

**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 Christian University for "Christian Scholars Dinner"

GENERAL INFORMATION

Abilene Christian University has submitted a Street Use License (SUL) application to hold an event for the Christian Scholars 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 3rd Street to the south right-of-way-line of North 4th Street. The event will take place on Thursday, June 4th, 2015. The applicant wishes to close the aforementioned right-of-way for the event from 3:00pm to 8:30pm.

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 Abilene Christian University for the Christian Scholars Dinner.

ATTACHMENTS

Street Use License Agreement, Short Term

Prepared by:

Name: Megan R. Santee

Title: Director Public Works

Item No. 6.2

Disposition by City Council

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

City Secretary

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 Christian University 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 3^d Street to the south right-of-way line of North 4th 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:

Set up tables and chairs to provide dinner from local food trucks and attend a show at The Paramount for the Christian Scholars.

II. Term of Agreement/Termination

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

3:00pm to 8:30pm

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

II. 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.

IV. 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:

Abilene Christian University

By: DocuSigned by:
Steven G. Holley
95034C05396E49F Signature

Steven Holly, CFO

Printed Name and Title

Business Address: 1600 Campus Court

Abilene, Texas, 79699

CONDITIONS AND COVENANTS

EXHIBIT A

**STREET USE LICENSE AGREEMENT
WITH ABILENE CHRISTIAN UNIVERSITY
FOR USE OF CYPRESS 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. to 8:30 p.m. on each of the following dates:

June 4th, 2015

2. **The Licensee shall submit a Temporary Traffic Control (TTC) 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, June 1st, 2015. The TTC Plan shall include the name and signature of the person who prepared the plan and the date it was prepared. 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 within the closure area on Cypress Street that would normally be open any time during the permitted closure periods to advise them of the proposed street closure(s) and to work out arrangements to accommodate their access needs. The Licensee shall submit a list to the Public Works Department of all property owners and/or business tenants of properties within the closure area with an authorized signature of a person for each property/business, signifying their approval or disapproval of the street closure(s). It is the Licensee's responsibility to notify other downtown businesses located outside of the permitted street closure area of the closure(s), at Licensee's discretion.
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 Public

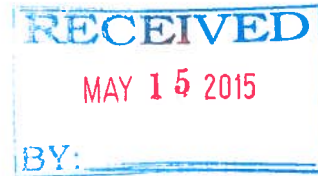
Works Department by June 1st, 2015. During the event, an event contact person shall be on-site at all times.

6. FOR EACH INDIVIDUAL EVENT: 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.
7. The Licensee shall insure that the events are 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(s) and shall comply with the requirements of the City smoking ordinance.
9. For each event, 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. For each event, 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. For each event, 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. For each event, 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. During each event, 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. For/during each event, 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. For each event, 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



APPLICATION

Applicant: Abilene Christian University Phone: (325) 674-2632

Address: ACU Box 27844 Abilene, TX 79699

Agent: Jennifer Ellison Phone: (325) 674-2632

Event name: Christian Scholars Dinner Event type: Dinner and show at The Paramount

Description of public right-of-way proposed for the event/activity: Cypress Street in front of
The Paramount Theatre between N3rd & N4th street

Activities that will occur in the public right-of-way: Dinner served by local food trucks,
tables and chairs will be set for patrons to use for seating

Date & time period of event: Thursday, June 4, 2015 - 5-8:30pm

Date & time period of street closure: 7am-8:30pm

Expected peak attendance: 400 people

Circle items to be offered at event: Food Beverages Alcohol

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

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

- Application Fee - \$300
- 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.

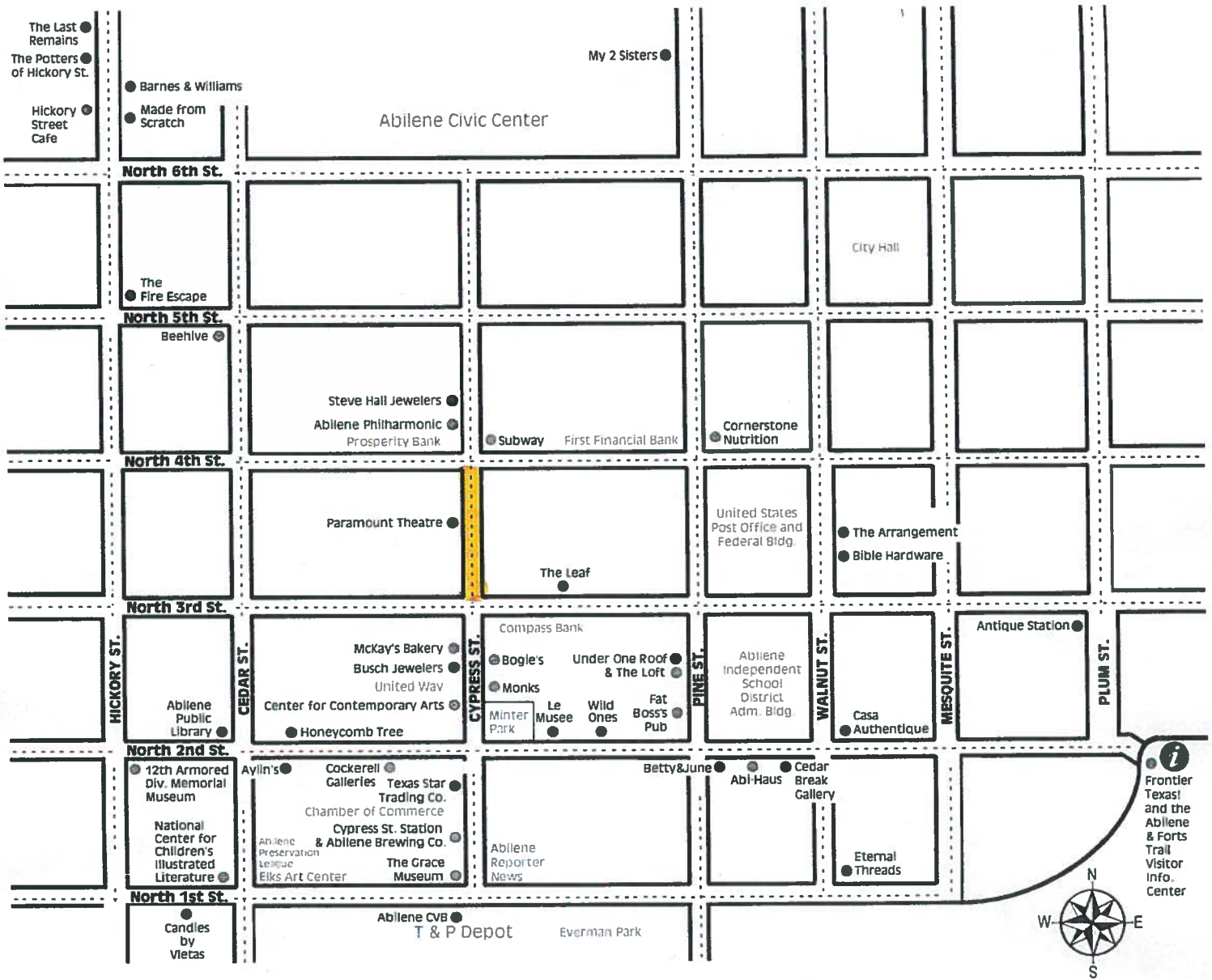
Jennifer Ellison


Signature of Applicant or Agent

5-14-15

Date

Return Application to:
Public Works Department
City of Abilene
PO Box 60
Abilene TX 79604



 Notes location of requested street use

ACU PD to provide traffic blocks + barricades



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/30/2014

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 Arthur J. Gallagher Risk Management Services, Inc. 1900 West Loop South Suite 1600 Houston, TX 77027 Norman Henley	1-713-623-2330	CONTACT NAME: Penny Carrizales PHONE (A/C, No, Ext): 713-358-5928 E-MAIL ADDRESS: Penny.Carrizales@ajg.com	FAX (A/C, No): 713-358-5929
INSURED Abilene Christian University ACU Box 28106 Abilene, TX 79699		INSURER(S) AFFORDING COVERAGE	
		INSURER A: UNITED EDUCATORS INS RRG INC	NAIC # 10020
		INSURER B: CHURCH MUT INS CO	18767
		INSURER C: TEXAS MUT INS CO	22945
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: 40516743 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 <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	X	X	CGL201400001100	07/01/14	07/01/15	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> Hired Car <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			05011909701067	05/31/14	05/31/15	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 1,000,000 OCCUR CLAIMS-MADE			GLX201400001100	07/01/14	07/01/15	EACH OCCURRENCE \$ 25,000,000 AGGREGATE \$ 25,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	TSF0011206202	06/01/14	06/01/15	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	License Professional Liab			LPD201400001100	07/01/14	07/01/15	Each Claim: 1,000,000 Annual Aggregate: 3,000,000

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

RE: Abilene Civic Center.
City of Abilene and Civic Abilene, Inc. are added Additional Insured with respects to the General Liability as required by written contract with Named Insured per form Form CGL 06-2008. A Waiver of Subrogation granted with respects to the General Liability as required by written contract with Named Insured per form CGL 06-2008.

CERTIFICATE HOLDER

City of Abilene
P.O. Box 60
Abilene, TX 79604

USA

CANCELLATION

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

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SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
06/30/2014

NAME OF INSURED: Abilene Christian University

Additional Description of Operations/Remarks from Page 1:

Named Insureds:

Abilene Christian University;

ACIMCO, Inc.;

ACU in Oxford;

Abilene Christian Schools, Inc.;

Abilene Christian University, Inc. DBA ACU Athletics;

Abilene Christian University, Inc. DBA ACU Campus Store;

Abilene Christian University, Inc. DBA ACU Theatre;

Abilene Christian University, Inc. DBA Women for ACU;

Stone-Campbell Restoration Movement Publishers Inc. DBA ACU Press/Hillcrest Publishing/Leafwood Press;

The ACU Foundation;

ACU Connected Consulting, Inc. DBA Connected Consulting;

ACU with a DBA of Abilene Christian University Press and Leafwood Publishers

Additional Information:

ABILENE CHRISTIAN UNIVERSITY STREET CLOSURE PERMIT REQUEST

Event: ACU's Christian Scholars Conference Block Party

Date: Thursday, June 4th

Street Closure Time: 3-8:30pm

Event Details: Food trucks, live band, tables, chairs approx. 400 people from 5-7:30pm. Tokens live radio show begins at 7:30pm in The Paramount.

In order to have the permit processed, we need to have a signature from the businesses on Cypress between 3rd & 4th.

We are not closing down Cypress to **foot traffic**. We still want people to access store fronts on Cypress St, they just won't be able to drive between 3rd & 4th after 3pm.

SIGNATURE: Melissa Borner

COMPANY NAME: Proforma

SIGNATURE: Lee Amy

COMPANY NAME: IN-Focus Digital

SIGNATURE: Sally M. King

COMPANY NAME: Paramount Theatre

SIGNATURE: _____

COMPANY NAME: _____

SIGNATURE: _____

COMPANY NAME: _____

SIGNATURE: _____

COMPANY NAME: _____