

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 28th day of February, A.D. 2013.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 18th day of January, 2013, 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 14th day of March, A.D. 2013.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT "A"

The City of Abilene hereby abandons the following thoroughfares:

Abandon two existing alleys: a 20' alley north to south between S. 7th Street & Potomac Avenue, ±575' long; and a 30' alley/easement east to west between Buccaneer Street & Hawthorne Street, ±795' long.

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



With the following conditions:

1. Where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities or the applicant will be responsible to move all of the utilities;
2. The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.

-END-



THOROUGHFARE CLOSURE CASE TC-2013-01

STAFF REPORT

APPLICANT INFORMATION:

Abilene I.S.D.
Agent: David Todd

HEARING DATES:

Planning & Zoning Commission: February 4, 2013
City Council 1st Reading: February 28, 2013
City Council 2nd Reading: March 14, 2013

REQUESTED ACTION:

A 20' alley north to south between S. 7th Street & Potomac Avenue, ±575' long; and a 30' alley/easement east to west between Buccaneer Street & Hawthorne Street, ±795' long; and also to abandon right-of-way along Buccaneer Street (7' x 300') and right-of-way along S. 7th Street (13' & 3') adjacent to Bowie Elementary.



SITE CHARACTERISTICS:

An east-to-west alley and a north-to-south alley currently exist on the property owned by Abilene I.S.D. Improvements have not been made to the alleys and buildings have been built encroaching into and over the rights-of-way.

REQUEST ANALYSIS:

The applicant is requesting to abandon the alley right-of-way (ROW) to plat all the property owned by Abilene I.S.D. into 1 lot. The school is constructing a new classroom building on the campus, thus requiring the need for platting. The alleys to be abandoned have not been improved and do not affect refuse collection for the exiting residential uses to the east. The applicant is requesting to abandon the street ROW in order to match the limits of the existing improvements related to the school property. There is an existing parking lot in the northwest that encroaches into Buccaneer Street and a fence that is located in the ROW along S. 7th Street. Rather than abandoning the street ROW, the encroachment can be addressed by a street-use license that would allow AISD to retain the encroachment within the ROW.

RECOMMENDATIONS:

Plat Review Committee: Denial of the requested street ROW closures (along S. 7th St & Buccaneer Dr). Approval of the requested alley closures as requested with the following conditions:

1. Where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities or the applicant will be responsible to move all of the utilities;
2. The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots.

Staff Recommendation: Approval of the requested alley abandonments, with the conditions suggested by the Plat Review Committee. **Denial** of the street ROW abandonments.

PLANNING AND ZONING COMMISSION:

The Planning and Zoning Commission recommended approval of the alley ROW abandonments per the conditions of the Plat Review Committee by a vote of six (6) in favor (Yungblut, Glenn, Famble, Bixby, Rosenbaum and McClarty) and none (0) in opposition. (Mr. Todd abstained from this request).

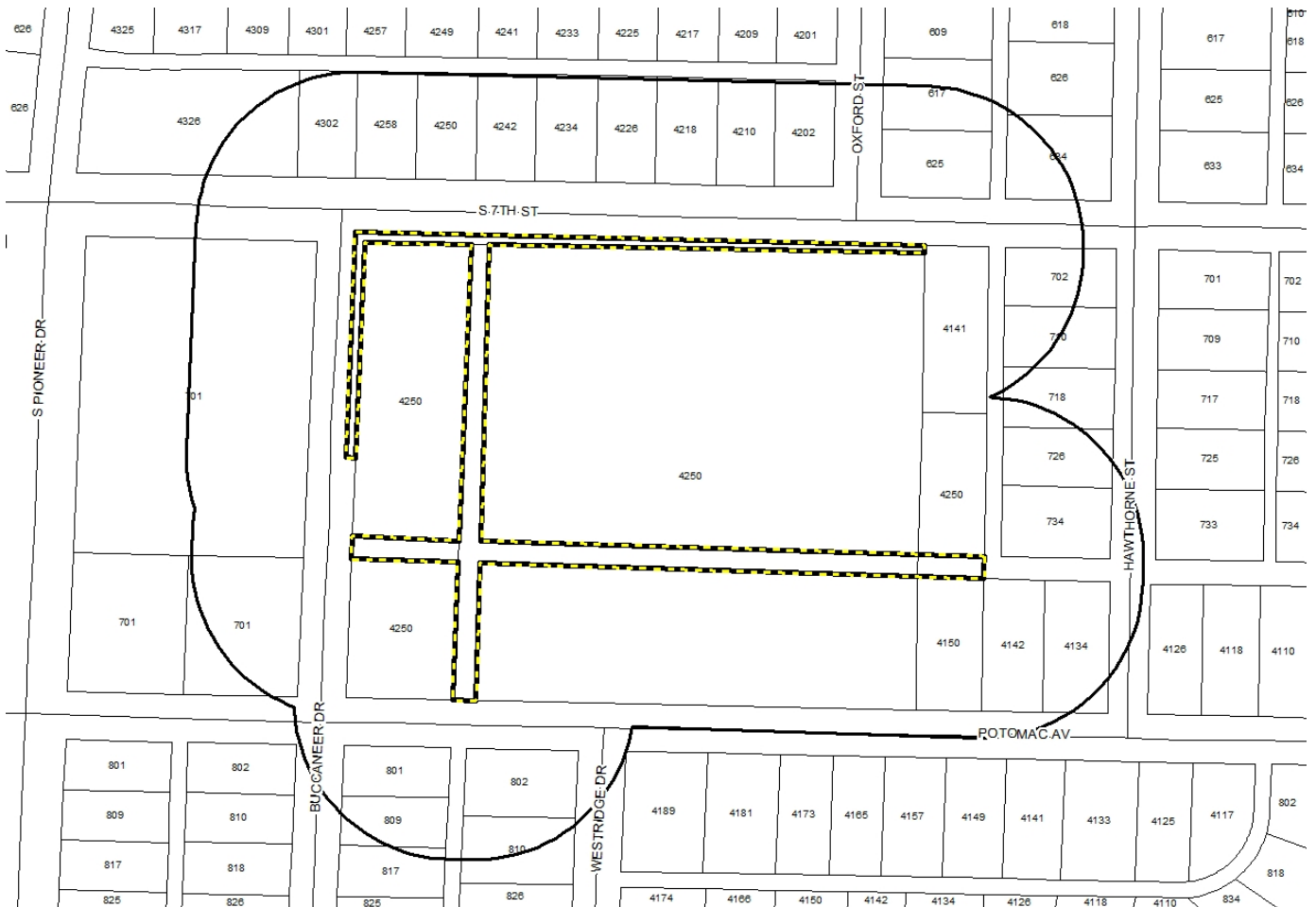
NOTIFICATION:

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

OWNER	ADDRESS	RESPONSE
PIONEER DRIVE BAPTIST	4326 S 7TH ST	
TAYLOR KATHLEEN ANN C MRS	617 OXFORD ST	
BARRETT WALTER S & LORI	4258 S 7TH ST	
SMITH DAVID W & KAREN E	634 HAWTHORNE ST	
BAXTER HARRY C	626 HAWTHORNE ST	
VALENTINE STEVEN MARK &	625 OXFORD ST	
NEW RUDY L	726 HAWTHORNE ST	
SHARP TOMMIE JACK	710 HAWTHORNE ST	
WILLIAMS DONALD A	4250 S 7TH ST	
MARTINEZ ROSALINDA C &	4234 S 7TH ST	
PHILLIPS MICHAEL D &	4302 S 7TH ST	
GRICE MARY FRANCIS	4218 S 7TH ST	
SEC OF HUD	4210 S 7TH ST	
VARGAS REYNALDO R & MARJORIE E	4141 S 7TH ST	
DAVIS J D & EDNA M	4226 S 7TH ST	
HODGES FRANCES T	4202 S 7TH ST	
BLANTON RANDY	734 HAWTHORNE ST	
BOGER JOSEPH A	718 HAWTHORNE ST	
LUNA GILBERT & ANGELA	817 BUCCANEER DR	
HARBIN KRISS MICHAEL	810 WESTRIDGE DR	
ORTEGON CHRISTOPHER J &	809 BUCCANEER DR	
VESCO PROPERTIES LLC	4189 POTOMAC AVE	
RILEY PEGGY LEE ET AL	801 BUCCANEER DR	
GRAY JOHNNY	802 WESTRIDGE DR	
AYALA JOSE & VICTORIA	4134 POTOMAC AVE	
PIONEER DRIVE BAPTIST	701 S PIONEER DR	
BAPTIST CITY MISSION	701 S PIONEER DR	
PIONEER DRIVE BAPTIST	701 S PIONEER DR	
ABILENE IND SCHOOL DIST	4250 POTOMAC AVE	
PARKER J W & JACQUELINE	4150 POTOMAC AVE	

ABILENE IND SCHOOL DIST	4250 POTOMAC AVE	
HENRY JUDY LEE	702 HAWTHORNE ST	
RANGEL NANCY	4242 S 7TH ST	
DONAGHEY CALVIN WAYNE &	4142 POTOMAC AVE	
ABILENE IND SCHOOL DIST	4250 POTOMAC AVE	
ABILENE IND SCHOOL DIST	4250 POTOMAC AVE	

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







City Council
Agenda Memo



City Council
Meeting Date: 02/28/13

TO: Larry D. Gilley, City Manager
FROM: Megan R. Santee, Director of Public Works
SUBJECT: Street Use License Agreement with Abilene Education Foundation for “Cajun Fest”

GENERAL INFORMATION

Abilene Education Foundation has submitted a Street Use License (SUL) application to hold a public event entitled “Cajun Fest” within the public right-of-way on Cypress Street. The applicant wishes to close Cypress Street from the north right-of-way line of North 2nd Street to the south right-of-way line of North 4th Street for this event, including closure of the intersection of North 3rd Street and Cypress Street, requiring closure of North 3rd Street from the east right-of-way line of Cedar Street to the east right-of-way line of Cypress Street. The event will take place in conjunction with April “Artwalk” on Thursday, April 11th, 2013, from 5:00 p.m. until 8:00 p.m.; however, the applicant wishes to close the street between the hours of 4:00 p.m. and 9:00 p.m. on this date. The applicant has obtained the approval of all affected property owners and/or business tenants for this event. The event will include food and entertainment to raise money for Abilene Education Foundation scholarships and AISD programs.

STAFF RECOMMENDATION

Staff has reviewed this request and recommends that City Council, by oral resolution, authorize the Mayor to execute the attached Street Use License Agreement with Abilene Education Foundation for “Cajun Fest.”

ATTACHMENTS

Street Use License Agreement, Short Term

<p>Prepared by: Name: <u>Travis McClure</u> Title: <u>Land Agent</u></p>	<p>Item No. <u>6.2</u></p>	<p>Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary</p>
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THE STATE OF TEXAS

**STREET USE LICENSE AGREEMENT
SHORT TERM**

COUNTY OF TAYLOR

THIS STREET USE LICENSE AGREEMENT, hereinafter referred to as "License", executed this ____ day of _____, A.D., 2013, by and between the CITY OF ABILENE, a municipal corporation situated in Taylor and Jones Counties, Texas, hereinafter referred to as "City", and Abilene Education Foundation hereinafter referred to as "Licensee".

WITNESSETH:

That City, pursuant to Chapter 29, "Streets and Sidewalks", Article V, "Street Use License", does hereby grant to Licensee the privilege of using the following described public property, to-wit:

Closure of Cypress Street from the north right-of-way line of North 2nd Street to the south right-of-way line of North 4th Street, including closure of the intersection at North 3rd Street and Cypress Street, requiring closure of North 3rd Street from the east right-of-way line of Cedar Street to the east right-of-way line of Cypress Street

for and in consideration of THREE HUNDRED AND NO/100 (\$300.00) DOLLARS, commencing the date of execution unless otherwise specified, and upon the conditions and covenants set forth in this License and in Exhibit A, incorporated by reference for all purposes herein.

I. Purpose:

The purpose of this License is to permit Licensee to:

Hold an event entitled "Cajun Fest" in conjunction with April "Art Walk". The event will include food and entertainment to raise money for Abilene Education Foundation scholarships and AISD programs.

II. Term of Agreement/Termination:

I. This License shall be in effect only for the following time periods:

From 4:00 p.m. to 9:00 p.m. on April 11, 2013.

2. The City shall have the right to cancel this License at any time.

III. **Indemnity:**

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

injury or damage to any property or right

injury, damage, or death to any person or entity

attorneys fees, witness fees, expert witness fees and expenses, and

all other costs and expenses of litigation

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

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

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

B. Indemnity

The Licensee agrees to indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Licensee's occupancy or use of the premises described above and/or activities conducted in connection with this License.

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

Contractors Service provides barricades

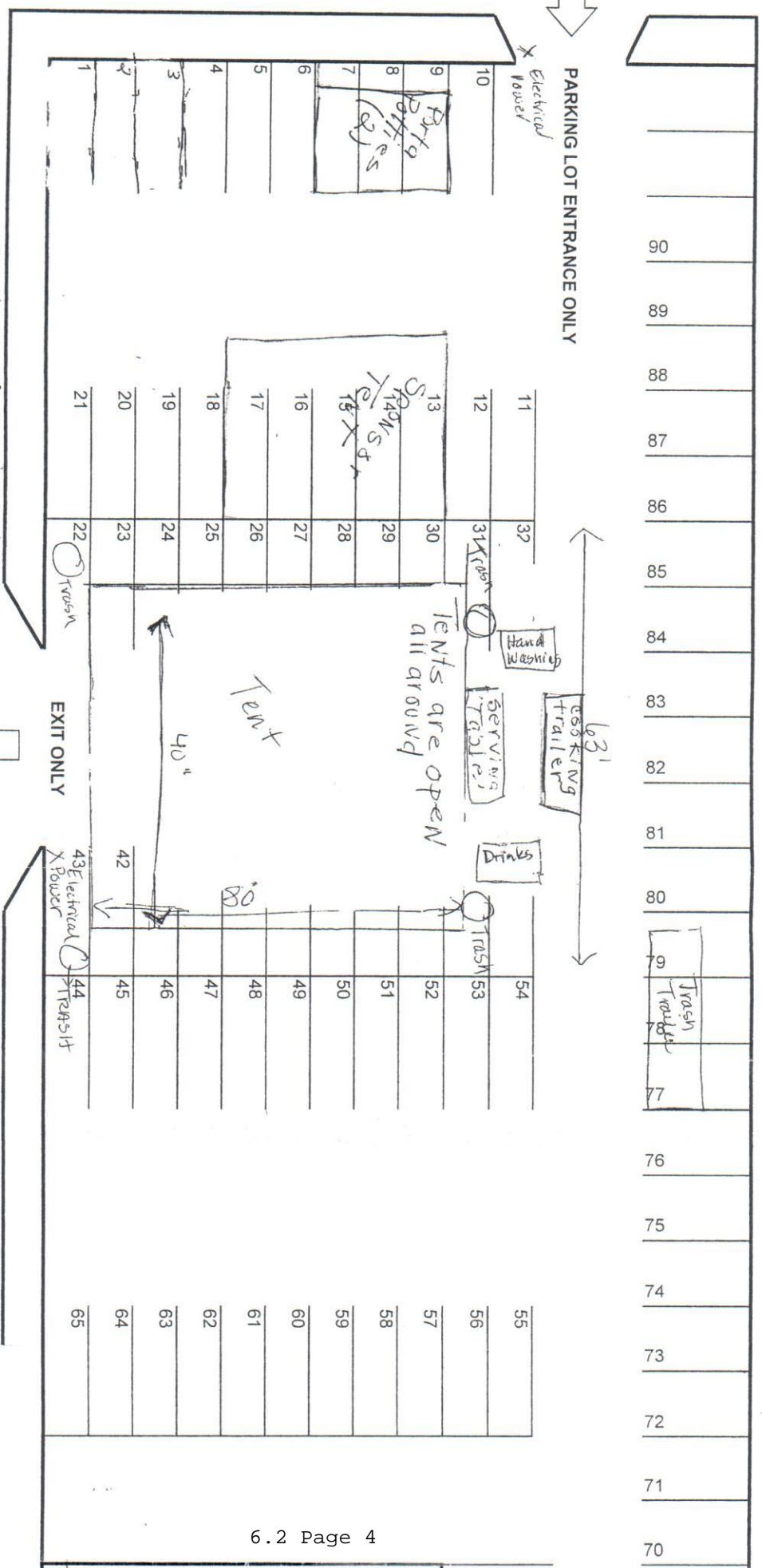
Barricade

North 4th Street

Car Dealer Show Vehicles

Cypress Street

PARKING LOT ENTRANCE ONLY



- 90
- 89
- 88
- 87
- 86
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Cajun Fest

CERTIFICATE OF COVERAGE

DATE (MM/DD/YY)
02/08/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED AS SHOWN BELOW. THIS CERTIFICATE DOES NOT CONSTITUTE A CONTRACT BETWEEN PCAT, THE AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER (Contact With Any Questions) Kerry Sims/Carole Merz North American Solutions P.O. Box 25928 Oklahoma City, OK 73125-0928 Phone: 800-880-0291 ext 2368 FAX: 800-788-8995	CARRIER AFFORDING COVERAGE CARRIER A: Property Casualty Alliance of Texas (PCAT) CARRIER B:
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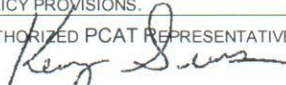
COVERED MEMBER
 Abilene Independent School District
 P.O. Box 981
 Abilene, TX 79604

COVERAGES

THIS IS TO CERTIFY THAT THE COVERAGES LISTED BELOW HAVE BEEN ISSUED TO THE MEMBER NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGES DESCRIBED HEREIN ARE SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH COVERAGE DOCUMENTS. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CARRIER LTR	TYPE OF COVERAGE	ADDL INSR	MEMBER NUMBER	EFF DATE (MM/DD/YY)	EXP DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY					
	<input checked="" type="checkbox"/> General Liability	<input checked="" type="checkbox"/>	PC221-901	02/01/2013	02/01/2014	Each Occurrence \$ 3,000,000
	<input type="checkbox"/> Claims Made <input checked="" type="checkbox"/> Occurrence					Fire Damage (Any one fire) \$ 500,000
	<input type="checkbox"/>					Med Exp (Any one person) \$ -0-
	<input type="checkbox"/>					Personal & Adv Injury \$ 3,000,000
	General Aggregate Limit Applies Per:					General Aggregate \$ 3,000,000
	<input checked="" type="checkbox"/> Policy <input type="checkbox"/> Project <input type="checkbox"/> Loc					Products – Comp/Op Agg \$ 3,000,000
	AUTOMOBILE LIABILITY					
	<input type="checkbox"/> Any Auto	<input type="checkbox"/>				Combined Single Limit (Each Accident) \$
	<input type="checkbox"/> All Owned Autos					Bodily Injury (Per Person) \$
	<input type="checkbox"/> Scheduled Autos					Bodily Injury (Per Accident) \$
	<input type="checkbox"/> Hired Autos					Property Damage (Per Accident) \$
	<input type="checkbox"/> Non-Owned Auto					
	<input type="checkbox"/>					
	OTHER					\$
						\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES
 The City of Abilene is Additional Insured only as respects Abilene Independent School District fund raiser at the Center of Contemporary Arts, Art Walk on April 11, 2013.

CERTIFICATE HOLDER City of Abilene P O Box 60 Abilene TX 79604	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED PCAT REPRESENTATIVE 
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**City Council
Agenda Memo**



**City Council
Meeting Date: 02/28/13**

TO: Larry D. Gilley, City Manager
FROM: Megan R. Santee, Director of Public Works
SUBJECT: Street Use License Agreement with Abilene Cultural Affairs Council for Dr. Seuss Sculpture Unveiling and Dedication Event

GENERAL INFORMATION

Abilene Cultural Affairs Council has submitted a Street Use License (SUL) application for closure of a portion of the North First Street right-of-way during the Dr. Seuss sculpture unveiling and dedication ceremony in Everman Park on April 11, 2013. The applicant wishes to close North First Street from the east right-of-way line of Cypress Street to the west right-of-way line of Pine Street for this event. The event will take place in conjunction with April "Artwalk" on Thursday, April 11th, 2013, and the applicant wishes to close the street between the hours of 4:45 p.m. and 9:00 p.m. on this date in order to provide for safe pedestrian street crossing and possible crowd overflow during the event. The applicant has obtained the approval of all affected property owners and/or business tenants for this street closure.

STAFF RECOMMENDATION

Staff has reviewed this request and recommends that City Council, by oral resolution, authorize the Mayor to execute the attached Street Use License Agreement with Abilene Cultural Affairs Council for the Dr. Seuss sculpture unveiling and dedication event.

ATTACHMENTS

Street Use License Agreement, Short Term

<p>Prepared by: Name: <u>Travis McClure</u> Title: <u>Land Agent</u></p>	<p>Item No. <u>6.3</u></p>	<p>Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied <input type="checkbox"/> Other _____ City Secretary</p>
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THE STATE OF TEXAS

STREET USE LICENSE AGREEMENT
SHORT TERM

COUNTY OF TAYLOR

THIS STREET USE LICENSE AGREEMENT, hereinafter referred to as "License", executed this ____ day of _____, A.D., 2013, by and between the CITY OF ABILENE, a municipal corporation situated in Taylor and Jones Counties, Texas, hereinafter referred to as "City", and Abilene Cultural Affairs Council hereinafter referred to as "Licensee".

WITNESSETH:

That City, pursuant to Chapter 29, "Streets and Sidewalks", Article V, "Street Use License", does hereby grant to Licensee the privilege of using the following described public property, to-wit:

Closure of North First Street, from the east right-of-way line of Cypress Street to the west right-of-way line of Pine Street.

for and in consideration of THREE HUNDRED AND NO/100 (\$300.00) DOLLARS, commencing the date of execution unless otherwise specified, and upon the conditions and covenants set forth in this License and in Exhibit A, incorporated by reference for all purposes herein.

I. Purpose:

The purpose of this License is to permit Licensee to:

Provide for safe pedestrian street crossing and crowd overflow during the Dr. Seuss sculpture unveiling and dedication event in Everman Park on April 11, 2013.

II. Term of Agreement/Termination:

I. This License shall be in effect only for the following time periods:

From 4:45 p.m. to 9:00 p.m. on April 11, 2013.

2. The City shall have the right to cancel this License at any time.

III. Indemnity:

A. Definitions

For the purpose of this section the following definitions apply:

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

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

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

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

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

injury or damage to any property or right

injury, damage, or death to any person or entity

attorneys fees, witness fees, expert witness fees and expenses, and

all other costs and expenses of litigation

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

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

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

B. Indemnity

The Licensee agrees to indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Licensee's occupancy or use of the premises described above and/or activities conducted in connection with this License.

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

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects which may now exist or which may hereafter arise on the premises, whether or not caused in whole or in part by improvements constructed by the Licensee. Responsibility for all such defects is expressly assumed by the Licensee.

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

BOTH CITY AND LICENSEE EXPRESSLY INTEND THIS LICENSE'S INDEMNITY PROVISION TO REQUIRE LICENSEE TO INDEMNIFY AND

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

IV. Insurance.

Licensee agrees to secure and maintain the following types and amount of insurance, for the term of this license:

<u>Type</u>	<u>Amount</u>
Comprehensive General Liability to include (but not limited to) the following:	\$250,000 - Per Person \$500,000 - Per Occurrence for Bodily Injury, and \$500,000 - Per Occurrence for Property Damage
a) Premises/Operations Coverage	
b) Contractual Liability Coverage (insuring above indemnity provision)	

The preceding insurance requirements notwithstanding, the City reserves the right to revise the types and amounts of insurance required by this License prior to approval of the License or if the License is already in effect, to be effective thirty (30) days after notice is sent to the address provided herein.

All insurance policies or certificates shall contain the following provisions:

- a. That the City of Abilene, Texas, is named as an additional insured.
- b. That such insurance shall not be cancelled or materially changed without a minimum of thirty (30) day's advance notice in writing to the City.

All insurance policies shall be subject to the examination and approval of the Office of Risk Management, City of Abilene, Texas, for their adequacy as to form and content, form of protection, and insurance company. Licensee shall furnish to City Secretary for her License file certificates or copies of the policies, plainly and clearly evidencing such insurance at the time of application, and thereafter, new certificates prior to the expiration date of any prior certificate.

Licensee understands that it is its sole responsibility to provide this necessary information and that failure to timely comply with the requirements of this article shall be a cause for termination of this License.

V. License Requirements and Restrictions:

1. During the term of this License, Licensee shall maintain the premises licensed herein in a good and safe condition at all times. If the street surface, parkway, or facilities in the parkway, including landscaping, are damaged or disturbed by any activity associated with this License, the Licensee shall at its expense restore the same to as good a condition as before the activity, to the satisfaction of the Director of Public Works or designee.

2. All traffic control signing and barricading in the public right-of-way shall comply with the Texas Manual On Uniform Traffic Control Devices.

3. In the performance or permitting of work consistent with its normal course of duty within the right-of-way, the City shall not be liable for any damages to the Licensee's facilities or equipment or injury to Licensee, all such claim for damage or injury being expressly waived by Licensee.

4. Control of the public right-of-way within the area included in this License shall not supersede the rights already granted by other permits and authorizations to other parties unless specifically stated herein.

5. The City Manager, Police Chief, Fire Chief, or a designee of such officials, shall have the authority to order immediate removal of any objects or materials placed on the premises by Licensee if, in the City's opinion, removal is necessary to protect the health, safety, and welfare of the public.

CITY OF ABILENE, TEXAS

Mayor

ATTEST:

City Secretary

NAME OF LICENSEE:

Abilene Cultural Affairs Council

By: _____



Signature

Lynn K. Barnett

Printed Name and Title

APPROVED:

Kelley Morse
City Attorney

Business Address: 1101 N. 15th Street
Abilene, TX

**STREET USE LICENSE AGREEMENT
WITH ABILENE CULTURAL AFFAIRS COUNCIL
FOR USE OF NORTH FIRST STREET
RIGHT-OF-WAY**

CONDITIONS AND COVENANTS

EXHIBIT A

The Street Use License Agreement is subject to the following conditions and covenants:

1. The Licensee may take control of the permitted portion of the street on Thursday, April 11, 2013, as follows:
 - a. **Control of the full width of the permitted portion of North First Street, from the east right-of-way line of Cypress St. to the west right-of-way line of Pine St. beginning at 4:45 p.m.**
2. **The Licensee shall submit a traffic control plan in compliance with the Texas Manual on Uniform Traffic Control Devices to the Traffic & Transportation Administrator (676-6279) for review NO LATER THAN MONDAY, APRIL 1, 2013. FAILURE TO COMPLY WITH THIS PROVISION MAY RESULT IN CANCELLATION OF THIS LICENSE.**
3. **The Licensee shall be responsible for obtaining, properly installing, and maintaining all necessary traffic control signs and barricades in compliance with the traffic control plan.**
4. The Licensee shall contact all property owners and/or business tenants of properties on the permitted portion of the street(s) to advise them of the proposed street closure and to work out arrangements to accommodate their access needs. The Licensee shall provide a list signed by all affected property owners and/or business tenants to the City Land Agent, signifying their approval/disapproval of the proposed street closure.
5. The Licensee shall designate an event command center and an event contact person(s). This information, as well as contact phone numbers, shall be provided to the City Land Agent by Monday, April 1, 2013. During the event, an event contact person shall be on-site at all times.
6. The Licensee shall contact the City Fire Marshal regarding a Fire Code outdoor carnival/fair permit, and obtain one if necessary. The Licensee shall contact the Traffic Control Division of the Abilene Police Department about a parade permit (if a parade is planned for the event), and obtain one if necessary. The Licensee shall insure that all food and beverage vendors associated with the event obtain a temporary food vendors permit from the City of Abilene Environmental Health office.
7. The Licensee shall insure that the event is conducted in conformance with all applicable

laws and regulations, including City noise regulations and Texas Alcoholic Beverage Commission rules and regulations.

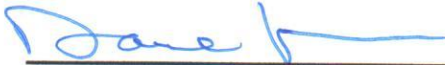


8. The Licensee shall prominently post notice at each entry into the controlled area that smoking is not permitted at the event and shall comply with the requirements of the City smoking ordinance.
9. The Licensee shall provide sufficient portable toilets to accommodate the needs of event attendees, invitees and participants, as determined by Licensee. The portable toilets shall not be located within 10 feet of the door to any building nor shall they be located on the street side of any glass storefront.
10. The Licensee shall contact the Abilene Police Department to inform them of the event and shall provide sufficient security forces, as determined by the Chief of Police, for crowd control and protection of property.
11. The Licensee shall provide for collection and disposal of solid waste created by the event. This shall include an adequate number of waste receptacles, collection of litter after the event, and delivery of the waste to the landfill. At a minimum this shall include one waste receptacle within 50 feet of each food vendor or beverage vendor and one waste receptacle within each block of the permitted/closed area that does not have a food or beverage vendor.
12. The Licensee shall maintain free of obstructions a fire apparatus access lane at least 25 feet in width from end-to-end of all street segments and an access path at least 10 feet in width from the fire apparatus access lane to all fire service appliances (fire hydrants, fire service connections to buildings, etc.) at all times.
13. The Licensee shall make provisions for safe access to private property abutting the permitted/closed area to any party desiring to access that property.
14. The Licensee shall protect traffic signal control equipment and related facilities, signs, pavement markings, and other traffic control devices within the permitted area and shall be responsible for prompt repair of any damage. The Licensee shall be responsible for all costs associated with adjustments to the City's traffic control devices that are necessary for the permitted activity. The Licensee shall not attach any item to the poles, equipment boxes or other components of the traffic signal system.
15. The Licensee shall clear the sidewalks and pavement area of obstructions to pedestrian and vehicular traffic before ending control of the area. The Licensee assumes all responsibility for warning and/or protecting pedestrians and motorists from obstructions and hazards if they are allowed to enter the controlled area before it is cleared of such obstructions and hazards.

Permission Form for Businesses/Institutions Effected by Street Closure

The Abilene Cultural Affairs Council is collaborating with the ArtWalk Event on April 11, 2013 to sponsor an unveiling ceremony of the five newly installed Dr. Seuss Sculptures in Everman Park.

The ACAC is requesting permission to close one block of N. 1st from the West side of the intersection of N. 1st and Cypress, to the east side of the intersection at N. 1st and Pine. The request is to ensure the safety of pedestrians who will be trying to cross N. 1st to attend the unveiling ceremony and related activities. Proposed time for the street closure is 4:45 – 9:00 p.m.

We the undersigned grant permission for N. 1st to be closed for the time and date specified.

Abilene Reporter News

Date:

Permission Form for Businesses/Institutions Effected by Street Closure

The Abilene Cultural Affairs Council is collaborating with the ArtWalk Event on April 11, 2013 to sponsor an unveiling ceremony of the five newly installed Dr. Seuss Sculptures in Everman Park.

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We the undersigned grant permission for N. 1st to be closed for the time and date specified.

Alexander Building

Date:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/10/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CBS Insurance, LLP 3005 South Treadaway Blvd Abilene TX 79602		CONTACT NAME: Phyllis Hollenbeck, CIC PHONE (A/C No, Ext): (325) 695-0222 E-MAIL ADDRESS: phollenbeck@cbsins.com FAX (A/C No): (325) 695-0228	
INSURED Abilene Chamber of Commerce P O Box 2281 Abilene TX 79604		INSURER(S) AFFORDING COVERAGE INSURER A: United Fire Lloyds NAIC # 43559 INSURER B: Texas Mutual Insurance Company 22945 INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 12-13 GL/BAP/WC/Umb

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			85307744	4/9/2012	4/9/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			85307744	4/9/2012	4/9/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Underinsured motorist \$ 500,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			85307744	4/9/2012	4/9/2013	EACH OCCURRENCE \$ AGGREGATE \$
	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below			N/A	4/9/2012	4/9/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Abilene Cultural Affairs Council included as named insured.
 GL policy includes Blanket Additional Insured per company form CG7087 09-04.
 30 Day Advance Notice of Cancellation Form #CG0205 12 04

CERTIFICATE HOLDER**CANCELLATION**

(325) 676-6289 CITY OF ABILENE ATTN: PARKS DIVISION P O BOX 60 ABILENE, TX 79604	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Ken Baker/PHOLLE <i>Ken Baker</i>

ACORD 25 (2010/05)

INS025 (201005) 01

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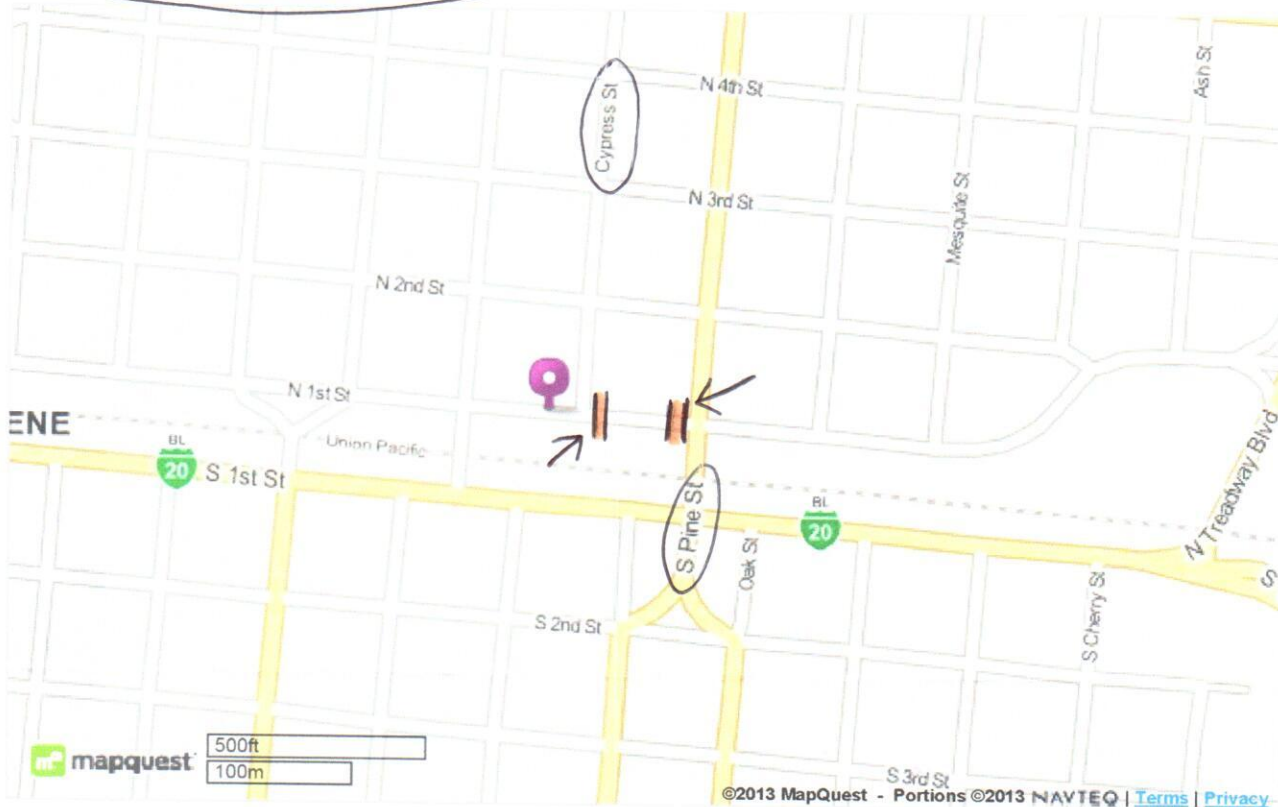
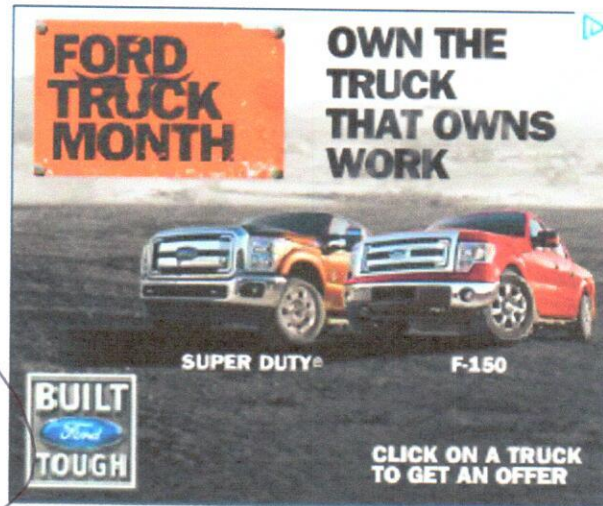
The ACORD name and logo are registered marks of ACORD



Map of:
1101 N 1st St
Abilene, TX 79601-5810

Notes

TRAVIS -
Sorry we forgot to
include this! Thanks.



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**City Council
Agenda Memo**

TO: Larry D. Gilley, City Manager **City Council**
FROM: Megan R. Santee, Director of Public Works **Meeting Date: 02/28/13**
SUBJECT: Award of Bid No. CB-1320 – Sale of Land

GENERAL INFORMATION

Pursuant to Texas Local Government Code Section 272.001, the City placed the following parcel of land up for sale by giving public notice January 20th, 27th and February 3rd, 2013 and accepting sealed bids.

BEING ALL OF THE SOUTH FIFTY (50') OF THE NORTH ONE HUNDRED FEET (100') OF THE EAST ONE HUNDRED FIFTY FEET (150') OF BLOCK "H", MCNAIRY'S SUBDIVISION OF LOT NO 2, BLOCK 201, ORIGINAL TOWN SITE TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, ALSO KNOWN AS 1422 PLUM STREET.

Sealed bids were received and opened on February 12, 2013, and only one bid was received.

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends Council award the bid to the sole bidder, Robert W. Higgins, for the price of \$758.00 as well as advertising costs in the amount of \$636.00, for the total purchase price of \$1,394.00.

ATTACHMENTS

Bid Tab sheet.

Prepared By: Name <u>Travis McClure</u> Title <u>Land Agent</u>	Item No. <u>6.4</u>	<p style="text-align: center;">Disposition by City Council</p> <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Other Ord/Res #
		<hr style="width: 80%; margin: 0 auto;"/> City Secretary



City Council
Agenda Memo

TO: Larry D. Gilley, City Manager **City Council Meeting Date: 02-28-2013**
FROM: Mindy Patterson, Director of Finance
SUBJECT: Award of Bid – CB-1321, ½ Ton 4WD Pickup Trucks

GENERAL INFORMATION

Fleet Management seeks approval to four ½ ton, 4-wheel drive pickup trucks. Three are new budget items – one each for Lake Patrol, City Marshal and Code Enhancement divisions. The three new budget units are essential to meet the expanded requirements of the respective programs. The one replacement is for a unit that is worn out and no longer cost effective to maintain and is assigned to Lake Patrol.

Advertisements were published on January 20, 2013 and January 27, 2013. Bids were opened on February 5, 2013 at 11:00 A.M. Seventeen (17) bid invitations were requested with three (3) vendors submitting a bid.

SPECIAL CONSIDERATIONS

Caldwell Country Ford did not meet specifications. Caldwell Country Chevrolet met specs, but Arrow Ford of Abilene, Texas was within the 5% local preference allowance.

FUNDING/FISCAL IMPACT

Funds for these purchases are to be provided by the Fleet Replacement Fund.

STAFF RECOMMENDATION

It is recommended that Bid CB-1321 be awarded to Arrow Ford.

BID TABULATION

See attached.

Prepared By: Name <u>Cheri Carter</u> Title <u>Fleet Analyst</u>	Item No. <u>6.5</u>	Disposition by City Council <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Other Ord/Res # _____ _____ City Secretary
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**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

DEPARTMENT: FLEET MANAGEMENT BID NO.: CB - 1321 TIME OF OPENING: 11:00 DATE OF OPENING: FEBRUARY 5, 2013				ARROW FORD ABILENE, TX		CALDWELL COUNTRY-CHEV CALDWELL, TX		CALDWELL COUNTRY-FORD CALDWELL, TX							
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1	HALF-TON PICKUPS	4	EA	\$26,961.00	\$107,844.00	\$26,675.00	\$106,700.00		DID NOT						
									MEET SPECS						
BASE BID															
DISCOUNT															
TOTAL BID					*\$107,844.00										

*NOTES: INDICATES RECOMMENDED AWARD



City Council
Agenda Memo

TO: Larry D. Gilley, City Manager **City Council Meeting Date: 02/28/2013**

FROM: Mindy Patterson, Director of Finance

SUBJECT: Award of Bid – CO-OP, Asphalt paver

GENERAL INFORMATION

Fleet Management seeks approval to purchase an Asphalt Paver for Streets Services. This will replace a unit that is worn out and no longer cost-effective to maintain. This piece of equipment is utilized in the maintenance and repair of city streets and alley ways with hot mix over-lay.

The unit is to be purchased through the BuyBoard Cooperative.

BID TABULATION

<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
Warren Cat	Caterpillar AP-600D Asphalt Paver with AS3251C Screed Mat BuyBoard contract # 345-10	\$342,428.00

FUNDING/FISCAL IMPACT

Funds for this purchase are to be provided by the Fleet Replacement Fund.

STAFF RECOMMENDATION

It is recommended that the unit be purchased through BuyBoard in the amount of \$342,428.00.

Prepared By: Name <u>Cheri Carter</u> Title <u>Fleet Analyst</u>	Item No. <u>6.6</u>	Disposition by City Council <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Other Ord/Res # _____ _____ City Secretary
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City Council
Agenda Memo

TO: Larry D. Gilley, City Manager **City Council Meeting Date:** 02/28/2013
FROM: Mindy Patterson, Director of Finance
SUBJECT: Award of Bid – ZTR Mowers for Parks and Stormwater

GENERAL INFORMATION

Fleet Management seeks approval to purchase nine ZTR (Zero Turning Radius) mowers to replace units that are worn out and no longer cost-effective to maintain. Seven units are to be assigned to Parks and two mowers will be in-service for Stormwater. The ZTR mowers for Parks are utilized in grounds keeping of parks and other city owned properties. The units going to Stormwater are for maintaining drainage ways, detention ponds and accessible creeks.

The units are to be purchased through the Houston/Galveston Area Council Cooperative (HGAC).

BID TABULATION

Vendor	Description	Amount
Kubota Tractor Corp.	Two (2) ZD326P-60 (60-inch) mowers	\$24,727.20
Kubota Tractor Corp.	Four (4) ZD331LP-72 (72-inch) mowers	\$55,966.40
Kubota Tractor Corp.	Three (3) ZD331LP-72 (72-inch) mowers with mulch kits	\$42,741.60
	HGAC contract # GR01-12	

FUNDING/FISCAL IMPACT

Funds for this purchase are to be provided by the Fleet Replacement Fund.

STAFF RECOMMENDATION

It is recommended all units be purchased through HGAC, in the amount of \$123,435.20.

Prepared By: Name <u>Cheri Carter</u> Title <u>Fleet Analyst</u>	Item No. <u>6.7</u>	Disposition by City Council <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Other Ord/Res # _____ _____ City Secretary
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**City Council
Agenda Memo**



TO: Larry D. Gilley, City Manager

**City Council
Meeting Date: 2/28/13**

FROM: James W. Childers, Director for Community Services

SUBJECT: Authorizing the City Manager to purchase two restrooms one for Nelson Wilson Park and one for Lee Park with CXT, Inc. through the City's Buy Board #370-11 contract.

GENERAL INFORMATION

The City Council approved two restrooms in Abilene. One to be installed at Nelson Wilson Park and the other at Lee Park as part of the neighborhood initiative improvements.

FUNDING/FISCAL IMPACT

The restrooms will cost \$43,130.55 each. The money was approved by City Council on May 10, 2012.

STAFF RECOMMENDATION

Staff recommends the City Council authorize the City Manager to purchase two restrooms one for Nelson Wilson Park and one for Lee Park with CXT, Inc. through the City's Buy Board #370-11 contract.

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS

Restroom design
Restroom invoice

Prepared by:

Name James Childers

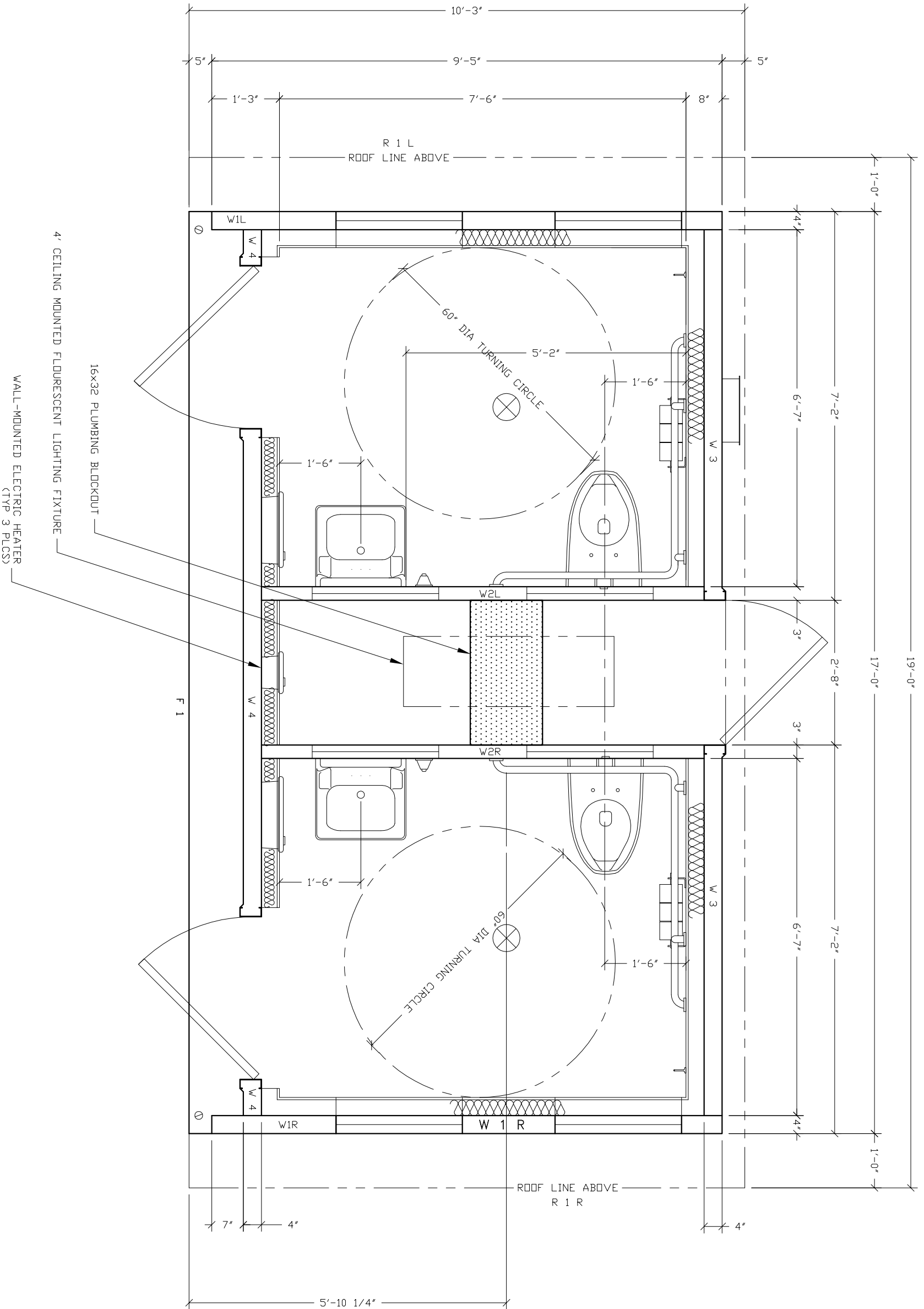
Title Director for Community Services

Item No. 6.8

Disposition by City Council

- Approved Ord/Res# _____
- Denied _____
- Other

City Secretary



NOTICE
The information contained herein is proprietary and the exclusive property of CXT Incorporated. The information may only be used by the original recipient for the purpose of the project for which it was prepared. Any other use is strictly prohibited without the prior written consent of CXT Incorporated. By allowing use of this information, CXT Incorporated grants no warranty, express or implied, including a warranty of merchantability or of fitness for a particular purpose. CXT Incorporated.

3808 N. Sullivan Bldg. #7 Spokane, WA 99216
PreCast Products
 901 N. Highway 77 Hillsboro, TX 76645
 PROJECT TITLE
CORTIEX
 PROPOSAL NUMBER 13-010P

NO.	REVISION	DATE	BY

SCALE 1/2" = 1'-0"
 DRAWN: ROB B. WALKER
 CHECKED: [Signature]
 DATE: 01-10-13
 FILE NO.: 13-010P
 PLOT: 24

FLOOR PLAN

DWG. NO.	CZ-04	SHEET	4	REV.	22
----------	-------	-------	---	------	----

Quote #: DROG300Z15-1

CXT® , Inc. an L.B. Foster Company

Mailing Address:
 CXT Incorporated, an LBFoster Co.
 3808 North Sullivan Road Bldg. #7
 Spokane Valley, WA 99216

To: City of Abilene
 PO Box 60
 174 Cypress St, Ste 301
 Abilene, TX 79604

Phone: (800) 696-5766
Fax: (509) 928-8270
Date: 02/07/2013

Attention: Eddie Richards
Phone: (325) 676-6464

Re: TX - Abilene - BuyBoard # 370-11

Our quotation for the Cortez Flush Building building is as follows:

Per Building

Cortez double flush toilet building with standard simulated cedar shake roof and barnwood wall texture, three 16-gauge galvanized steel doors and frames, vitreous china plumbing fixtures (2-lavatories, 2-water closets), two 3-roll toilet paper holders, two exhaust fans, three GFI outlets, three floor drains, two s/s mirrors, ADA grab bars, ADA signs, one hose bib in chase area, and motion controlled interior lights and photo cell controlled exterior lights. Building price includes offloading by crane at accessible sites. "Set Only" installation does not include final connection from building to site utility lines. Final connection by others.


\$32,411.25

	<u>Qty</u>	<u>Ext. Price</u>
Split Face Block Wall	1	\$1,596.38
Magnetic Locks Main Doors only	1	\$3,013.76
Hand Dryers	2	\$2,031.76
Stainless Steel Fixtures	1	\$1,644.75
Insta hot micro water heater	2	\$1,112.62
Stamped Drawings	1	\$0.01
State Fees - TX	1	\$0.01
Set Only	1	\$0.01
Freight		\$1,320.00
		\$43,130.55

FOB: FOB Abilene, TX Prepaid and Add.
Terms: Net 30 with Credit Approval. BuyBoard terms apply to order.
Shipment: 90 Days ARO
Notes: Sales tax not included
 Number of Units: ____

This quotation is subject to the conditions on the attached sheet and the terms hereof shall constitute the exclusive agreement of the parties and all conflicting or additional terms in Buyer's purchase order or any other such documents of Buyer shall have no force or effect.

L.B. FOSTER COMPANY

By 
 David Rogers
 drogers@lbfooster.com

Accepted this _____ day of _____ 20____

By: _____ (Customer Name)

_____ (Signed)

CONDITIONS OF SALE

1. Taxes

Prices exclude all Federal/State/Local taxes. Tax will be charged where applicable if customer is unable to provide proof of exemption.

2. Payment Terms

Payment to CXT by the purchaser shall be made net 30 days after the submission of the invoice to the purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning the 35th day (includes 5 day grace period) from the date of the invoice. Under no circumstances can a retention be taken and purchaser shall pay the full invoiced amount without offset or reduction. These terms are available upon approval of credit. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys fees associated with such litigation, including the fees and costs of any appeal.

3. Quotation Term

This offer is subject to acceptance within 60 days from the date of this quotation. After that time, prices are subject to change without notice.

4. Drawings

Prices do not include any documentation other than standard drawings, packing lists, and invoices, unless otherwise stated in quote. Special documentation, reports, or submittals can be supplied at an additional cost. If additional engineering, engineering seals, state approvals, drawings, or insignias are required additional charges may incur.

5. Delivery

Delivery will be scheduled immediately upon receipt of written customer approval of all building submittals, building worksheet(s) and signed contract/purchase order. In the event delivery of the buildings ordered is/are not completed within 30 days of the agreed to schedule through no fault of CXT, an invoice for the full contract value (excluding shipping and installation costs) will be submitted for payment, the terms of which will be as per item 2 in our quotation. Delivery and installation charges will be invoiced at the time of delivery and installation. Should the delivery and installation costs increase due to changes in the delivery period, this increase in cost will be added to the price originally quoted, and will be subject to the contract payment terms. In the event that the delivery is delayed more than 45 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of ½% of contract price per month or part of any month will be charged.

6. Fuel Costs

Fuel costs for crane and freight have been quoted at fuel prices furnished at the time of quotation. If at the time of delivery and installation these costs have risen, CXT reserves the right to adjust the freight and crane costs to reflect the fuel costs furnished at the time of delivery.

7. Responsibilities of the Customer

- A. Stake exact location building is to be set, including orientation.
- B. Provide clear and level site, free of overhead and/or underground obstructions.
- C. Provide site accessible to normal highway trucks and sufficient area for the crane to install and other equipment to perform the contract requirements.
- D. Customer shall provide notice in writing of low bridges, roadway width or grade, unimproved roads or any other possible obstacles from State highway and/or main county road to site. CXT reserves the right to charge the customer for additional costs incurred for special equipment required to perform delivery and installation.
- E. Customer is responsible for all permits required.

8. Access to Site

Delivery will be made in normal highway trucks and trailers. If at the time of delivery conditions of access are hazardous or unsuitable for truck equipment for any reason, CXT will negotiate extra costs to ensure a safe and quality installation to the chosen site or will agree to an alternative site with better access.

To safely offload the facility referred to within this quotation, CXT must have clear and unobstructed access next to the gravel pad or hole where the facility will be placed. CXT is not responsible for cracked or damaged roads, driveways, sidewalks or aprons that are in the path of the delivery trucks or cranes at the final offloading site. Should CXT be required to obtain a larger crane than quoted due to site amenities or hardscapes, CXT will charge the customer the difference between the crane originally quoted, and the one that was hired in order to successfully offload the facility safely and efficiently.

9. Installation

- A. If the customer opts to have full installation of their new building, CXT will provide a backhoe trailered into the site, and prepare the customer site at the marked hole/pad area. The crane will arrive and set up next to the hole/pad. Any requirements to lift the building over obstacles or not having the ability of the crane to be right next to the hole could incur additional charges. The size of the crane varies however most cranes require an area of 18'x18' for their outriggers. Truck(s) carrying the vaults and the building systematically pull up right next to the crane and are offloaded onto the site. Any requirements to lift the building over obstacles or not having the ability of the truck to be right next to the crane could incur additional charges. Installation crew then performs all necessary excavation, backfill, compaction, site grading, and connection of utilities (if applicable). Please note: additional time and any special equipment needed by the installation crew for unscheduled site work will be billed to the customer. This work must be approved by Customer Field Representative by signing the Additional Work Required section on the Building Acceptance Form.
- B. If the customer opts to prepare the hole, and do earthwork preparation for the site, the customer will move all excess dirt to allow access by the crane and semi-truck. The crane will arrive and set up next to the hole/pad. Any requirements to lift the building over obstacles or not having the ability of the crane to be right next to the hole could incur additional charges. The size of the crane varies however most cranes require an area of 18'x18' for their outriggers. Truck(s) carrying the vaults and the building systematically pull up right next to the crane and are offloaded onto the site. Any requirements to lift the building over obstacles or not having the ability of the truck to be right next to the crane could incur additional

charges. Customer performs all necessary excavation, backfill, compaction, site grading, connection of utilities (if applicable).

C. If customer opts to self-install their building CXT can provide a drawing of the recommended lifting/rigging arrangement plus the four special lifting plates for the buildings itself with a refundable deposit of \$1,000.00 payable by credit card only. The customer must return lifting plates and hardware to CXT (at customers cost) within 2 weeks (14) days or a \$1,000.00 fee will be charged to the customer credit card. Please note: It is highly recommended that you use our lifting/rigging arrangements. The CXT arrangements will help prevent damage to the building. *CXT will not take responsibility for any damage/accidents to the building or workers during the use or non-use of our recommended lifting/rigging arrangements.*

10. Transportation

Your building(s) will be transported from our plant to your installation site via semi-truck with trailer. The length and clearance vary with the style of trailer used to accommodate your building model(s) and must be taken into consideration when determining access to site.

If you ordered a(n)....

Cascadian/Rocky Mountain - Requires 1 truck: When shipped in 2-pieces (standard) the building with vault is shipped on a flatbed trailer. The length of the tractor-trailer can be up to 75' long. Must have a 14' height clearance to access site.

Gunnison - Requires 1 truck: Shipped with its vault, this building is typically shipped on a step-deck trailer. The length of the tractor-trailer can be up to 75' long. Must have 14' height clearance to access site.

Tioga Special - Requires 2 trucks: 1 to transport the building and 1 to transport vaults. The building is typically shipped on a step-deck trailer and 2 vaults are typically transported on a flatbed trailer. The length of the tractor-trailer can be up to 75' long. Must have 14' height and 14' width clearance to access site.

Dbl Cascadian/Dbl Rocky Mountain - Requires 2 trucks: 1 to transport the building and 1 to transport the vaults. The building is typically shipped on a dbl-drop or low boy trailer (approximate ground clearance of 4 to 6") and the 2 vaults are typically transported on a flatbed trailer. The length of the tractor-trailer can range from 75' to 80'. Must have 14' height and 14' width clearance to access site.

Cortez/Ozark /Teton/Pioneer - Requires 1 truck: Generally shipped on a step-deck trailer. The length of the tractor-trailer can be up to 75' long. Must have a 14' height and 14' width clearance to access site.

Large Flush, Sectional, or Custom Bldgs -

(Arapahoe/OzarkII/Cheyenne/Montrose/Taos/Rainier/Pomona/Navajo/Mallibu/Kodiak/Fontana/Diablo/Denali)

Requires 2-4 trucks, depending on size of building. Each section will be shipped on an RGN trailer (approximate ground clearance of 4 to 6 "). The length of the tractor-trailer can range from 80' to 115'. Must have 14' height and 14' width clearance to access site. The Denali model could ship on either an RGN trailer or a dbl-drop.

Schweitzer/Mendocino - Requires 1-2 trucks, depending on size of building. Generally shipped on a step-deck trailer. The length of the tractor-trailer can be up to 75' long. Must have 14' height and 14' width clearance to access site.

11. CXT Warranty

CXT warrants that all structures sold pursuant hereto will, when delivered, conform to specifications of the building listed on the quote. Structures shall be deemed accepted and meeting specifications unless notice identifying the nature of any non-conformity is provided to CXT in writing within one (1) year of delivery. It is specifically understood that CXT's obligation hereunder is for credit or repair only. CXT will repair structural defects against materials and workmanship for one (1) year from date of delivery provided CXT is first given the opportunity to inspect said structure. CXT warranties all components sold within all structures pursuant here to when delivered within structures. Components deemed accepted and meeting specifications shall be warranted for a period of one (1) year against defects in the materials and/or workmanship from said date of delivery. CXT is not responsible for components that are damaged due to misuse, acts of violence, negligence, acts of God, or accidents. Shipping, handling, installation or other incidental or consequential costs, unless otherwise agreed to in writing by CXT, are not included.

This warranty shall not apply to:

- 1) Any goods which have been repaired or altered without CXT's express written consent, in such a way as in the reasonable judgment of CXT, to adversely effect the stability or reliability thereof;
- 2) To any goods which have been subject to misuse, negligence, acts of God, or accidents;
- 3) To any goods which have not been installed to manufacturer's specifications and guidelines, improperly maintained, or used outside of the specifications for which such goods were designed.

12. Disclaimer of Other Warranties

THE WARRANTY SET FORTH ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED. CXT MAKES NO OTHER WARRANTY EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

13. Limitation of Remedies

In the event of any breach of any obligations hereunder; breach of any warranty regarding the goods, or any negligent act or omission of any party, the parties agree to submit all claims to binding arbitration. Any settlement reached shall include all reasonable costs including attorney fees. In no event shall CXT be subject to or liable for any incidental or consequential damages. Without limitation on the foregoing, in no event shall CXT be liable for damages in excess of the purchase price of the goods herein offered.

14. Acceptance

The foregoing terms will be deemed accepted in full by signature and return of one copy to CXT, subject to customer credit approval. A copy of any applicable form of payment security device (i.e. payment bonds) available to CXT shall be included with the signed copy of this agreement.

15. Timing of Billing to Buyer

Seller will invoice Buyer upon shipment from its supplier or facility, unless otherwise indicated on the face of this document.

16. Storage of Material For Buyer

If, at Buyer's request, goods covered by this document are held at Seller's facility or service provider for more than 21 days after they are available for shipment, Buyer shall accept Seller's invoice and pay said invoice based on payment terms set forth herein.

17. Material Reservation

Seller will only reserve material for 30 days with receipt of an executed purchase order, quote or order acknowledgement acceptable to Seller. After that time, material availability, price and shipment date may be adjusted, at Seller's option.