

**City Council
Agenda Memo**



City Council
Meeting Date: 01-28-10

TO: Larry D. Gilley, City Manager
FROM: Stan Standridge, Police Chief
SUBJECT: Oral Resolution approving Amendments to the By-Laws of Friends of Safety City, Inc.

GENERAL INFORMATION

At the Friends of Safety City meeting that took place on January 14, 2010, the board approved the following bylaw changes:

- The purpose of the organization was changed to include fundraising efforts.
- Two of the Directors would be chosen from the membership of the Abilene Jaycee Chapter whenever possible.
- The Executive Committee would be comprised of any three of the President, Vice President, Secretary and Treasurer.
- The Executive Committee would be required to meet annually rather than quarterly.
- The language of the Bylaws was modified to be gender neutral whenever necessary.

FUNDING/FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of the amendments.

ATTACHMENTS

Proposed Bylaws of Friends of Safety City, Inc. as approved.

<p>Prepared by: Name: Stan Standridge Title: Police Chief</p>	<p>Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____</p>
<p>Item No. <u> 41 </u></p>	<p>_____ City Secretary</p>

BY-LAWS
OF
FRIENDS OF SAFETY CITY, INC.
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**BY-LAWS
OF
FRIENDS OF SAFETY CITY, INC.**

ARTICLE ONE

OFFICES

1.01 Registered Office and Registered Agent

The Corporation shall have and shall continuously maintain in the State of Texas a registered office, which is located at 555 Walnut Street, Abilene, Texas 79601, and whose mailing address is the same. The Corporation shall also have and continuously maintain a registered agent whose office is identical with such registered office. The registered agent shall be Larry Gilley. The Board of Directors may, from time to time change the registered agent and/or the address of the registered office; provided that such change is appropriately reflected in these By-Laws and in the Articles of Incorporation.

Comment [11]: Must be a person instead of a title.

1.02 Principal Office

The principal office of the Corporation in the State of Texas shall be located at 2601 South 7th Street, Abilene, Texas 79605. The Corporation may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Corporation may require from time to time.

ARTICLE TWO

PURPOSES

2.01 Purposes

The purpose of Friends of Safety City, Inc. is to promote an increased emphasis and awareness of safety education for children and public awareness of safety through fundraising efforts and the informed and active participation of citizens in making Abilene and the surrounding region a safer place to live, work, and play.

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ARTICLE THREE

NO STOCK AND NO STOCKHOLDERS

3.01 No Stock and No Stockholders

The Corporation shall have no capital stock and no stockholders.

ARTICLE FOUR

BOARD OF DIRECTORS

4.01 Responsibility of Board of Directors

The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors, subject to the Texas Business Organizations Code, the Articles of Incorporation, and these By-Laws. The Board of Directors shall have full charge of the property and business of the Corporation, with full power and authority to manage and to conduct the same.

The Board of Directors may, by contract, resolution, or otherwise, give general or limited or special power and authority to the officers and agents of the Corporation to transact the general business or any special business of the Corporation.

4.02 Number of Directors

The Board of Directors shall be composed of no less than five (5) and no more than nine (9) members. Up to seven of the Directors may be at-large representatives of the community, however, whenever possible two of the Directors shall be chosen from the membership of the Abilene Jaycee Foundation and/or Abilene Jaycee Chapter as recommended by the Abilene Jaycee Foundation Board for so long as such Foundation and/or local Chapter maintains its legal existence and support for the success of the Safety City Program and facilities.

4.03 Executive Director and Ex-Officio Directors

The Executive Director, if deemed necessary, shall be an Ex-Officio Director without voting privileges; however, the Executive Director shall be responsible for carrying out the day-to-day operations of the corporation and for performing any other functions as may be determined by the Board. Other Ex-Officio Directors, without voting privileges, may include a representative from the following agencies:

City of Abilene Community Services Department
City of Abilene Police Department
City of Abilene Fire Department
Texas Department of Public Safety

4.04 Term of Office

The Directors of the Board shall be appointed by the Mayor of the City of Abilene with the consent of the City Council. New members of the Board of Directors shall begin their terms of office on October 1st and shall hold their office for a term of three (3) years. The initial members of the Board of Directors shall have staggered terms. Two (2) of the initial directors shall have a one (1)-year term, two (2) of the initial directors shall have a two (2)-year term, and the remaining three (3) shall have a three (3)-year term. For purposes of calculating the term

Comment [12]: This position is different than the safety education coordinator position. There is currently no Executive Director.

limits only, the term of the initial Directors shall begin on October 1st of the year of the appointment of the initial Board of Directors regardless of the date of actual appointment.

4.05 Vacancies and Appointment of New Directors

Upon the death, resignation, removal or expiration of the term of office of any of the Directors, the vacancy shall be filled by the Mayor of the City of Abilene with the consent of the City Council. Any Director elected to fill a vacancy shall be elected for the un-expired term of his/her predecessor. Any Director elected for less than a full term may be eligible for re-election for two successive full three (3) year terms.

4.06 Removal of Directors

Any Director may be removed by the Mayor from the Board of Directors without cause with the approval of City Council at any legally constituted meeting of the City Council; provided that written notice of any such intent to remove a Director shall have been given to each member of the Board of Directors, including the Director at issue, not less than seventy-two hours (72) hours prior to the meeting at which the removal is to be considered. A Director who is absent from three consecutive regular board meetings may be removed from the Board of Directors according to the procedures stated above.

4.07 Regular Meetings, Notice and Quorum

Regular meetings of the Board of Directors shall be held at least quarterly, or as directed by the President, and shall be held at such place as they may determine, and in compliance with the state law provisions regarding open meetings. Notice of each regular meeting shall be provided by mail, fax or e-mail, and shall be posted as public notice as required by law. A majority of total Directors currently serving shall constitute a quorum. An affirmative vote of a majority of Directors present, or 51%, whichever is greater, shall be necessary for approval of motions before the Board. Robert's Rules of Order shall govern parliamentary procedure for the meetings of the Board.

4.08 Special Meetings

Special meetings of the Board of Directors may be called by the President or by the Board of Directors, and must state the purpose or purposes thereof and give at least ten (10) days but no more than sixty (60) days notice. (TBOC §22.155-156).

4.09 No Compensation

No salary or compensation of any kind shall be paid to any members of the Board of Directors.

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ARTICLE FIVE

OFFICERS

5.01 Composition of Officers

The officers of the Corporation are President, Vice President, Secretary and Treasurer. The Board of Directors may appoint such other officers and agents as it deems necessary. Such officers and agents shall be appointed for such terms and shall exercise such powers and perform such duties as may be determined from time to time by the Board.

5.02 Executive Committee

The Executive Committee shall consist of ~~any three of the President, Vice President, Secretary and Treasurer.~~ If at any time the number of appointed directors is five (5), any meetings of the Executive Committee shall be posted as public notice as required by law.

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The Executive Committee shall, at intervals between meetings of the Directors, authorize and exercise all functions of the Board, subject to final approval by the Board. The Executive Committee shall meet at least annually, or as directed by the President, at a time and place to be designated and may be called for special meetings at any time by the President or Vice President on notice of three (3) days.

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5.03 Other Committees

The President may appoint other committees as necessary. These committees may be comprised either from current board members or from members of the community and region. The mission of these other committees is to further assist in the successful workings of Friends of Safety City, Inc.

5.04 Election of Officers

The Officers of the Corporation shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. Vacancies shall be filled at any meeting of the Board of Directors and any person who fills a vacancy shall serve until the next election of officers. Each officer shall hold office until his successor has been elected and qualified, or until the death, resignation, or removal of the officer.

5.05 Removal of Officers

Any officer elected by the Board of Directors may be removed at any time for any reason by the affirmative vote of a majority of the entire Board of Directors.

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5.06 Vacancy of Office

A vacancy in any office due to death, resignation, disqualification or otherwise, may be filled by a majority vote of the Board of Directors for the un-expired portion of the term.

5.07 President

The President shall be the chief executive officer of the Corporation and, subject to the direction of the Board of Directors, shall monitor the business and affairs of the Corporation, who shall be in charge of carrying out day-to-day operations. He/she shall preside at all meetings of the Board of Directors. He/she may, and upon written demand addressed to the President by any three (3) Directors shall, call a special meeting of the Board of Directors. He/she shall see that all orders and resolutions of the Board are carried into effect, and he/she shall perform all other duties that usually pertain to the office or are delegated to him by the Board of Directors.

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The President, or the Vice President acting in the place of the President, shall have the power to execute Promissory Notes or other evidences of indebtedness of the Corporation, or to execute contracts or deeds of conveyance for and in behalf of the Corporation; provided, however, that each such note, evidence of indebtedness, contract, or deed shall be a binding obligation of the Corporation only when executed pursuant to resolution by the Board of Directors, granting special authority for the execution thereof. All notes, contracts and deeds of conveyance must be attested by the Secretary of the Corporation.

5.08 Vice President

The Vice President shall assist the Board in the financial and operational transactions of the Corporation. In the absence of the President or in the event of the President's inability or refusal to act, the Vice President shall perform the duties of the President and, as such, the Vice President shall have the powers of, and be subject to all the restrictions upon, the President. The Vice President shall also have such powers and shall perform such other duties as may be assigned to him by the President or by the Board of Directors.

5.09 Secretary

The Secretary shall keep permanent records of the proceedings of the Board of Directors, including the minutes of all meetings of the Board of Directors. He shall also be the custodian of the records and the seal of the Corporation, if any, and shall affix the seal to documents, the execution of which is duly authorized. He shall give or cause to be given all notices required by law or by these By-Laws. He shall perform all duties that usually pertain to the office of Secretary or which are delegated to him by the Board of Directors or by the President.

5.10 Treasurer

The Treasurer, shall keep regular books, records and books of account of the Corporation, and shall deposit all monies and other valuable effects of the Corporation in a

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depository selected by the Directors, and make such financial reports as directed by either the Board of Directors or the President. The Treasurer shall render to the President and Directors at the regular meetings of the Board of Directors or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall perform all other duties as may be prescribed by the Board of Directors or by the President.

5.11 Salary of Officers

The officers, as agents of the Corporation, shall not receive any salary for their service to the Corporation.

ARTICLE SIX

FINANCIAL ADMINISTRATION

6.01 Fiscal Year

The initial fiscal year of the Corporation shall begin on May 7th, 2007 and end September 30th, 2007. For each year thereafter, the fiscal year of the Corporation shall begin on the 1st day of October and end on the 30th day of September.

6.02 Operating Funds

All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of Friends of Safety City, Inc. shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate. Any check in the amount exceeding \$500.00 shall require a minimum of two signatures. In the absence of such determination by the Board of Directors, such instrument shall be signed by the Treasurer and/or any two members of the Board of Directors in compliance with the two-signature requirement.

All funds of the Friends of Safety City, Inc. shall be deposited from time to time to the credit of the Friends of Safety City, Inc. in such banks, trust companies or other depositories as the Board of Directors may select.

The Board of Directors may accept any contribution, gift, bequest, devise or donation for a general purpose or for any special purpose of the Friends of Safety City, Inc.

6.03 Books and Records

The Friends of Safety City, Inc. shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Board of Directors and committees, and shall keep at the principal office a record giving the names and addresses of the Board of Directors entitled to vote. All books and records of the Friends of Safety City, Inc. may

be inspected by any Director or his agent or attorney for any proper purpose at any reasonable time.

6.04 Entering into Contracts

The Board of Directors may authorize, in writing, any officer(s) or agent(s) to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

ARTICLE SEVEN

AMENDMENTS TO BY-LAWS

7.01 Amendments to By-Laws

These By-Laws may be amended, modified, supplemented, or replaced in whole or in part by a vote of two-thirds (2/3) of the members of the Board of Directors present at any regular meeting or at any special meeting, where a quorum exists, if at least five (5) days written notice is given of any intention to amend, modify, supplement, or replace in whole or in part these By-Laws at such meeting. Any amendments to these By-Laws must obtain final approval of the City Council prior to being filed and becoming effective.

ARTICLE EIGHT

INDEMNITY

8.01 Indemnity

The Board of Directors shall authorize the Corporation to pay or reimburse any current or former Director or Officer of the Corporation for any costs, expenses, fines, settlements, judgments, and other amounts, actually and reasonably incurred by such persons in any action, suit, or proceeding to which he or she is made a party by reason of holding such position as Officer or Director; provided, however, that such Officer or Director shall not receive such indemnification if he/she be finally adjudicated in such instance to have not acted in good faith, with ordinary care, and in a manner the director reasonably believed to be in the best interest of the corporation as set forth in Texas Business Organizations Code §22.221, as amended. The indemnification herein provided shall also extend to good faith expenditures incurred in anticipation of, or preparation for, threatened or proposed litigation. The Board of Directors may, in proper cases, extend the indemnification to cover the good faith settlement of any such action, suit, or proceedings whether formally instituted or not.

The Corporation may, upon the affirmative vote of the majority of its Board of Directors, purchase insurance for the purpose of insuring the indemnification of its Directors and officers to the extent that such indemnification is allowed in this Section or by law.

ARTICLE NINE

MISCELLANEOUS

9.01 Miscellaneous

The Board of Directors shall provide a Corporate Seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation, substantially as follows: Friends of Safety City, Inc.

9.02 Table of Contents and Headings

The Table of Contents and Headings used in these By-Laws have been inserted for convenience only and do not constitute matter to be used in construing or interpreting them.

9.03 Construction

Whenever the context so requires, the use of a masculine pronoun shall include the feminine, and singular shall include plural and conversely.

If any portion of these By-Laws shall be invalid or inoperative, then, so far as is reasonable and possible:

- a. The remainder of these By-Laws shall be considered valid and operative, and
- b. Effect shall be given to the intent manifested by the portion held invalid or inoperative, insofar as not prohibited by law.

9.04 Relation to Articles of Incorporation

These By-Laws are subject to and are governed by the Articles of Incorporation of Friends of Safety City, Inc.

9.05 Dissolution of Corporation

After all liabilities and obligations of the Corporation in the process of winding up are paid, satisfied, and discharged in accordance with Texas Business Organizations Code §11.053, as amended, the property of the Corporation shall be applied and distributed as follows:

- (1) property held by the corporation on a condition requiring return, transfer, or conveyance because of the winding up or termination shall be returned, transferred, or conveyed in accordance with that requirement; and
- (2) unless otherwise provided by the corporation's certificate of formation, the remaining property of the corporation shall be distributed only for tax-exempt purposes to one or more

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organizations that are exempt under Section 501(c)(3), Internal Revenue Code, or described by Section 170(c)(1) or (2), Internal Revenue Code, under a plan of distribution adopted under Texas Business Organizations Code Chapter 22.

A district court of the county in which the Corporation's principal office is located shall distribute to one or more organizations exempt under Section 501(c)(3), Internal Revenue Code, or described by Section 170(c)(1) or (2), Internal Revenue Code, the property of the Corporation remaining after a distribution of property under the plan of distribution. The court shall make the distribution in the manner the court determines will best accomplish the general purposes for which the Corporation was organized.

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the By-Laws of Friends of Safety City, Inc. and, that such By-Laws were duly adopted, in its entirety, by the Board of Directors of said Corporation on July 12th, 2007.

ATTEST:

FRIENDS OF SAFETY CITY, INC.

Secretary

Printed Name: Laura Moore

By: _____

President

Printed Name: Yvonne Batts

**City Council
Agenda Memo**



City Council
Meeting Date: 1/28/10

TO: Larry D. Gilley, City Manager

FROM: Megan R. Santee, Interim Director of Public Works *MS*

SUBJECT: WRITTEN RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING REGARDING THE ADOPTION OF THE TEXAS DEPARTMENT OF TRANSPORTATION'S FEDERALLY-APPROVED DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

GENERAL INFORMATION

As a sub-recipient of federal assistance for construction and/or design projects through the Texas Department of Transportation (TxDOT), the City of Abilene is required by 49 CFR 26 to implement a program for Disadvantaged Business Enterprises (DBE). The City must either have an approved DBE program or adopt TxDOT's federally approved program. The City does not currently have a federally-approved DBE program. By signing this Memorandum of Understanding (MOU), the City of Abilene will adopt TxDOT's federally-approved DBE program. The MOU establishes the duties and responsibilities of the City and TxDOT regarding this DBE program. Future projects that are impacted by this requirement include:

- Barrow Street Rehabilitation (S. 14th St. to S. 27th St.) (estimated construction cost of \$819,000)
- Mockingbird Surface Treatment (S. 3rd St. to Vogel Ave.) (estimated construction cost of \$412,200)
- Judge Ely Surface Treatment (E.S. 11th St. to I-20) (estimated construction cost of \$855,000)
- Grape Street Surface Treatment (N. 1st St. to Ambler Ave.) (estimated construction cost of \$361,500)
- Judge Ely & E.S. 11th Traffic Signal Modification (estimated construction cost of \$85,000)
- Green Street Safe Route to School Sidewalk (N. 12th to N. 18th) (est. constr. cost of \$195,000)

FUNDING/FISCAL IMPACT

There is no fiscal impact; however, failure to implement a federally approved DBE program will result in forfeiture of federal assistance for the above anticipated projects.

STAFF RECOMMENDATION

Staff recommends approval of the written resolution authorizing the City Manager to enter into a MOU in order to comply with federal requirements.

ATTACHMENTS

TxDOT MOU

Prepared by: Name: Cody Marshall, P.E. Title: City Engineer	Item No. <u>42</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary _____
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE ADOPTION OF A FEDERALLY-APPROVED DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

WHEREAS, the City of Abilene (City) receives federal funds from the Federal Highway Administration (FHWA) through TxDOT to assist the City with the construction and design of projects that receive funding through FHWA; and

WHEREAS, the City, as a sub-recipient of federal funds, is required by 49 CFR 26, to implement a program for disadvantaged business enterprises; and

WHEREAS, TxDOT has implemented a Disadvantaged Business Enterprise Program (DBE Program) that is approved by the FHWA pursuant to 49 CFR 26, and the City does not currently have an approved DBE program; and

WHEREAS, the City desires to implement a federally compliant DBE Program by adopting the TxDOT approved program, as recommended by the FHWA; and

WHEREAS, the City and TxDOT find it appropriate to enter into a Memorandum of Understanding to memorialize the obligations, expectations and rights each has as related to the City's adoption of the TxDOT DBE Program to meet the federal requirements;

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

- Part 1 That the City Manager, or his designee, is hereby authorized to sign such documents on behalf of the City as are necessary and proper to implement this Resolution.
- Part 2 That this resolution shall take effect immediately from and after its passage.

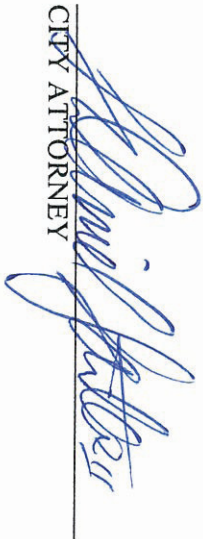
ADOPTED this the 28th day of January, 2010.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

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**MEMORANDUM OF UNDERSTANDING
REGARDING THE ADOPTION OF THE TEXAS DEPARTMENT OF
TRANSPORTATION'S FEDERALLY-APPROVED DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM BY THE CITY OF ABILENE, TEXAS**

This Memorandum of Understanding is by and between the **TEXAS DEPARTMENT OF TRANSPORTATION** ("TxDOT"), an agency of the State of Texas; and the City of Abilene, a political subdivision of the State of Texas.

Whereas, from time to time the City of Abilene receives federal funds from the Federal Highway Administration ("FHWA") through TxDOT to assist the City of Abilene with the construction and design of projects partially or wholly funded through FHWA; and

Whereas, the City of Abilene, as a sub-recipient of federal funds, is required by 49 CFR 26, to implement a program for disadvantaged business enterprises ("DBEs"), as defined by 49 CFR 26 ("DBE Program"); and

Whereas, TxDOT has implemented a Disadvantaged Business Enterprise Program (DBE Program) that is approved by the FHWA pursuant to 49 CFR part 26; and

Whereas, certain aspects of the City of Abilene's procurement of construction and design services are subject to review and/or concurrence by TxDOT as a condition of receiving federal funds from FHWA through TxDOT; and

Whereas, the City of Abilene and TxDOT undertake substantially similar roadway construction projects and design projects and construct and design their respective projects using substantially the same pool of contractors; and

Whereas, the City of Abilene desires to implement a federally compliant DBE Program by adopting the TxDOT approved program, as recommended by FHWA; and

Whereas, TxDOT and the City of Abilene find it appropriate to enter into this Memorandum of Understanding to memorialize the obligations, expectations and rights each has as related to the City of Abilene's adoption of the TxDOT DBE Program to meet the federal requirements;

Now, therefore, TxDOT and the City of Abilene, in consideration of the mutual promises, covenants and conditions made herein, agree to and acknowledge the following:

- (1) TxDOT has developed a DBE Program and annually establishes a DBE goal for Texas that is federally approved and compliant with 49 CFR 26 and other applicable laws and regulations.
- (2) The City of Abilene is a sub-recipient of federal assistance for construction projects and design projects and, in accordance with 49 CFR § 26.21, must comply with a federally approved DBE Program. The City of Abilene receives its federal assistance through TxDOT. As a sub-recipient, the City of Abilene has the option of developing its own program or adopting and operating under TxDOT's federally approved DBE Program. The FHWA recommends that sub-recipients, such as the City of Abilene, adopt the DBE program, administered through TxDOT, and the City of Abilene by its prescribed protocol adopted the TxDOT DBE Program on January 28, 2010.

- (3) This Memorandum of Understanding evidences FHWA's and TxDOT's consent to the adoption of the TxDOT DBE Program by the City of Abilene to achieve its DBE participation in federally assisted Construction and Design Projects.

(4) The parties will work together in good faith to assure effective and efficient implementation of the DBE Program for the City of Abilene and for TxDOT.

(5) The City of Abilene and TxDOT have agreed upon the following delegation of responsibilities and obligations in the administration of the DBE Program adopted by the City of Abilene:

(a) The City of Abilene will be responsible for project monitoring and data reporting to TxDOT. The City of Abilene will furnish to TxDOT any required DBE contractor compliance reports, documents or other information as may be required from time to time to comply with federal regulations. TxDOT will provide the necessary and appropriate reporting forms, if any, to the City of Abilene.

(b) The City of Abilene will recommend contract-specific DBE goals, if any, consistent with TxDOT's DBE guidelines and in consideration of the local market, project size, and nature of the good(s) or service(s) to be acquired. The City of Abilene's recommendation may be that no DBE goals are set on any particular project or portion of a project or that proposed DBE goals be modified. The City of Abilene and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority regarding DBE goals.

(c) TxDOT will cooperate with the City of Abilene in an effort to meet the timing and other requirements of the City of Abilene projects.

(d) The City of Abilene will be solely responsible for the solicitation and structuring of bids and bid documents to procure goods and services for its projects that use federal funds and will be responsible for all costs and expenses incurred in its procurements.

(e) The DBEs eligible to participate on TxDOT construction projects or design projects also will be eligible to participate on the City of Abilene construction projects or design projects subject to the DBE Program. The DBEs will be listed on TxDOT's website under the Texas Unified Certification Program (TUCP).

(f) The City of Abilene will conduct reviews and provide reports with recommendations to TxDOT concerning any DBE Program compliance issues that may arise due to project specific requirements such as Good Faith Effort (GFE), Commercially Useful Function (CUF), etc. The City of Abilene and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority on those issues and reserves the right to perform compliance reviews by TxDOT's Office of Civil Rights (OCR). The City of Abilene shall provide TxDOT with a listing of sanctions that will be assessed against contractors for violation of federal DBE regulations and its procedures for investigation of violations and assessment of sanctions for documented violations.

(g) The City of Abilene will designate a liaison officer to coordinate efforts with TxDOT's DBE Program administrators and to respond to questions from the public and private sector regarding the City of Abilene's administration of the DBE Program through TxDOT.

(h) The City of Abilene will be responsible for providing TxDOT with DBE project awards and DBE Commitments, monthly DBE reports, DBE Final Reports, DBE shortfall reports, and annual and updated goal analysis and reports.

(i) TxDOT will be responsible for maintaining a directory of firms eligible to participate in the DBE Program, and providing business development and outreach programs. The City of Abilene and TxDOT will work cooperatively to provide supportive services and outreach to DBE firms in the City of Abilene area.

- (j) The City of Abilene will submit DBE semi-annual progress reports to TxDOT.
- (k) The City of Abilene will participate in TxDOT sponsored training classes to include topics on Title VI of the Civil Rights Act of 1964, DBE Annual Goals, DBE Goal Setting for Construction Projects and Design Projects, DBE Contract Provisions, and DBE Contract Compliance, which may include issues such as DBE Commitments, DBE Substitution, and Final DBE Clearance. TxDOT will include DBE contractors performing work on the City of Abilene projects in the DBE Education and Outreach Programs.
- (l) The Executive Director of the City of Abilene will implement all federal requirements, including those stated in Attachments A through C, which are incorporated as though fully set out herein for all purposes.
- (m) In accordance with 23 CFR 200.1, the City of Abilene shall develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities, develop a program to conduct Title VI review of program areas; and conduct annual reviews of special emphasis program areas to determine the effectiveness of program area activities at all levels. TxDOT, in accordance with federal law, may conduct compliance reviews by TxDOT's OCR.
- (6) In the event there is a disagreement between TxDOT and the City of Abilene about the implementation of the TxDOT DBE Program by the City of Abilene the parties agree to meet within ten (10) days of receiving a written request from the other party of a desire to meet to resolve any disagreement. The parties will make good faith efforts to resolve any disagreement as efficiently as is reasonably possible in consultation with FHWA. Non-compliance by the City of Abilene can result in restitution of federal funds to TxDOT and withholding of further federal funds upon consultation with FHWA.
- (7) This Memorandum of Understanding becomes effective upon execution by all parties and automatically renews each year unless a party notifies the other parties of its intent to terminate the agreement.
- (8) If this Memorandum of Understanding is terminated for any reason, the City of Abilene will be allowed reasonable time in which to seek approval from FHWA for an alternative DBE Program, without being deemed non-compliant with 49 CFR Part 26.
- (9) This Memorandum of Understanding applies only to projects for which the City of Abilene is a sub-recipient of federal funds through TxDOT. The City of Abilene may also implement a Minority and Women-Owned Small Business Enterprise (M/W/SBE) policy and program that applies to projects for which it is not a sub-recipient of federal funds through TxDOT and which are not subject to the TxDOT DBE Program. The City of Abilene may, at its option, use some aspects of the TxDOT DBE Program and other similar programs in implementing its other policies and programs for its non-federally funded projects.
- (10) The following attachments to this Memorandum of Understanding are incorporated as if fully set out herein for all purposes: Attachment A - FHWA Memorandum HCR-1/HIF-1 (relating to access required by the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973); Attachment B - SPECIAL PROVISION 000-461; Attachment C - 49 CFR §26.13 (contractual assurances).
- (11) The following procedure shall be observed by the parties in regard to any notifications:

- (a) Any notice required or permitted to be given under this Memorandum of Understanding shall be in writing and may be effected by personal delivery, by hand delivery through a courier or a delivery service, or by registered or certified mail, postage prepaid, return receipt requested, addressed to the proper party, at the following address:

The City of Abilene:

Cody Marshall, P.E.
City Engineer

Hand Delivery:

555 Walnut St., Abilene, Texas 79601

Registered or Certified Mail (Return receipt requested):

555 Walnut St., Abilene, Texas 79601

TEXAS DEPARTMENT OF TRANSPORTATION
R.D. Brown, DBE & SBE Programs Section Director
Office of Civil Rights
Address: 125 E. 11th Street
Austin, Texas 78701

- (b) Notice by personal delivery or hand delivery shall be deemed effective immediately upon delivery, provided notice is given as required by Paragraph (a) hereof. Notice by registered or certified mail shall be deemed effective three (3) days after deposit in a U.S. mailbox or U.S. Post Office, provided notice is given as required by Paragraph (a) hereof.
- (c) Either party hereto may change its address by giving notice as provided herein.
- (12) This Memorandum of Understanding may be modified or amended only by written instrument, signed by both the City of Abilene and the Texas Department of Transportation and dated subsequent to the effective date(s) of this MOU. Except as authorized by the respective parties, no official, employee, agent, or representative of the parties has any authority, either express or implied, to modify or amend this MOU.
- (13) The provisions of this MOU are severable. If any clause, sentence, provision, paragraph, or article of this MOU, or the application of this MOU to any person or circumstance is held by any court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such invalidity, illegality, or unenforceability shall not impair, invalidate, nullify, or otherwise affect the remainder of this MOU, but the effect thereof shall be limited to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or unenforceable, and the application of such clause, sentence, provision, paragraph, or article to other persons or circumstances shall not be affected; provided, however, the City of Abilene and TxDOT may mutually agree to terminate this Memorandum of Understanding.

- (14) The following provisions apply in regard to construction of this MOU:

- (a) Words of any gender in this MOU shall be construed to include the other, and words in

either number shall be construed to include the other, unless the context in this MOU clearly requires otherwise.

(b) When any period of time is stated in this MOU, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or national holiday, or state or county holiday, these days shall be omitted from the computation. All hours stated in this MOU are stated in Central Standard Time or in Central Daylight Savings Time, as applicable.

(15) This Memorandum of Understanding shall not be construed in any way as a waiver by the parties of any immunity from suit or liability that parties may have by operation of law, and the parties hereby retain all of their respective affirmative defenses.

EXECUTED in duplicate originals by TxDOT and the City of Abilene, acting through each duly authorized official and effective on the latest date signed.

The signatories below confirm that they have the authority to execute this MOU and bind their principles.

TEXAS DEPARTMENT OF TRANSPORTATION

The City of Abilene

By: _____
Arnadeo Saenz, Jr. P.E.
Executive Director

By: _____
Larry Gilley
City Manager

Date: _____

Date: _____

AMENDMENT
TO

MEMORANDUM OF UNDERSTANDING
REGARDING THE ADOPTION OF THE TEXAS DEPARTMENT OF
TRANSPORTATION'S FEDERALLY-APPROVED DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM BY THE CITY OF ABILENE

The following amendments with additional attachments are executed in accordance with the Memorandum of Understanding Regarding The Adoption Of The Texas Department Of Transportation's Federally-Approved Disadvantaged Business Enterprise Program By the City of Abilene, executed by the City of Abilene on January 28, 2010, in accordance with item (12):

Amendment to item (5)(h):
[deleting "by TxDOT's Office of Civil Rights (OCR)" in line 6]

The City of Abilene will conduct reviews and provide reports with recommendations to TxDOT concerning any DBE Program compliance issues that may arise due to project specific requirements such as Good Faith Effort (GFE), Commercially Useful Function (CUF), etc. The City of Abilene and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority on those issues and reserves the right to perform compliance reviews. The City of Abilene shall provide TxDOT with a listing of sanctions that will be assessed against contractors for violation of federal DBE regulations and its procedures for investigation of violations and assessment of sanctions for documented violations. The City of Abilene will require contractors for its FHWA federally assisted projects to use the forms attached to this Amendment as follows:

Attachment 1 - Disadvantaged Business Enterprise (DBE) Program
Commitment Agreement Form SMS 4901

Attachment 2 - DBE Monthly Progress Report Form SMS 4903

Attachment 3 - DBE Final Report Form SMS 4904

Attachment 4 - Prompt Payment Certification Form (Federal-Aid Projects) 2177

Amendment to item(5)(l):
[changed ".through C" to "...through F"]

(l) The Executive Director of the City of Abilene will implement all federal requirements, including those stated in Attachments A through F, which are incorporated as though fully set out herein for all purposes.

Amendment to item (5), adding item (n):

(n) The City of Abilene will comply with 49 CFR § 26.29 as stated in Attachment F.

Amendment to item (10):
[replacing list of attachments with labeled and added attachments and added the word "also" after the word "are"]

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The following attachments to this Memorandum of Understanding are also incorporated as if fully set out herein for all purposes:

Attachment A - FHWA Memorandum HCR-1/HIF-1 (relating to access required by the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973)

Attachment B - DBE SPECIAL PROVISION 000-461

Attachment C - 49 CFR §26.13 (contractual assurances)

Attachment D - DBE Program Compliance Guidance for Local Government Agencies

Attachment E - FHWA Form 1273

Attachment F - TxDOT DBE Program and Federal Regulation 49 CFR Part 26

Amendment to Item 11(a):
[changing mailing information for Forney and TxDOT]

Registered or Certified Mail (Return receipt requested):

555 Walnut St.
Abilene, Texas 79601

TEXAS DEPARTMENT OF TRANSPORTATION
DBE Liaison
Office Of Civil Rights
125 E. 11th Street
Austin, Texas 78701

EXECUTED in triplicate originals by TxDOT and the City of Abilene, acting through each duly authorized official and effective on the latest date signed.

The signatories below confirm that they have the authority to execute this Amendment to the MOU and bind their respective principles.

TEXAS DEPARTMENT OF TRANSPORTATION City of Abilene

By: _____
Amadeo Saenz, Jr. P.E.
Executive Director

By: _____
Larry Gilley
City Manager

Date: _____

Date: _____

6.2 pg. 9

ATTACHMENT 1



Disadvantaged Business Enterprise (DBE) Program Commitment Agreement Form

This commitment is subject to the award and receipt of a signed contract from the
Texas Department of Transportation for the subject project.

Project #:	County:	Contract-CSI:			
Items of work to be performed (attach a list of work items if more room is required):					
Bid Item #	Item Description	Unit of Measure	Unit Price	Quantity	Total Per Item
Total					

The contractor certifies by signature on this agreement that subcontracts will be executed between the prime contractor and the DBE subcontractors as listed on the agreement form. If a DBE Subcontractor is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in the Contract DBE Special Provision.

**IMPORTANT: The signatures of the prime contractor and the DBE,
and the total commitment amount must always be on the same page.**

Prime Contractor:	Name/Title (please print):
Address:	Signature:
Phone:	Fax:
E-mail:	Date:
DBE:	Name/Title (please print):
Vendor No.:	Signature:
Address:	Phone:
Phone:	Fax:
E-mail:	Date:
Subcontractor (if the DBE will be a second tier sub):	Name/Title (please print):
Address:	Signature:
Phone:	Fax:
E-mail:	Date:

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

To ensure prompt and efficient handling of your project file we are requesting that all commitments to be presented to the Office of Civil Rights, using this basic format.

4.2 pg. 10

ATTACHMENT 2



Texas Department of Transportation DBE Monthly Progress Report

Project: _____ Contract CSJ: _____
 County: _____ District: _____
 Letting Date: _____ For Month of (Mo./Yr.): _____
 Contractor: _____ Contract Amount: _____
 DBE Goal: _____ % DBE Goal Dollars: _____

Vendor Number	Name of DBE Sub/Supplier	* RC or RN	** DBE \$ Amt Paid for Work Performed this Period (X)	*** \$ Amt Paid to Non-DBE 2nd Tier Subs and Haulers (Y)	Amt Paid to DBEs to Date (X-Y)	For TxDOT use Only

* Race Conscious or Race Neutral.

** Goal/commitment progress report amount and/or race-neutral amount: **Do not subtract** non-DBE second-tier subcontractors and haulers from this column.

*** Report amount of payment DBE subcontractors paid to non-DBE subcontractors/haulers.

If using a non-DBE hauling firm that leases from DBE truck owner-operators, payments made to each owner-operator must be reported separately.

Any changes to the DBE commitments approved by the department must be reported to the area engineer.

Submission of this report for periods of negative DBE activity is required. This report is required until all DBE subcontracting or material supply activity is completed.

I hereby certify that the above is a true and correct statement of the amounts paid to the DBE firms listed above.

Signature: _____ Date: _____
 Company Official _____

This report must be sent to the area engineer's office within 15 days following the end of the calendar month.

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that is collected about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

4.2 pg. 11

ATTACHMENT 3



DBE Final Report

The DBE final report form should be filled out by the contractor and submitted to the appropriate district office upon completion of the project. One copy of the report must be submitted to the area engineer's office. The report should reflect all DBE activity on the project. The report will aid in expediting the final estimate for payment. If the DBE goal requirements were not met, documentation supporting good faith efforts must be submitted.

Project: _____ Contract CSJ: _____
 County: _____ Control Project: _____
 Letting Date: _____ DBE Goal: _____ %
 Contractor: _____ Contract Amount: _____

Vendor number	Name of DBE Sub/Supplier	RC or RN	** DBE goal – total \$ amt pd to date	*** \$ amt pd to non-DBE 2nd tier subs & haulers	For TXDOT Use Only

- * Race Conscious or Race Neutral.
- ** Goal/commitment progress report amount and/or race-neutral amount. Do not subtract non-DBE second-tier subcontractors and haulers from this column.
- *** DBE subcontractors paid to non-DBE subcontractors/haulers.

This is to certify that _____ % of the work was completed by Disadvantaged Business Enterprises as stated above.

By _____ Per _____ Contractor's Signature
 Name of General Contractor
 Subscribed and sworn to before me, this _____ day of _____, A.D.

Notary Public _____ County _____
 My commission expires: _____

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that is collected about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

6.2 pg.12



Prompt Payment Certification
(Federal-Aid Projects)

In accordance with the requirements of Article 6.c of the DBE special provision and the prompt payment clause under Article 9.6.B and related special provisions, submit this certification form to the Engineer prior to the end of the month following the month payments were received from the department and the month following the month when final acceptance occurred, at the end of the project. (Final submission may be made prior to final acceptance if all subcontractor work and supplier material furnished for the project is complete and the subcontractors and suppliers final payments have been made in full.) The Engineer may withhold payments or suspend work for failure to submit this form or provide prompt payment in accordance with the contract. This certification is applicable to materials the Contractor purchases to remain as part of the final project and to first tier subcontractors on the project and associated project specific locations. (Subcontractors and suppliers are to comply with the prompt payment requirements.)

Certification

"I certify that to the best of my knowledge and with the exception of those subcontractors or suppliers listed below, all subcontractors and suppliers have been paid in accordance with the contract (10 days after receiving payment for the work performed by the subcontractor) and that any retainage held on a subcontractor or supplier's work has been released within 10 days after satisfactory completion of all of the subcontractors' or suppliers' work."

Project Number: _____ CCSJ: _____

Estimate Period: _____ Month _____ Year _____ or _____
Final Subcontractor and Supplier Payment Date

Signature _____ Title _____ Date _____

Printed Name: _____

The following firms have not been paid for reasons listed:

Firm	* Reason for Non-Payment

*Only reasons based on dispute on subcontractor or supplier noncompliance may be accepted.

This certification is for the department's information only and does not place any obligations on the part of the department with regard to any part, including but not limited to, any subcontractor and Contractor's surety.

6.2 pg. 13

**City Council
Agenda Memo**



City Council
Meeting Date: 1/28/2010

TO: Larry D. Gilley, City Manager
FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: First reading on Ordinance for Case No. Z-2009-15, a request from Donald A. Callaway to rezone property from AO/COR to LC/COR zoning, located at 4801 Buffalo Gap Rd.; and setting a public hearing for February 11, 2010.

GENERAL INFORMATION

Currently the property is zoned AO and has been developed as a single family use. The properties to the east, south, and west across Buffalo Gap Rd. have been developed as single family residences. The property adjacent to the north has recently been developed as an eye care office.

The Future Land Use Map and the Comprehensive Plan designates this general area as low-density residential. The Buffalo Gap Road Corridor Study (BGRCS), adopted in June of 1994, encourages low density residential or office zoning along the Buffalo Gap Rd. frontage at mid-block locations, minimizing commercial uses adjacent to residential uses. The BGRCS goes on to say that commercial activity should only be encouraged at major intersections along Buffalo Gap Rd. For these reasons the requested LC zoning would not be considered compatible with this plan.

STAFF RECOMMENDATION

Staff recommended denial based on the Future Land Use Map and the Buffalo Gap Road Corridor Study.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval with the condition that the 150-foot area at the rear of the property be excluded by a vote of four (4) in favor (Bixby, Campos, Glenn, and Todd) to two (2) opposed (Famble and Rosenbaum).

ATTACHMENTS

Ordinance
Staff Report with Maps

Prepared by:		Disposition by City Council	
Name: <u>Matt Jones</u>		<input type="checkbox"/> Approved	Ord/Res# _____
Title: <u>Planner II</u>		<input type="checkbox"/> Denied	_____
January 15, 2010		<input type="checkbox"/> Other	_____
	Item No. <u>6.3</u>	City Secretary _____	

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

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

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

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING this 28th day of January A.D. 2010.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16th day of December, 2009, 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 a.m., on the 11th day of February, 2010 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 11th day of February, A.D. 2010.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

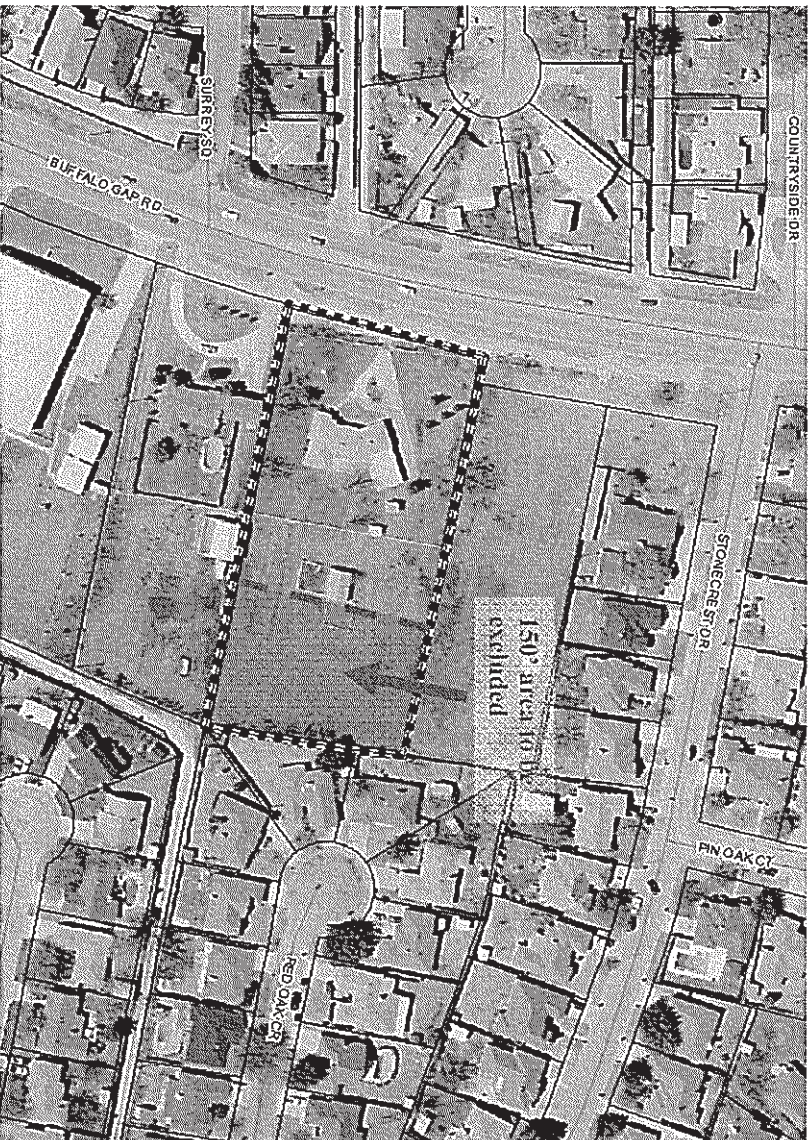
Rezone property from AO/COR (Agriculture Open Space/Corridor Overlay) to LC/COR (Limited Commercial/Corridor Overlay) zoning.

Legal Description:

A1324 M L MILLER, ACRES 2 and excluding the rear 150 feet

Location:

4801 Buffalo Gap Road



-END-

6.3 pg. 3

ZONING CASE Z-2009-15 STAFF REPORT



APPLICANT INFORMATION:

Donald A. Callaway
Agent: Newberry Roadcap Architects, Inc.

HEARING DATES:

Planning & Zoning Commission: October 5, 2009
Planning & Zoning Commission: November 2, 2009
Planning & Zoning Commission: January 4, 2010
City Council 1st Reading: January 28, 2010
City Council 2nd Reading: February 11, 2010

LOCATION:

4801 Buffalo Gap Rd.

REQUESTED ACTION:

Rezone property from AO to LC.

SITE CHARACTERISTICS:

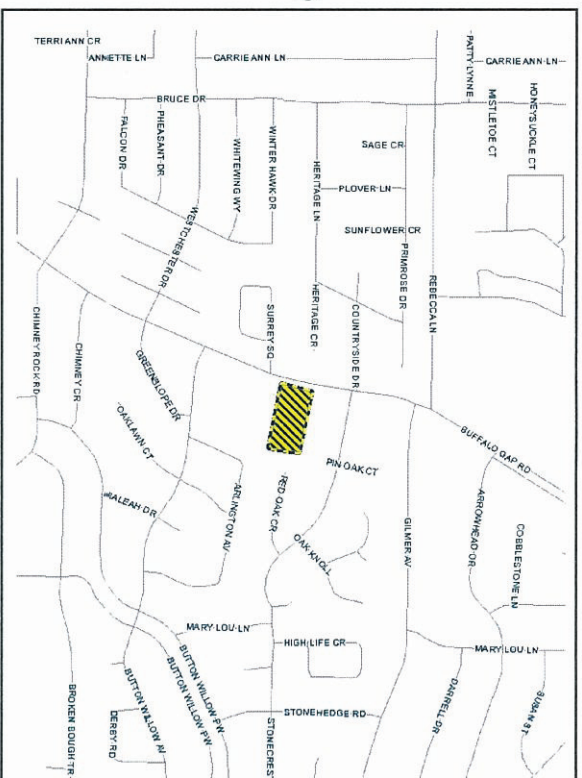
The subject parcel totals approximately 2 acres and is currently zoned AO (Agricultural Open Space). The parcel has been developed with a single family home and is used as such. The surrounding properties are zoned for single family residential to the east and west, O (Office) to the north, and AO to the south.

ZONING HISTORY:

The area was annexed in 1959 and was designated as AO zoning after it had been annexed.

ANALYSIS:

- Current Planning Analysis
Currently the property is zoned AO and has been developed as a single family use. The properties to the east, south, and west across Buffalo Gap Rd. have been developed as single family residences. The property adjacent to the north has recently been developed as an eye care office.
- Comprehensive Planning Analysis
The Future Land Use Map and the Comprehensive Plan designates this general area as low-density residential. The Buffalo Gap Road Corridor Study (BGRCS), adopted in June of 1994, encourages low density residential or office zoning along the Buffalo Gap Rd. frontage at mid-block locations, minimizing commercial uses adjacent to residential uses. The BGRCS goes on to say that commercial activity should only be encouraged at major intersections along Buffalo Gap Rd. For these reasons the requested LC zoning would not be considered compatible with this plan.



PLANNING STAFF RECOMMENDATION:

Staff recommends denial based on the Future Land Use Map and the Buffalo Gap Road Corridor Study.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval with the condition that the 150-foot area at the rear of the property be excluded by a vote of four (4) in favor (Bixby, Campos, Glenn, and Todd) to two (2) opposed (Famble and Rosenbaum).

NOTIFICATION:

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

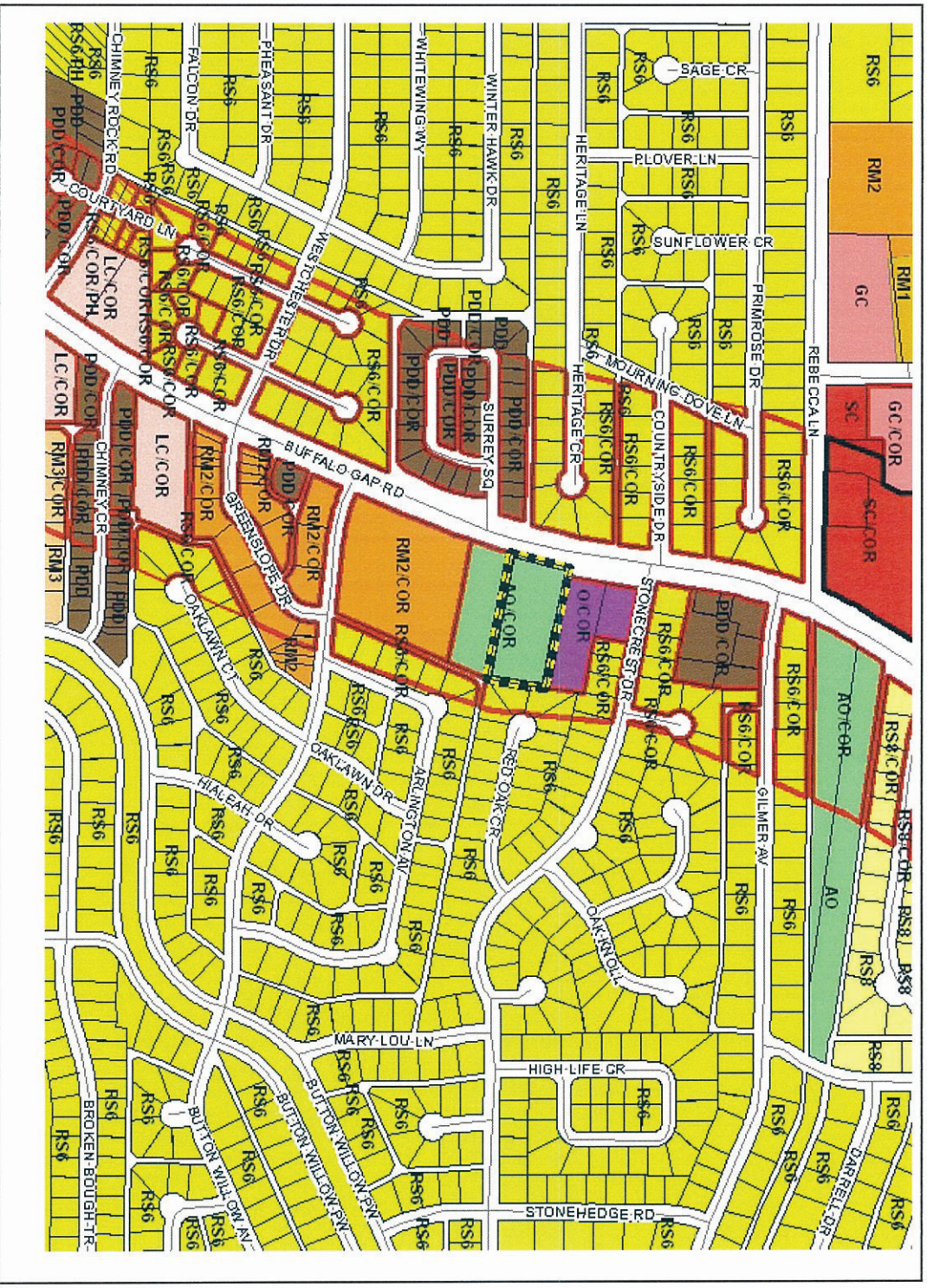
OWNER	ADDRESS	RESPONSE
RICH DONALD R	3010 ARLINGTON AV	Opposed
REID KEVIN S	2958 ARLINGTON AV	
HARRISON JON D & DEBBIE B	3002 ARLINGTON AV	Opposed
BAXTER WINWOOD H JR	2966 ARLINGTON AV	
FALADE OLUGBENGA & JANET F	2965 RED OAK CR	In Favor
DEAVER TOMMIE H	3009 RED OAK CR	Opposed
MC ALISTER JERRY P & SUE	2966 RED OAK CR	
COLES JERI LYNN	3001 STONECREST DR	
STONE JAMES C & MEREDITH J	3001 RED OAK CR	
CAFFEY B E	3010 HERITAGE CR	
CLERMONT COLETTA C 1993TR	2 SURREY SQ	Opposed
ABERNATHY JOHN F & JUDY G	4 SURREY SQ	
CALLAWAY CAROL	4809 BUFFALO GAP RD	In Favor
RIDGEMONT BAPTIST CHURCH	4857 BUFFALO GAP RD	
WILHELM LOUIS J	3009 COUNTRYSIDE DR	
WALKER AUSTEN L & HOLLY	3009 HERITAGE CR	
MUNSON DONALD W & JUANELLA S	2965 STONECREST DR	
JOSHUA MATTHEW W & GLORIA	3025 STONECREST DR	
AVILA GABRIEL & SHERRY	4749 BUFFALO GAP RD	
SHARP STEVEN R & ANGELA R	3008 RED OAK CR	
BUFFALO GAP STREET PROPERTIES LLC	4741 BUFFALO GAP RD	
ROSS CHARLES E & MARY P	3017 STONECREST DR	
MORENO EVA GUERRERO	3033 STONECREST DR	
WRIGHT SHANNA C	3002 RED OAK CR	
DAVIS JEAN	3001 HERITAGE CR	
SINGLETON JAMES A &	3009 STONECREST DR	
CALLAWAY DONALD A III	4801 BUFFALO GAP RD	In Favor

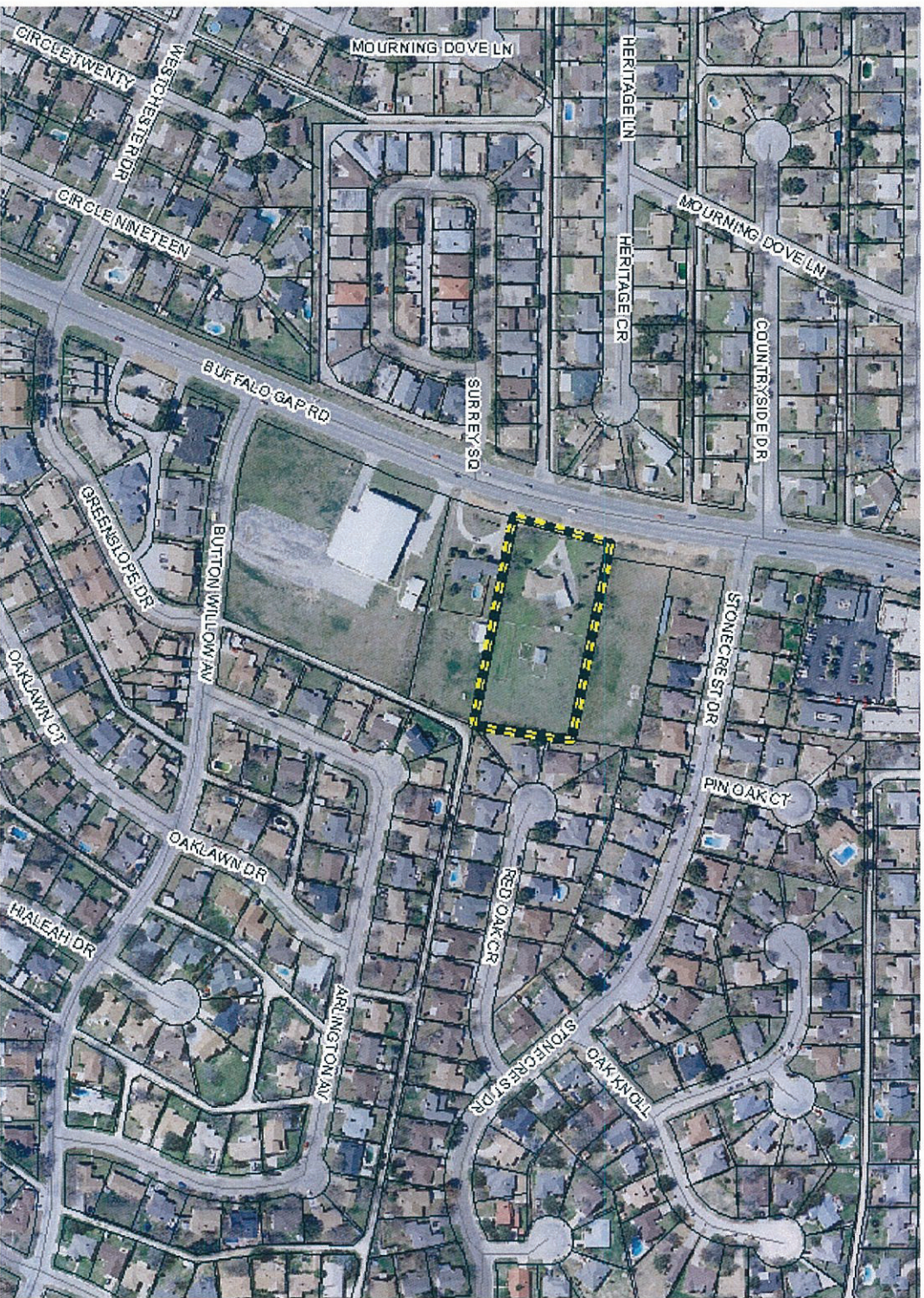
3 in Favor- **Y**
4 Opposed- **N**



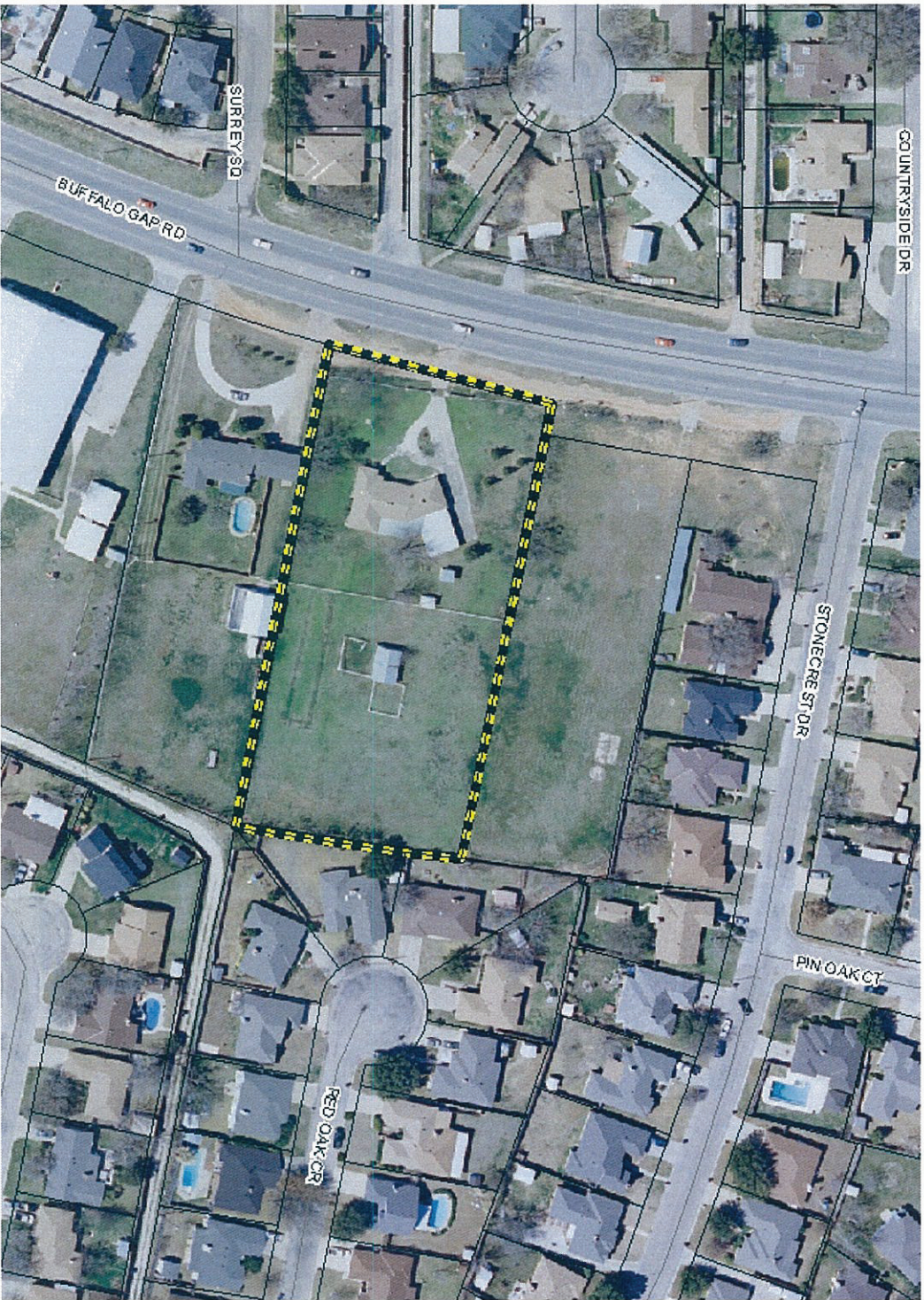
Case # Z-2009-15
Updated: January 15, 2010

6.3 pg 6





Applicant's Request



P&Z Recommendation





City Council
Agenda Memo

City Council
Meeting Date: 1/28/2010

TO: Larry D. Gilley, City Manager
FROM: Jon James, AICP
Director of Planning and Development Services
SUBJECT: First reading on Ordinance for Case No. Z-2010-01, a request from Sojourner Drilling Corporation to rezone property from RS-6 to AO zoning, located at 2302 and 2226 Huckleberry Ln.; and setting a public hearing for February 11, 2010.

GENERAL INFORMATION

Currently the properties are zoned RS-6 and have been developed as such. The properties to the east are developed with single-family homes and are more characteristic of rural residential properties, the properties to the south are developed as a mobile home park, the properties to the west are used for agricultural purposes as well as a patio home development, and the City of Impact borders the properties to the north. The entire property lies within the 100 year flood plain.

The Future Land Use section of the Comprehensive Plan designates this general area as open agricultural space. The area surrounding the subject properties is mostly developed with single family dwellings that resemble rural type residential properties and the patio home development to the west, except to the north where the City of Impact has some commercial uses. The area around the property is also used for agricultural purposes making the request compatible with the current surrounding uses. However, 2226 Huckleberry Lane only has a width of approximately 151' and the minimum lot width in AO zoning is 200' so the request does not meet the minimum standards for AO zoning.

STAFF RECOMMENDATION

The proposed 5 acre tract does not meet the minimum lot width for AO zoning, therefore staff does not recommend approval of this tract. Staff recommends approval of a larger tract totaling approximately 13 acres.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommended approval that 2302 Huckleberry Lane only be rezoned to AO by a vote of six (6) in favor (Bixby, Campos, Famble, Glenn, Rosenbaum and Todd) to none (0) opposed.

ATTACHMENTS

Ordinance
Staff Report with Maps

Prepared by:		
Name: Matt Jones		
Title: Planner II		
January 15, 2010		
Item No. <u>64</u>	Disposition by City Council	Ord/Res# _____
	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Other _____	City Secretary _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

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

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

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

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING this 28th day of January A.D. 2010.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 16th day of December, 2009, 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 a.m., on the 11th day of February, 2010 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 11th day of February, A.D. 2010.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:



CITY ATTORNEY

4.4 pg 2

ORDINANCE NO. _____

EXHIBIT "A"

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

Legal Description:

THOMAS BARRETT SUBDIVISION, LOT 6, ACRES 13.12

Location:

2302 Huckleberry Lane

-END-

ZONING CASE Z-2010-01 STAFF REPORT



APPLICANT INFORMATION:

Sojourner Drilling Corporation
Agent: Mary Ann Fergus

HEARING DATES:

Planning & Zoning Commission: January 4, 2010
City Council 1st Reading: January 28, 2010
City Council 2nd Reading: February 11, 2010

LOCATION:

2302 and 2226 Huckleberry Lane

REQUESTED ACTION:

Rezone property from RS-6 to AO.



SITE CHARACTERISTICS:

The subject parcels total approximately 13.2 acres and is currently zoned RS-6 (Single Family Residential). The parcels have been developed with single family residential units. The adjacent properties have RS-6 zoning to the east, MH (Mobile Home) and AO (Agricultural Open Space) zoning to the south, and AO, RS-6, and MH to the west, and the City of Impact borders the subject properties to the north.

ZONING HISTORY:

The area was annexed in 1963 and zoned RS-6 sometime after it was annexed.

ANALYSIS:

- Current Planning Analysis
Currently the properties are zoned RS-6 and have been developed as such. The properties to the east are developed with single-family homes and are more characteristic of rural residential properties, the properties to the south are developed as a mobile home park, the properties to the west are used for agricultural purposes as well as a patio home development, and the City of Impact borders the properties to the north. The entire property lies within the 100 year flood plain.
- Comprehensive Planning Analysis
The Future Land Use section of the Comprehensive Plan designates this general area as open agricultural space. The area surrounding the subject properties is mostly developed with single family dwellings that resemble rural type residential properties and the patio home development to the west, except to the north where the City of Impact has some commercial uses. The area around the property is also used for agricultural purposes making the request compatible with the current surrounding uses. However, 2226 Huckleberry Lane only has a width of approximately 151' and the minimum lot width in AO zoning is 200' so the request does not meet the minimum standards for AO zoning.

PLANNING STAFF RECOMMENDATION:

The proposed 5 acre tract does not meet the minimum lot width for AO zoning, therefore staff does not recommend approval of this tract. Staff recommends approval of a larger tract totaling approximately 13 acres.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission recommended approval that 2302 Huckleberry Lane only be rezoned to AO by a vote of six (6) in favor (Bixby, Campos, Famble, Glenn, Rosenbaum and Todd) to none (0) opposed.

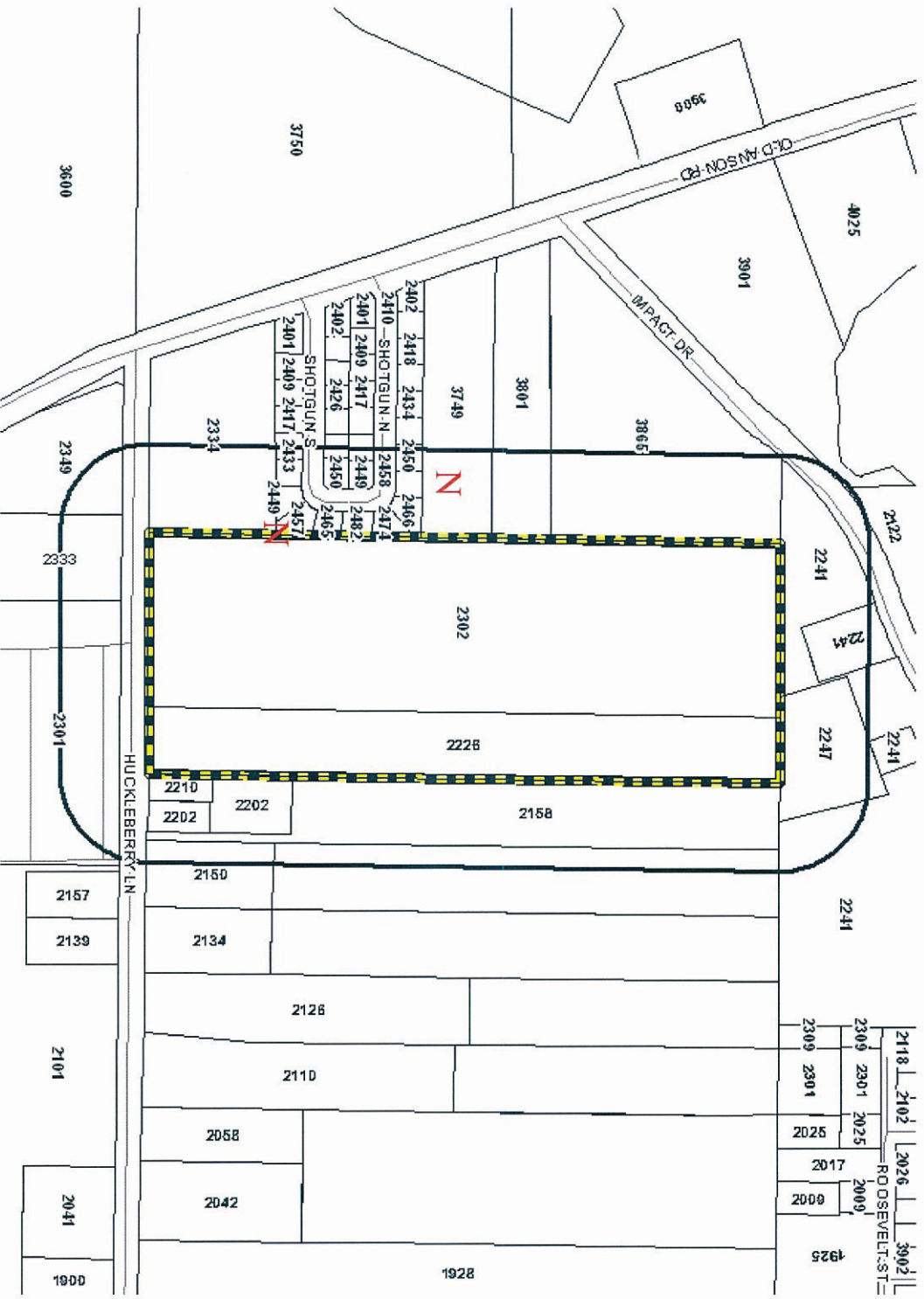
NOTIFICATION:

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

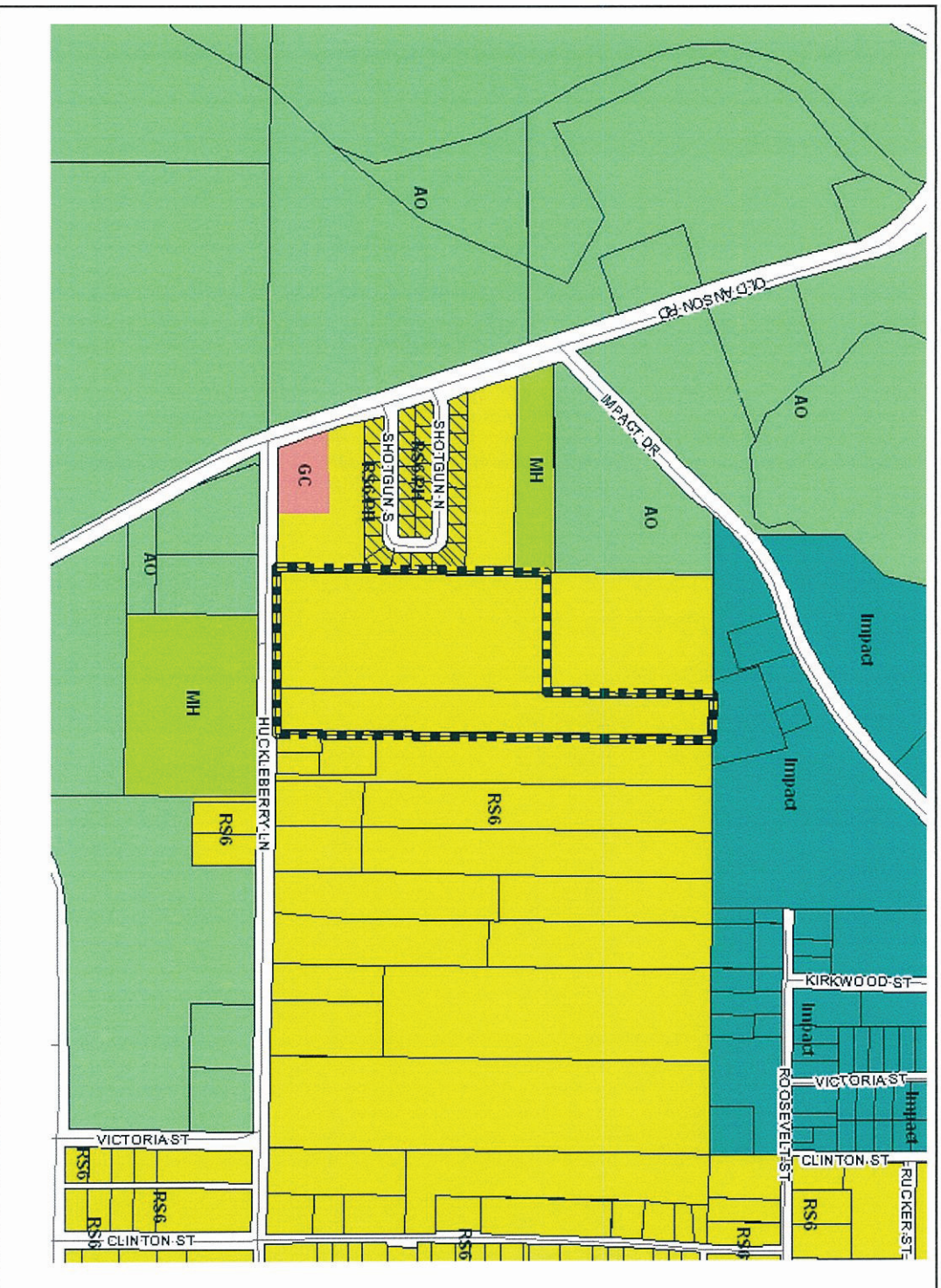
OWNER	ADDRESS	RESPONSE
RODRIGUEZ VINCENTE EDWARD &	2301 HUCCLEBERRY LN	
JOY KAREN K	2333 HUCCLEBERRY LN	
AMERICAN GI FORUM	2334 HUCCLEBERRY LN	
JOY MELINDA & KAREN	2349 HUCCLEBERRY LN	
RODRIGUEZ ERNEST Q	2150 HUCCLEBERRY LN	
RODRIGUEZ ERNEST & ROSALINDA		
SHARP JACK & GEORGETTE	2241 IMPACT DR	
MC KEE J.C.JR	3901 OLD ANSON RD	
RODRIGUEZ ERNEST Q	2202 1/2 HUCCLEBERRY LN	
MATTEA ROGER	2450 SHOTGUN N	
GUERRA ARNULFO	2474 SHOTGUN N	
GUERRA ARNULFO	2482 SHOTGUN N	
GUERRA ARNULFO	2466 SHOTGUN N	
MATTEA ROGER	2458 SHOTGUN N	
RODRIGUEZ ALOLFO	2202 HUCCLEBERRY LN	
COVARRUBIAS JOANNA L HICKS	3749 OLD ANSON RD	Opposed
HANLEY SAM CHARLES &	2457 SHOTGUN S	Opposed
RODRIGUEZ SANTIAGO	2210 HUCCLEBERRY LN	
MATTEA ROGER	2441 SHOTGUN N	
HANLEY SAM CHARLES &	2449 SHOTGUN S	
HANLEY SAM CHARLES &	2441 SHOTGUN S	
HANLEY SAM CHARLES &	2442 SHOTGUN S	
HANLEY SAM CHARLES &	2450 SHOTGUN S	
GUERRA ARNULFO	2449 SHOTGUN N	
HIGGINS L F	2302 HUCCLEBERRY LN	
SURRATT BARBARA	3801 OLD ANSON RD	
IMPACT DEVELOPMENT CORP	3865 OLD ANSON RD	
SHARP JACK & GEORGETTE	2122 IMPACT DR	
RODRIGUEZ ERNEST JR &	2158 HUCCLEBERRY LN	
HIGGINS L F	2226 HUCCLEBERRY LN	
HANLEY SAM CHARLES &	2465 SHOTGUN S	
HANLEY SAM CHARLES &	2433 SHOTGUN S	
SHARP JACK & GEORGETTE	2241 IMPACT DR	
SHARP JACK & GEORGETTE	2247 IMPACT DR	

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

Notification Area



Lot 4 pg. 4



Case # Z-2010-01
 Updated: January 15, 2010

6.4 pg. 17

Proponent's Request





**City Council
Agenda Memo**



TO: Larry D. Gilley, City Manager

**City Council
Meeting Date: Jan 28, 2010**

FROM: Rodney Taylor, Assistant Director of Water Utilities

SUBJECT: Award Bid for Hargeshaimer Water Treatment Plant Electrical Conduit Relocation

GENERAL INFORMATION

The City of Abilene Water Department is requesting that by oral resolution the City Council award a bid for the Hargeshaimer Water Treatment Plant Electrical Conduit Relocation. Staff recommends awarding bid CB-1013 to Abilene Electrical Contractors of Abilene, Texas for a total price of \$54,774.00. The project was advertised in the Abilene Reporter News on December 6th and 13th 2009. An extensive effort was made to contact prospective bidders in order to gain interest in the project through postings on plan rooms and phone calls / faxes to prospective bidders. Only one bid was submitted. The one bid submitted is consistent with the Engineers estimate for the project.

The Project is for the relocation of electrical conduits and electrical and control wiring associated with operating chemical feed pumps. Some of the existing electrical conduits serving chemical feed pumps have extensive corrosion resulting in failure of conduit and wires at floor level. There is an immediate need to remove existing conduit and wires at floor level and within splash zones and replace with new conduit to be installed along ceilings and/or wall mountings above splash zones and having extensions downward to the existing control boxes. The new conduit will be corrosion resistant, and new wire will be pulled for each new conduit. This project will improve both chemical feed equipment reliability and employee safety.

FUNDING/FISCAL IMPACT

Funds for the Electrical Conduit Replacement will come from the Water Treatment Plant Operating Budget.

STAFF RECOMMENDATION

It is recommended that the City Council award bid CB-1013 to Abilene Electrical Contractors in the amount of \$54,774.00 for the Hargeshaimer Water Treatment Plant Electrical Conduit Relocation as described above and recommended by Water Department Staff, and to authorize the City Manager or his designee to execute all necessary documents related to the contract.

ATTACHMENTS

Engineer's Letter of Recommendation to Award Bid
Bid Tabulation Sheet

Prepared by:

Name Rodney Taylor

Title Asst. Water Director

Disposition by City Council

- Approved Ord/Res# _____
 Denied
 Other

City Secretary _____

Item No. 65



JACOB & MARTIN, LTD.
CONSULTING ENGINEERS

3465 Curry Lane
Abilene, Texas 79606
325-695-1070
www.jacobmartin.com

1508 Santa Fe Drive
Suites 204-205
Weatherford, Texas 76086
817-594-9880

January 4, 2010

Mr. Rodney Taylor, Assistant DWU
City of Abilene
P.O. Box 60
Abilene, Texas 79604

Re: Hargesheimer WTP Conduit Relocation

Via Email

Dear Mr. Taylor:

On December 22nd, 2009 the City received bids for the referenced project. One bid was received for this project in the amount of \$54,774.00. The lone bid was submitted by Abilene Electrical Contractors. A bid tabulation is attached as part of this letter which shows the bid. An extensive effort was made to contact prospective bidders in order to gain interest in the project through postings on plan rooms and phone calls / faxes to prospective bidders. However, little interest was garnered for the project. Regardless, the one bid received is consistent with the engineer's estimate for this project. Therefore, I have checked references of the low bidder on the Hargesheimer WTP Conduit Relocation project for the City of Abilene and have found no reason to disqualify the Contractor. Based on the bids received, I recommend awarding the contract to Abilene Electrical Contractors for the base bid of \$54,774.00. If the water department and city council concur with awarding of the project, we will prepare documents for execution by the Contractor and the City. Feel free to contact me if you have any questions.

Sincerely,

JACOB & MARTIN, LTD.

Kirt Harle, P.E.

Enclosure

6.5 pg. 2

BID TABULATION

**CITY OF ABILENE
HARGESHEIMER WTP CONDUIT RELOCATION**

Engineer: Jacob & Martin, Ltd.
Abilene, Texas

Bid Date: December 22, 2009 11:00 A.M.

**Abilene Electrical Contractors
222 Bois D'Arc
Abilene, Texas 79601**

	Qty	Unit		
For all Labor, Materials, Equipment and Incidentals to Furnish and Install the Following:				
1. Conduit Relocation	1	LS	\$ 54,774.00	\$ 54,774.00
TOTAL BASE BID (Item 1)				\$ 54,774.00
Number of Days Bid				45

*Extension Error

4.5 pg. 3

City Council
Agenda Memo



TO: Larry D. Gilley, City Manager

**City Council
Meeting Date: 1/28/10**

FROM: Mike Hall, Director of Community Services

A handwritten signature in black ink, appearing to read "Mike Hall".

SUBJECT: Rose Park Tennis Center Restroom Renovation

GENERAL INFORMATION

Rose Tennis Center Restroom Renovation - plans and specifications for an upgrade to the restrooms were prepared and let for competitive bids which were opened on January 19, 2010. The plans and specifications were prepared by Carl Vanderhider with Meers Engineering. The designer will also be responsible for insuring compliance with specifications during construction. These improvements will replace the current restrooms and will bring the restrooms into ADA compliance.

SPECIAL CONSIDERATIONS

NA

FUNDING/FISCAL IMPACT

Funding will be provided from CO funds. One hundred and thirty seven thousand dollars is available from this source.

STAFF RECOMMENDATION

Staff recommends City Council Award the Bid to Bulldog Constructors, Abilene, Texas in the amount of \$95,600.00. This is the low bid received.

BOARD OR COMMISSION RECOMMENDATION

NA

ATTACHMENTS

Tabulation of Bids

Prepared by: Name: <u>Mike Hall</u> Title: <u>Director of Community Services</u>	Item No. <u>6.4</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other City Secretary _____
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**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

DEPARTMENT: COMMUNITY SERVICES
 BID NO.: CB-1015
 TIME OF OPENING: 2:00 P.M.
 DATE OF OPENING: JANUARY 19, 2010

BULLDOG CONSTRUCTORS
 OF TEXAS, INC.
 ABILENE, TX

JUSTICE CONSTRUCTION
 ABILENE, TX

THE CROWE GROUP, INC.
 ABILENE, TX

DON FAULKNER
 CONSTRUCTION
 ABILENE, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	ROSE PARK TENNIS CENTER RESTROOM REMODEL				*95,600.00		111,800.00		114,600.00		115,740.00				
	BASE BID														
	DISCOUNT														
	TOTAL BID				*95,600.00		111,800.00		114,600.00		115,740.00				

*NOTES: INDICATES RECOMMENDED AWARD

6.6 pg. 2

City Council
Agenda Memo



City Council

Meeting Date: January 28, 2010

TO: Larry D. Gilley, City Manager
FROM: Mike Perry, Assistant Chief of Police
SUBJECT: Award of Bid: HGAC Contract #EF0409 – 24 Coban Technologies digital video systems and associated hardware/software supporting their operation

GENERAL INFORMATION

This bid is for the purchase of 24 digital video systems (DVS) to replace rapidly aging, analog mobile video recorders (MVR) and will provide software/hardware to facilitate the collection and proper retention of stored images. The MVRs currently in use are seven years old and are beyond their planned service life. This new package will greatly increase the Department's ability to document, preserve, and retrieve officer involved activities.

SPECIAL CONSIDERATIONS

Police staff have extensively reviewed departmental needs as well as available products/vendors. Based on this review, it is clear that the Coban Technologies product best fits this need. These 24 digital systems will be installed in marked, fleet vehicles most often involved in activities where video documentation is beneficial.

FUNDING/FISCAL IMPACT

Funding is obtained through existing, awarded grants. The purchase price is based on HGAC contract pricing. \$203,987.79

STAFF RECOMMENDATION

Staff recommends the approval of this bid to Coban Technologies.

ATTACHMENTS

Prepared by: Name <u>Mike Perry</u> Title <u>Assistant Chief of Police</u>	Item No. <u>6.1</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary _____
--	---------------------	---