

**City Council  
Agenda Memo**



**City Council  
Meeting Date: 05/28/15**

**TO: Robert Hanna, City Manager**  
**FROM: Megan R. Santee, Director of Public Works**  
**SUBJECT: Street Use License Agreement with Abilene Cultural Affairs Council and The Center for Contemporary Arts for 2015 “Children’s Art & Literacy Festival”**

**GENERAL INFORMATION**

The Abilene Cultural Affairs Council and The Center for Contemporary Arts have submitted a Street Use License (SUL) application to hold a public event entitled “Children’s Art & Literacy Festival” within the public right-of-way on North 1st Street and Cedar Street. The applicant wishes to close North 1st Street from the east right-of-way line of Cedar Street to the west right-of-way line of Cypress Street and Cedar Street from north right-of-way line of North 1<sup>st</sup> Street to the south right-of-way line of North 2<sup>nd</sup> for this event. The event will take place from Thursday, June 11<sup>th</sup> through Saturday, June 13<sup>th</sup>, 2015 throughout much of downtown. However, the applicant only wishes to close the aforementioned right-of-way for the event during the following times:

From 3:00 p.m. – 9:00 p.m. on Thursday, June 11, 2015  
From 8:00 a.m. – 6:00 p.m. on Friday, June 12, 2015  
From 8:00 a.m. – 6:00 p.m. on Saturday, June 13, 2015

The applicant has obtained the approval of all affected property owners and/or business tenants for this event.

**STAFF RECOMMENDATION**

Staff has reviewed this request and recommends that the City Council, by oral resolution, authorize the Mayor to execute the attached Street Use License Agreement with the Abilene Cultural Affairs Council and The Center for Contemporary Arts for the 2015 “Children’s Art & Literacy Festival” event.

**ATTACHMENTS**

Street Use License Agreement, Short Term

Prepared by:  Name: <u>Megan R. Santee</u>  Title: <u>Director Public Works</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
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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., 2015, 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 & The Center for Contemporary Arts 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 1st Street from the east right-of-way line of Cedar Street, to the west right-of-way line of Cypress Street. Closure of Cedar Street from the north right-of-way line of North 1<sup>st</sup> Street to the south right-of-way line of North 2<sup>nd</sup> 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 registration and festival events as part of the "Children's Art & Literacy Festival".

**II. Term of Agreement/Termination:**

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

From 3:00 p.m. – 9:00 p.m. on Thursday, June 11, 2015

From 8:00 a.m. – 6:00 p.m. on Friday, June 12, 2015

From 8:00 a.m. – 6:00 p.m. on Saturday, June 13, 2015

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

APPROVED:

\_\_\_\_\_  
City Attorney

NAME OF LICENSEE:

Agent for Abilene Cultural Affairs  
Council / The Center for Contemporary Arts

By: Audria Hammond  
Signature

AUDRIA HAMMOND  
Printed Name and Title

Business Address: 1101 N. 15T

ABILENE, TEXAS 79601

**STREET USE LICENSE AGREEMENT  
WITH ABILENE CULTURAL AFFAIRS COUNCIL AND  
THE CENTER FOR CONTEMPORARY ARTS  
FOR USE OF NORTH 1<sup>ST</sup> STREET AND CEDAR 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, as follows:

From 3:00 p.m. – 9:00 p.m. on Thursday, June 11, 2015

From 8:00 a.m. – 6:00 p.m. on Friday, June 12, 2015

From 8:00 a.m. – 6:00 p.m. on Saturday, June 13, 2015

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 THURSDAY, JUNE 4, 2015. The traffic control plan must be signed and dated by the one who prepared it. FAILURE TO COMPLY WITH THIS PROVISION MAY RESULT IN CANCELLATION OF THIS LICENSE.**
3. The Licensee shall contact all property owners and/or business tenants of properties on North 1st Street from Cedar Street to Cypress Street and on Cedar Street from North 1<sup>st</sup> to North 2<sup>nd</sup> Streets that would normally be open any time during the permitted closure periods to advise them of the proposed street closure and to work out arrangements to accommodate their access needs.
4. 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 Thursday, June 4, 2015. During the event, an event contact person shall be on-site at all times.
5. 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, and obtain one if a parade is planned for the event. 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.
6. 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.

7. 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.
8. 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.
9. 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.
10. 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.
11. **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.**
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.



STREET USE LICENSE AGREEMENT  
SHORT TERM

RECEIVED  
APR 30 2015  
BY:

APPLICATION

Applicant: Abilene Cultural Affairs Council/Center for Contemporary Arts Phone: 325-677-1161

Address: 1101 North First Street Abilene, Texas 79601

Agent: Audria Hammond Phone: 325-676-6200

Event name: Children's Art and Literature Festival (C.A.L.F) Event type: Festival

Description of public right-of-way proposed for the event/activity: Closure of North 1<sup>st</sup> Street from the east right-of way line of Cedar Street to the west right-of-way line of Cypress Street and closure of Cedar Street from the north right of way line of North 1st Street to the south right way of line of North 2nd Street.

Activities that will occur in the public right-of-way: Registration and Festival Events

Date & time period of event: Thursday, June 11, 2015 4:00 PM – 8:30 PM  
Friday, June 12, 2015: 9:00 am – 5:00 pm;  
Saturday, June 13, 2015 9:00 am – 5:00 pm

Date & time period of street closure: Thursday, June 11, 2015: 3:00 pm – 9:00 pm;  
Friday, June 12, 2015: 8:00 am – 6:00 pm;  
Saturday, June 13, 2015: 8:00 am - 6:00 pm

Expected peak attendance: Saturday, June 13, 2015 750 - 1000

Circle items to be offered at event: Food Beverages Alcohol  
(Snow-cones; soft drinks)

Preferred City Council meeting for request to be considered May 14, 2015 or May 28, 2015

Application is not complete unless all of the following are included:

- Application Fee - \$300 – (Request waiver of fees)
- Certificate or other evidence of insurance
- A dimensioned drawing showing public right-of-way, adjacent property in the vicinity of the proposed event, and locations of activity in right-of-way.

Audria Hammond  
Signature of Applicant or Agent

April 30, 2015  
Date

Return Application to:  
Land Agent  
City of Abilene  
PO Box 60  
Abilene TX 79604





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/7/2014

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: Teresa Netz, CIC, ACSR	
	PHONE (A/C No. Ext): (325) 695-0222 FAX (A/C No): (325) 695-0228 E-MAIL ADDRESS: tnetz@cbsins.com	
INSURED Center for Contemporary Arts 220 Cypress Street  Abilene TX 79601	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Travelers Lloyds Insurance Co	41262
	INSURER B: Travelers Cas. Ins. Co. of	
	INSURER C: Travelers Indemnity Co	25658
	INSURER D: Texas Mutual Insurance Company	22945
	INSURER E:	
	INSURER F:	

## COVERAGES

CERTIFICATE NUMBER: 13.14

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	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			680-1126P519TLC-13	10/15/2013	10/15/2014	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 - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER. <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
B	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS SCHEDULED AUTOS NON-OWNED AUTOS <input checked="" type="checkbox"/>			BA1127P227-13	10/15/2013	10/15/2014	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Hired Combined Single Limit \$ 1,000,000
	UMBRELLA LIAB EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 5,000			CUP1127P995-13	10/15/2013	10/15/2014	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	SBP0001184389	10/15/2013	10/15/2014	WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: 3rd Annual Children's Art &amp; Literacy Festival - June 12-15, 2014

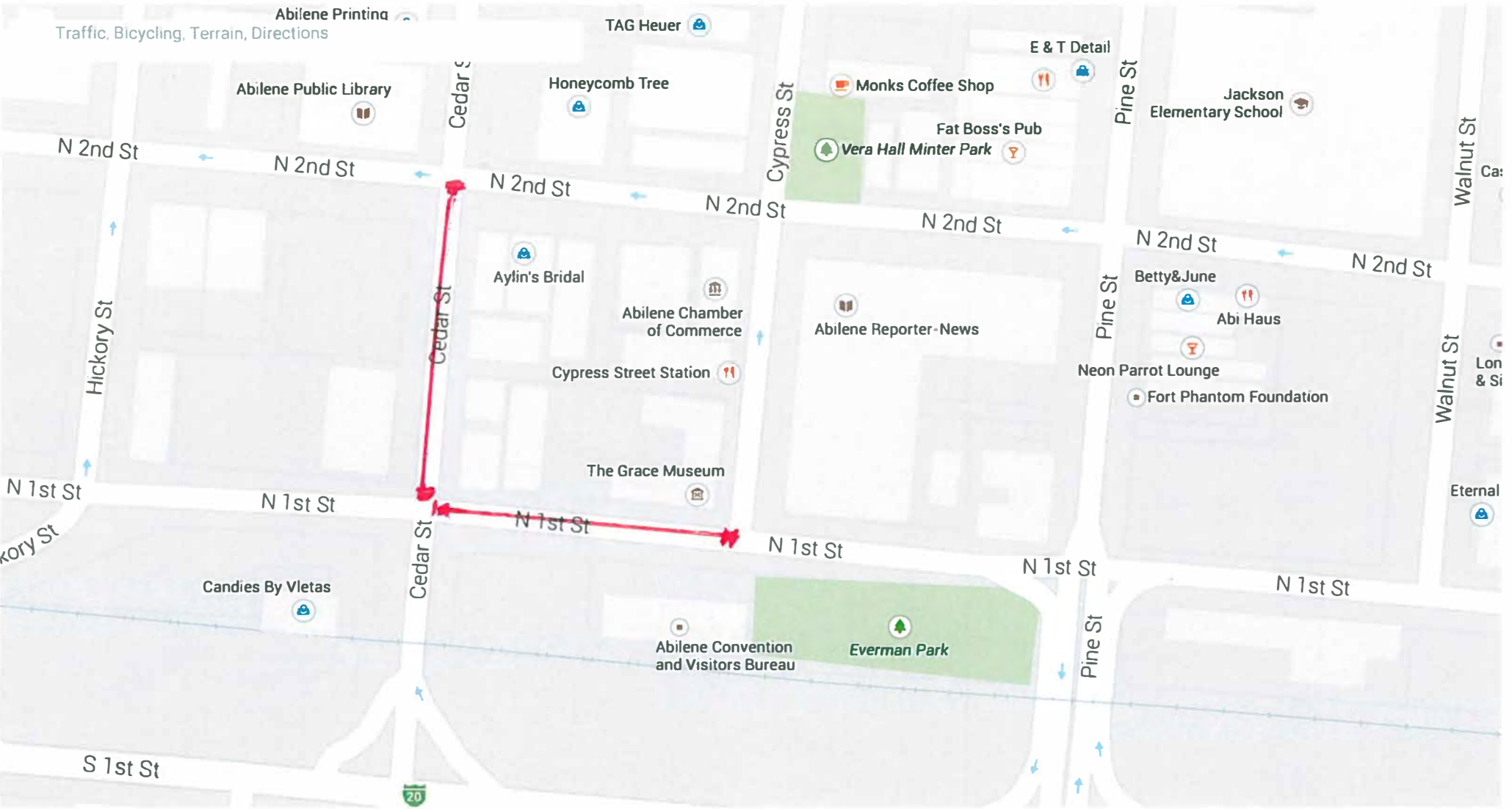
General &amp; Liquor Liability policy includes "Blanket" Additional Insured per Company form SB146932B 03/2006.

## CERTIFICATE HOLDER

## CANCELLATION

audria.hammond@abilenetx.c  City of Abilene 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  Peter Lauve/TNETZ


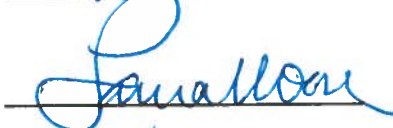



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# Children's Art and Literacy Festival (C.A.L.F.)

## June 11-13, 2015

Approval of property and /or business tenants for closure of North 1<sup>st</sup> Street from the east right-of way line of Cedar Street to the west right-of-way line of Cypress Street and Cedar Street from the north right of way line of North First Street to the south right of way line of North Second Street.

<b>Business</b>	<b>Phone Number</b>	<b>Signature</b>
<b>Abilene Preservation League</b> 1174 North 1st Street	325/676-3775	
<b>Grace Cultural Center</b> 102 Cypress Street	325/673-4587	
<b>NCCIL</b> 102 Cedar Street	325/673-4586	
<b>Texas Star Trading</b> 174 Cypress St	325/672-9696	
<b>Cypress Street Station</b> 158 Cypress	325/676-3463	
<b>Abilene Public Library</b> 202 Cedar Street	325/676-6221	