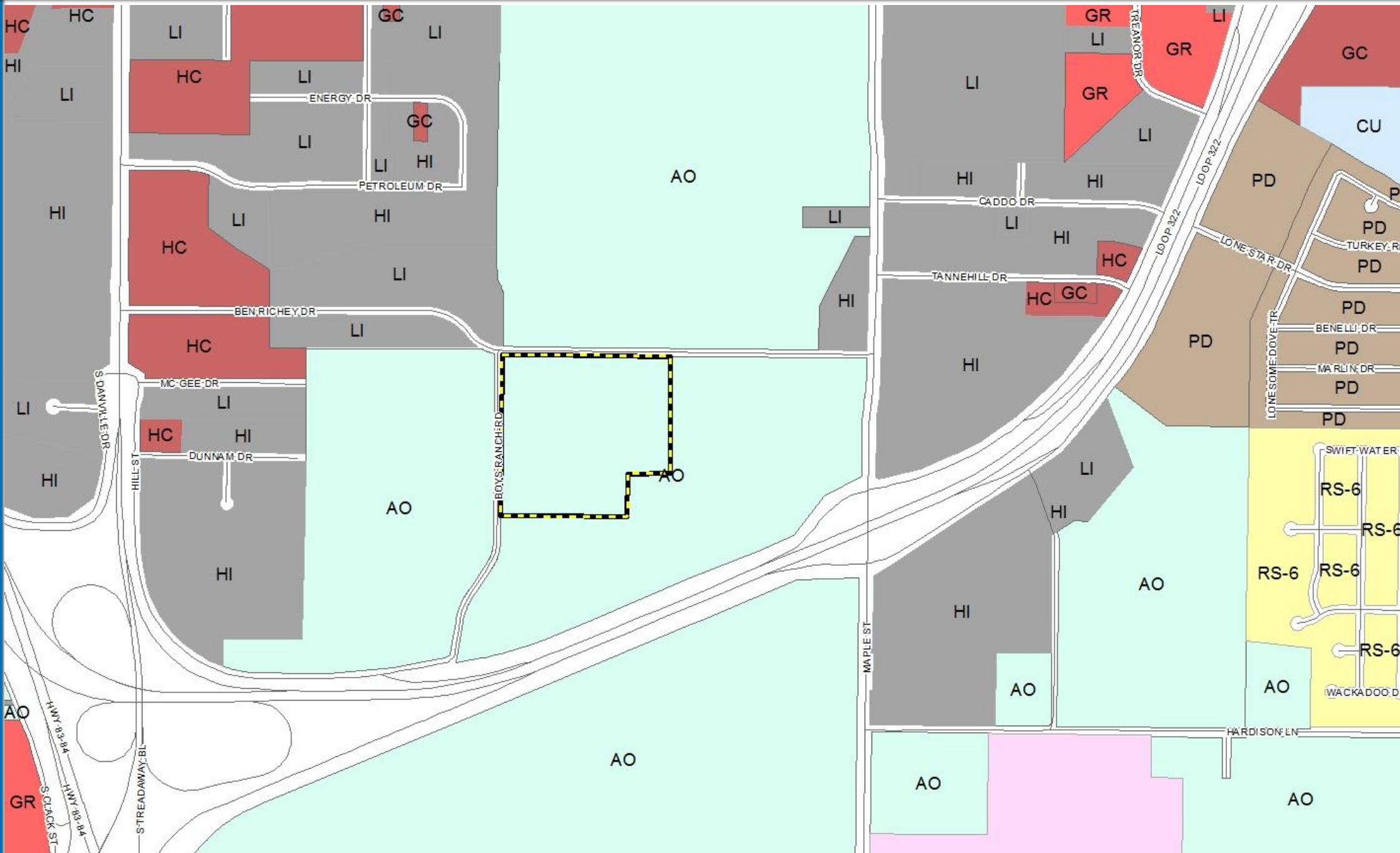
**Notification:** 2 in favor; 0 opposed

**Staff Recommendation:** Approval

**P & Z Recommendation:** Approval of request

















View looking south toward subject property along Boys Ranch Rd.





View looking east along Ben Richey Dr.





View looking southeast toward subject property





View looking east along Ben Richey Dr.









View looking south toward subject property





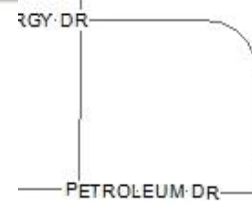
View looking southwest toward east side of subject property






View looking southwest toward west side of subject property





 - Approx. portion of boundary to be extended





# Permitted Uses in AO 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 Day Care Operation – Home-Based
- P Dwelling – Accessory
- TP Field Office or Construction Office (temporary)
- 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)

## 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

## LEGEND

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



# Requested PD Zoning

This Planned Development shall be subject to the requirements of the AO (Agricultural Open Space) zoning district except as modified below:

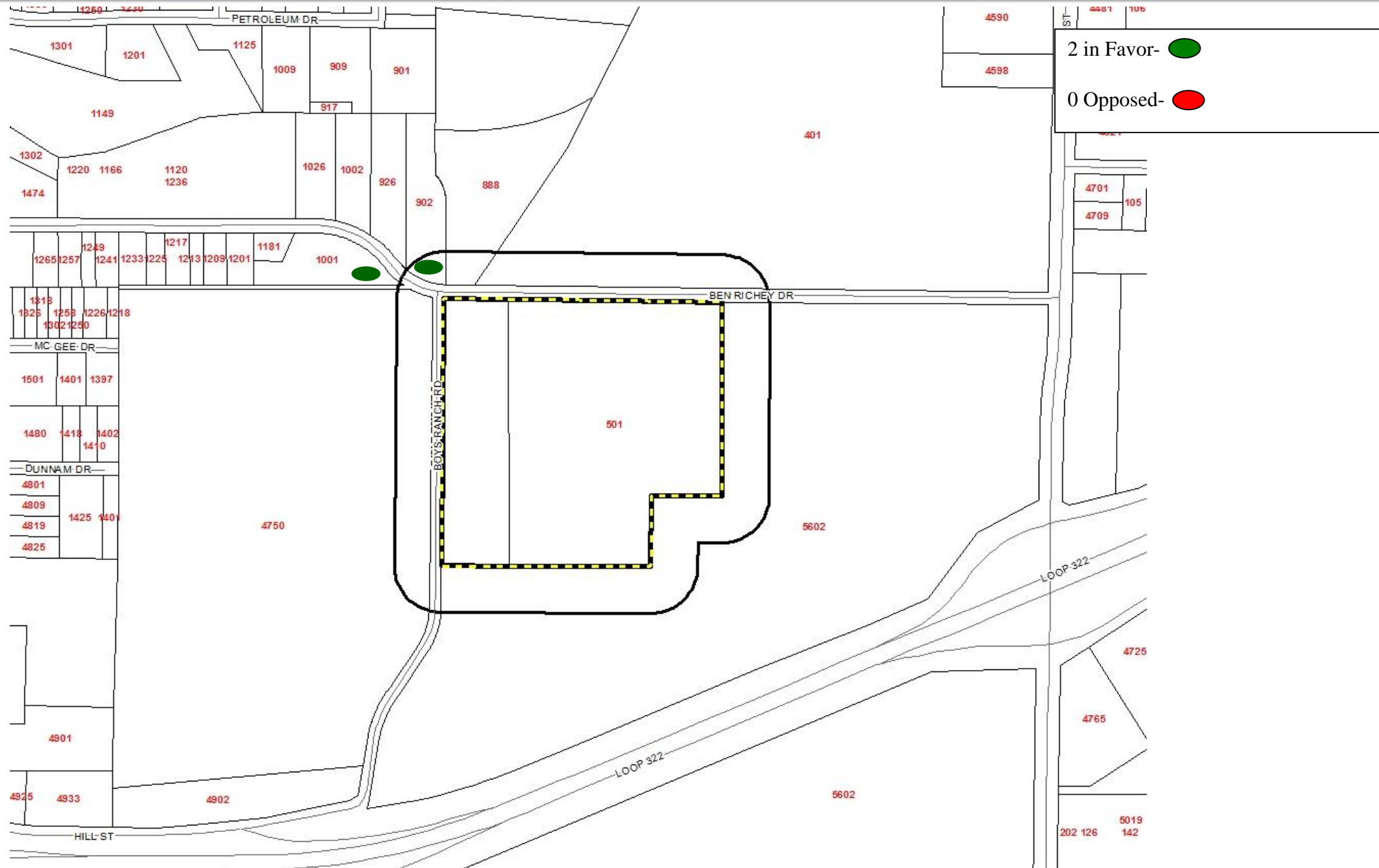
- **PERMITTED USES:**

- All the land uses permitted in the AO
- Institutional Housing (Housing provided by the institution where the individual is currently residing)

- **DEVELOPMENT REGULATIONS:**

- Waiver of street and sidewalk improvements to Ben Richey Dr. and Boys Ranch Rd. abutting the 28.24 acres.







**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Dana L. Schoening, Director of Planning and Development Services**

**Ordinance: *(First Reading)*TC-2016-02 A request from Hendrick Medical Center to abandon all of the portions of Wilson Street between Cedar and Hickory Streets, and the**  
**SUBJECT: alley between Cedar and Hickory Street, both between N. 16th and N. 17th Streets; Setting a public hearing for October 13, 2016. *(Schoening)***

---

**GENERAL INFORMATION**

Site characteristics include an east-to-west street right-of-way (ROW) and an east-to-west alley located west of Cedar Street and between N. 16th St & N. 17th St. Improvements have been made for these segments of the ROW. The applicant intends to close the subject right-of-ways for future expansion and parking lots for their existing developments to the east. They are currently in the process of building parking lots on the existing platted lots. The interconnectivity and access of the area does not appear to be impacted in a negative way by the requests and the closure of Wilson Street does not create any violations to the maximum block length in this area.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

**STAFF RECOMMENDATION**

Staff recommends approval of the requested abandonment, with conditions as outlined by the Plat Review Committee.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning & Zoning Commission recommends approval of this request by a vote of five (5) in favor (Bixby, Dunnahoo, Famble, Smith and McClarty) and none opposed.

**ATTACHMENTS:**

Description

Type

- ▣ Ordinance Cover
- ▣ Ordinance Exhibit
- ▣ Staff Report
- ▣ PowerPoint

Exhibit  
Exhibit  
Backup Material  
Presentation

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

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

PART 1: That the following described portion of a Public Right of Way, as described on Exhibit "A," attached hereto and made a part of this ordinance for all purposes, be, and the same is hereby abandoned, vacated and closed insofar as the right, title or easement of the public is concerned, subject to conditions as stated in Exhibit A.

PART 2: That said portion of a Public Right of Way is not needed for public purposes and it is in the public interest of the City of Abilene to abandon said described portion of a Public Right of Way.

PART 3: That the abandonment provided for herein shall extend only to the public right, title and easement in and to the tracts of land described in Part 1 of this ordinance, and shall be construed only to that interest the governing body of the City of Abilene may legally and lawfully abandon.

PASSED ON FIRST READING this 22<sup>nd</sup> day of September A.D. 2016.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19<sup>th</sup> day of August 2016, the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

PASSED ON FINAL READING THIS 13<sup>th</sup> day of October, A.D. 2016.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY



ORDINANCE NO. \_\_\_\_\_

EXHIBIT "A"

The City of Abilene hereby abandons: all of the portions of Wilson Street between Cedar and Hickory Streets, and the alley between Cedar and Hickory Street, both between N. 16th and N. 17th Streets

All Public Right of Way as indicated and shown in the map below within the dashed area:



With the following conditions:

1. The applicant must replat within 12 months, at which time any issues regarding access to utilities and relocation of utilities will be resolved.

-END-

# THOROUGHFARE CLOSURE CASE TC-2016-02

## STAFF REPORT



### APPLICANT INFORMATION:

Hendrick Medical Center, Agent Duane Martin

### HEARING DATES:

Planning & Zoning Commission:

September 06, 2016

City Council 1<sup>st</sup> Reading: September 22, 2016

City Council 2<sup>nd</sup> Reading: October 13, 2016

### REQUESTED ACTION:

Abandon all of the portions of Wilson Street between Cedar and Hickory Streets, and the alley between Cedar and Hickory Street, both between N. 16th and N. 17th Streets.



### SITE CHARACTERISTICS:

An east-to-west street right-of-way (ROW) and an east-to-west alley located west of Cedar Street and between N. 16th St & N. 17th St. Improvements have been made for these segments of the ROW.

### REQUEST ANALYSIS:

The applicant intends to close the subject right-of-ways for future expansion and parking lots for their existing developments to the east. They are currently in the process of building parking lots on the existing platted lots. The interconnectivity and access of the area does not appear to be impacted in a negative way by the requests and the closure of Wilson Street does not create any violations to the maximum block length in this area

### RECOMMENDATIONS:

**Plat Review Committee:** Approval of the requested closures as requested with the following conditions: where existing utilities are located, the applicant is responsible for relocating the utilities or providing adequate easements for the maintenance of all utilities. The applicant must also replat to ensure that there are no lots without street frontage. The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities can be resolved.

**Staff Recommendation:** Approval of the requested abandonment, with conditions as outlined by the Plat Review Committee.

**Planning & Zoning Recommendation:** The Planning & Zoning Commission recommends approval of this request by a vote of five (5) in favor (Bixby, Dunnahoo, Famble, Smith and McClarty) and none opposed

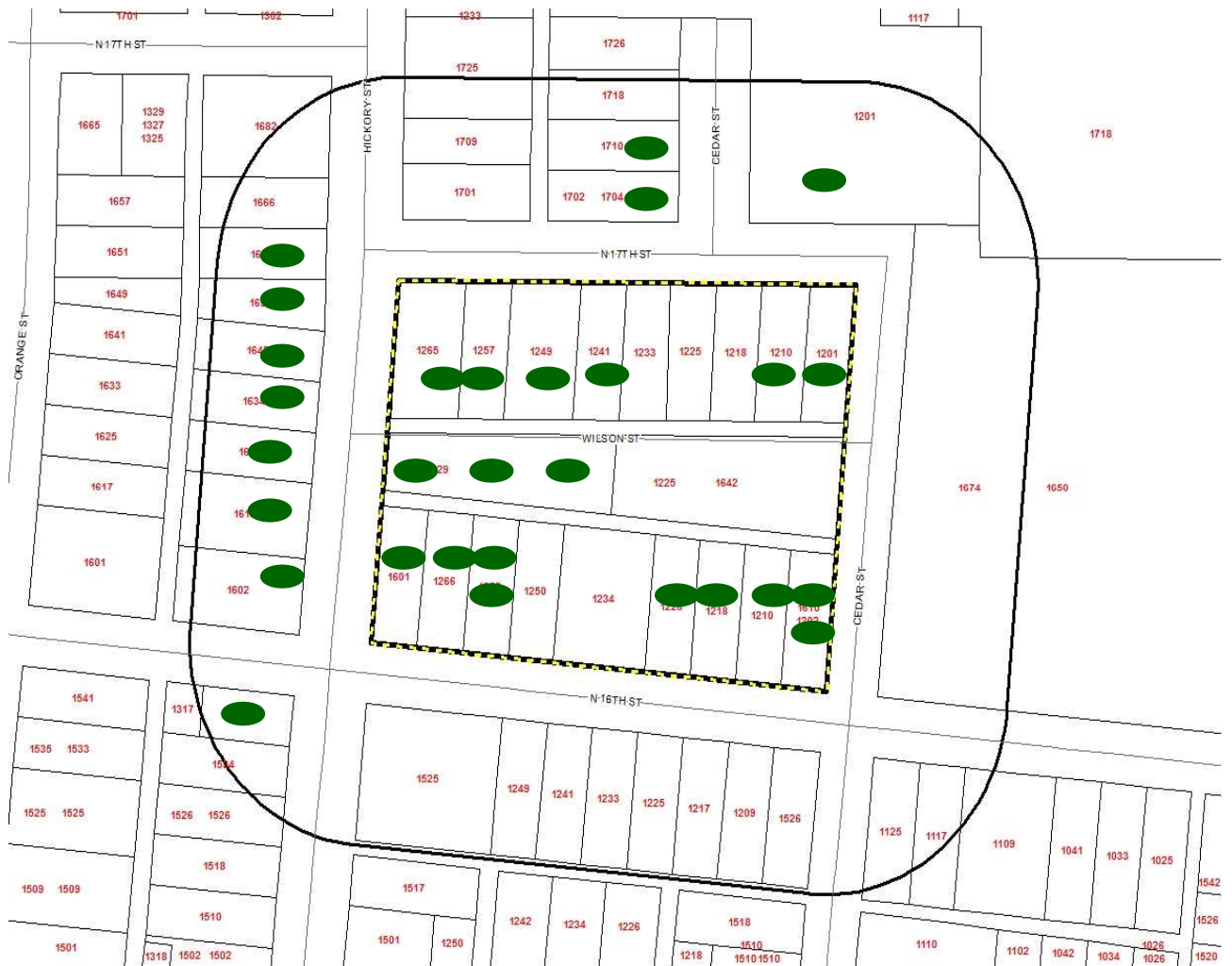


## NOTIFICATION:

Property owners within the 200' of the subject rights-of-way were notified.

29 in Favor- **Y**

0 Opposed- **N**



OWNER	SITUS	RESPONSE
BLIZZARD JACOB	1526 HICKORY ST APT B	
BLIZZARD JACOB	1526 HICKORY ST APT A	
HENDRICK MEDICAL CENTER	1241 N 16TH ST	
D & J RENTALS PARTNERSHIP	1542 HICKORY ST	In Favor
RODRIGUEZ ROMELIA	1249 N 16TH ST	
HENDRICK MEDICAL CENTER	1201 N 17TH ST	In Favor

RANGEL JUAN F	1534 HICKORY ST	
CALK ROBERT AS TR	1225 N 16TH ST	
HENDRICK MEDICAL CENTER	1625 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1627 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1629 HICKORY ST	In Favor
ENT PROPERTIES OF ABILENE LP	1701 HICKORY ST	
HENDRICK MEDICAL CENTER	1650 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1718 CEDAR ST	In Favor
HENDRICK MEDICAL CENTER	1610 CEDAR ST	In Favor
HENDRICK MEDICAL CENTER	1202 N 16TH ST	In Favor
HENDRICK MEDICAL CENTER	1249 N 17TH ST	In Favor
HENDRICK MEDICAL CENTER	1258 N 16TH ST	In Favor
HENDRICK MEDICAL CENTER	1258 N 16TH ST	In Favor
HENDRICK MEDICAL CENTER	1602 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1704 CEDAR ST	
HENDRICK MEDICAL CENTER	1702 CEDAR ST	
HENDRICK MED CENTER FNDN	1682 HICKORY ST	
HENDRICK MEDICAL CENTER	1618 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1218 N 16TH ST	In Favor
HENDRICK MEDICAL CENTER	1626 HICKORY ST	In Favor
PREMIER DERMATOLOGY PLLC	1525 HICKORY ST	
VALENZUELA ROSARIO CARMONA	1125 N 16TH ST	
PADILLA KIMBERLY	1109 N 16TH ST	
ENT PROPERTIES OF ABILENE LP	1709 HICKORY ST	
SMITH KIMBERLEY L	1233 N 16TH ST	
HENDRICK MEDICAL CENTER	1601 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1266 N 16TH ST	In Favor
CALK ROBERT AS TR	1217 N 16TH ST	
FLORES JOSUE & PAULA E	1710 CEDAR ST	In Favor
HENDRICK MEDICAL CENTER	1226 N 16TH ST	In Favor
HENDRICK MEDICAL CENTER	1241 N 17TH ST	In Favor
HENDRICK MEDICAL CENTER	1265 N 17TH ST	In Favor
HENDRICK MEDICAL CENTER	1210 N 16TH ST	In Favor
HOSPICE OF ABILENE INC	1666 HICKORY ST	
HENDRICK MEDICAL CENTER	1634 HICKORY ST	In Favor
CALK ROBERT AS TR	1209 N 16TH ST	
HENDRICK MEDICAL CENTER	1210 WILSON ST	In Favor
HENDRICK MEDICAL CENTER	1658 HICKORY ST	In Favor
HENDRICK MEDICAL CENTER	1642 HICKORY ST	In Favor
CALK ROBERT AS TR	1117 N 16TH ST	
ENT PROPERTIES OF ABILENE LP	1725 HICKORY ST	
HENDRICK MEDICAL CENTER	1257 N 17TH ST	In Favor
HENDRICK MEDICAL CENTER	1225 N 17TH ST	
HENDRICK MEDICAL CENTER	1218 WILSON ST	

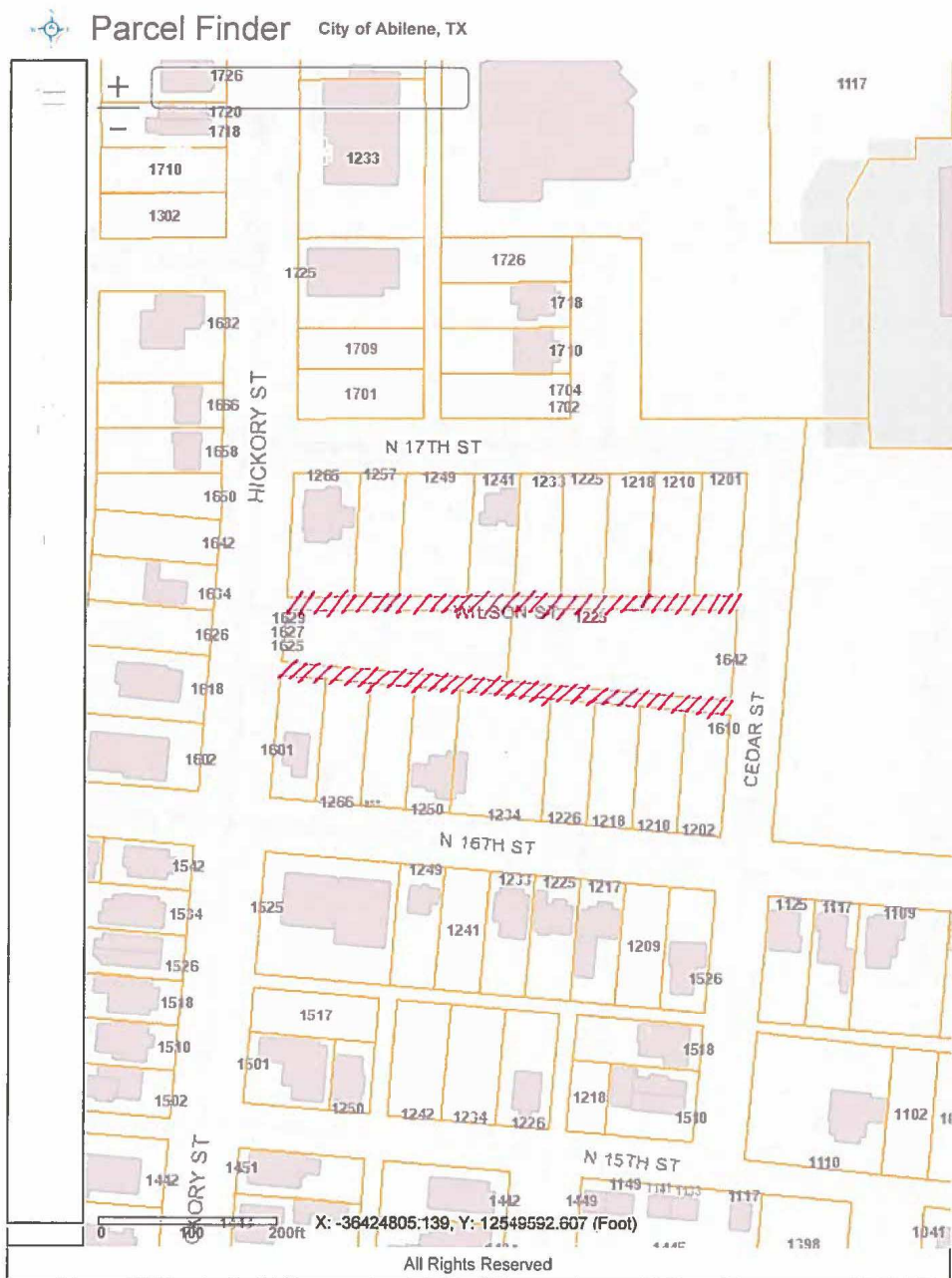
HENDRICK MEDICAL CENTER	1233 N 17TH ST
HENDRICK MEDICAL	1201 N 18TH ST
GONZALEZ WILLIE	1526 CEDAR ST
HENDRICK MEDICAL CENTER	1234 N 16TH ST
HENDRICK MEDICAL CENTER	1642 CEDAR ST
HENDRICK MEDICAL CENTER	1225 WILSON ST
HENDRICK MEDICAL CENTER	1250 N 16TH ST
RESENDEZ REYNALDO & DORA	1317 N 16TH ST
HENDRICK MEDICAL CENTER	1650 PINE ST
HENDRICK MEDICAL CENTER	1674 PINE ST

In Favor









<https://gis.abilenetx.com/portal/apps/webappviewer/index.html?id=60957c99681b43589637...> 8/4/2016

# Thoroughfare Plan



# TC-2016-02

**Request:** Abandon Wilson Street between Cedar and Hickory Streets. The Alley between Cedar and Hickory Street, both between N. 16th and N. 17th Streets.

**Notification:** 29\* in favor; 0 opposed

**Plat Review Recommendation:** Approval with conditions

**Staff Recommendation:** Approval per the Plat Review Committee

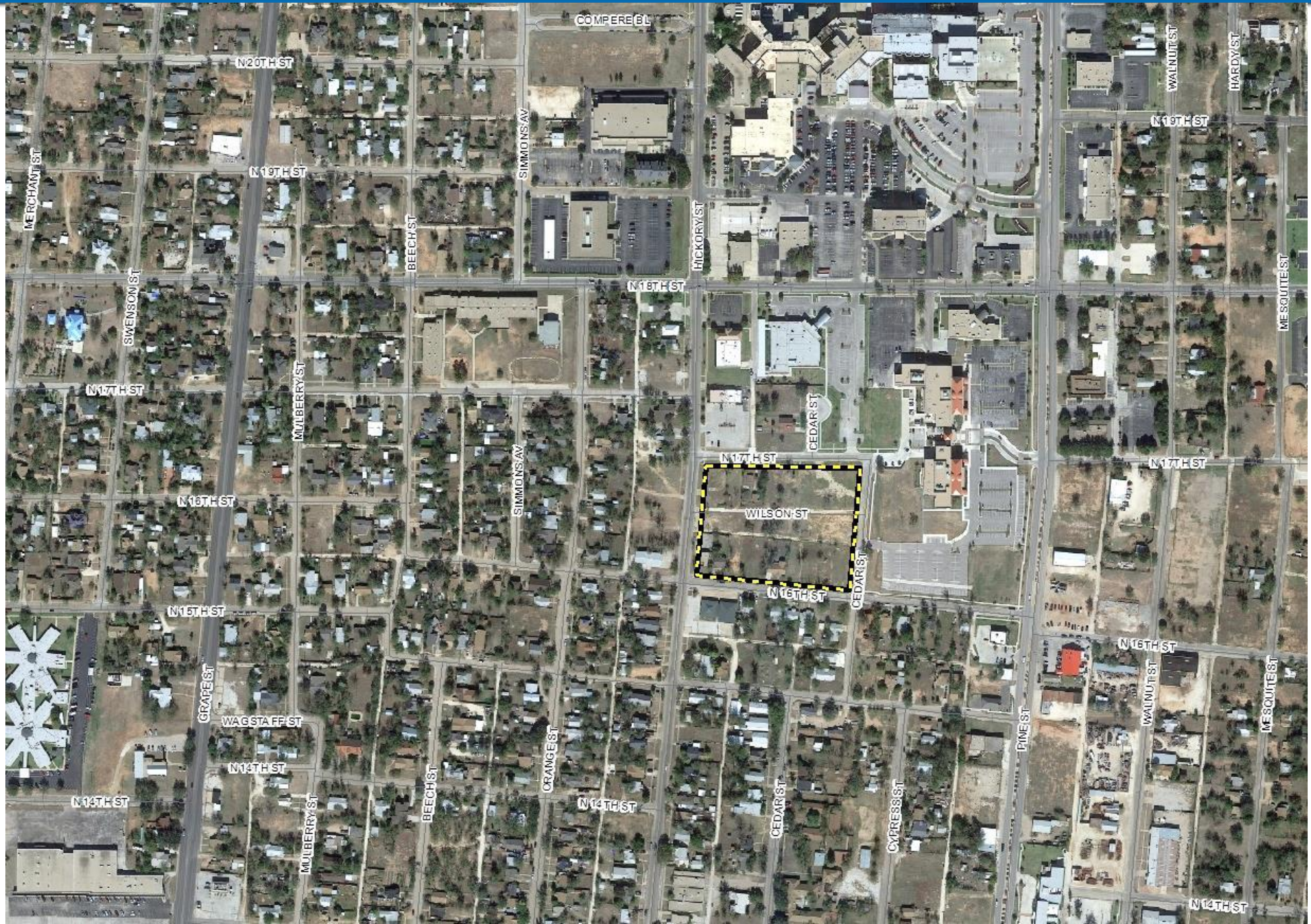
**P & Z Recommendation:** Approval of request





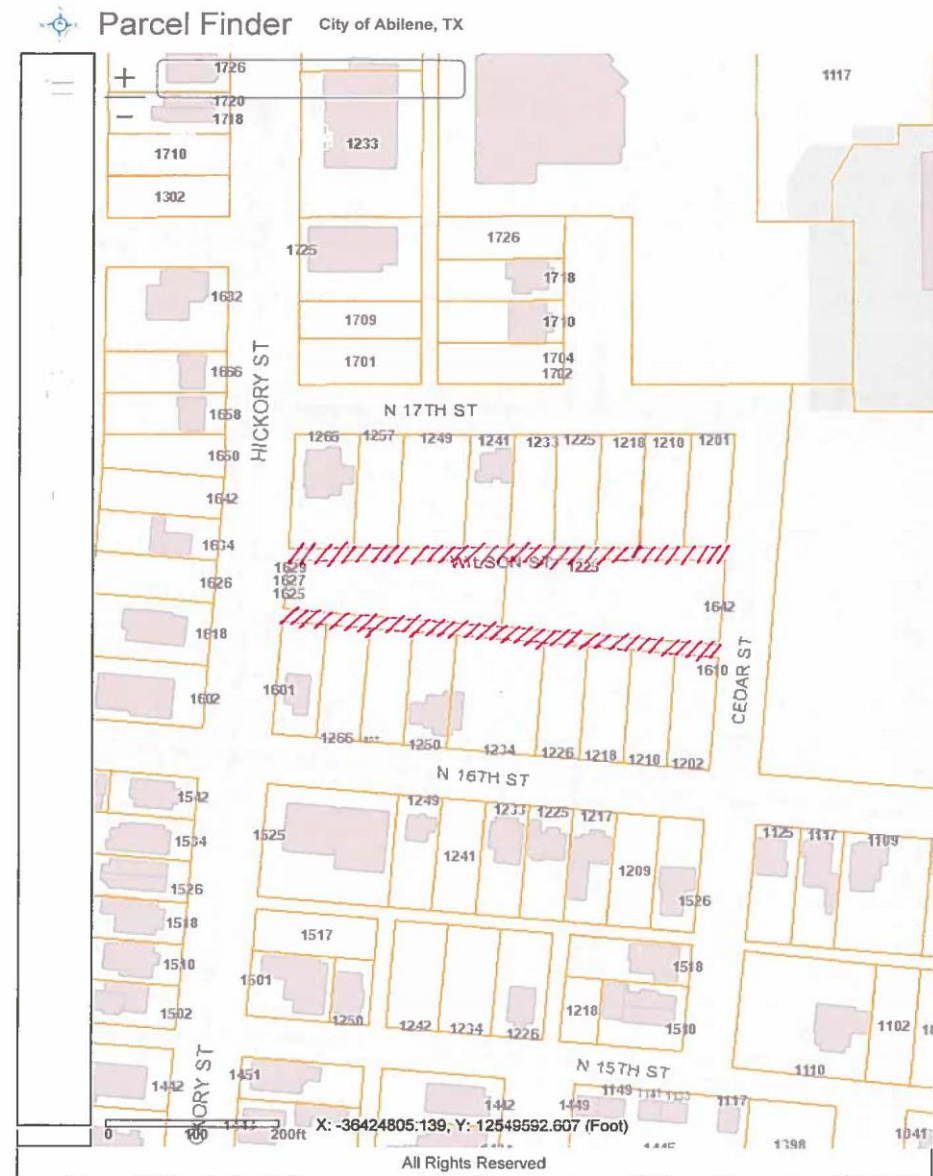












# Master Thoroughfare Plan







































# Plat Review Committee Recommendations

The Plat Review Committee recommends approval of the requested closure with the following conditions:

1. Provide appropriate utility easements as needed.
2. Replat within 12 months.









**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Dana L. Schoening, Director of Planning and Development Services**

**SUBJECT: Ordinance and Public Hearing: (Final Reading) Proposed Amendment to Code of Ordinances, Chapter 8, Division 4, Section 8-151 Demolition Permit Conditions, and adding Section 8-152 Definitions for "Slab on Grade". (Schoening)**

---

**GENERAL INFORMATION**

Staff had been requested to draft an ordinance amendment to Section 8-151 "Demolition Permit Conditions" to allow slabs on grade to remain with approval of the building official, pursuant to a demolition permit. Existing ordinance 8-151 requires all floor slabs, foundations, footings, sidewalks, fences and posts to be removed in a demolition. The existing ordinance provides for the property owner(s) to request to the Board of Building Standards (BOBS) to allow for the slab to remain. The proposed ordinance removes the requirement for the removal of a slab on grade, but only upon request to and with the approval of the Building Official.

In addition, the current Chapter 8, Division 4 ordinance provisions do not provide a definition of slab. The proposed ordinance creates Section 8-152 : "Definitions" to provide for the definition of Slab on Grade to define what is meant by slab as referenced in Section 8-151.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

**STAFF RECOMMENDATION**

Staff recommends holding the public hearing as posted and then sending this proposed Ordinance amendment to the Board of Building Standards for their comment and review.

**BOARD OR COMMISSION RECOMMENDATION**

No requirement for Board or Commission recommendation.

**ATTACHMENTS:**

Description

Type

- ▣ Enacting Ordinance
- ▣ Ordinance Amendment
- ▣ Clean Amendment
- ▣ PowerPoint

Ordinance  
Ordinance  
Ordinance  
Presentation

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 8, ARTICLE III, DIVISION 4, "DEMOLITION OF BUILDINGS," AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, when a permit is issued for the demolition of a house, building, or other structure, City Ordinance Section 8-151 requires that the floor slab, foundation, footings, sidewalks, fences and posts be removed; however, where demolition is performed totally by the owner, and a floor slab is flush with the ground, the board of building standards may allow the slab to remain; and,

**WHEREAS**, it is in the best interest of the public to grant the building official the authority to allow a slab on grade to remain; and,

**WHEREAS**, currently there is no definition for slab on grade; and,

**WHEREAS**, Section 8-372 allows the board of building standards to hear appeals from any person aggrieved by a decision of the building official, and therefore any decision of the building official pursuant to Section 8-151 could be appealed to the board of building standards;

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

**PART 1:** That Chapter 8, Article III, Division 4, "Demolition of Buildings," Sections 8-151 and 8-152 are hereby amended as set forth in Exhibit "A," attached hereto 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.

**PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offence. 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 8<sup>th</sup> day of September 2016.**

A notice of 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 4<sup>th</sup> day of September 2016, 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 22<sup>nd</sup> day of September 2016, to permit the public to be heard.

**PASSED ON SECOND AND FINAL READING this 22<sup>nd</sup> day of September 2016.**

ATTEST:

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CITY SECRETARY

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MAYOR

APPROVED:

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CITY ATTORNEY



## **DIVISION 4. DEMOLITION OF BUILDINGS**

### **Sec. 8-151. Demolition permit conditions.**

When a permit is issued for the demolition of a house, building or other structure, the permit holder shall do all of the following:

- (a) Remove all floor slabs, foundations, footings, sidewalks, fences and posts, provided; any sidewalks, fences or posts where demolition is performed totally by the property owner any sidewalks and a floor slab that is flush with the ground and clear of debris, pipe risers, etc., may remain upon approval of the board of building standards; and any slab(s) on grade that are free and clear of, without limitation, construction debris, vertical concrete, pipe risers and anchor bolts, may remain only upon request of the property owner(s) to the Building Official and approval by the Building Official.
- (b) Clear and remove all loose tree limbs, appliances and all other personalty, trash, weeds, tall grass and other debris; and
- (c) Fill in all holes or depressions remaining at the building site and level the area so as to facilitate future mowing maintenance; and
- (d) Mow the grass.

(Code 1965, § 7-2)

### **Sec. 8-152. Definitions.**

Slab on grade: A slab on grade is any slab that is poured onto earth materials that are in direct contact with the slab and which are used to support the slab. This process may be flat on the ground or foundation walls can be constructed to any engineered height and backfilled with sand to the bottom of the slab to be poured to support the slab.

## **Exhibit “A”**

### **DIVISION 4. DEMOLITION OF BUILDINGS**

#### **Sec. 8-151. Demolition permit conditions.**

When a permit is issued for the demolition of a house, building or other structure, the permit holder shall do all of the following:

- (a) Remove all slabs, sidewalks, fences and posts, provided any sidewalks, fences or posts may remain upon approval of the board of building standards; and any slab(s) on grade that are free and clear of, without limitation, construction debris, vertical concrete, pipe risers and anchor bolts, may remain only upon request of the property owner(s) to the Building Official and approval by the Building Official.
- (b) Clear and remove all loose tree limbs, appliances and all other personal, trash, weeds, tall grass and other debris; and
- (c) Fill in all holes or depressions remaining at the building site and level the area so as to facilitate future mowing maintenance; and
- (d) Mow the grass.

#### **Sec. 8-152. Definitions.**

Slab on grade: A slab on grade is any slab that is poured onto earth materials that are in direct contact with the slab and which are used to support the slab. This process may be flat on the ground or foundation walls can be constructed to any engineered height and backfilled with sand to the bottom of the slab to be poured to support the slab.

# Ordinance Amendment 8-151 & 8-152

**Request:** Proposed Amendment to Code of Ordinances, Chapter 8, Division 4, Section 8-151 Demolition Permit Conditions, and adding Section 8-152 Definitions for "Slab on Grade"



# Ordinance Amendment 8-151 & 8-152

- Amendment Provisions:
  - Comparison of Existing to Proposed
    - Remove all floor slabs, foundations, footings, sidewalks, fences and posts, provided, any sidewalks, fences or posts where demolition is performed totally by the property owner any sidewalks and a floor slab that is flush with the ground and clear of debris, pipe risers, etc., may remain upon approval of the board of building standards.
    - Any slab(s) on grade that are free and clear of, without limitation, construction debris, vertical concrete, pipe risers and anchor bolts, may remain only upon request of the property owner(s) to the Building Official and approval by the Building Official.
    - Property owner(s) must request.





# Ordinance Amendment to 8-151 & 8-152

- **Definition:**

Slab on grade: A slab on grade is any slab that is poured onto earth materials that are in direct contact with the slab and which are used to support the slab. This process may be flat on the ground or foundation walls can be constructed to any engineered height and backfilled with sand to the bottom of the slab to be poured to support the slab.



# Ordinance Amendment 8-151 & 8-152

- Considerations:
  - Commercial and/or Residential Properties
    - Vacant
    - Underutilized
    - Poorly Maintained
  - Demolitions
    - Type of foundations supporting structures
      - Commercial – slab
      - Residential – primarily pier and beam



# Ordinance Amendment 8-151 & 8-152

- Number of commercial and residential demolitions since 01/01/2012
  - Commercial – 4 demolitions
    - 2 city forced contract
    - 2 owner contracted
  - Residential – 88 demolitions
    - 25 city forced contract
    - 63 owner contracted
- Infill development
  - Utilization of Vacant and Underutilized Properties
  - Incentives
  - Disincentives



# Ordinance Amendment 8-151 & 8-152

- Downtown Revitalization
  - Continuing Historic Preservation
  - Business Infusion
  - Mixed use development potential
- Continuing Nuisances







**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Don Green, Director of Transportation Services**

**Resolution & Public Hearing: Proposed Increases to the fares for all CityLink services.**

**SUBJECT: (Green)**

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**GENERAL INFORMATION**

CityLink provides the following transit services within the City of Abilene: Scheduled Fixed Route Bus Service, ADA Paratransit Service and Demand-Response Evening Services. These transit services are vital to many of our citizens as the primary mode of transportation around the city for such reasons as to shop, to get to/from a job or a medical appointment. CityLink offers these services six days a week.

The rate increase is proposed to help offset increased operating costs incurred by the city's general fund in supporting CityLink operations.

**SPECIAL CONSIDERATIONS**

The proposed fare increases are listed below:

**CityLink Transit Current Fare Structure and Proposed Fare Structure**

**FIXED ROUTE FARE  
STRUCTURE**

<u>MEDIA TYPE</u>	<u>CURRENT FARES</u>	<u>PROPOSED FARES</u>
ADULT FARE	\$ 1.25	\$ 1.50
YOUTH FARE	\$ 0.75	\$ 1.00
DAY PASS	\$ 2.50	\$ 3.00
7-DAY PASS	\$ 12.00	\$ 15.00
31-DAY PASS	\$ 38.00	\$ 45.00
7-DAY YOUTH PASS	\$ 7.50	\$ 10.00
31-DAY YOUTH PASS	\$ 20.00	\$ 25.00

**DISCOUNTED FARES**

ELDERLY/DISABLED	\$ 0.40	\$ 0.65
7-DAY ELDERLY/DISABLED PASS	\$ 6.00	\$ 8.00
31-DAY ELDERLY/DISABLED		

PASS	\$ 15.00	\$ 20.00
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**ADA PARATRANSIT FARE  
STRUCTURE**

<u>MEDIA TYPE</u>	<u>CURRENT FARES</u>	<u>PROPOSED FARES</u>
REGULAR SERVICE AREA FARE	\$ 1.50	\$ 2.00
EXTENDED SERVICE AREA FARE	\$ 2.25	\$ 3.00
10-RIDE BOOK REGULAR SERVICE AREA	\$ 15.00	\$ 20.00
20-RIDE BOOK ADA	\$ 45.00	\$ 60.00
10-RIDE BOOK EXTENDED SERVICE AREA	\$ -	\$ 30.00

**DEMAND RESPONSE/EVENING  
SERVICE**

CDBG/WORK FARE	\$ 2.00	\$ 2.50
EVENING SERVICE GENERAL FARE	\$ 5.00	\$ 6.00
10-RIDE CDBG BOOK	\$ 20.00	\$ 25.00
10-RIDE GENERAL FARE BOOK	\$ 50.00	\$ 60.00

**FUNDING/FISCAL IMPACT**

The proposed increased fares are projected to increase revenues by approximately \$88,000, which would result in a direct \$88,000 decrease in CityLink funding from the city's General Fund.

Fares will be effective October 1, 2016.

**STAFF RECOMMENDATION**

Staff recommends approval of the fare increases.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

Description	Type
❑ CityLink Fare Increase Resolution	Resolution Letter
❑ CityLink Fare Increase Proposal Presentation	Cover Memo

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE INCREASED FARES TO ALL CATEGORIES OF TRANSIT  
SERVICE PROVIDED BY CITYLINK**

**WHEREAS**, the City of Abilene (City) owns and operates CityLink; and

**WHEREAS**, the City receives grant funding through Federal Transportation Administration (FTA), as authorized by the Congress of the United States of America and Texas Department of Transportation (TXDOT) operating costs; and

**WHEREAS**, the City also supports CityLink's operating costs through a General Fund subsidy; and

**WHEREAS**, the last fare increase was October 1, 2007; and

**WHEREAS**, to reduce the increasing impact to the General Fund a fare increase of all transit categories was considered; and

**WHEREAS**, the city submitted the proposed fares for FTA review and conducted two public hearings; and

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

Part 1. That CityLink is authorized to charge the new fares as shown in Attachment A.

Part 2. That this Resolution takes effect October 1, 2016.

**ADOPTED this 22nd day of September 2016.**

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norman Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

**ATTACHMENT A**

**To**

**RESOLUTION NO. \_\_\_\_\_**

**FIXED SCHEDULE BUS ROUTE FARES**

<u>Media</u>	<u>Approved Fares</u>
Adult Fare	\$ 1.50
Youth Fare	\$ 1.00
Day Pass	\$ 3.00
7 Day Pass	\$15.00
31 Day Pass	\$45.00
7 Day Youth Pass	\$10.00
31 Day Youth Pass	\$25.00

<u>Discounted Fares</u>	
Elderly/Disabled	\$ .65
7 Day Elderly/Disabled Pass	\$ 8.00
31 Day Elderly/Disabled Pass	\$20.00

**ADA PARATRANSIT FARE STRUCTURE**

<u>Media Type</u>	<u>Approved Fares</u>
Regular Service Area Fare	\$ 2.00
Extended Service Area Fare	\$ 3.00
10 Ride Book Regular Service Area	\$20.00
10 Ride Book Extended Service Area	\$30.00
20 Ride Book Extended Service Area	\$60.00

<u>Demand Response/Evening Service</u>	
CDBG Work Fare	\$ 2.50
Evening Service General Fare	\$ 6.00
10 Ride CDBG Book	\$25.00
10 Ride General Fare Book	\$60.00



# **CityLink Fare Increase Proposal and Public Hearing**

September 22, 2016

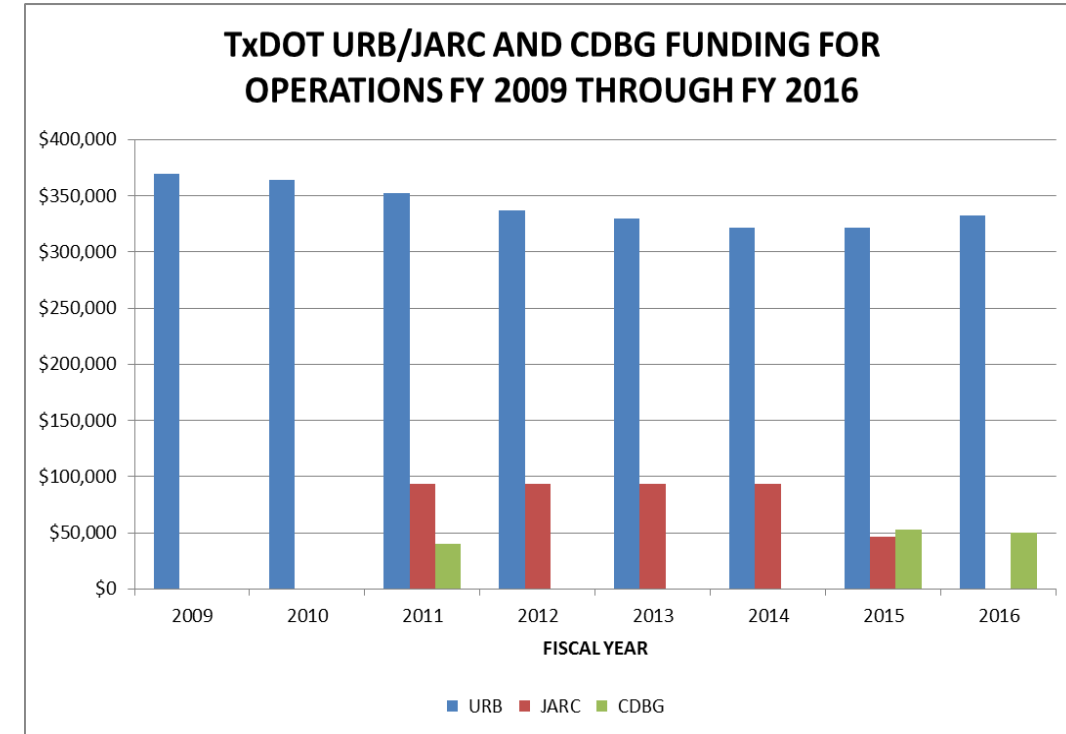
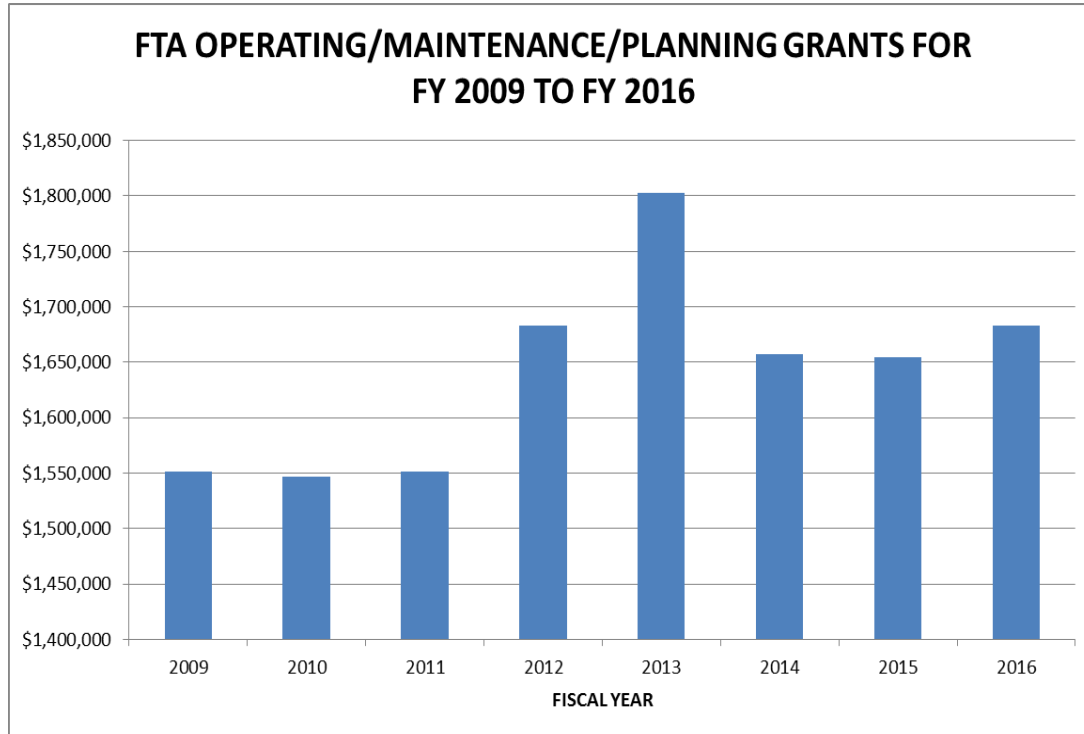


# CITYLINK TRANSIT

- CityLink Transit provides fixed route, ADA complimentary paratransit and evening demand response services within the city limits of Abilene.
  - FY 14: 617,971 Riders
  - FY 15: 610,493 Riders
  - FY 16 YTD: 510,604 Riders
  - Over 1,008,654 miles
- Ridership percentage
  - 84% Fixed Route
  - 13% ADA Paratransit
  - 2% Evening Demand Response Service
  - 1% Charter Services



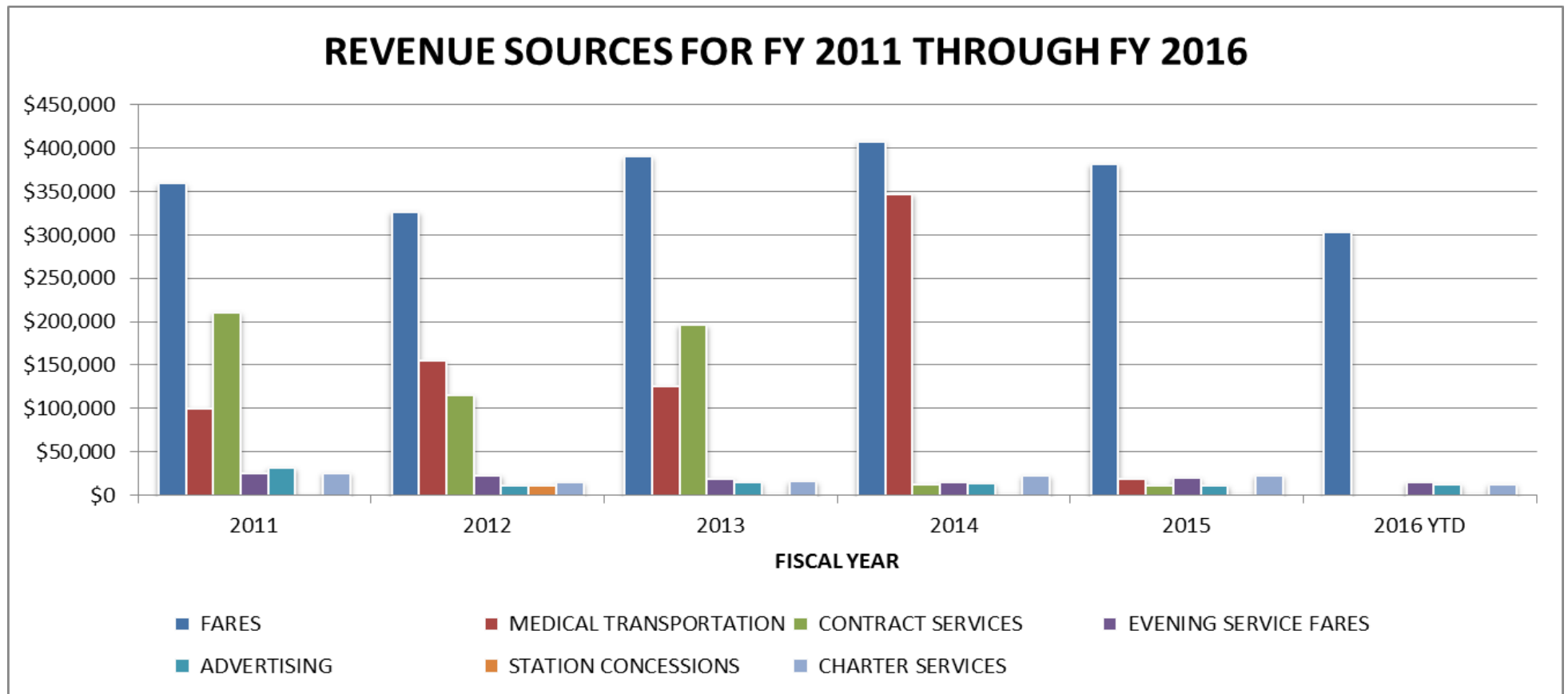
# CITYLINK TRANSIT FUNDING LEVELS



CityLink Transit is funded through Federal/State Grant Programs as well as additional revenue sources such as CDBG grant funding.



# CITYLINK TRANSIT OTHER REVENUE SOURCES

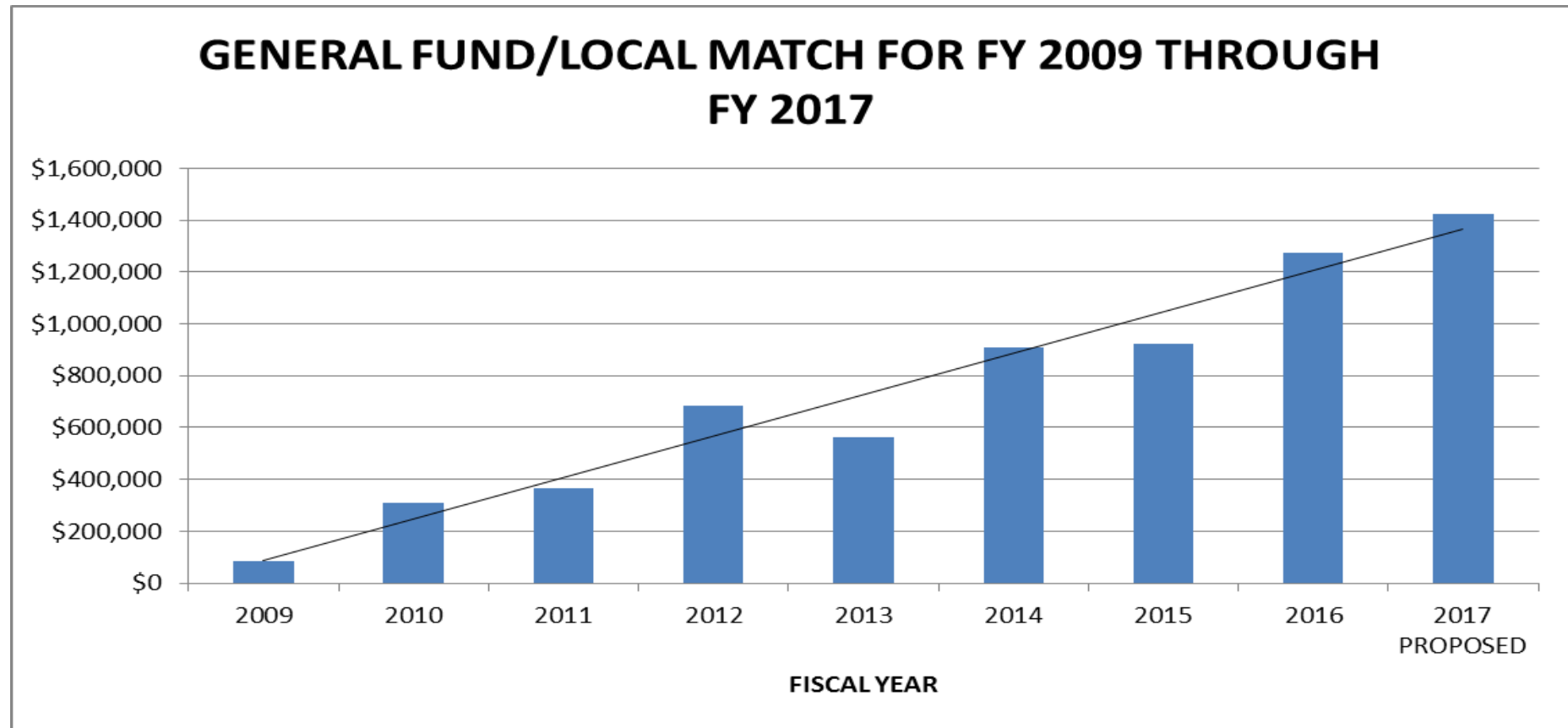


- Other revenue sources are utilized to reduce expenses for federal/state reimbursements. In effect reducing the amount required from the general fund for the matching requirements.





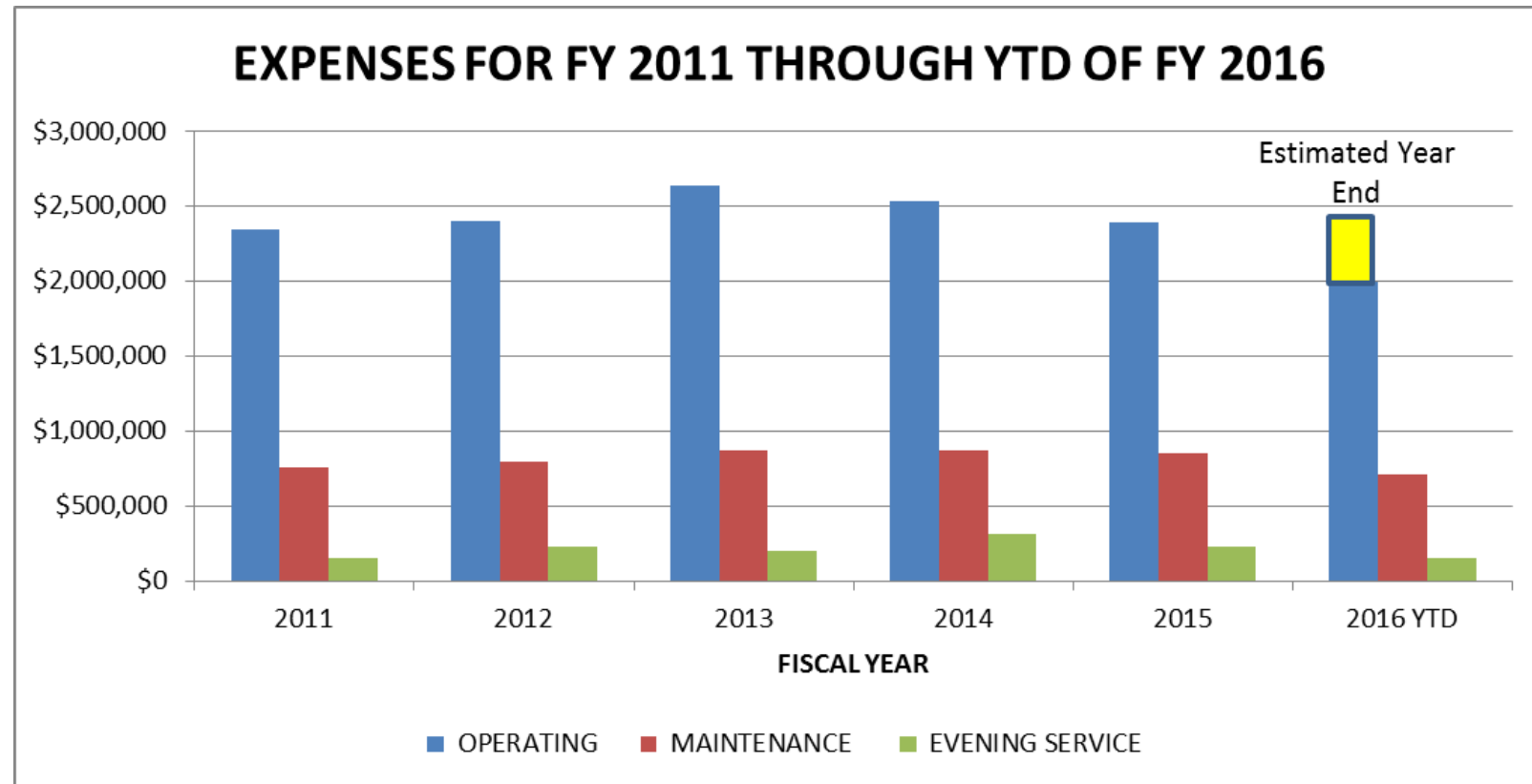
# CITYLINK TRANSIT GENERAL FUND EXPENDITURES



- General fund expenditures are utilized to meet Federal/State matching requirements.



# CITYLINK TRANSIT EXPENSES



- The chart does not show previous/current capital projects only operating expenses.



# CITYLINK FARE PROPOSED FARE INCREASE

- As part of the Title VI analysis a survey was conducted in May 2016 of CityLink Transit riders.
  - 48% of riders utilize CityLink Transit for work or medical purposes
  - 65% of the ridership would be considered low income
  - 43% of ridership are minority riders
  - 88% of riders are totally satisfied/satisfied with the services provided
  - 75% of the riders would be acceptable to a \$0.25 raise in the fares
- Last fare increase was in 2007



# CITYLINK TRANSIT PROPOSED FARE INCREASE

- As required by Title VI guidelines a fare increase requires the following:
  - Public Hearings
    - City Council Meeting, September 8<sup>th</sup>, 2016
    - City Council Meeting, September 22, 2016
  - Public Comment Period
    - September 5<sup>th</sup>, 2016 through September 19<sup>th</sup>, 2016
    - Written comments will be accepted at CityLink Offices, 1189 S. 2<sup>nd</sup>, Abilene Texas. Comments will also be accepted by email.
  - City Council approval through resolution
    - September 22, 2016





# CITYLINK TRANSIT PROPOSED FARE INCREASE

FIXED ROUTE FARE STRUCTURE		
MEDIA TYPE	CURRENT FARES	PROPOSED FARES
ADULT FARE	\$ 1.25	\$ 1.50
YOUTH FARE	\$ 0.75	\$ 1.00
DAY PASS	\$ 2.50	\$ 3.00
7-DAY PASS	\$ 12.00	\$ 15.00
31-DAY PASS	\$ 38.00	\$ 45.00
7-DAY YOUTH PASS	\$ 7.50	\$ 10.00
31-DAY YOUTH PASS	\$ 20.00	\$ 25.00
DISCOUNTED FARES		
ELDERLY/DISABLED	\$ 0.40	\$ 0.65
7-DAY ELDERLY/DISABLED PASS	\$ 6.00	\$ 8.00
31-DAY ELDERLY/DISABLED PASS	\$ 15.00	\$ 20.00

ADA PARATRANSIT FARE STRUCTURE		
MEDIA TYPE	CURRENT FARES	PROPOSED FARES
REGULAR SERVICE AREA FARE	\$ 1.50	\$ 2.00
EXTENDED SERVICE AREA FARE	\$ 2.25	\$ 3.00
10-RIDE BOOK REGULAR SERVICE AREA	\$ 15.00	\$ 20.00
20-RIDE BOOK ADA	\$ 45.00	\$ 60.00
10-RIDE BOOK EXTENDED SERVICE AREA	\$ -	\$ 30.00
DEMAND RESPONSE/EVENING SERVICE		
CDBG/WORK FARE	\$ 2.00	\$ 2.50
EVENING SERVICE GENERAL FARE	\$ 5.00	\$ 6.00
10-RIDE CDBG BOOK	\$ 20.00	\$ 25.00
10 RIDE GENERAL FARE BOOK	\$ 50.00	\$ 60.00

- Average fare increase is by 33% across all modes



# CITYLINK TRANSIT PROPOSED FARE INCREASE

FIXED ROUTE FARES							
MEDIA TYPE	CURRENT FARES		PROPOSED FARES		April-15/April 16	YTD AMOUNT	YTD PROPOSED
ADULT FARE	\$	1.25	\$	1.50	66,423	\$ 83,028.75	\$ 99,634.50
YOUTH FARE	\$	0.75	\$	1.00	4,960	\$ 3,720.00	\$ 4,960.00
DAY PASS	\$	2.50	\$	3.00	17,770	\$ 44,425.00	\$ 53,310.00
7-DAY PASS	\$	12.00	\$	15.00	1,710	\$ 20,520.00	\$ 25,650.00
31-DAY PASS	\$	38.00	\$	45.00	1,018	\$ 38,684.00	\$ 45,810.00
7-DAY YOUTH PASS	\$	7.50	\$	10.00	120	\$ 900.00	\$ 1,200.00
31-DAY YOUTH PASS	\$	20.00	\$	25.00	115	\$ 2,300.00	\$ 2,875.00
DISCOUNTED FARES							
ELDERLY/DISABLED	\$	0.40	\$	0.65	28,900	\$ 11,560.00	\$ 18,785.00
7-DAY ELDERLY/DISABLED PASS	\$	6.00	\$	8.00	192	\$ 1,152.00	\$ 1,536.00
31-DAY ELDERLY/DISABLED PASS	\$	15.00	\$	20.00	2,231	\$ 33,465.00	\$ 44,620.00
ADA PARATRANSIT SERVICE							
REGULAR SERVICE AREA FARE	\$	1.50	\$	2.00	22,660	\$ 33,990.00	\$ 45,320.00
EXTENDED SERVICE AREA FARE	\$	2.25	\$	3.00	1,500	\$ 3,375.00	\$ 4,500.00
10-RIDE BOOK REGULAR SERVICE AREA	\$	15.00	\$	20.00	758	\$ 11,370.00	\$ 15,160.00
20-RIDE BOOK ADA	\$	45.00	\$	60.00	143	\$ 6,435.00	\$ 8,580.00
10-RIDE BOOK EXTENDED SERVICE AREA	\$	-	\$	30.00	286	\$ -	\$ 8,580.00
EVENING SERVICE							
CDBG/WORK FARE	\$	2.00	\$	2.50	6,330	\$ 12,660.00	\$ 15,825.00
EVENING SERVICE GENERAL FARE	\$	5.00	\$	6.00	998	\$ 4,990.00	\$ 5,988.00
10-RIDE CDBG BOOK	\$	20.00	\$	25.00	335	\$ 6,700.00	\$ 8,375.00
10 RIDE GENERAL FARE BOOK	\$	50.00	\$	60.00	15	\$ 750.00	\$ 900.00

TOTAL FARES  
YTD \$ 320,024.75

TOTAL FARES  
PROPOSED \$ 408,733.50

DIFFERENCE \$ 88,708.75

NEW TICKET BOOK TO BE IMPLEMENTED

- Proposed fares would increase revenue by an estimated \$88,708.75



# CITYLINK TRANSIT

- Questions



HAVE A **SAFE** RIDE





**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO:** Honorable Mayor and members of the City Council.

**FROM:** Robert Hanna, City Manager

**SUBJECT:** Policy Statement: Consider the adoption of Council Policy 2016-003 - City Sponsored Events. (Hanna)

---

**GENERAL INFORMATION**

The City of Abilene does not have an approved list of city sponsored special events. This places staff in the difficult position of having to pick who will or will not receive free or reduced cost services. At times, staff has been at odds with tradition and at odds with the community's expectation.

It would be considered a best practice to have a list of events and the type of sponsorship offered to those events approved by the City Council, if it is indeed the will of the Council to sponsor special events. In light of this, staff has prepared Council Policy Statement 2016-003 - City Sponsored Events. The intent of the policy is to clearly state those events considered "official" city sponsored events. The policy also creates a mechanism whereby the City Manager can add events or limit the City's cost in a sponsorship of an event. All City manager actions are appealable to the City Council as presently written.

**SPECIAL CONSIDERATIONS**

**FUNDING/FISCAL IMPACT**

The current list of special events costs the City of Abilene approximately \$21,784 in actual expenditures, and \$35,081 in lost revenue for a total annual impact of \$56,865.

**STAFF RECOMMENDATION**

Staff recommends approval of the policy as written.

**BOARD OR COMMISSION RECOMMENDATION**

**ATTACHMENTS:**

Description	Type
□ Policy 2016-003	Exhibit



- ▣ Cost of City Sponsorships
- ▣ PowerPoint

Cover Memo  
Cover Memo

## CITY OF ABILENE, TEXAS

## COUNCIL POLICY STATEMENT

<i>SUBJECT</i>	<i>POLICY NO.</i>	<i>ADOPTED</i>	<i>PAGE</i>
City sponsored events	2016-003	DRAFT	1 of 2

**PURPOSE**

The purpose of this policy is to identify which special events will receive financial or in-kind benefits from the City of Abilene.

**POLICY AND PROCEDURE**

- A. The following special events are of a character or nature that benefits the entire community, provides substantial economic impact, or are of a significant cultural importance to warrant financial or in-kind benefits:

<b>SPONSORED EVENT</b>	<b>SPONSORSHIP TYPES</b>	<b>SPONSORED EVENT</b>	<b>SPONSORSHIP TYPES</b>
ARN 20 under 40	1, 2	MLK Banquet	1, 2
ACU Fireworks	3	MLK March	1, 2, 3
Balloon Fest	5	Qualified Neighborhood Cleanups (see Section C)	5
Barrio Sancudo Reunion	1, 2, 4, 5, 6, 7	Special Olympics	1, 2, 3, 11
CALF Festival	1, 2, 5	State Supported Living Bocce Ball	3
Christmas Lights Parade	8, 9	Storybook Sculptures and Exhibition	1, 2, 11
Claudie Royals Day	1, 2	Texas Mission of Mercy	1, 2, 3
Dyess AFB Special Events	1, 2, 3	United Way BBQ	5
Fun Run	5	United Way Blues Festival	1, 2, 11
Habitat for Humanity – Cantastic Night	5	United Way of Abilene – Annual Luncheon	1, 2, 3
HEB Feast of Sharing	1, 2, 5	VA – Operation Thanksgiving	1, 2
High School Rodeo	5	Veteran’s Day Parade	1, 2, 3, 8
Juneteenth	1, 2, 4, 5, 6, 7	West Texas Fair	5
KEAN Cruise Walk	5	West Texas Fair Parade	1, 9
March of Dimes Walk	5	Western Heritage Classic	5
Mayor’s Walk/Run	1, 2, 3, 5, 8	Western Heritage Rodeo	1, 2, 9
McMurry Homecoming Bonfire	3	World’s Largest BBQ	3, 5

- B. The City of Abilene offers the following sponsorship types:

1. Permit fees are waived;
2. Venue rental fees are waived;
3. Event specific Police and Fire services are provided free of charge;
4. Port-a-lets
5. Solid waste services
6. Temporary outdoor lighting
7. Electrical generation
8. Traffic Control

CITY OF ABILENE, TEXAS

COUNCIL POLICY STATEMENT

<i>SUBJECT</i>	<i>POLICY NO.</i>	<i>ADOPTED</i>	<i>PAGE</i>
City sponsored events	2016-003	DRAFT	2 of 2

- 9. Street Sweeping
- 10. Promotion and Advertising
- 11. City labor as authorized by the City Manager

- C. The City Manager is authorized to approve free, or reduced cost solid waste services to neighborhood associations to assist with City coordinated neighborhood cleanups.
- D. Nothing in this policy limits or otherwise prohibits the City Manager from denying a request for event sponsorship. If in the opinion of the City Manager, an event listed on this sponsorship list is making an unreasonable request of City resources, the City Manager may deny that request. Any denial by the City Manager may be appealed to the City Council if written notice of appeal is submitted to the City Manager at least 30 days prior to the event.
- E. The City Manager is authorized to extend city sponsorship types to new special events upon the written request of the event organizer. Said requests must be submitted at least 90 days prior to the event. The City Manager shall accept or reject the request in writing within 30 days of receiving the written request from the event organizer. Any denial by the City Manager may be appealed to the City Council if written notice of appeal is submitted to the City Manager at least 30 days prior to the event.

City of Abilene Financial or In-Kind Benefits

EVENT	SPONSORSHIP TYPE	1 Permit Fees	2 Venue Rental	3 Police / Fire*	4 Port-a-lets	5 Solid Waste**	6 Outdoor Lighting	7 Electrical Generation	8 Traffic Control	9 Street Sweeping	10 Promo / Advertise	11 City Labor	TOTAL	
ARN 20 under 40	1, 2		\$2,936										\$2,936	ARN 20 under 40
ACU Fireworks	3													ACU Fireworks
Balloon Fest	5			\$600		\$126							\$726	Balloon Fest
Barrio Sancudo Reunion	1, 2, 4, 5, 6, 7		\$1,200		\$430	\$38		\$280				\$160	\$2,108	Barrio Sancudo Reunion
CALF Festival	1, 2, 5	\$100		\$300		\$25							\$425	CALF Festival
Christmas Lights Parade	8, 9			\$125					\$546	\$900			\$1,571	Christmas Lights Parade
Claudie Royals Day	1, 2		\$461										\$461	Claudie Royals Day
Dyess AFB Special Events	1, 2, 3		\$2,875	\$900									\$3,775	Dyess AFB Special Events
Fun Run	5					\$25							\$25	Fun Run
Habitat for Humanity – Cantastic Night	5					\$760							\$760	Habitat for Humanity – Cantastic Night
HEB Feast of Sharing	1, 2, 3, 5		\$6,968	\$5000/\$625		\$288							\$12,881	HEB Feast of Sharing
High School Rodeo	5					\$350							\$350	High School Rodeo
Juneteenth	1, 2, 4, 5, 6, 7		\$1,445	\$475		\$25							\$1,945	Juneteenth
KEAN Cruise Walk	5					\$25							\$25	KEAN Cruise Walk
March of Dimes Walk	5					\$38							\$38	March of Dimes Walk
Mayor’s Walk/Run	1, 2, 3, 5, 8	\$50		\$600/\$250		\$13			\$932				\$1,845	Mayor’s Walk/Run
McMurry Homecoming Bonfire	3													McMurry Homecoming Bonfire
MLK Banquet	1, 2		\$1,958										\$1,958	MLK Banquet
MLK March	1, 2, 3	\$50		\$132/\$125									\$307	MLK March
Qualified Neighborhood Cleanups (see Section C)	5					\$288 / 30-CY container/dump							\$0	Qualified Neighborhood Cleanups (see Sec
Special Olympics	1, 2, 3, 11		\$1,020										\$1,020	Special Olympics
State Supported Living Bocce Ball	3													State Supported Living Bocce Ball
Storybook Sculptures and Exhibition	1, 2, 11		\$1,500	\$2,400/\$0									\$3,900	Storybook Sculptures and Exhibition
Texas Mission of Mercy	1, 2, 3		\$9,144	\$400									\$9,544	Texas Mission of Mercy
United Way BBQ	5			\$500		\$25							\$525	United Way BBQ
United Way Blues Festival	1, 2, 11		\$1,775										\$1,775	United Way Blues Festival
United Way of Abilene – Annual Luncheon	1, 2, 3		\$1,629	\$300									\$1,929	United Way of Abilene – Annual Luncheon
VA – Operation Thanksgiving	1, 2		\$1,370										\$1,370	VA – Operation Thanksgiving
Veteran’s Day Parade	1, 2, 3, 8	\$200		\$600/\$125					\$546				\$1,471	Veteran’s Day Parade
West Texas Fair	5					\$350							\$350	West Texas Fair
West Texas Fair Parade	1	\$200		\$250									\$450	West Texas Fair Parade
Western Heritage Classic	5					\$350							\$350	Western Heritage Classic
Western Heritage Rodeo	1, 2, 9	\$200								\$900			\$1,100	Western Heritage Rodeo
World’s Largest BBQ	3, 5			\$600		\$345							\$945	World’s Largest BBQ
													\$800	\$34,281
													\$14,307	\$430
													\$2,783	\$0
													\$280	\$2,024
													\$1,800	\$0
													\$0	\$160
													\$56,865	City Expenditures + Waived Revenues
													\$21,784	Total City Expenditures

\* If there are not two fees, the fee is charged by fire. If there are two fees, the first is PD and the second is Fire. Also, the Fire Department charges standby services for many events, there is no charge for this service.

\*\* These are fees that are waived. Fees do not cover total cost to Solid Waste operations.

tion C)



# **Council Policy Statement 2016-003**

- **The proposed policy statement will establish an official list of city sponsored events.**
- **The proposed policy includes a mechanism to add events as necessary.**
- **The proposed policy includes a mechanism to limit the City's financial exposure to an event as necessary.**
- **The proposed policy provides an appeals process to the City Council.**





**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Howdy Wayne Lisenbee, Director of Capital Improvements**

**Resolution: Authorize the City Manager to execute a Professional Services Agreement  
SUBJECT: with Freese & Nichols to provide Construction Oversight Services for current 2015  
Bond Projects. (*Lisenbee*)**

---

**GENERAL INFORMATION**

On September 22, 2015 the City Council authorized a Professional Services Contract with Freese & Nichols (FNI) for Program Management of the 2015 Bond Program. This contract had a value of \$660,000. Through July 31, 2016 the City has been billed for \$396,671.47 of this contract.

Both the City and FNI have mutually agreed that the City has developed the internal capacity to oversee the 2015 Bond Program, so the existing contract will be terminated at the end of September 2016. There are two billing periods left (Aug & Sept), but it is anticipated that the final cost of the contract will be approximately \$445,000. This represents a savings of approximately \$215,000 over the original contract value.

Now the City is about to have six simultaneous vertical construction projects going at the same time (Abilene Aquatic Center, Fire Station #4, Fire Station #7, Fire Station #3, Fire Maintenance Facility, and Police Records & Evidence Facility). The City has limited internal capacity and experience to provide construction oversight for these simultaneous projects. As a result, the City is requesting that FNI provide part-time construction oversight services to accomplish: bi-weekly site inspection visits for each active project; and, to train existing City staff in the process of construction oversight. This will develop the City's internal capacity to provide construction oversight for future projects.

Additionally, the FNI team developed and produced the first Annual Report on the Bond Program. City staff is requesting that the FNI Public Relations team again provide support and production assistance with the next Annual Report, to be produced in January 2017.

**SPECIAL CONSIDERATIONS**

The City is looking to utilize existing staff within the Facilities Maintenance Division to gain skills and experience in construction oversight. Both Lowell Phillips and Chuck Estes currently provide facilities maintenance management and oversight for the existing City buildings, and they will assume responsibility of the new facilities once constructed. Having them move into a role of construction oversight during the construction of new facilities will provide an excellent opportunity for the City staff ensure proper construction, identify and enforce warranty issues, and better provide maintenance for new facilities moving into the future.

## **FUNDING/FISCAL IMPACT**

The proposed Professional Services Agreement with FNI will be a “not-to exceed” contract with an amount of \$168,180. It is proposed that the funding come out of the savings that are being realized from the FNI Program Management contract that is being closed. These funds are out of the proceeds of the General Obligation Bonds from the 2015 Bond Program and will not impact the City’s operating budget.

Additionally, as the City develops the internal capacity to perform construction oversight services, the utilization of FNI staff will reduce. It is possible that the City may not use the full cost of the proposed agreement, similar to the savings that were realized in the Program Management contract.

## **STAFF RECOMMENDATION**

Staff recommends executing a Professional Services Contract with Freese & Nichols for Construction Oversight Services and Annual Report support.

## **BOARD OR COMMISSION RECOMMENDATION**

n/a

### **ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution	Resolution Letter
<input type="checkbox"/> FNI - Scope of Services	Exhibit
<input type="checkbox"/> Presentation	Presentation

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS  
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL  
SERVICES AGREEMENT WITH FREESE & NICHOLS FOR CONSTRUCTION  
OVERSIGHT SERVICES AND BOND PROGRAM ANNUAL REPORT  
DEVELOPMENT SERVICES.**

**WHEREAS**, the City of Abilene will soon have six (6) vertical construction projects happening simultaneously as part of the 2015 Bond Program; and

**WHEREAS**, the City has limited internal capacity and experience to provide construction oversight to these simultaneous projects; and

**WHEREAS**, the City is looking to expand its internal capacity and experience by providing hands on training in construction oversight; and

**WHEREAS**, the City is requesting to enter into a Professional Services Agreement with Freese & Nichols to provide construction oversight services and training for existing City staff; and

**WHEREAS**, Freese & Nichols provided development and production services for the City's first Annual Report on the 2015 Bond Program, so the City is requesting to have the Freese & Nichols team provide the same services for the 2<sup>nd</sup> Annual Report on the 2015 Bond Program;

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

Part 1: That the City Manager is hereby authorized to execute a Professional Services Agreement with Freese & Nichols for Construction Oversight Services and Bond Program Annual Report Development Services, with a not-to-exceed amount of \$168,180.

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

**ADOPTED this \_\_\_\_\_ day of September, 2016.**

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norman Archibald, Mayor

APPROVED:

---

Stanley Smith, City Attorney



**ATTACHMENT A**

September 13, 2016

Wayne Lisenbee  
Director CIP/Bond Programs  
City of Abilene  
555 Walnut  
Abilene, Texas 79604

**Re: Abilene 2015 Bond Program Construction Phase Oversight Services**

Mr. Lisenbee:

In response to our meeting on August 22, 2016, we are pleased to submit this proposal for providing construction phase oversight services to the City of Abilene for the Fire Maintenance Facility, Fire Stations 3, 4 & 7, Aquatic Center and the Police Evidence Facility projects as well as providing services for reviewing the City's bond program quarterly reports during 2017 and the development of the January 2017 annual report for the bond program.

We understand also that the City desires Freese and Nichols to assist in the training of City staff to develop in-house inspection capabilities and will do so as part of this contract. In doing so, we understand that our construction oversight services might not be necessary through the completion of all of the noted projects.

**SCOPE OF SERVICES**

Freese and Nichols will render the following services in connection with the projects as noted above: Our construction phase oversight services will include (for each project) a site visit every two weeks for 4-hours maximum at each project site and the preparation of a Site Visit Report (SVR) either input directly into the City's Project Management Information System (PMIS) or by hard copy submittal to the City. We have included a probable schedule of site visits as Attachment B. However, our actual schedule will be dependent on each projects Notice to Proceed.

Our services for this proposal will generally include the following:

City Quarterly Reports:

- Review and comment on City developed reports

Bond Program Annual Report:

- Graphic Design – design of report template, revisions and proofing (2 drafts, 1 final)
- Text Development – development of text and layout
- Management – coordination and strategy on content and layout; client coordination
- Printing and shipping – 1000 copies

Construction Oversight Services:

- Attend the project Pre-Construction Conference
- Observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents. In this effort FNI will endeavor to protect the Owner against defects and deficiencies in the work of Contractors and will report any observed deficiencies to Owner.
- Notify the City of non-conforming work observed during site visits.
- Conduct, in company with Owner's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents.
- Freese and Nichols anticipated labor hours for each project site visit is as follows:

Aquatic Center Project:

19 site visits at 4-hours per site visit (76 hours max.)

Fire Station 4:

22 site visits at 4-hours per site visit (88 hours max.)

Fire Station 7:

22 site visits at 4-hours per site visit (88 hours max.)

Fire Station 3:

22 site visits at 4-hours per site visit (88 hours max.)

Fire Maintenance Facility:

19 site visits at 4-hours per site visit (76 hours max.)

Police Evidence Facility:

19 site visits at 4-hours per site visit (76 hours max.)

**TIME OF COMPLETION**

Freese and Nichols is authorized to commence work upon execution of the agreement and agrees to complete the services in accordance with the following schedule (subject to change):

Anticipated beginning of Services: October 1, 2016

Anticipated End of Services: November 11, 2017

**RESPONSIBILITIES OF OWNER**

Owner shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.
- B. Furnish copies of all design and construction documents for each project for which our inspection services will be provided.
- C. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to the Project.
- D. Provide all digital images that will be used in the Annual Report.

**DESIGNATED REPRESENTATIVES**

FNI and CLIENT designate the following representatives:

Owner's Designated Representative

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Owner's Accounting Representative

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

FNI's Project Manager

Name: Chris Jones

Address: 4055 International Plaza, Ste 200  
Fort Worth, Texas 76109

Phone: 817-735-7291

E-mail: [caj@freese.com](mailto:caj@freese.com)

FNI's Accounting Representative

Name: Jana Collier

Address: 4055 International Plaza, Ste 200  
Fort Worth, Texas 76109

Phone: 817-735-7300

E-mail: [jvc@freese.com](mailto:jvc@freese.com)

## COMPENSATION

Freese and Nichols proposes to furnish our services as described herein in accordance with Attachment CO, "Compensation". The total fee for Basic Services shall be computed on the basis of Attachment CO but shall be a not-to exceed fee of **One Hundred Sixty-Eight Thousand One Hundred Eighty dollars (\$168,180)**. If Freese and Nichols sees the Scope of Services changing so that additional services are needed, Freese and Nichols will notify the City of Abilene for the Owner's approval before proceeding. Additional services shall be computed based on the Schedule of Charges found in Attachment CO.

Payment of the services shall be due and payable upon submission of a statement for services. Statements for services shall not be submitted more frequently than monthly.

The breakdown of the fee shown above is as follows:

• Quarterly Report Reviews (3 reports)	\$ 1,298.00
• Annual Report:	\$14,592.00
• Project Management:	\$ 7,970.00
• Quality Assurance/Quality Control:	\$ 570.00
• Oversight Site Visits:	\$116,127.00
• Expenses:	<u>\$27,623.00</u>
<b>Total Fee</b>	<b>\$168,180.00</b>

We appreciate this opportunity to submit this proposal. If additional information or clarification is desired, please do not hesitate to contact us. If you are in agreement with the services described above and wish for us to proceed with this assignment, please develop a standard City of Abilene contract with our proposal attached and send to Freese and Nichols for execution.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Chris A. Jones'.

Chris A. Jones, P.E., CCM  
Associate / Construction Services Manager

Attachments

# 2015 Bond Program

Construction Oversight Services Contract

September 22, 2016







**Original Contract    \$660,000**

**Termination Date: September 30, 2016**

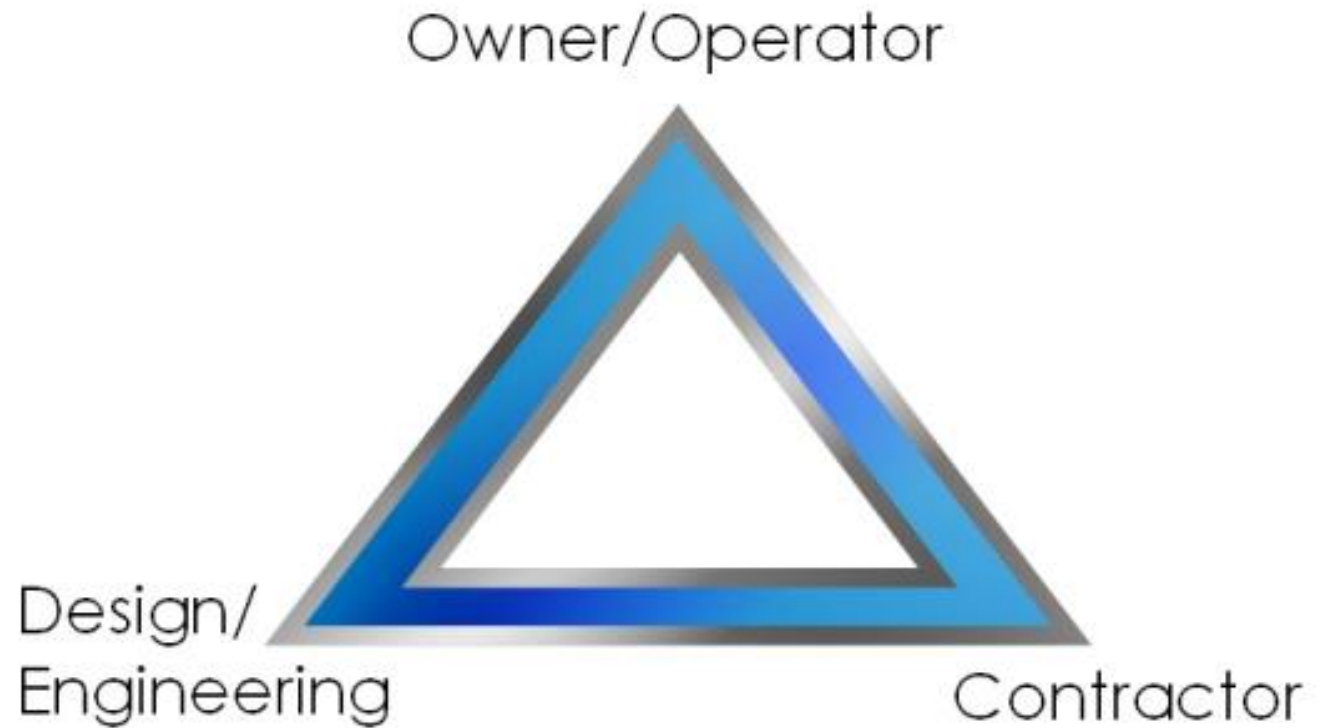
<b>Estimated Cost</b>	<b>\$-445,000</b>
<b>Projected Savings</b>	<b>\$215,000</b>

<b>Proposed Contract</b>	<b>\$168,180</b>
<ul style="list-style-type: none"><li>• Staff Augmentation</li><li>• Staff Training</li><li>• Annual Report</li></ul>	



## Staff Augmentation

- Six Vertical Construction Projects
  - Abilene Aquatic Center
  - Fire Station 4
  - Fire Station 7
  - Fire Station 3
  - Fire Maintenance Facility
  - Police Records & Evidence
- Public Funds - Public Facilities
- Facilities Maintenance Team





## Value Added

- Train and equip existing City staff
- Establish best practices
- Additional protection for public funds and public facilities
- Already on the team
- Focused on construction
- 20 years construction management experience



**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Howdy Wayne Lisenbee, Director of Capital Improvements**

**SUBJECT: Resolution: Approval of the Guaranteed Maximum Price (GMP) from the CMAR, W.B. Kibler, for the construction of the Abilene Aquatic Center at Rose Park; Authorizing the City Manager to execute all related documents; and, approving participation in the project by the Water Utilities Department for water and sewer system upgrades. (Lisenbee)**

---

**GENERAL INFORMATION**

On February 25, 2016 the City Council authorized the execution of a Construction Manager at Risk (CMAR) contract with W.B. Kibler for the construction of the Abilene Aquatic Center at Rose Park. The approved construction budget at the time of contract execution was \$5 Million. As part of the CMAR process, during the design phase of the project, the Construction Manager team (Kibler) is required to develop a Guaranteed Maximum Price (GMP) based on the design for the facility.

The full design of the Abilene Aquatic Center has been completed, and Kibler has had an opportunity to review the designs and bid out the construction work. Their efforts have led to the **GMP proposal in the amount of \$6,058,654**. This GMP proposal includes \$576,056 for early-out construction activities (demolition of the existing pool and structures, water & sewer utilities) and \$5,482,598 for the remaining construction activities.

Once approved, the Guaranteed Maximum Price becomes final, and the Construction Manager (Kibler) is at risk to complete the construction of the facility, as designed, within the GMP amount. If the final construction cost of the facility exceeds the GMP, the CMAR must cover the cost of the overage. If the final construction cost of the facility is beneath the GMP, the savings are returned to the City

**SPECIAL CONSIDERATIONS**

The GMP of \$6,058,654 represents the total construction costs, but does not represent the total cost of the facility. The City has a Professional Services Agreement with Eikon Consulting for the design of the facility. The cost of this contract is \$604,750. When this is added to the Total GMP, the resulting total cost of the Abilene Aquatic Center at Rose Park will be \$6,663,404.

**FUNDING/FISCAL IMPACT**

The City of Abilene voters approved Proposition 6 during the 2015 Bond Election for the construction of the Abilene Aquatic Center. Proposition 6 authorized \$6 Million of General Obligation Bonds in support of the project.

The 2017 Operating Budget includes \$40,000 from Community Services – Parks Division for new shade structures to go in the facility. Additionally, the 2016 CIP included funds to support the Abilene Aquatic Center. This funding included \$350,000 for off-site utilities and \$250,000 for the parking lot. The Water Utilities Department has agreed to participate in the cost of the system upgrades that impacted their water distribution and sewer collection systems in the amount of \$387,261. This would allow staff to repurpose the \$350,000 included in the 2016 CIP to improvements within the facility.

This means that total proposed funding for the Abilene Aquatic Center at Rose Park is \$6,777,261. Proposed funding exceeds the total construction budget by \$113,857, and this amount is being reserved for deck furniture and/or concession stand kitchen appliances.

### **STAFF RECOMMENDATION**

Staff recommends approval of the Resolution approving the Guaranteed Maximum Price (GMP) amount of \$6,058,654; authorizing the City Manager to execute all relevant documents; and approving the participation by the Water Utilities Department in the amount of \$387,261.

### **BOARD OR COMMISSION RECOMMENDATION**

n/a

### **ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution	Resolution Letter
<input type="checkbox"/> Community Survey Results	Exhibit
<input type="checkbox"/> Site Plan	Exhibit
<input type="checkbox"/> Presentation	Presentation



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS TO APPROVE THE GUARANTEED MAXIMUM PRICE FOR THE ABILENE AQUATIC CENTER AT ROSE PARK; AUTHORIZE THE CITY MANAGER TO SIGN ALL RELATED DOCUMENTS; AND APPROVE PARTICIPATION BY THE WATER UTILITIES DEPARTMENT FOR WATER AND SEWER SYSTEM UPGRADES.**

**WHEREAS**, on February 25, 2016 the City Council authorized the City Manager to execute a Construction Manager at Risk contract with W.B. Kibler for the construction of the Abilene Aquatic Center, a project within the 2015 Bond Program; and

**WHEREAS**, W.B. Kibler has submitted a Guaranteed Maximum Price (GMP) of \$6,058,654 for the construction of the Abilene Aquatic Center; and

**WHEREAS**, the Water Utilities Department has agreed to participate in the improvements to the water and sewer system in the amount of \$387,261;

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

Part 1: That the City Council approves the Guaranteed Maximum Price from W.B. Kibler in the amount of \$6,058,654 for the construction of the Abilene Aquatic Center.

Part 2. That the City Manager is authorized to sign all relevant documents for the GMP.

Part 3. That the Water Utilities Department is authorized to participate in the water and sewer system improvements in the amount of \$387,261.

**ADOPTED this \_\_\_\_\_ day of September, 2016.**

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norman Archibald, Mayor

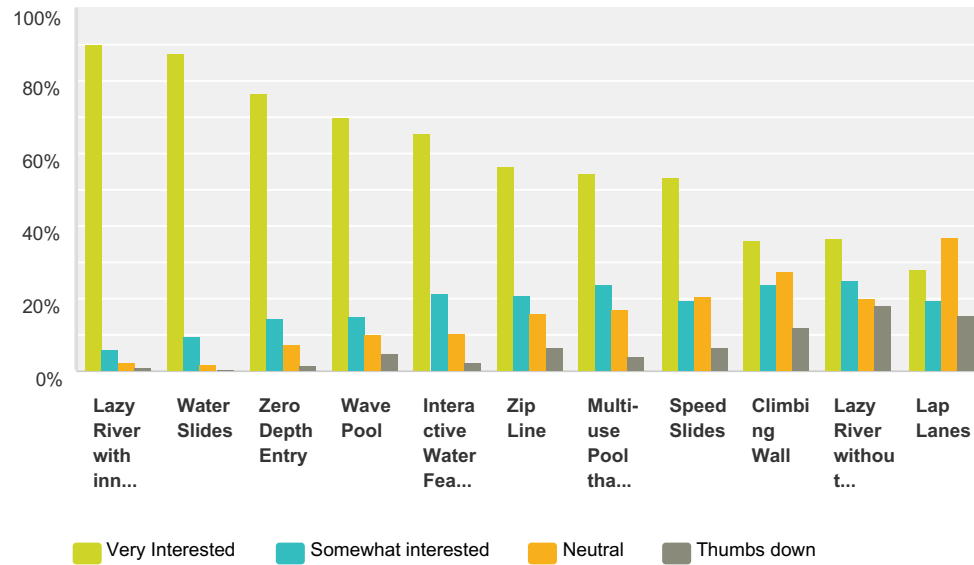
APPROVED:

\_\_\_\_\_  
Stanley Smith, City Attorney

# Abilene Aquatic Center Survey

## Q1 Please rank what you feel are important amenities for the new aquatic center (see sample pictures below)

Answered: 1,369 Skipped: 0



	Very Interested	Somewhat interested	Neutral	Thumbs down	Total	Weighted Average
Lazy River with inner tubes	89.96% 1,218	6.13% 83	2.73% 37	1.18% 16	1,354	1.15
Water Slides	87.37% 1,190	9.69% 132	2.20% 30	0.73% 10	1,362	1.16
Zero Depth Entry	76.68% 1,013	14.53% 192	7.27% 96	1.51% 20	1,321	1.34
Wave Pool	69.78% 926	15.22% 202	9.95% 132	5.05% 67	1,327	1.50
Interactive Water Features	65.43% 863	21.30% 281	10.54% 139	2.73% 36	1,319	1.51
Zip Line	56.35% 745	21.18% 280	15.81% 209	6.66% 88	1,322	1.73
Multi-use Pool that will be used for programming and open swim	54.66% 704	23.99% 309	17.24% 222	4.11% 53	1,288	1.71
Speed Slides	53.59% 695	19.51% 253	20.28% 263	6.63% 86	1,297	1.80
Climbing Wall	36.21% 470	24.11% 313	27.50% 357	12.17% 158	1,298	2.16
Lazy River without inner tubes	36.67% 425	25.19% 292	20.02% 232	18.12% 210	1,159	2.20
Lap Lanes	27.91% 343	19.53% 240	37.02% 455	15.54% 191	1,229	2.40

**Q2 Please provide any additional comments**

Answered: 219 Skipped: 1,150



# Abilene Aquatic Center



SITE PLAN



# **Abilene Aquatic Center at Rose Park**

Guaranteed Maximum Price  
September 22, 2016





Project Cost:

**Proposed Construction Cost**

**\$6,058,654**

Design Contract

\$604,750

Total Facility Cost

**\$6,663,404**

Project Funding:

2015 Bond Election

\$6,000,000

2016 CIP

\$350,000

**Water Dept.**

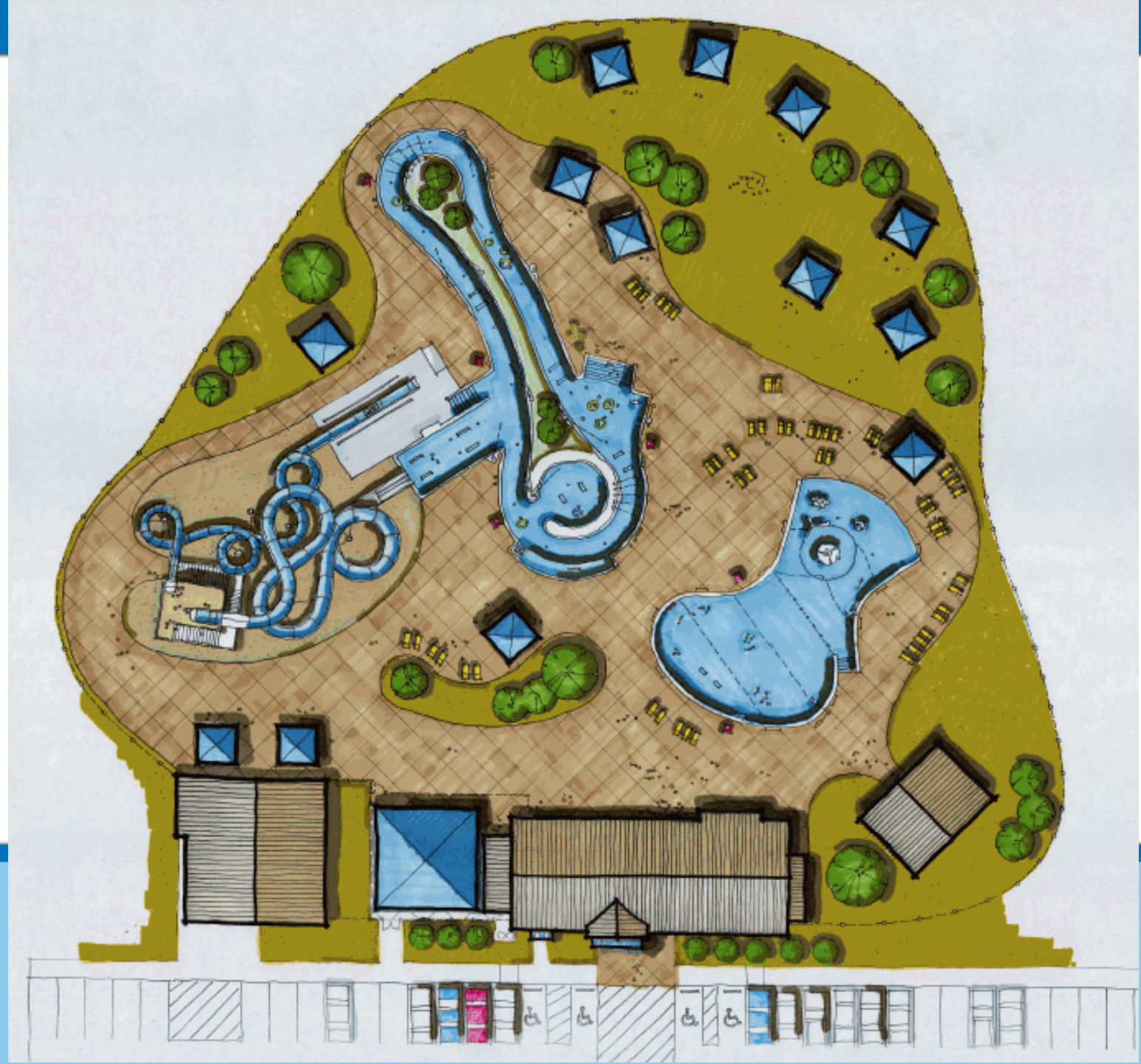
**\$387,261**

Parks Dept.

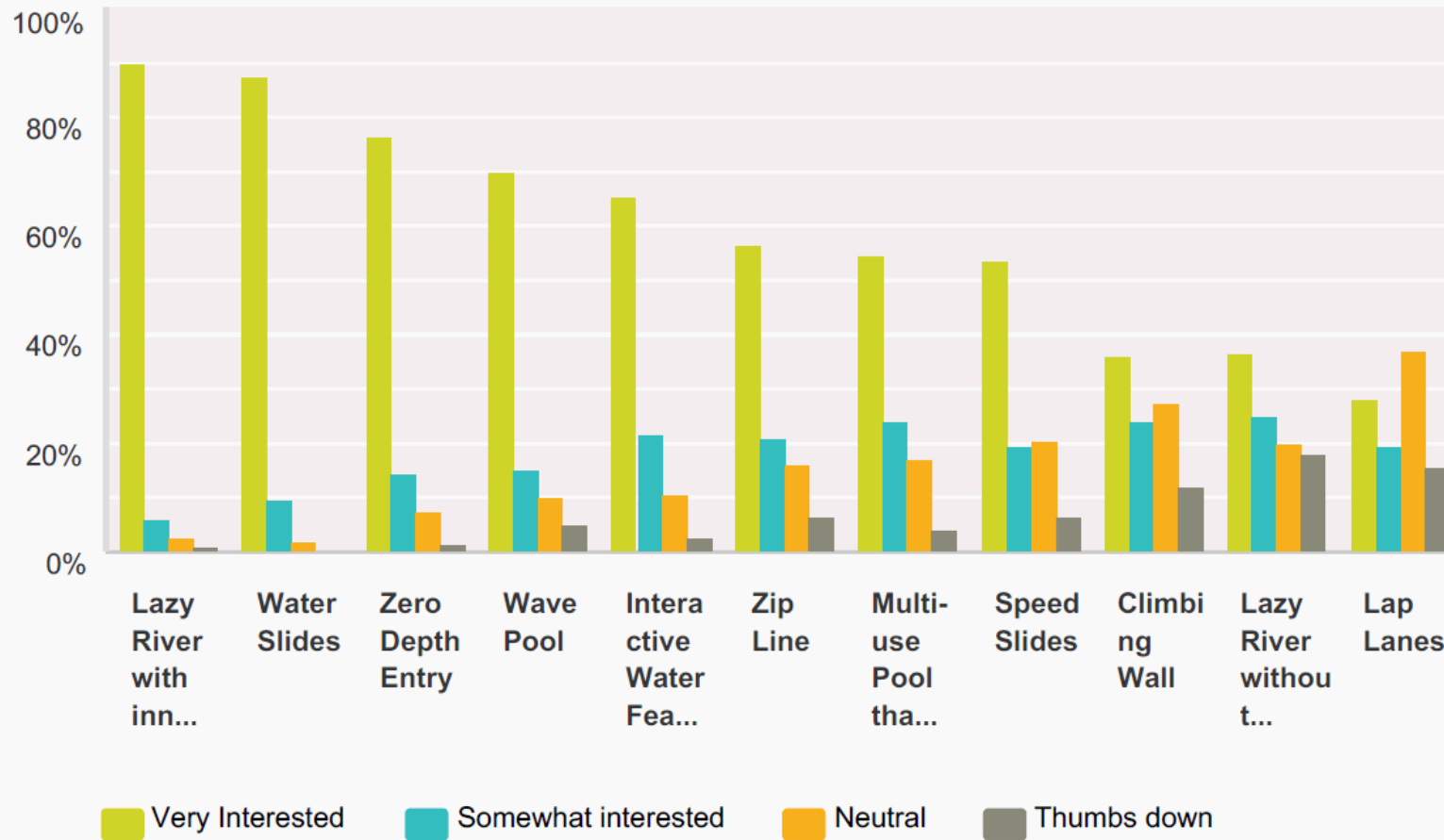
\$40,000

Total Proposed Funding

**\$6,777,261**



Answered: 1,369 Skipped: 0



## Goals

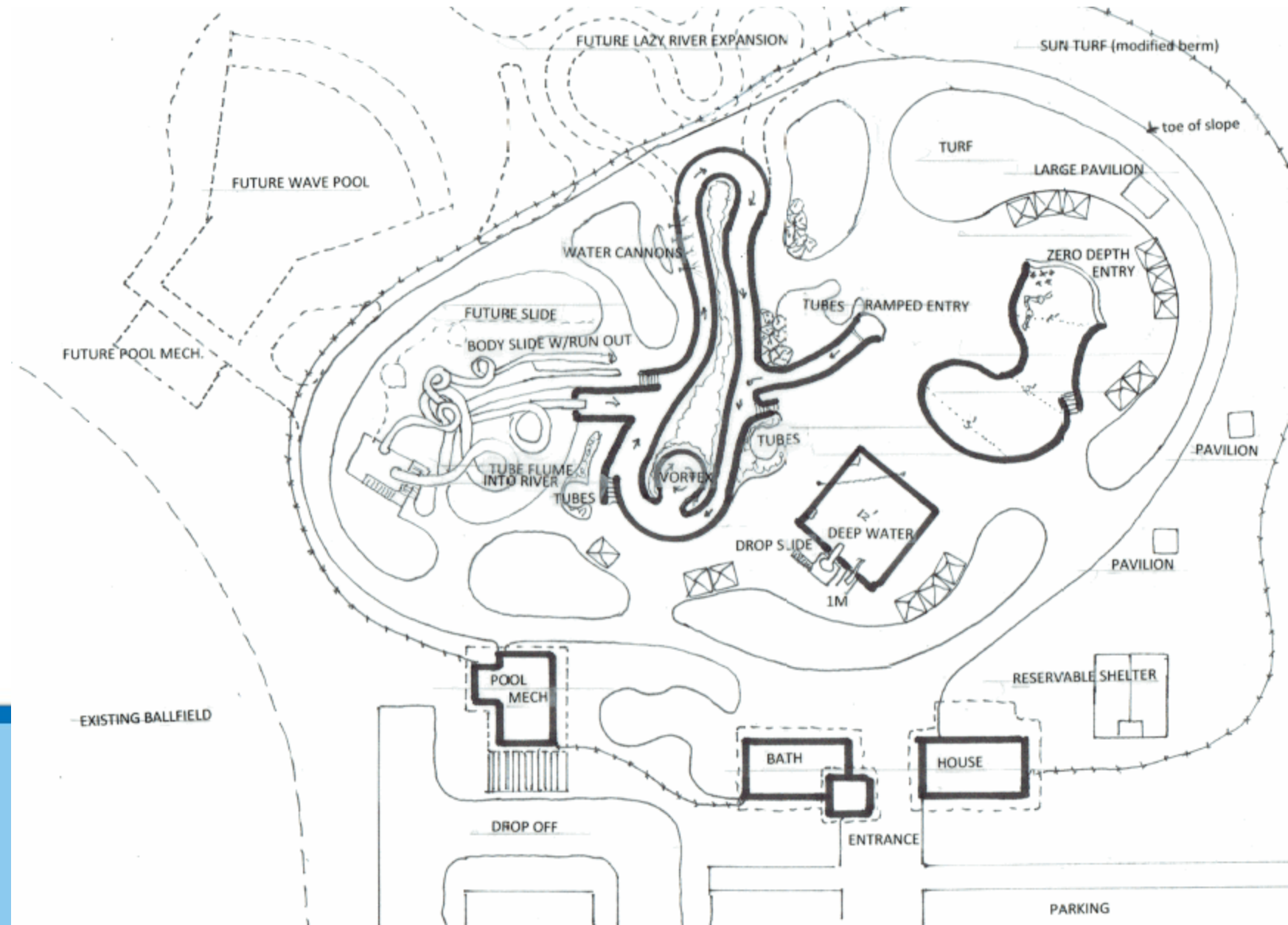
- Meet community expectations
- Maximize Water Features
- Maximize Bather Capacity

# Meeting Expectations:

- Include Key Features
- Preserve Deep Water
- Allow for Future Expansion

Initial Cost Estimate

\$7,400,000





# Meeting Expectations 2.0

(60% Design)

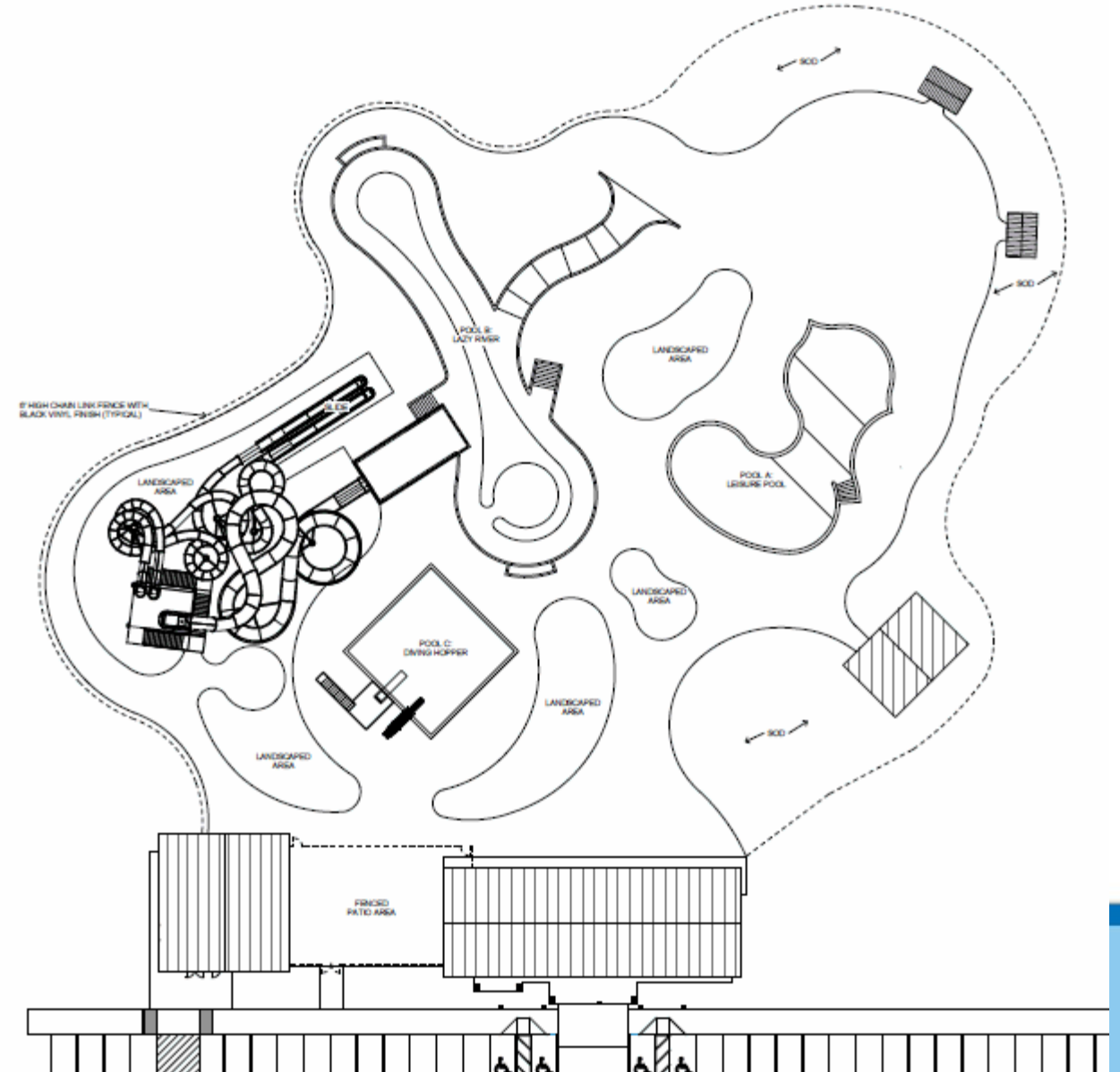
- Preserve Major Water Features
- Reduce Decking/Footprint
- Reduce Main Building

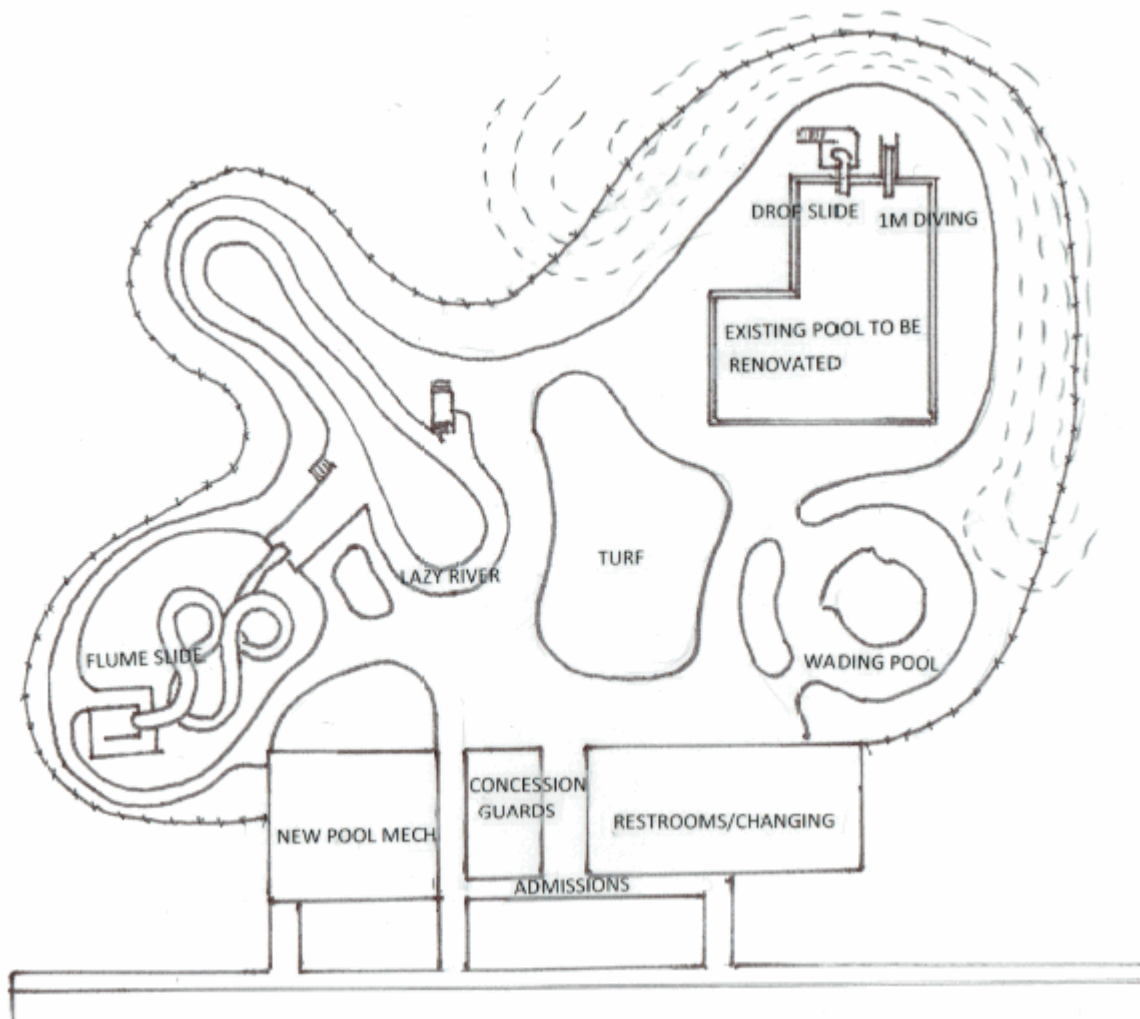
Revised Cost Estimate

\$7,100,000

*We are going to have to lose the deep water...*  
(-\$700,000)

\$6,400,000





## Meeting Expectations 3.0

*(back to the drawing board)*

- Lose Deep Water Pool
- Lose Leisure Pool
- Salvage Existing Pool
- Add Splash Pad
- Reduce Lazy River
- Reduce Slides
- Reduce Main Building

New Cost Estimate

approx. \$6,100,000

*This was not an acceptable compromise to the team...*

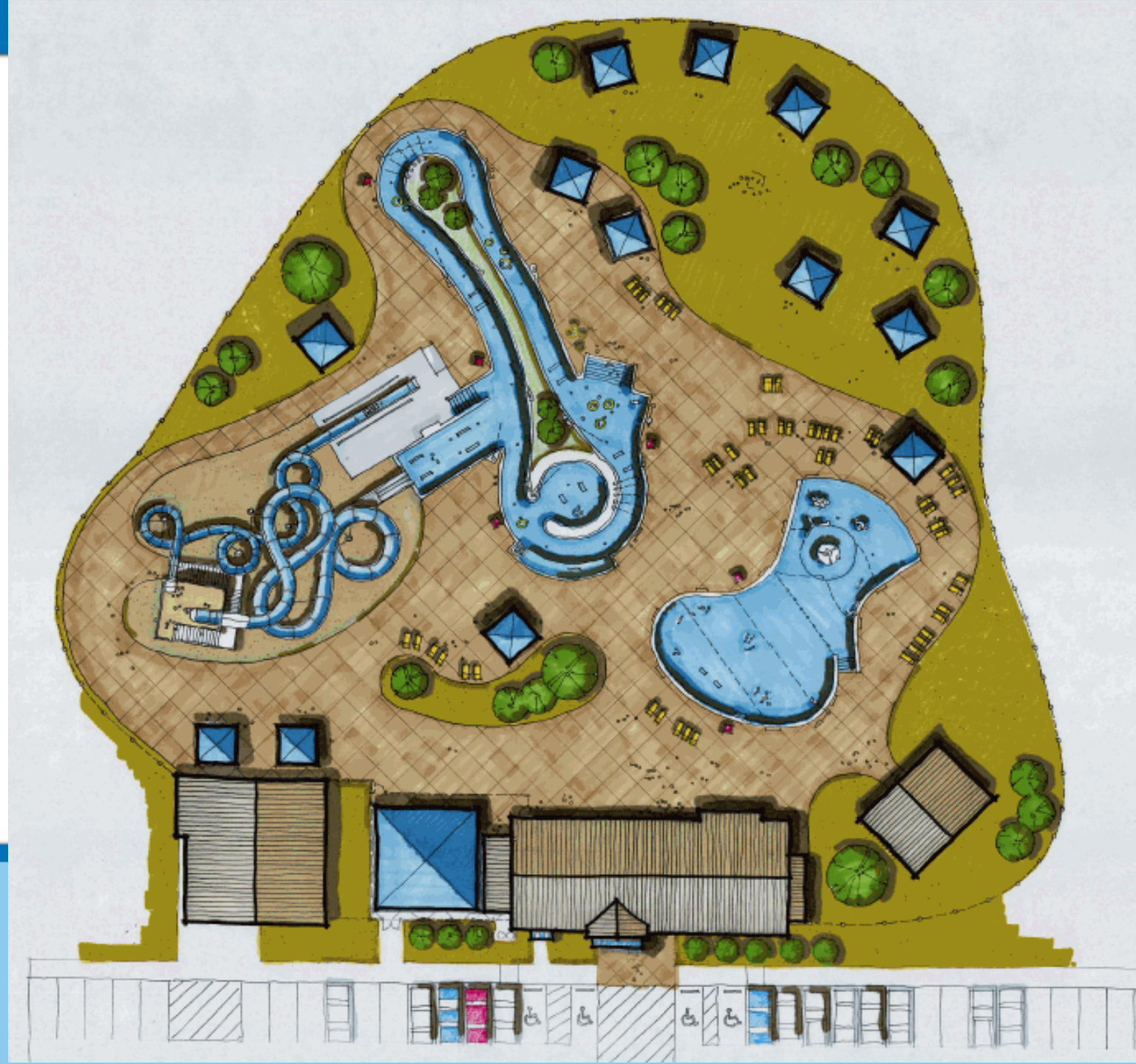


## Final Design:

- 6 of Top 8 Community Expectations
- Lazy River
- Enlarged Leisure Pool
- Maintained Slides
- Maintained Water Features
- Doubled Water surface over old pool
- Doubled Capacity over old pool
- Future Expansion Opportunities

**Proposed GMP** **\$6,058,654**  
**Design** **\$604,750**

**Total Cost:** **\$6,663,404**



## Project Funding:

2015 Bond Election	\$6,000,000
2016 CIP	\$350,000
<b>Water Dept.</b>	<b>\$387,261</b>
Parks Dept.	<u>\$40,000</u>
Total Proposed Funding	\$6,777,261

Balance \$113,857  
(*shade, tubes, deck furniture, etc.*)







**WBK** W.B. KIBLER CONSTRUCTION CO., LTD.  
GENERAL CONTRACTORS



**Questions?**



**City Council  
Agenda Memo**

**City Council Meeting Date: 9/22/2016**

**TO: Robert Hanna, City Manager**

**FROM: Rodney Taylor, Director of Water Utilities**

**SUBJECT: Resolution Awarding Bid for Replacement Laboratory Furniture for the Abilene Environmental Laboratory. *(Taylor)***

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**GENERAL INFORMATION**

The Water Utilities Department is requesting that the Abilene City Council award bid CB-1668 to Gray & Green Laboratory Systems, Inc. (GG) in the amount of \$275,277.00 for the purchase and installation of Phase 3 and Phase 4 laboratory furniture for the Abilene Environmental Laboratory. The project was advertised in the Abilene Reporter news on August 14th and 21st, 2016. Bid packets were provided to five firms. GG was the only vendor that attended the mandatory pre-bid walk through. GG was the only vendor to submit a bid. City staff has positive prior work experience with GG. City staff has reviewed the bid submittal and has determined that it complies with the bid specification documents. City staff recommends awarding the bid to GG in the amount of \$275,277.00.

**SPECIAL CONSIDERATIONS**

On February 11, 2016 staff presented a similar agenda item to award a bid in the amount of \$276,978.00 to GG for the same Phase 3 and Phase 4 furnishings. At that time, Council requested that staff re-bid the item in order to provide sufficient information to distinguish the price of the proposed polypropylene cabinets as compared to painted steel cabinets. This item is in response to that request.

The bid packet included a Base Bid consisting of polypropylene cabinet casings, Trespa brand benchtops, and all associated costs for demolition, installation, shipping, and ancillary plumbing and electrical for each of Phase 3 and Phase 4. Alternate A was for similar work but with painted steel cabinet casings and stainless steel benchtops substituted for polypropylene and Trespa, respectively. The vendor was provided the opportunity to utilize Alternate B for submitting bids on cabinet casings and benchtops of materials that might provide a better value to the City than the base bid and Alternate A. GG did not submit on Alternate B. GG's base bid for Phase 3 and Phase 4 polypropylene cabinet casings was \$184,266, which is about 12.5% higher than the Alternate A value of \$163,783 for painted steel. The base bid for Trespa benchtops throughout was \$13,933, while the Alternate A value of \$49,055 for stainless steel is about 2.5 times higher than for Trespa. All other itemized costs were similar between the base bid and the Alternate A bid.

Staff also solicited bids from two local powder coating companies for rehabilitating the existing painted steel cabinets by blasting off existing coatings, restoring corroded metal as necessary, and recoating all surfaces with durable powder coating materials. This process would also require the removal and reinstallation of the existing cabinets including all ancillary plumbing and electrical. One company submitted a no bid due to concerns with

blasting the existing steel cabinets. We are expecting a proposal from this company soon.

The Abilene Environmental Laboratory performs chemical analysis of water, wastewater, and stormwater samples. Performing certain chemical analysis methods requires the use of laboratory benches as both a work surface and for holding and storing work related equipment, chemicals, and apparatus.

The existing laboratory benches are made of painted metal, which is better suited for clinical or dry labs rather than an environmental laboratory. The laboratory benches are regularly exposed to physical wear due to normal use, contact with chemicals used in analysis, and chemical vapors common to the laboratory environment. The existing benches are at least 25 years old and exhibit obvious surface corrosion, sagging cabinet doors, sticking drawer slides, and excessive wear due to heavy use over time.

This Project is a part of an ongoing process to upgrade laboratory furniture and fixtures of the Abilene Environmental Laboratory. The Project is for the replacement of certain laboratory benches in each of the Biochemical Oxygen Demand (BOD), Oven, Digestion, Ion Chromatography, Utility, and Autoclave rooms, and for other miscellaneous areas. The new laboratory benches will be constructed of polypropylene, which has superior corrosion resistance. The new laboratory benches are acid, base and chemical resistant, and are the correct material for work benches in an environmental laboratory.

On October 14, 2014 the City Council awarded a bid for laboratory furniture which included new furniture for each of the GC/MS, Metals, and TOC rooms. All of that furniture has been successfully installed.

#### **FUNDING/FISCAL IMPACT**

The Water Utilities Department proposes to fund this project using a combination of funds encumbered from the FY 2015 Water Utility Department annual operating budget and designated funds of the FY 2016 Water Department annual operating budget.

#### **STAFF RECOMMENDATION**

Staff recommends awarding the bid for Laboratory Furniture in the amount of \$275,277 to GG as described above.

#### **BOARD OR COMMISSION RECOMMENDATION**

#### **ATTACHMENTS:**

Description	Type
❑ Resolution awarding bid for Laboratory Furniture for Abilene Environmental Laboratory	Cover Memo
❑ Bid Tab Sheet for CB-1668 Replacement Laboratory Furniture for Abilene Environmental Laboratory	Cover Memo
❑ Contract	Backup Material
❑ Presentation awarding bid for Laboratory Furniture for Abilene Environmental Laboratory	Cover Memo



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
AWARDING BID TO GRAY AND GREEN LABORATORY SYSTEMS FOR  
PURCHASE OF LABORATORY FURNITURE FOR THE ABILENE  
ENVIRONMENTAL LABORATORY.**

**WHEREAS,** the City of Abilene owns and operates the Abilene Environmental Laboratory (AEL) located in northeast Abilene; and

**WHEREAS,** the AEL performs sample collection and analysis of water, wastewater, and storm water samples for both internal clients such as the Abilene Water Department and for other entities located throughout the region; and

**WHEREAS,** laboratory furniture (work benches) are necessary for use as both a work surface and for holding and storing work related equipment, chemicals, and apparatus; and

**WHEREAS,** this purchase is part of an ongoing program to replace all aged painted metal work benches with new work benches which have superior corrosion resistance to acids, bases, and other chemicals common to an environmental laboratory; and

**WHEREAS,** Gray and Green Laboratory Systems submitted the only bid which totaled \$275,277.00 for the purchase and installation of replacement work benches, and the bid by G&G meets the minimum requirements of the specifications; and

**WHEREAS,** City staff, after evaluating the bid submittal, does recommend awarding the bid to Gray and Green Laboratory Systems.

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

That the City Manager is hereby authorized to execute a contract with Gray and Green Laboratory Systems for the purchase and installation of replacement laboratory furniture in the amount of \$275,277.00.

**ADOPTED this 22nd day of September, 2016.**

ATTEST:

\_\_\_\_\_  
Danette Dunlap, City Secretary

\_\_\_\_\_  
Norm Archibald, Mayor

APPROVED:

\_\_\_\_\_  
Stanley E. Smith, City Attorney

<p align="center"><b>CITY OF ABILENE PURCHASING DIVISION TABULATION OF BIDS</b></p>	
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PAGE  
1 OF 1

**DEPARTMENT:** ENVIRONMENTAL LABORATORY  
**BID NO.:** CB-1668  
**TIME OF OPENING:** 11:00 A.M.  
**DATE OF OPENING:** AUGUST 31, 2016

GRAY & GREEN  
LABORATORY SYSTEMS  
INC.

[illegible]

*NOTES: INDICATES RECOMMENDED AWARD
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## **CONTRACT**

This contract, dated the \_\_\_\_\_ of September 2016, is between the City of Abilene ("City") and Gray & Green Laboratory Systems, Inc. ("Contractor").

### **I. TERMS**

In consideration of \$ 275,277.00 (Two hundred seventy five thousand two hundred seventy seven dollars ), the Contractor must provide the services described in Attachment A, Bid Specification, which is incorporated by reference, according to all its provisions.

After the CONTRACTOR has fully performed the terms of this AGREEMENT and the CITY'S agent is satisfied that the work has been completed with the terms of this Agreement, the CITY'S agent shall pay the contractor in one lump sum the money specified.

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

The CITY reserves the right to have its agent inspect the premises to determine whether or not the CONTRACTOR has fully complied with the terms of this Agreement.

### **II. PAYMENT**

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

### **III. DURATION**

Contractor must complete all required work within 120 calendar days after the effective date of this Contract.

### **IV. ASSIGNMENT**

Contractor may not assign any interest under this contract without the City's prior written consent.

### **V. STATUS OF CONTRACTOR**

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

### **VI. AMENDMENT OR MODIFICATION**

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

## VII. INDEMNITY

### A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

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

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

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

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

### B. Indemnity

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

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

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



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

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

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

## **VIII. INSURANCE**

### **A. GENERAL REQUIREMENTS**

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

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

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

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

### **B. ADDITIONAL REQUIREMENTS**

The required liability insurances and their certificates must:

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

### **C. TYPES AND AMOUNTS OF INSURANCE**

The following insurance is required under this contract:

<u>Type</u>	<u>Amount</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
<input checked="" type="checkbox"/> 2. Commercial (Public) Liability including, but not limited to: . Premises/Operations . Independent Contractors . Products/Completed Operations . Contractual Liability (Insuring above indemnity) and where the exposures exist . Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
<input checked="" type="checkbox"/> 3. Business Automobile Liability to include coverage for: . Owned/Leased Autos . Non-Owned Autos . Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
<input type="checkbox"/> 4. Professional Liability	\$500,000 combined single limit (per occurrence)
<input type="checkbox"/> 5. See Addendum for Special Coverages and/or revisions	
<input type="checkbox"/> 6. No Insurance Required	

## **IX. VENUE, CHOICE OF LAW AND INTERPRETATION**

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

## **X. VERIFICATION OF EMPLOYMENT ELIGIBILITY**

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

## **XI. INDEBTEDNESS TO CITY**

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

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

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

## **XII. EQUAL EMPLOYMENT OPPORTUNITY**

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

## **XIII. MINORITY AND WOMEN BUSINESS ENTERPRISES**

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 500 Chestnut St., 6<sup>th</sup> floor, Abilene, Texas, 79602, 325-690-0300.

## **XIV. SALES TAX**

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

## **XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES**

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

## **XVI. PAYMENT AND PERFORMANCE BONDS**

If the value of this Bid is below \$25,000, Performance and Payment Bonds are not required; however, the City will not pay the Contractor until the work is accepted and the Contractor furnishes an acceptable Release of Lien and Affidavit of Bills Paid to the City.

If the value of this Bid exceeds \$25,000, the Contractor must also furnish a payment bond. If the value of this Bid exceeds \$100,000, the Contractor must furnish a performance bond when the Contract is executed and delivered to the City. The Bonds, for the full amount of the contract, must be executed by a corporate surety company authorized to do business in the State of Texas and acceptable to the City. Bonds for projects using federal dollars must be underwritten by a surety name in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

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

IN WITNESS HEREOF, the parties hereto have executed this contract:

CITY OF ABILENE

GRAY & GREEN LABORATORY SYSTEMS

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
(Printed Name)

ATTEST:

Title: \_\_\_\_\_

\_\_\_\_\_  
City Secretary

Federal Tax ID #: \_\_\_\_\_

APPROVED:

By: \_\_\_\_\_  
City Attorney

:

By: \_\_\_\_\_  
Risk Manager

Corporate Seal if applicable:





## **ATTACHMENT A**

### **Scope of Work**

### Phase 3 – BOD Room, Oven Room and Digestion Room.

This scope of work is based on the work as identified in job walk through of the existing City of Abilene laboratory.

- Set up a lock out tag out procedure with the owner's rep and the construction crew to safely shut down the electrical circuits, gases, vacuum, and water to the IC Room and the Utility room. The Autoclave room is just a construction only room with no gases or water.
- Discuss and coordinate the shutdown of the existing plumbing utilities so that the schedule will allow the other parts of the laboratory to maintain operational during demolition and reinstallation.
- Provide and install shut off valves for all of the plumbing services to isolate the service lines to each location. Once the isolation valves are installed, the services can be turned back on to serve the other areas of the building.
- Disconnect the existing plumbing, and electrical to these two rooms.
- Remove the existing benches and shelves and haul off of the property.
- Remove and dispose of the existing bench tops and haul off property
- Unload all laboratory casework at the jobsite and expedite furniture and tops to the rooms ready for installation.
- Unpack and verify all equipment and hardware is on site and fill out shortage and breakage reports.
- Install sinks, faucets and reconnect all gas, fluid and vacuum lines.
- Install the bench tops on the benches.
- Provide service lines and connections for all plumbing that was removed from the existing benches and reconnect to the fixtures on the benches.
- Furnish screws, fasteners, etc. required to attach equipment to the building.
- Demolition, disposal, installation, plumbing, electrical, and final connections shall be included.
- Clean, test and make the laboratories ready for owner's use.

### **EXCLUSIONS**

- Laboratory personnel are responsible for removal, cleaning, and reinstallation of any existing equipment or installation of any owner provided equipment.
- Laboratory will provide lockup room of sufficient size for duration of project.
- Laboratory Management will assure access to building during working hours that are established as the standard hours for a forty (40) hour work week.

Phase 4 – Ion Chromatography Room, Utility Room and the Autoclave Room.

This scope of work is based on the work as identified in job walk through of the existing City of Abilene laboratory.

- Set up a lock out tag out procedure with the owner's rep and the construction crew to safely shut down the electrical circuits, gases, vacuum, and water to the IC Room and the Utility room. The Autoclave room is just a construction only room with no gases or water.
- Discuss and coordinate the shutdown of the existing plumbing utilities so that the schedule will allow the other parts of the laboratory to maintain operational during demolition and reinstallation.
- Provide and install shut off valves for all of the plumbing services to isolate the service lines to each location. Once the isolation valves are installed, the services can be turned back on to serve the other areas of the building.
- Disconnect the existing plumbing, and electrical to these two rooms.
- Remove the existing benches and shelves and haul off of the property.
- Remove and dispose of the existing bench tops and haul off property
- Unload all laboratory casework at the jobsite and expedite furniture and tops to the rooms ready for installation.
- Unpack and verify all equipment and hardware is on site and fill out shortage and breakage reports.
- Install sinks, faucets and reconnect all gas, fluid and vacuum lines.
- Install the bench tops on the benches.
- Provide service lines and connections for all plumbing that was removed from the existing benches and reconnect to the fixtures on the benches.
- Furnish screws, fasteners, etc. required to attach equipment to the building.
- Demolition, disposal, installation, plumbing, electrical, and final connections shall be included.
- Clean, test and make the laboratories ready for owner's use.

## **EXCLUSIONS**

- Laboratory personnel are responsible for removal, cleaning, and reinstallation of any existing equipment or installation of any owner provided equipment.
- Laboratory will provide lockup room of sufficient size for duration of project.
- Laboratory Management will assure access to building during working hours that are established as the standard hours for a forty (40) hour work week.



## The Laboratory Furniture shall meet the following minimum specifications:

### 1. SCOPE AND CLASSIFICATION

#### 1.1 Scope

This specification describes the minimum requirements for the purchase of casework, shelves, sinks, benches, and desks for six rooms (also called Laboratory Furniture). The polypropylene Laboratory Furniture must be from Plastic Concepts Inc. or equivalent. The color will be determined by the laboratory staff and must coordinate with the second phase furniture. The dimension of the furniture will be discussed during the walk through unless specified. This will include all Laboratory Furniture for phase three and Phase four:

#### Phase 3 will include:

The BOD Area

The Oven Room

The Digestion Room and miscellaneous areas

#### Phase 4 will include:

Ion Chromatography Room

Utility Room

Autoclave Room

There must be up to a two month interval between the end of the demolition and installation of phase 3 and the start of demolition and installation of phase 4.

#### 1.2 Classification

The Casework sinks and shelves will be used by the City of Abilene's Environmental Laboratory for the purpose of compliance monitoring under the Clean Water Act, Safe Drinking Water Act, and Resource Conservation Recovery Act, and National Environmental Laboratory Accreditation Program as well as the safety of the employees of the City of Abilene. They will be utilized to analyze wastewater, industrial waste, drinking water, soils, and environmental samples.

## MINIMUM TECHNICAL REQUIREMENTS

### SPECIFICATIONS AS FURNISHED BY BIDDER

#### Phase 3

##### 2.1 BOD Area (Room 16):

##### Base Bid

##### Alt Bid A

##### Alt Bid B

2.1.1	Corner Cabinet with front door and (2) fixed shelves 32"W x 35"H x 22"deep drawers Qty (1)	2.1.1	PCI-06-3235 Plastic Concepts Inc. or equivalent	C3514-100(R) Air Master Systems or Equivalent
2.1.2	Base cabinets with (2) short drawers over (3) long 48"W x 35"H x 22"deep Qty (3)	2.1.2	PCI-13-4835 Plastic Concepts Inc. or equivalent	B3548-050 Air Master Systems or Equivalent
2.1.4	Base cabinet with (2) short drawers over (3) long drawers 42"W x 35"H x 22"deep Qty (1)	2.1.4	PCI-13-4235 Plastic Concepts Inc. or equivalent	B3542-050 Air Master Systems or Equivalent
2.1.5	Base cabinets with (2) short drawers over (3) long drawers 36"W x 35"H x 22"deep Qty (2)	2.1.5	PCI-13-3635 Plastic Concepts Inc. or equivalent	B3536-050 Air Master Systems or Equivalent
2.1.6	Base cabinets with (2) drawers, (2) doors and (1) adjustable shelf. 30"W x 35"H x 22"deep Qty (5)	2.1.6	PCI-30-3035 Plastic Concepts Inc. or equivalent	B3530 -220 Air Master Systems or Equivalent
2.1.7	Base cabinet with (4) drawers 30"W x 35"H x 22"deep	2.1.7	PCI-11-3035 Plastic Concepts Inc. or	B3530-040 Air Master Systems or Equivalent

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	Qty (1)		equivalent	
2.1.8	Base cabinet with (4) drawers 48"W x 35"H x 22"deep Qty (1)	2.1.8	PCI-11-4835 Plastic Concepts Inc. or equivalent	B3548-040 Air Master Systems or Equivalent

2.1.9	Base cabinets with (2) doors and (1) adjustable shelf 36"W x 35"H x 22"deep Qty (2)	2.1.9	PCI-05-3635 Plastic Concepts Inc. or equivalent	B3536-200 Air Master Systems or Equivalent
2.1.10	Wall Cabinets with (2) Acrylic sliding windows and (2) adjustable shelves 36"W x 30"H x 13"deep Qty (2)	2.1.10	PCI-35-3630 Plastic Concepts Inc. or equivalent	W3036-2GSF Air Master Systems or Equivalent
2.1.11	Wall Cabinet with (2) Acrylic sliding windows and (2) adjustable shelves 48"H x 30"H x 13"deep Qty (1)	2.1.11	PCI-35-4830 Plastic Concepts Inc. or equivalent	W3048-2GSF Air Master Systems or Equivalent
2.1.12	Table 94"L x 28"W x 35" high with square corner post, (4) draw, 6" wide top skirt, solid bottom shelf and solid top for structural support Qty (1)	2.1.12	PCI-94TBL Plastic Concepts Inc. or equivalent	UT359428-002 Air Master Systems or Equivalent
2.1.13	Room 16: tops, 1-D30 sink, and 1 set of glue	2.1.13	TRSPA TP Plastic Concepts Inc. or equivalent	316 SS Air Master Systems or Equivalent
2.1.14	Deck mounted faucet	2.1.14	L412VB Plastic Concepts Inc. or equivalent	
2.1.15	Deck mounted DI	2.1.15	L7833 Plastic Concepts Inc. or equivalent	
2.1.16	GAV Valves Qty (3)	2.1.16	L2870-131WSA Plastic Concepts Inc. or equivalent	

## 2.2 Oven (Room 19):

2.2.1	(modified) Base Cabinet with (1) top draw and (2) bottom doors with (1) adjustable shelf 48"W x 35"H x 22"deep Qty (1)	2.2.1	PCI-08-4835 Plastic Concepts Inc. or equivalent	B3548-210 Air Master Systems or Equivalent
2.2.2	Base cabinet with (2) short drawers over (3) long drawers 48"W x 35"H x 22"deep Qty (1)	2.2.2	PCI-13-4835 Plastic Concepts Inc. or equivalent	B3548-050 Air Master Systems or Equivalent
2.2.3	Knee space with (1) drawers 36"W x 35"H x 22"deep Qty (1)	2.2.3	PCI-01-3635 Plastic Concepts Inc. or equivalent	A043622-001 Air Master Systems or Equivalent
2.2.4	Base Cabinet with (4) drawers 42"W x 35"H x 22" deep Qty (1)	2.2.4	PCI-11-4235 Plastic Concepts Inc. or equivalent	B3542-040 Air Master Systems or Equivalent
2.2.5	Shelf Units 48"L x 16"deep x 84" high with (6) fixed shelves Qty (2)	2.2.5	48SHLF Plastic Concepts Inc. or equivalent	F8448-00016 Air Master Systems or Equivalent

2.2.6	2 Base- 1-1/8" wide Filler Panels Qty (2)	2.2.6	1-1/8FLR Plastic Concepts Inc. or equivalent	1 1/8' Filler Air Master Systems or Equivalent
2.2.7	Room 19: tops and 1 set of glue	2.2.7	TRSPA TP Plastic Concepts Inc. or equivalent	316 SS TP Air Master Systems or Equivalent

### 2.3 Digestion Room (Room 27) and Miscellaneous:

2.3.1	Shelf Units 48" x 16" x 48" high with three Fixed shelves QTY (5)	2.3.1	PCI-05-3635 Plastic Concepts Inc. or equivalent.	5 SHLF 48 Air Masters System or Equivalent
2.3.2	Base Cabinet with two doors and one adjustable shelf. 36" x 24 x 36 " high QTY (7)	2.3.2	PCI-05-3635 Plastic Concepts Inc. or equivalent	7 B3536-200 Air Masters System or Equivalent
2.3.3	Trespa tops to fit the base cabinets in 2.3.2 QTY (7)	2.3.3	PCI-05-3635 Plastic Concepts Inc. or equivalent	316 SS TP Air Masters System or Equivalent

## Phase 4.

### 2.4 Utility Room (Room 38):

2.4.1	Wall cabinets with (2) Acrylic sliding windows and (2) adjustable shelves 36"W x 30"H x 13"deep Qty (7)	2.4.1	PCI-35-3630 Plastic Concepts Inc. or equivalent	W3036-2GSF Air Master Systems or Equivalent
2.4.2	Base cabinets with (2) draws, (2) doors and (1) adjustable shelf 36"W x 35"H x 22"deep Qty (6)	2.4.2	PCI-30-3635 Plastic Concepts Inc. or equivalent	B3536-210 Air Master Systems or Equivalent
2.4.3	Base Cabinets with (4) short draws over (2) long draws 36"W x 35"H x 22"deep Qty (2)	2.4.3	PCI-12-3635 Plastic Concepts Inc. or equivalent	B3536-060 Air Master Systems or Equivalent
2.1.4	Knee space with apron and bottom panel 36"W x 35"H x 22"deep Qty (1)	2.4.4	PCI-60-3635 Plastic Concepts Inc. or equivalent	A043622-000 Air Master Systems or Equivalent
2.1.5	Knee space with apron 24"W x 35"H x 22"deep Qty (1)	2.4.5	PCI-60-2435 Plastic Concepts Inc. or equivalent	A042422-000 Air Masters System or Equivalent
2.4.6	Base 2-1/4" wide filler panels Qty (3)	2.4.6	2-1/4 FLR Plastic Concepts Inc. or equivalent	2 1/4" Filler Air Master Systems or Equivalent
2.4.7	Base 7-1/2" wide filler panel Qty (1)	2.4.7	7-1/2 FLR Plastic Concepts Inc. or equivalent	7-1/2" Filler Air Master System or Equivalent
2.4.8	Room 38: tops and 1 set of glue	2.4.8	TRSPA TP Plastic Concepts Inc. or equivalent	316 SS TP Air Masters System or Equivalent

### 2.5 Ion Chromatography (Chrome) Room (Room26):

2.5.1	Base cabinets with 2 short draws over 3 long drawers 36"W x 35"H x 22"deep Qty (3)	2.5.1	PCI-13-3635 Plastic Concepts Inc. or equivalent	B3536-050 Air Masters System or Equivalent
2.5.2	Corner cabinets with front door and (2) fixed shelves 32"W x 35"H x 22"deep Qty (3)	2.5.2	PCI-06-3235 Plastic Concepts Inc. or equivalent	C3514-100 (L) , C3514-100(R) Air Master Systems or Equivalent

2.5.3	Combo base cabinet one side has (1) door with adjustable shelf and other side has (4) drawers Qty (1)	2.5.3	PCI-0311-4835 48"W x 35"H x 22"deep	B3548-140A (L) Air Masters System or Equivalent
2.5.4	Base cabinet with 4 drawers 48"W x 35"H x 22"deep Qty (1)	2.5.4	PCI-11-4835 Plastic Concepts Inc. or equivalent	B3548-040 Air Master Systems or Equivalent
2.5.5	Base cabinets with 4 draws side by side (8) total drawers 36"W x 35"H x 22"deep Qty (2)	2.5.5	PCI-20-3635 Plastic Concepts Inc. or equivalent	B3536-210 Air Master Systems or Equivalent
2.5.6	Open base cabinet with (2) fixed shelves 36"W x 35"H x 22"deep Qty (1)	2.5.6	PCI-02-3635 Plastic Concepts Inc. or equivalent	B3536-210 Air Master Systems or Equivalent
2.5.7	Base cabinet with (4) drawers 24"W x 35"H x 22"deep Qty (1)	2.5.7	PCI-11-2435 Plastic Concepts Inc. or equivalent	B3524-040 Air Master Systems or Equivalent
2.5.8	Combo base cabinet one side has (4) draws and other side has (1) drawer over door with adjustable shelf 35"W x 35"H x 22"deep Qty (1)	2.5.8	PCI-1114-3635 Plastic Concepts Inc. or equivalent	B3536-050 Air Master Systems or Equivalent
2.5.9	Combo base cabinet one side has (4) draws and other side has (1) drawer over door with adjustable shelf 48"W x 35"H x 22"deep Qty (1)	2.5.9	PCI-1114-4835 Plastic Concepts Inc. or equivalent	B3548-040 Air Master Systems or Equivalent
2.5.10	Base cabinet (1) draw over door with (1) adjustable shelf 24"W x 35"h x 22"deep Qty (1)	2.5.10	PCI 14-2435Plastic Concepts Inc. or equivalent	B3524-11 (R) Air Master Systems or Equivalent

2.5.11	Wall cabinets, (2) acrylic sliding windows and (2) adjustable shelves 36"W x 30"H x 13"deep Qty (3)	2.5.11	PCI-35-3630 Plastic Concepts Inc. or equivalent	W3036-2GSF Air Master Systems or Equivalent
2.5.12	Wall cabinets, (2) acrylic sliding windows and (2) adjustable shelves 48"W x 30"H x 13"deep Qty (3)	2.5.12	PCI-35-4830 Plastic Concepts Inc. or equivalent	W3048-2GSF Air Master Systems or Equivalent
2.5.13	Wall cabinets, (2) acrylic sliding windows and (2) adjustable shelves 48"W x 30"H x 13"deep Qty (4)	2.5.13	PCI-35-3030 Plastic Concepts Inc. or equivalent	W3048-2GSF Air Master Systems or Equivalent
2.5.14	Desk 60"L x 29" high (1) center draw and (3) draws on each side and solid top for structural support Qty (1)	2.5.14	PCI-60DSK Plastic Concepts Inc. or equivalent	UT296028-000 Air Master Systems or Equivalent
2.5.15	Table 58"L x 28"W x 29" high with square corner post, 6" wide top skirt, solid bottom shelf and solid top for structural support Qty (1)	2.5.15	PCI-58TBL Plastic Concepts Inc. or equivalent	UT266028-000 Air Master Systems or Equivalent
2.5.16	Base 1-1/8" wide filler panel Qty (2)	2.5.16	1-1/8 FLR Plastic Concepts Inc. or equivalent	1 1/8 Filler Air Master Systems or Equivalent
2.5.17	Base 1-1/2" wide filler panel Qty (1)	2.5.17	1-1/2FLR Plastic Concepts Inc. or equivalent	1 ½ Filler Air Master Systems or Equivalent



2.5.18	Base 5" wide filler panel Qty (1)	2.5.18	5-FLRPlastic Concepts Inc. or equivalent	5" Filler Air Master Systems or Equivalent
2.5.19	Base 7" wide filler panel Qty (1)	2.5.19	7-FLR Plastic Concepts Inc. or equivalent	7" Filler Air Master Systems or Equivalent

2.5.20	Bottle Peg Boards 36" wide x 30" high with approx. 6 rows across x 5 down of pegs, with built-in bottom catch tray Qty (2)	2.5.20	PCI-36GBRD Plastic Concepts Inc. or equivalent	
2.5.21	Room 26: tops, 2-D-30 sinks, and 2 sets of glue	2.5.21	TRSPA TP Plastic Concepts Inc. or equivalent	316 SS Air Master Systems or Equivalent
2.5.22	Deck mounted faucets QTY (2)	2.5.22	L412VB Plastic Concepts Inc. or equivalent.	
2.5.23	Deck mounted DI QTY (2)	2.5.23	L7833 Plastic Concepts Inc. or equivalent	
2.5.24	GAV valves Qty (9)	2.5.24	L2870-131WSA Plastic Concepts Inc. or equivalent	

## 2.6 Autoclave (AutoC) Room casework and shelving:

2.6.1	Base Cabinet with one adjustable shelf 36"x24"x36" QTY (1)	2.6.1	PCI-35-3635 Plastic Concepts Inc. or equivalent.	B3536-200 Air Master Systems or Equivalent
2.6.2	Trespa Top to fit the above cabinet. QTY (1)	2.6.2	TRSPA TP Plastic Concepts Inc. or equivalent	316 SS TP Air Master Systems or Equivalent
2.6.3	Shelve with two adjustable shelves. 36"x12"x30" QTY (1)	2.6.3	PCI-35-3630 Plastic Concepts Inc. or equivalent	W3036-2GSF Air Master Systems or Equivalent
2.6.4	Bookcase 36"x12"x48" Clearance on the shelves (Top to Bottom) 9", 12", 9", 13". QTY (1)	2.6.4	PCI-3648 Plastic Concepts Inc. or equivalent.	SHLF SPCL 36 Air Master Systems or Equivalent

## PHASES 3 AND 4

### 2.7 Casework, shelving Materials

2.7.1	A. Polypropylene must be a minimum of 1/2" thick for the case work (for plastic casework only )	2.7.1	Yes
2.7.2	B. Polypropylene braces for the casework must be a minimum of 3/4" thick and must support the weight needed (for plastic casework only)	2.7.2	Yes
2.7.3	C. All welding must be performed using nitrogen gas. (for plastic casework only)	2.7.3	Yes

### 3.0 Cleaning, Protection of finished Work, and Adjustments

3.0.1	Clean equipment, touch up as required	3.0.1	Yes
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3.0.2	Provide all necessary protective measures to prevent exposure of equipment from exposure to other construction activity.	3.0.2	Yes
3.0.3	Advise contractor/owner of procedures and precautions for protection of material and installed casework from damage by work of other trades.	3.0.3	Yes
3.0.4	Repair or remove and replace defective work, as directed by the City of Abilene owner upon completion of installation.	3.0.4	Yes

### 3.1 Installation and Familiarization:

3.1.1	Installation Location: City of Abilene, Environmental Laboratory 4209 East Lake Road Abilene, TX 79601 Hours of operation: Monday – Friday, 8:00am to 5:00pm CDT.	3.1.1	Yes
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### 4.0 Warranty:

4.0.1	Laboratory Furniture shall have a 1 year warranty on the workmanship to include the welding of the furniture, internal electrical, plumbing and mechanical assembly.	4.0.1	Yes
4.0.2	Laboratory Furniture must be guaranteed to remain rust free for five years in this corrosive atmosphere.	4.0.2	Not applicable for Stainless Steel

### 5.0 Shipping:

5.0.1	All equipment needed for this project shall be shipped F.O.B. destination to Environmental Laboratory, City of Abilene, 4209 East Lake Road, Abilene, Texas 79601.	5.0.1	Yes
5.0.2	Shipping costs must be included in the bid.	5.0.2	Yes
5.0.3	Once the bid is awarded, the vendor shall deliver all the equipment and install it within 12 weeks after the receipt of order.	5.0.3	Yes
5.0.4	The warranty must cover all Laboratory Furniture. Shipper is responsible for delivery of all materials to the Environmental Lab and will provide all necessary personnel to transport and to install the furniture.	5.0.4	Yes

### 6.0 Acceptance:

6.0.1	The furniture must meet all specifications through acceptable on-site test analysis prior to acceptance and be designated operational by the Laboratory Manager.	6.0.1	Yes
6.0.2	The City of Abilene will accept the Laboratory Furniture and acknowledge payment when the vendor:	6.0.2	Yes
6.0.2a	a. delivers and installs the furniture.	6.0.2a	Yes
6.0.2b	b. ensures that all operations required by this specification are performing correctly	6.0.2b	Yes
6.0.2c	c. and when the vendor completes the training of all necessary personnel.	6.0.2c	Yes

### 7.0 Omission:

7.0.1	It is the intention of this specification to purchase Laboratory Furniture for six rooms. Any requirement that has been omitted from this specification, which is clearly necessary for the complete operation of the furniture, shall be considered a requirement although not directly specified or called for in the	7.0.1	Yes
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	specification.		
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#### **8.0 Exceptions:**

8.0.1	Bidder shall state in writing any exception taken to this specification. Bidder is allowed to bid "equal" products. Equal items will be considered, provided the bidder clearly describes these articles and they meet the requirements of this specification. Where reasonable doubt exists as to the quality, function, and/or qualifications of an "equal" item, the bidder may be required to furnish a sample(s) for evaluation at no cost to the City of Abilene.	8.0.1	Yes
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#### **9.0 Miscellaneous:**

9.0.1	Vendor must supply the City of Abilene with a list of three references who have purchased and installed the same laboratory Furniture for which the vendor is submitting a bid.	9.0.1	Yes
9.0.2	Vendor must participate in a pre-bid walk through of the laboratory at the scheduled time.	9.0.2	Yes

**It is the intention of the City of Abilene Environmental Laboratory to purchase Laboratory Furniture for six rooms. Any accessories or equipment not specifically mentioned in these specifications, which would be necessary to make the bidder's Laboratory Furniture a complete functional system must be included by the bidder. The bidder's Laboratory Furniture must meet or exceed all requirements set forth in these specifications. Any exceptions must be clearly noted on the bid submission. The City of Abilene reserves the right to reject any or all bids and award the bid considered the most advantageous to the City of Abilene.**

## **ATTACHMENT B**

### **PAYMENT SCHEDULE**

#### **OPTION 1**

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

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

#### **OPTION 2**

Payment is in a lump sum amount of \$ 275,277.00 upon completion of the work and written acceptance by City's Project Representative.

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

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

#### **OPTION 3**

Payment is a fixed fee amount of \$ \_\_\_\_\_ payable per the schedule upon completion of the work and written acceptance by City's Project Representative.

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

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



## ATTACHMENT C

### STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

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

a. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
  - (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
  - (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - (4) obtain from each other person with whom it contracts, and provide to the Contractor:
    - (a) a certificate of coverage, prior to the other person beginning work on the project; and
    - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
  - (6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;
  - (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- j. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the City that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the City to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the City.

(End of Document)



# **City Council Agenda**

September 22, 2016

**Awarding Bid for Replacement Laboratory Furniture for  
the Abilene Environmental Laboratory**





- Existing painted steel cabinets are in poor condition & need to be replaced
- Solicited bids for Phase 3 & Phase 4 replacement of laboratory furniture
- Resolution is for awarding bid in the amount of \$275,277.



**Replacement Laboratory  
Furniture**

- Similar item presented to Council on February 11, 2016.
- Concerns with overall cost and of a single bid
- Insufficient information to determine cost and value between plastic & painted steel materials.



**Replacement Laboratory  
Furniture**

- Bid document developed for base bid and alternate bids A & B
- Base bid is Polypropylene cabinets and Trespa benchtops
- Alternate A is painted steel cabinets and stainless steel benchtops
- Alternate B was provided for vendor to submit best value substitutes



**Replacement Laboratory  
Furniture**

- Painted steel has long been the general laboratory standard
- Finish expected to last 5-10 years in highly acidic environment
- Minor corrosion can occur much sooner
- Polypropylene is very well suited for environmental labs
- Expected to last 20-30 years in any lab environment
- Minor repairs after 15 years



**Replacement Laboratory  
Furniture**



- Staff explored option to blast and powder coat existing cabinets
- Prior professional powder coating of select parts produced very short term results.
- Prior staff initiated surface treatment and epoxy coating produced very short term results.



**Replacement Laboratory  
Furniture**



	Base Bid		Alternate A
Casework Phase 3	\$82,841		\$73,315
Casework Phase 4	\$101,425		\$90,468
	\$184,266	(+12.5%)	\$163,783
	66.9%		56.5%
Benchtops Phase 3	\$6,917		\$22,618
Benchtops Phase 4	\$7,016		\$26,437
	\$13,933		\$49,055
	5.1%		16.9%
All Other Costs Phase 3	\$34,830		\$34,830
All Other Costs Phase 4	\$42,248		\$42,248
	\$77,078		\$77,078
	<b>\$275,277</b>		<b>\$287,916</b>



## Current Condition of existing painted steel cabinets in BOD room



Biochemical Oxygen Demand (BOD) Room





Recommend Polypropylene cabinets throughout the Laboratory



Total Organic Carbon (TOC) Room

# **Item 7.X - Awarding Bid for Replacement Laboratory Furniture for the Abilene Environmental Laboratory**

## **QUESTIONS?**



**Replacement Laboratory Furniture**



# Biochemical Oxygen Demand (BOD) Room



# Biochemical Oxygen Demand (BOD) Room





# Ion Chromatography (IC) Room



# Ion Chromatography (IC) Room





## Ion Chromatography (IC) Room





# Utility Room

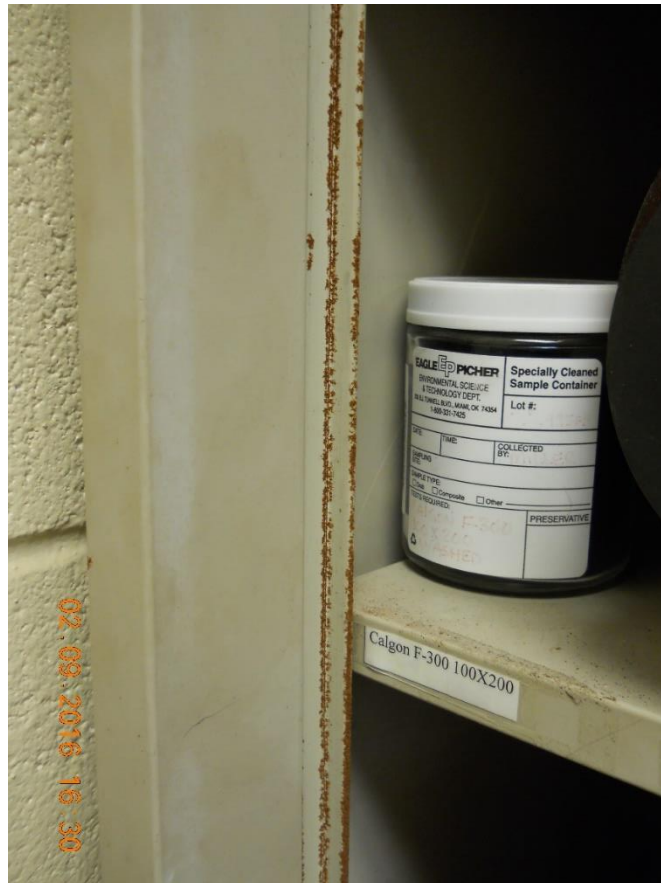


# Oven Room





# Oven Room



# Digestion Room





# Digestion Room





# Digestion Room



# Inductively Coupled Plasma (ICP) [Metals] Room

Awarded on November 6, 2014



# Gas Chromatography/Mass Spectrometry (GC/MS) Room

Awarded November 6, 2014

