

PUBLIC NOTICE

DEVELOPMENT CORPORATION OF ABILENE, INC.

A regular meeting of the Development Corporation of Abilene, Inc. (DCOA) will be held on Monday, September 21, 2015, Develop Abilene Conference Room, 174 Cypress St., 3rd floor, Abilene, Texas, commencing at 1:30 p.m. to consider the following agenda:

SIGNED:


Kent Sharp, CEO of the DCOA

AGENDA

September 21, 2015
1:30 p.m.

Develop Abilene Conference Room
174 Cypress St., 3rd floor, Abilene, TX

1. Call the meeting to order.
2. Approval of minutes from the September 8, 2015, board meeting.
3. Sales tax report for September 2015.
4. Executive Session:
The DCOA reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any item on the agenda, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.074 (Personnel Matters) see list below, and 551.087 (Business Prospect/Economic Development). After discussion in executive session, any action or vote will be taken in public.

(Personnel) Section 551.074
The DCOA, pursuant to the adopted Bylaws, may consider the appointment, employment and duties of certain positions as well as membership of certain committees.
5. Discussion and possible approval of FY16 contracts with:
 - A. City of Abilene for Airport Business Development
 - B. City of Abilene for Business Services
 - C. Abilene Chamber of Commerce Military Affairs
 - D. Abilene Industrial Foundation
 - E. Small Business Development Center
6. Adjournment.

CERTIFICATE

I hereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of Abilene, Texas, on the _____ day of _____, 2015, at _____.

City Secretary

NOTICE

Persons with disabilities who would like special assistance or need special accommodations to participate in this meeting should contact Department of Economic Development, (325) 676-6390, at least forty-eight (48) hours in advance of this meeting. Telecommunication device for the deaf is (325) 676-6360.

DEVELOPMENT CORPORATION OF ABILENE, INC.
BOARD MEETING MINUTES
September 8, 2015

MEMBERS PRESENT: Dave Copeland Dani Ramsay John Beckham
Jack Rich Marelyn Shedd

STAFF PRESENT: Kent Sharp Kim Tarrant Stan Smith

GUESTS PRESENT: Justin Jaworski – Abilene Industrial Foundation
Brooke Crum – Abilene Reporter News
Bruce Kreitler – Abilene City Council

1. CALL THE MEETING TO ORDER: President Dave Copeland called the meeting to order at 1:31 p.m. at Abilene Laboratories, 1325 Pine St., Abilene Texas.

2. APPROVAL OF MINUTES FROM THE AUGUST 25, 2015 BOARD MEETING: Jack Rich moved to approve the minutes from the August 25, 2015, board meeting. Dani Ramsay seconded and the motion carried.

3. EXECUTIVE SESSION – SESSION 1: I hereby announce we are going into Executive Session pursuant to Texas Government Code Sections 551.071, 072, 074 and 087 to consult with our legal counsel, discuss real property transactions, personnel matters, and discuss economic development negotiations involving a business prospect, as set forth on the agenda. Any vote or action will be taken in open session.

President Dave Copeland announced the date is September 8, 2015, and the time is 1:33 p.m. Later, President Copeland announced the date is still September 8, 2015, and the time is 2:22 p.m. No vote or action was taken in Executive Session.

5. UNTABLE, DISCUSSION AND POSSIBLE APPROVAL OF A SETTLEMENT AGREEMENT WITH RECEPTOR LOGIC, INC: Kent Sharp brought before the board a settlement agreement with Receptor Logic, a previous project. The proposed agreement is a \$2,000,000 settlement over 10 yrs. at 6% interest, with payments being 5% of the company's gross monthly sales. After negotiating with DCOA's attorneys and Receptor Logic's attorneys, Staff recommends the board approve the proposed settlement with Receptor Logic.

Jack Rich moved to accept by oral resolution the settlement agreement with Receptor Logic as described and included in the oral resolution is authorization for Kent Sharp, CEO, to execute all necessary documents subject to receiving a Bill of Sale and an Assignment from Receptor Logic. John Beckham seconded and motion carried.

6. DISCUSSION AND POSSIBLE APPROVAL OF A RESOLUTION AUTHORIZING AMENDED DEBT RESTRUCTURE FOR BBP BIRD, LP SECURED BY THE TIGE BOATS MANUFACTURING FACILITY ON HWY 36: Kent Sharp presented to the board an amendment to previously approved resolution No. DCOA 2015.07, which authorized a debt restructure for BBP Bird, LP for the Tige Boats manufacturing facility on Hwy 36. The original resolution states the maturity date of the note as February 28, 2031. This date does not coincide with the maturity date set out in the original note. Staff is recommending the board approve an amended resolution wherein the maturity date of the note is corrected to July 1, 2031.

Dani Ramsay moved to approve Resolution No. 2015.07 (Amended) as presented with the maturity date changed to July 31, 2031, which coincides with the original note. John Beckham seconded and the motion carried. Marelyn Shedd abstained from voting.

4. DISCUSSION AND POSSIBLE APPROVAL OF ASSISTANCE FOR PROJECT GOLDSTAR: Kent Sharp presented to the board a \$9,000,000 incentive package for Project Goldstar, a pet food manufacturing company. The project will bring approximately 200 manufacturing jobs with headquarters positioned in Abilene. When all phases are complete this project will total \$30,000,000. The \$9 million is composed of two elements 1) the existing Spec 3 building and land with a value of \$5,000,000 and 2) \$4,000,000 toward finish out of the existing building for the company to occupy this space. Contribution by the DCOA is \$9 million toward the \$30 million overall project. The performance agreement will specify the company remain in Abilene for 8 years before fully earning their incentive. Project Goldstar will go before the City Council for final approval.

Jack Rich moved to approve Resolution No. DCOA 2015.18 authorizing financial assistance to Project Goldstar as presented, which will go before the City Council for presentation and final approval. Marelyn Shedd seconded and the motion carried.

7. DISCUSSION AND POSSIBLE ACTION BY ORAL RESOLUTION RELATED TO THE FIRST ANNUAL PERFORMANCE EVALUATION OF DCOA'S CEO, KENT SHARP: Dave Copeland President of the DCOA congratulated Kent Sharp on his one year anniversary as director of the DCOA and asked the board to approve in open session the performance evaluation along with a \$10,000 raise to his salary effective on the anniversary date.

Marelyn Shedd moved to approve by oral resolution the first annual performance evaluation on Kent Sharp with a \$10,000 raise to his salary. Jack Rich seconded and the motion carried.

3. EXECUTIVE SESSION – SESSION 2: I hereby announce we are going into Executive Session pursuant to Texas Government Code Sections 551.071, 072, 074 and 087 to consult with our legal counsel, discuss real property transactions, personnel matters, and discuss economic development negotiations involving a business prospect, as set forth on the agenda. Any vote or action will be taken in open session.

President Dave Copeland announced the date is September 8, 2015, and the time is 2:33 p.m. Later, President Copeland announced the date is still September 8, 2015, and the time is 3:02 p.m. No vote or action was taken in Executive Session.

8. ADJOURNMENT: There being no further business the meeting was adjourned.

Dave Copeland, President

MEMORANDUM

September 10, 2015

TO: Robert Hanna, City Manager
FROM: Mindy Patterson, Director of Finance
SUBJECT: September Sales Tax

The sales tax rebate for September is \$3,244,543.05 which represents July sales. This is 4.10% below last year and 2.03% above the revised FY 15 budget amount. The breakdown of the rebate is \$2,433,407.29 to the General Fund and \$811,135.76 for economic development. Of this rebate, \$139,989 is from prior periods, audit payments, future payments, and unidentified payments. For the period of October through September, sales tax is 4.32% above last year and .56% above the revised FY 15 budget amount. This rebate concludes our 2014-15 fiscal year. I have requested the detail from the state.

Should you have any questions, please contact me.

MP:ls

Cc: David Vela, Deputy City Manager

**CITY OF ABILENE
SALES TAX COMPARISON**

Accounting Period Month	GENERAL FUND	ECONOMIC DEVELOPMENT	TOTAL	GENERAL FUND	ECONOMIC DEVELOPMENT	TOTAL
	Actual 2013-14	Actual 2013-14		Actual 2014-15	Actual 2014-15	
October	\$2,445,377.87	\$815,125.96	\$3,260,503.83	\$2,605,980.73	\$868,660.24	\$3,474,640.97
November	2,690,282.27	896,760.76	3,587,043.03	2,963,660.77	987,886.92	3,951,547.69
December	2,299,504.67	766,501.56	3,066,006.23	2,510,766.92	836,922.30	3,347,689.22
January	2,232,726.16	744,242.05	2,976,968.21	2,394,359.96	798,119.98	3,192,479.94
February	3,184,058.27	1,061,352.76	4,245,411.03	3,411,247.43	1,137,082.47	4,548,329.90
March	2,231,833.90	743,944.63	2,975,778.53	2,278,078.73	759,359.57	3,037,438.30
April	2,178,587.64	726,195.88	2,904,783.52	2,201,001.23	733,667.07	2,934,668.30
May	2,944,225.82	981,408.61	3,925,634.43	3,058,881.51	1,019,627.17	4,078,508.68
June	2,319,035.66	773,011.89	3,092,047.55	2,468,865.01	822,955.00	3,291,820.01
July	2,382,921.14	794,307.05	3,177,228.19	2,336,436.58	778,812.19	3,115,248.77
August	2,900,442.34	966,814.11	3,867,256.45	2,994,226.69	998,075.56	3,992,302.25
September	2,537,417.37	845,805.79	3,383,223.16	2,433,407.29	811,135.76	3,244,543.05
FY TOTAL	\$30,346,413.11	\$10,115,471.05	\$40,461,884.16	\$31,656,912.85	\$10,552,304.23	\$42,209,217.08

NOTE: Report reflects the month sales tax is received from Austin. Revenue is recorded on this basis for budgetary purposed.

The Comprehensive Annual Financial Report (CAFR) will reflect revenue based upon the month the sales tax is paid by the vendor to the State Comptroller in accordance with GASB 33 requirements.

DEVELOPMENT CORPORATION OF ABILENE, INC.
1/2 CENT SALES TAX REVENUE
Monthly and Year-to-Year Comparisons

Accounting Period Month	Actual 2013-14	Actual 2014-15	% Change
October	\$815,126	\$868,660	6.57%
November	896,761	987,887	10.16%
December	766,502	836,922	9.19%
January	744,242	798,120	7.24%
February	1,061,353	1,137,082	7.14%
March	743,945	759,360	2.07%
April	726,196	733,667	1.03%
May	981,409	1,019,627	3.89%
June	773,012	822,955	6.46%
July	794,307	778,812	-1.95%
August	966,814	998,076	3.23%
September	845,806	811,136	-4.10%
FY TOTAL	<u>\$10,115,471</u>	<u>\$10,552,304</u>	<u>4.32%</u>

Note: Report reflects the month sales tax is received from Austin.
Revenue is recorded on this basis for budgetary purposes.

The Comprehensive Annual Financial Report (CAFR) will reflect revenue based upon the month the sales tax is paid by the vendor to the State Comptroller in accordance with GASB 33 requirements.

Revenue for September '15 represents July '15 sales. Approximately \$34,997 of the rebate is from prior periods, audit, and future payments.

Audit Payments: Larger businesses submit sales tax collections to the State Comptroller every month and smaller ones either quarterly or annually. The Comptroller audits the books of these businesses on a four year cycle to determine if sales tax was collected on all taxable sales. Audit collections represent the sales tax revenue from prior sales and submitted or refunded subsequent to the audit.

3.3

DEVELOPMENT CORPORATION OF ABILENE, INC.
1/2 CENT SALES TAX REVENUE
Five Year Comparison

Accounting Period Month	Actual 2010-11	Actual 2011-12	Actual 2012-13	Actual 2013-14	Actual 2014-15
October	\$661,859	\$890,386	\$855,868	\$815,126	\$868,660
November	774,838	964,808	891,956	896,761	987,887
December	647,119	725,276	773,104	766,502	836,922
January	693,114	941,066	728,710	744,242	798,120
February	978,890	1,175,879	1,012,685	1,061,353	1,137,082
March	646,308	732,189	821,529	743,945	759,360
April	641,310	769,064	800,963	726,196	733,667
May	948,413	977,461	965,056	981,409	1,019,627
June	741,634	766,944	827,415	773,012	822,955
July	749,767	756,886	826,951	794,307	778,812
August	1,013,393	920,096	927,272	966,814	998,076
September	799,173	800,200	797,862	845,806	811,136
FY TOTAL	\$9,295,819	\$10,420,256	\$10,229,372	\$10,115,471	\$10,552,304

Note: Report reflects the month sales tax is received from Austin.
Revenue is recorded on this basis for budgetary purposes.

The Comprehensive Annual Financial Report (CAFR) will reflect revenue based upon the month the sales tax is paid by the vendor to the State Comptroller in accordance with GASB 33 requirements.

3.4

DEVELOPMENT CORPORATION OF ABILENE, INC.

BOARD AGENDA

MEETING DATE: September 21, 2015

PROJECT: DCOA FY16 Contract Renewals

STAFF: Kent Sharp, CEO

GENERAL INFORMATION:

Since 1990, the DCOA has contracted with various agencies to perform services that assist with accomplishment of several of its goals, stated below:

1. To make Abilene competitive in the attraction of business and industry in order to create new, sustainable jobs.
2. To facilitate the creation of new jobs and retention of existing jobs by providing assistance to existing and emerging businesses.
3. To strengthen and expand the skills of the Abilene labor force in coordination with local employers.
4. To strengthen and revitalize downtown Abilene.
5. To increase the number and size of minority-owned, woman-owned, small and entrepreneurial businesses in Abilene.
6. To effectively administer the sales tax revenue.

The board provides funding for certain services performed by the City's Airport Business Development Management Program, City's Business Services Division (Economic Development Dept.), Abilene Industrial Foundation (AIF), Chamber Military Affairs, and Texas Tech University Small Business Development Center (SBDC).

SPECIAL CONSIDERATIONS:

In June of this year, the board approved a FY16 budget that included funding for the agencies listed above. Staff is submitting the renewal performance contracts for the board's approval. City Council will consider for approval the Airport Business Development Management Program FY16 contract during its meeting on September 22, 2015.

The funding of \$3,528,147 for City Business Services Division (ED Dept.) includes; 1) \$703,721 for operations, including staff costs, 2) \$2,303,286 for maintenance, repairs and insurance for all DCOA-owned properties, including roof replacement for the Spec 2 building leased to Pactiv, and 3) \$521,140 for utilities, maintenance, repairs and insurance costs for the life sciences properties at 1325 and 842 Pine St.

FISCAL IMPACT:

Funding approved in FY16 budget, as submitted and approved by City Council:

City Airport Business Development Management Program	\$ 182,721
City Business Services Division (ED Dept.)	\$3,528,147
Abilene Industrial Foundation	\$ 604,775
Chamber Military Affairs	\$ 397,000

TTU Small Business Development Center
TOTAL

\$ 200,000
\$4,912,643

STAFF RECOMMENDATION:

Staff recommends the Board approve the FY16 contract renewals with the agencies listed above and authorize the CEO to execute on the DCOA's behalf.

ATTACHMENT:

FY16 contracts with:

City of Abilene for Airport Business Development Management Program

Abilene Industrial Foundation

Chamber of Commerce Military Affairs

TTU Small Business Development Center

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THE STATE OF TEXAS X
 X KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TAYLOR X

THIS AGREEMENT, effective the 1st day of October, 2015, by and between the **City of Abilene**, a municipal corporation, situated in Taylor and Jones Counties, Texas, acting by and through its City Manager, (hereinafter referred to as "CITY"), and the **Development Corporation of Abilene, Inc.** (hereinafter referred to as "DCOA") acting by and through its President and in accordance with the Development Corporation Act of 1979, as amended:

WITNESSETH:

That for and in consideration of the covenants, promises, and agreements set forth herein, it is mutually agreed as follows:

I. PURPOSE

That the City agrees to administer the Airport Business Development Management Program designed to build activity within the Abilene Regional Airport’s business segments.

The City also agrees to provide, for no additional amount of assistance from the DCOA, access to the number of parking spaces in the Airport’s covered parking lot at the far north end needed to accommodate parking by employees of Eagle Aviation Services, Inc. (“EASI”).

II. DUTIES

A. CITY AGREES TO:

1. Continue to develop the Business Development Management Program at the Abilene Regional Airport by:
 - a. Participating in major area trade shows and continuing the community outreach efforts by seeking speaking engagements to civic groups throughout our 16 county catchment area that highlight the operations of the airport, construction updates, air service needs and fare comparisons, and
 - b. Marketing the airport amenities and upgrades using a variety of medium including television, radio, newspaper ads, billboards, individual events, sponsorships, publications, and social media promotions, and
 - c. Continuing the ABI-VIP Passenger Rewards Program and Passenger Appreciation Days to encourage air travel from Abilene.
 - d. Continuing to work with the air service consultant to retain the current air service and explore new service.
 - e. Attending the Network USA 2016 Conference.
2. Submit a written report to DCOA by April 10, 2016 of progress made through the

activities specified in Sec. A. 1., above, since October 1, 2015. The report shall also be presented orally to the DCOA during the April 2016 board meeting, or the first board meeting to occur subsequent to April 10, 2016.

In addition, a second written report will be submitted by October 10, 2016 of progress made since April 2016. Likewise, the report shall be presented orally to the DCOA during the October 2016 board meeting, or the first board meeting to occur subsequent to October 10, 2016.

3. Provide the number of needed parking spaces in the Airport's covered parking lot at the far north end to the DCOA for use by employees of Eagle Aviation Services, Inc. ("EASI").
4. Enforce all parking rules and regulations directly with EASI and notify the DCOA of any recurring problems or violations.
5. Continue policing the subject parking spaces as with the remainder of the parking lot and maintaining the covered awnings.

B. DCOA AGREES TO:

Provide the City funding in the total amount of One Hundred Eighty-Two Thousand Seven Hundred Twenty-One and no/100's Dollars (\$182,721) for the one-year period ending September 30, 2016, for the following:

- a. \$68,721 – operating support for the Business Development Management Program division of the Abilene Regional Airport, including a 3% salary increase.
- b. \$35,000 – consulting services for retaining current and exploring new air service and for aircraft maintenance services.
- c. \$70,000 – marketing airport services, amenities and upgrades using variety of medium including television, radio and newspaper ads to Catchment Area of 16 counties.
- d. \$5,000 – to contract with media production company for video, audio and graphic production; website hosting and maintenance; VIP Program maintenance.
- e. \$4,000 – expenses for 2 staff members to attend airport development conferences.
- f. Pay for all supplies necessary to allow EASI employee access to the parking lot and for all improvements and upgrades necessary to the parking spaces and surrounding area. The City shall provide the DCOA copies of invoices/receipts evidencing eligible expenses.

Funding amounts listed above may be moved from one category to the other only with the written authorization of the CEO.

III. TERMINATION

This contract may be terminated by the DCOA or the City, in whole, or from time to time, in part, upon good cause and whenever such termination is in the best interest of the DCOA or the City. Termination will be effective sixty (60) days after delivery of Notice of Termination specifying to what extent performance or work under the contract has been terminated and specifying that the contract shall be terminated sixty (60) days after receipt by the notified party.

If no notice of termination is received from either party prior to August 2, 2016, this contract expires without notification on September 30, 2016.

IV. OFFICIALS NOT TO BENEFIT

No public official of the governing body of the City or the DCOA who exercises any functions or responsibilities in the review or the approval of the undertaking or carrying out of any project hereunder, shall participate in any decision relating to the contract which affects his personal interest, nor shall he have any personal or pecuniary interest direct or indirect in this contract or proceeds thereof.

V. MINORITY AND SMALL BUSINESSES

The City will encourage and utilize small businesses and minority suppliers and services to the extent possible under present law for use in completion of this contract.

VI. EQUAL EMPLOYMENT OPPORTUNITIES

During the performance of this contract, the City agrees as follows:

The City will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability. The City will take affirmative action to ensure that applicants and their employees are treated equally without regard to race, color, religion, sex, national origin, or disability. The City agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause. The City will, in all solicitations or advertisements for employees placed by or on behalf of the City, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or disability.

VII. AGREEMENT:

This Agreement shall constitute the sole agreement between the City and the DCOA relating to the object of this Agreement and correctly sets forth the complete rights, duties, and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

WITNESS our hands to this AGREEMENT this _____ day of _____, 2015.

**DEVELOPMENT CORPORATION OF
ABILENE, INC.**
174 Cypress, Ste. 301
Abilene, Texas 79601

CITY OF ABILENE
P.O. Box 60
Abilene, Texas 79604

Kent Sharp, CEO

Robert Hanna, City Manager

ATTEST:

ATTEST:

Kim Tarrant, Chief Administrative Officer

Danette Dunlap, City Secretary

Approved as to form:

Stanley Smith, Asst. City Attorney

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THE STATE OF TEXAS X
 X
COUNTY OF TAYLOR X

KNOW ALL MEN BY THESE PRESENTS:

This Agreement, effective the 1st day of October 2015, by and between the **Development Corporation of Abilene, Inc.** ("DCOA"), acting by and through its Chief Executive Officer, 174 Cypress St., Ste. 301, Abilene, Texas, 79601, the **Abilene Industrial Foundation, Inc.**, Abilene, Texas ("AIF") located at 174 Cypress St., Ste., 300, Abilene, Texas, 79601.

WITNESSETH:

That for and in consideration of the covenants, promises, and agreements set forth herein, it is mutually agreed as follows:

I. PURPOSE

The AIF is a 501(c)(6) nonprofit corporation that, in part, fosters manufacturing and industrial expansion and job creation. The DCOA and AIF wish to enter into an agreement whereby the DCOA, acting in accordance with the Development Corporation Act of 1979 (as amended), contract for services and reimbursement for certain expenses incurred by the AIF for the purpose of promoting and marketing Abilene. Section 4A(b)(1) of the Development Corporation Act of 1979 (as amended) allows the DCOA to support promotional efforts designed to enhance the economic condition of the Abilene community.

The DCOA shall act through its agent, the Chief Executive Officer (CEO) or his duly authorized representative unless otherwise stated in this Agreement.

II. DUTIES

A. The DCOA shall:

1. Reimburse AIF for certain funds expended for operation of the AIF associated with promoting and marketing Abilene and vicinity in an amount not to exceed Six Hundred Four Thousand Seven Hundred Seventy-Five and no/100's Dollars (\$604,775) in accordance with the budget attached hereto as Exhibit A. Funding described herein shall be limited to activities beginning October 1, 2015 and ending on September 30, 2016, as follows:

- Operating expenses - \$429,775
- Marketing activities - \$175,000

Expenses shall be reimbursed to the AIF no later than 14 days after receipt of invoices detailing eligible expenses incurred, subject to reimbursement under this contract.

2. Monitor the use of such funds to ensure appropriate use of the funds. Funds shall be disbursed after execution of this Agreement and compliance with the provisions herein.

The AIF may then submit a written request for disbursement.

- B. The AIF agrees to:
1. Strengthen and diversify the economy of Abilene by retaining, expanding and attracting businesses to the various economic sectors of the city.
 2. Implement an approved marketing plan with the following objectives:
 - Achieve a maximum return on investment by producing quality prospects,
 - Maintain a break even strategy of managing costs to budget,
 - Establish a greater network of relationships with key decision makers, and
 - Produce a higher quality return on investment for its advertising efforts.
 3. Submit a written report to DCOA by April 10, 2016 of progress made in developing leads and prospects through activities specified in the above-mentioned Marketing Plan since October 1, 2015. The report shall also be presented orally to the DCOA during the April 2016 board meeting, or the first board meeting to occur subsequent to April 10, 2016.

In addition, a second written report will be submitted by October 10, 2016 of progress made since April 2016. Likewise, the report shall be presented orally to the DCOA during the October 2016 board meeting, or the first board meeting to occur subsequent to October 10, 2016.

4. Submit a draft copy of the Marketing Plan being developed by AIF for Fiscal Year 2016 to staff of the DCOA by June 1, 2016 for review and input prior to finalization of the Plan for budgeting and contracting purposes.
5. Administer a Retention & Expansion Visitation Program to include visiting local businesses to establish an atmosphere of trust between management, local economic development organizations and governments.
6. Furnish to staff of the Economic Development Department of the City of Abilene, within 30 days of the end of the invoice period and in the format specified by the DCOA, invoices detailing eligible expenses and a written report of activities in the areas of:
 - a. Direct Mail/Advertising
 - b. Prospect Response
 - c. Site Visits to Prospects
 - d. Prospect Visits to Abilene
 - e. Retention & Expansion Visits

The AIF may invoice the DCOA for expenses directly related to the implementation of the Abilene Industrial Foundation 2015-2016 Marketing Plan upon receipt of invoice for payment of services from the marketing firm hired to assist with implementation of said marketing plan. Each invoice submitted to the DCOA shall include a copy of a corresponding invoice from the marketing firm.

The AIF shall keep or cause to be kept an accurate record of all actions taken and other activities in the above-mentioned areas in pursuit of the objectives of the performance of this Agreement.

7. Provide support on national economic development issues using whatever resources are available.
8. Maintain and, upon request, make available for inspection, audit or reproduction by any authorized representative of the DCOA, books, documents and other evidence pertaining to the cost and expenses of this contract, hereinafter called the "Records", to the extent and in such detail as will properly reflect all costs, direct and indirect, of labor, material, equipment, supplies and services and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. All records shall be maintained in accordance with generally accepted accounting principles.
9. Maintain records for 3 years after final payment on any programs under this Agreement.
10. Adhere to the budget attached hereto as Exhibit "A". No shift in funds from any one of the following budget expenditure categories or items to another shall occur without prior written approval of the CEO:
 - a. Programs & Services
 - b. Administrative & General
 - c. Staff Expenses
 - d. Marketing Expenses
11. No later than March 31st following the closeout of the fiscal year, provide the CEO an annual audit conducted in accordance with standards established by the American Institute of Certified Public Accountants.
12. Exclude from any reimbursement invoice the following budget items which, by mutual consent of the DCOA and AIF, shall not be funded by the DCOA:
 - a. Pledge Drive Expense
 - b. Legislative
 - c. Sundry
 - d. Governmental Affairs
13. Fully cooperate with the DCOA in monitoring the effectiveness of the services and work to be performed by the AIF's compliance with the terms of this Agreement. The DCOA shall have access at all reasonable hours to offices and records of the AIF, its officers, directors, agents and employees for the purpose of monitoring the funds, expenditures, and all activities of the AIF which are the basis of this Agreement.
14. Carry out all activities in compliance with the Development Corporation Act of 1979 (as amended) (the Act). The AIF has read and is familiar with the terms and conditions of the Act under which these funds are granted. The AIF shall fully comply with said terms and conditions. The AIF shall use said funds strictly for those purposes and goals intended under the terms and conditions of this Agreement.

15. Comply with the terms and provisions of the Texas Public Information Act.

III. DURATION, TERMINATION

This contract may be terminated by the DCOA or AIF in whole, or from time to time, in part, upon good cause and whenever such termination is in the best interest of the DCOA or the AIF. Termination will be effective 60 days after delivery of Notice of Termination specifying to what extent performance or work under the contract has been terminated and specifying that the contract shall be terminated 60 days after receipt by the notified party. If no notice of termination is received from either party prior to August 2, 2016, this contract expires without notification on September 30, 2016.

IV. STATUS OF AIF AS INDEPENDENT CONTRACTOR

AIF shall operate hereunder as Independent Contractor and not as officers, agents, servants, or employees of the DCOA. AIF shall have exclusive control of, and the exclusive right to control, the details of the work and services performed hereunder, and all persons performing same so long as such services are consistent with this agreement. For the duration of this Agreement, AIF shall be solely responsible for the acts and omissions of their officers, directors, authorized agents, servants, and employees in connection with this Agreement.

The DCOA shall not be responsible or liable for the acts or omissions of AIF's officers, directors, agents, or employees nor vice versa. The doctrine of respondeat superior shall not apply between the DCOA and AIF and any subcontractors. The doctrine of respondeat superior shall not apply between the Contractors and their subcontractors, program participants, licensees or invitees.

AIF shall not be responsible or liable for the acts or omissions of the DCOA's officers, directors, agents, or employees. The doctrine of respondeat superior shall not apply between AIF and the DCOA or between DCOA and any subcontractors of AIF.

Nothing herein shall be construed as creating a partnership or joint enterprise between the DCOA and AIF. It is expressly agreed that no officer, director, member, agent, employee, subcontractor, licensee, or invitee of AIF is in the paid service of the DCOA. The DCOA does not have the legal right to control the details of the tasks performed hereunder by AIF, its officers, directors, members, agents, employees, subcontractors, program participants, licensees, or invitees. In no event shall any person participating in the program of AIF be an officer, agent, servant, or employee of the DCOA.

V. VENUE

Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance, attempted performance or non-performance of this Agreement, venue for said action shall be in the City of Abilene, Taylor County, Texas.

VI. ASSIGNMENT

The AIF shall not assign all or any part of their rights, privileges, or duties under this Agreement without the DCOA's prior written approval. Any attempted assignment of same without approval shall be void, and shall constitute a breach of this Agreement.

VII. INDEMNITY

AIF shall operate hereunder as an Independent Contractor and not as an officer, agent, servant, or employee of DCOA and/or City. Nothing herein shall be construed as creating a partnership or joint enterprise between DCOA and/or City and AIF. It is expressly agreed that no officer, director, member, agent, employee, subcontractor, licensee, or invitee of AIF is in the paid service of DCOA and/or City. DCOA and/or City do not have the legal right to control the details of the tasks performed hereunder by AIF, its officers, directors, members, agents, employees, subcontractors, program participants, licensees, or invitees.

AIF further agrees that it shall at all times exercise reasonable precautions on behalf of, and be responsible for the safety of, its officers, agents, employees, customers, visitors, as well as their property, while performing the tasks required under this Agreement.

AIF agrees to indemnify, hold harmless, and defend DCOA and the City, their respective officers, agents, and employees from and against all liability for claims, liens, suits, demands, and/or actions for damages, injuries to person (including death), property damage (including loss of use), and expenses including court costs and attorney's fees, and reasonable costs arising out of or resulting from AIF's activities conducted under or incidental to this Agreement and from any liability arising out of or resulting from the intentional acts or negligence, including all such causes of action based on common, constitutional, or statutory law, or based in whole or in part on the negligent or intentional acts or omissions of AIF, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

Further, the DCOA and the City assume no responsibility or liability for harm, injury, or any damaging events which are directly or indirectly attributable to premise defects which may now exist or which may hereafter arise upon the premises, responsibility for any and all such defects being expressly assumed by AIF. This indemnity provision applies to any and all claims, suits, demands, and/or actions based upon or arising from any such premise defects or conditions, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

It is further agreed with respect to the above indemnity that the DCOA and AIF will each provide the other prompt and timely notice of any event covered which in any way, directly or indirectly, contingently or otherwise, affects or might affect AIF or DCOA, and each shall have the right to reasonably compromise and defend the same to the extent of its own interest.

VIII. AGREEMENT

This Agreement shall constitute the sole agreement between AIF and the DCOA relating to the object of this Agreement and correctly sets forth the complete rights, duties, and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

**ABILENE INDUSTRIAL
FOUNDATION, INC.**

**DEVELOPMENT CORPORATION OF
ABILENE, INC.**

Scott Hibbs, FY16 Chairman

Kent Sharp, Chief Executive Officer

Date: _____

Date: _____

ATTEST:

ATTEST:

Iris Kammerdiener, Administrative Asst.
Abilene Industrial Foundation

Kim Tarrant, Chief Administrative Officer

APPROVED:

Stanley Smith, Asst. City Attorney

S:\DCOA\Annual Contracts\Abilene Indust Found\FY 2015\FY2016 AIF Contract.docx

Exhibit "A"
AIF PROPOSED BUDGET FY2015-16

	FY 2015 Budget Ending 9/30/2015	Proposed Budget FY2016	Net Change
Program and Services Expenditures			
Equipment	\$ 3,600	\$ 3,600	\$ -
Prospect Development	\$ 60,000	\$ 60,000	\$ -
Special Functions	\$ 1,000	\$ 1,000	\$ -
Total	\$ 64,600	\$ 64,600	\$ -
Administrative and General Expenditure			
Accounting Services	\$ 9,600	\$ 9,600	\$ -
Auditing and Legal	\$ 2,000	\$ 2,000	\$ -
Automobile	\$ 2,000	\$ 2,000	\$ -
Office Supplies	\$ 3,600	\$ 3,600	\$ -
Repair / Maintenance	\$ 1,000	\$ 1,000	\$ -
Postage	\$ 1,000	\$ 1,000	\$ -
Printing	\$ 1,000	\$ 1,000	\$ -
Telephone	\$ 5,000	\$ 5,000	\$ -
Internet Expense	\$ 1,000	\$ 1,000	\$ -
Rental of Facilities	\$ 26,000	\$ 26,000	\$ -
Equipment Rental	\$ 2,200	\$ 2,200	\$ -
Dues and Subscriptions	\$ 4,000	\$ 4,000	\$ -
Travel and Professional Activity	\$ 5,800	\$ 5,800	\$ -
Property Insurance	\$ 2,625	\$ 2,625	\$ -
Liability Insurance	\$ 600	\$ 600	\$ -
Computer Services	\$ 3,000	\$ 3,000	\$ -
Total	\$ 70,425	\$ 70,425	\$ -
Staff Expenditure			
Contracted Services	\$ 3,600	\$ 3,600	\$ -
Salaries TOTAL	\$ 230,000	\$ 230,000	\$ -
Payroll Tax TOTAL	\$ 17,500	\$ 17,500	\$ -
Group Insurance TOTAL	\$ 18,500	\$ 23,000	\$ 4,500
Retirement TOTAL	\$ 17,500	\$ 13,000	\$ (4,500)
Unemployment Tax TOTAL	\$ 450	\$ 450	\$ -
Workers Comp Tax TOTAL	\$ 1,200	\$ 1,200	\$ -
Professional Development	\$ 6,000	\$ 6,000	\$ -
Total	\$ 294,750	\$ 294,750	\$ -
Marketing Expenditure			
Advertisements	\$ 20,000	\$ 20,000	\$ -
Marketing Material	\$ 15,000	\$ 15,000	\$ -
Web Site	\$ 5,000	\$ 1,000	\$ (4,000)
Membership and Affiliations	\$ 10,000	\$ 10,000	\$ -
Public Relations	\$ 49,000	\$ 53,000	\$ 4,000
Local Communications	\$ 15,000	\$ 15,000	\$ -
Direct Mail	\$ 1,000	\$ 1,000	\$ -
Site Consultant Activity	\$ 25,000	\$ 25,000	\$ -
Business Retention Activity	\$ 5,000	\$ 5,000	\$ -
Trade Shows / Conferences	\$ 30,000	\$ 30,000	\$ -
Total	\$ 175,000	\$ 175,000	\$ -

5.13

THE STATE OF TEXAS X
 X
COUNTY OF TAYLOR X

KNOW ALL MEN BY THESE PRESENTS:

This Agreement, effective the 1st day of October 2015, by and between the **Development Corporation of Abilene, Inc.** ("DCOA"), acting by and through its Chief Executive Officer, 174 Cypress St., Ste. 301, Abilene, Texas, 79601, the **Abilene Chamber of Commerce**, Abilene, Texas ("ACOC"), located at 174 Cypress St., Ste., 200, Abilene, Texas, 79601.

WITNESSETH:

That for and in consideration of the covenants, promises, and agreements set forth herein, it is mutually agreed as follows:

I. PURPOSE

The ACOC is a 501(c)(6) nonprofit organization with the purpose, in part, of promoting and improving business in the Abilene community. The DCOA and ACOC wish to enter into an agreement whereby the DCOA, acting in accordance with the Development Corporation Act of 1979 (as amended), may reimburse certain expenses incurred by the ACOC while pursuing additional missions and improvements for Dyess Air Force Base. Section 4A(b)(1) of the Development Corporation Act of 1979 (as amended) allows the DCOA to support promotional efforts designed to enhance the economic condition of the Abilene community.

The DCOA shall act through its agent, the Chief Executive Officer (CEO) or his duly authorized representative unless otherwise stated in this Agreement.

II. DUTIES

A. The DCOA agrees to:

1. **Reimburse** ACOC for expenses incurred while supporting Abilene in order to maintain a proactive position with regards to Dyess Air Force Base. Said amount to be reimbursed shall not exceed Three Hundred Ninety Seven Thousand and no/100's Dollars (**\$397,000**) for the period beginning October 1, 2015, through September 30, 2016. DCOA shall reimburse ACOC no later than fourteen days after receipt of invoices for approved expenses under this agreement. Funds shall be disbursed after execution of this Agreement and in compliance with the provisions herein.

Reimbursement for expenses shall be as described below:

- a. "Operational" expenses up to **\$157,000** for items such as, but not limited to, airfare (coach), hotel accommodations, and meals for trips by ACOC staff, Military Affairs Committee members, and/or invitees, to travel to Department of Defense (DoD) installations, legislative locations, military-related conferences or meetings, and DoD Contractor sites. Allowable expenses shall also include photocopying, mileage expenses to/from meetings, telephone charges, Abilene Trophy production and shipping, Dyess video production or modifications, and

receptions or other social gatherings for DoD and legislative officials and representatives.

- b. “Operational” expenses that are specifically NOT eligible for reimbursement include those expenses incurred during fund-raising efforts or incidental to the daily affairs of the Military Affairs Committee and not directly related to attempts to enhance the position of Abilene and Dyess AFB as a military installation (e.g., the “World’s Largest Barbeque”).
 - c. “Personnel” expenses up to **\$240,000** for salaries and fees paid to ACOC staff and/or their subcontractors in support of Abilene while pursuing additional missions and improvements for Dyess AFB. These expenses will be paid to the ACOC Vice President for Military Affairs, to other ACOC staff who are detailed to support Military Affairs engagements, and to such subcontractors or consultants as ACOC deems appropriate to retain.
 - d. The allocations between the “Operations” and “Personnel” categories are intended as a guideline, not a limitation. ACOC may adjust allocation between categories if they deem it appropriate, with the approval of the ACOC President. If the total of adjustments between categories exceeds **\$5,000** for the year, ACOC will notify DCOA, in writing, of the change within 30 days following the decision. Any expenses which would cause the overall expenses to exceed the contract total of **\$397,000** must be requested and approved by DCOA, in writing, prior to expenditure by ACOC.
2. **Monitor** the use of such funds to ensure appropriate use. DCOA will NOT require itemized expenses or receipts for each event, but will review the overall invoices to ensure proper use of DCOA funds. If there is a question about fund use for a specific event, DCOA may, on a case-by-case basis, request additional documentation (e.g. receipts, etc.) from ACOC, to clarify the matter and maintain transparency and accountability.
 3. **Provide** a DCOA board member or representative as an ex-officio member of the Military Affairs Committee, to act as a liaison between the DCOA and Committee.

B. The ACOC agrees to:

1. **Direct** the efforts of ACOC staff, the Military Affairs Committee, and subcontractors and consultants (if any), to preserve the significant economic impact Dyess AFB provides to the Abilene area. This includes, but is not limited to, monitoring legislative discussions on potential Base Realignment and Closure (BRAC) efforts, establishing and maintaining enduring relationships with key military and legislative decision makers, engaging with community leaders from other military communities, and identifying and pursuing opportunities to expand operations at Dyess.
2. **Submit** invoices for eligible expenses to DCOA for reimbursement. These invoices should describe the nature of the charges to the extent necessary to allow DCOA to determine the appropriateness of the expenses. The intent of this agreement is that this

should NOT be construed as requiring ACOC to submit receipts and itemization for every item, but rather a descriptive summary and a total.

3. **Monitor** the use of DCOA funds to ensure appropriate use of said funds, as stipulated in Sec. II.A.1. (above).
4. **Present** a semiannual oral report to DCOA, detailing progress made in identifying and pursuing opportunities to retain and expand military operations at Dyess. The report shall be presented during the April 2016 DCOA Board meeting, or soon thereafter.
5. **Submit** a written report to DCOA by October 31, 2016, summarizing progress and activity during Fiscal Year 2016. The report shall be presented during a regular DCOA board meeting in November 2016, or soon thereafter.
6. **Appoint** a DCOA board member or representative as an ex-officio member of the Military Affairs Committee, to act as a liaison between the DCOA and Committee.
7. **Maintain**, for three (3) years after final payment under this contract, any receipts, invoices, books, documents, and other evidence pertaining to the cost and expenses of this contract, hereinafter called the "Records," to the extent and in such detail as will properly reflect all costs, direct and indirect, of travel, supplies and services and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. All records shall be maintained in accordance with generally accepted accounting principles.
8. **Upon request**, make available for inspection or audit by any authorized representative of the DCOA, any Records necessary to resolve questions about reimbursements made under this Agreement, with the ultimate goal of maximizing transparency and accountability.

III. DURATION AND TERMINATION

This contract may be terminated by the DCOA or ACOC in whole, or from time to time, in part, upon good cause and whenever such termination is in the best interest of the DCOA or the ACOC. Termination will be effective 60 days after delivery of Notice of Termination specifying to what extent performance or work under the contract has been terminated and specifying that the contract shall be terminated 60 days after receipt by the notified party. If no notice of termination is received from either party prior to August 2, 2016, this contract expires without notification on September 30, 2016.

IV. STATUS OF ACOC AS INDEPENDENT CONTRACTOR

ACOC shall operate hereunder as Independent Contractors and not as officers, agents, servants, or employees of the DCOA. ACOC shall have exclusive control of, and the exclusive right to control, the details of the work and services performed hereunder, and all persons performing same so long as such services are consistent with this agreement. For the duration of this Agreement, ACOC shall be solely responsible for the acts and omissions of their officers, directors, authorized agents, servants, and employees in connection with this Agreement.

DCOA shall not be responsible or liable for the acts or omissions of ACOC's officers, directors, agents, or employees nor vice versa. Conversely, ACOC shall not be responsible or liable for the acts or omissions of the DCOA's officers, directors, agents, or employees. The doctrine of *respondet superior* shall NOT apply between the DCOA and ACOC or their subcontractors, program participants, licensees or invitees.

Nothing herein shall be construed as creating a partnership or joint enterprise between the DCOA and ACOC. It is expressly agreed that no officer, director, member, agent, employee, subcontractor, licensee, or invitee of ACOC is in the paid service of the DCOA. DCOA does not have the legal right to control the details of the tasks performed hereunder by ACOC, its officers, directors, members, agents, employees, subcontractors, program participants, licensees, or invitees. In no event shall any person participating in the program of ACOC be an officer, agent, servant, or employee of the DCOA.

V. VENUE

Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance, attempted performance or non-performance of this Agreement, venue for said action shall be in the City of Abilene, Taylor County, Texas.

VI. ASSIGNMENT

The ACOC shall not assign all or any part of their rights, privileges, or duties under this Agreement without the DCOA's prior written approval. Any attempted assignment of same without approval shall be void, and shall constitute a breach of this Agreement.

VII. INDEMNITY

ACOC shall operate hereunder as an Independent Contractor and not as an officer, agent, servant, or employee of DCOA and/or City. Nothing herein shall be construed as creating a partnership or joint enterprise between DCOA and/or City and ACOC. It is expressly agreed that no officer, director, member, agent, employee, subcontractor, licensee, or invitee of ACOC is in the paid service of DCOA and/or City. DCOA and/or City do not have the legal right to control the details of the tasks performed hereunder by ACOC, its officers, directors, members, agents, employees, subcontractors, program participants, licensees, or invitees.

ACOC agrees that it shall at all times exercise reasonable precautions on behalf of, and be responsible for the safety of, its officers, agents, employees, customers, visitors, as well as their property, while performing the tasks required under this Agreement.

ACOC agrees to indemnify, hold harmless, and defend DCOA and the City, their respective officers, agents, and employees from and against all liability for claims, liens, suits, demands, and/or actions for damages, injuries to person (including death), property damage (including loss of use), and expenses including court costs and attorney's fees, and reasonable costs arising out of or resulting from ACOC's activities conducted under or incidental to this Agreement and from any liability arising out of or resulting from the intentional acts or negligence, including all such causes of action based on common, constitutional, or statutory law, or based in whole or in part on the negligent or intentional acts or omissions of ACOC, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

Further, the DCOA and the City assume no responsibility or liability for harm, injury, or any damaging events which are directly or indirectly attributable to premise defects which may now exist or which may hereafter arise upon the premises, responsibility for any and all such defects being expressly assumed by ACOC. This indemnity provision applies to any and all claims, suits, demands, and/or actions based upon or arising from any such premise defects or conditions, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

It is further agreed with respect to the above indemnity that the DCOA and ACOC will each provide the other prompt and timely notice of any event covered which in any way, directly or indirectly, contingently or otherwise, affects or might affect ACOC or DCOA, and each shall have the right to reasonably compromise and defend the same to the extent of its own interest.

VIII. AGREEMENT

This Agreement shall constitute the sole agreement between ACOC and the DCOA relating to the object of this Agreement and correctly sets forth the complete rights, duties, and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

ABILENE CHAMBER OF COMMERCE

**DEVELOPMENT CORPORATION OF
ABILENE, INC.**

Charlie Black, 2015-16 Chairman
Date: _____

Kent Sharp, Chief Executive Officer
Date: _____

ATTEST:

ATTEST:

Name/Title:
Date: _____

Kim Tarrant, Chief Administrative Officer
Date: _____

APPROVED:

Stanley Smith, Asst. City Attorney

THE STATE OF TEXAS X
 X
COUNTY OF TAYLOR X

KNOW ALL MEN BY THESE PRESENTS:

This Agreement, effective the 1st day of October, 2015, by and between the **Development Corporation of Abilene, Inc.** ("DCOA"), acting by and through its Chief Executive Officer, and Texas Tech University ("TECH"). The designated agent for TECH that provides services is the **Small Business Development Center** ("SBDC"), 749 Gateway St. #301 Building C, Abilene, TX 79602.

WITNESSETH:

That for and in consideration of the covenants, promises, and agreements set forth herein, it is mutually agreed as follows:

I. PURPOSE

The SBDC partners with the U. S. Small Business Administration, which operates a system of over 1110 centers, and Texas Tech University as the host institution. The SBDC provides one-on-one counseling, business plan development, and financial planning for small businesses, free of charge, in a 16 county area surrounding Abilene, Texas. The SBDC also provides assistance to area firms interested in international trade and doing business with federal, state, and local government entities.

The DCOA and the SBDC wish to enter into an agreement whereby the DCOA, acting in accordance with the Development Corporation Act of 1979, as amended, may reimburse certain expenses incurred by the SBDC to provide counseling services and contract procurement services to small business owners based within the City of Abilene and the City's extraterritorial jurisdiction. This will allow the SBDC to continue to leverage federal and state funds in providing the assistance.

The DCOA shall act through its agent, the Chief Executive Officer, or his duly authorized representative, unless otherwise stated in this agreement.

II. DUTIES

A. The DCOA agrees to:

1. Reimburse the SBDC a portion of the total expenses incurred for providing business counseling to new and existing small business owners located in the City of Abilene and its extraterritorial jurisdiction. Said amount to be reimbursed shall be calculated at an equivalent hourly rate of \$75.00 and shall not exceed \$200,000.00 for the period beginning October 1, 2015 through September 30, 2016.

5.19

B. The SBDC agrees to:

1. Provide counseling services, to include but not be limited to, the areas of business plans, record keeping, market feasibility, inventory control and accounting procedures to small business clients in the city limits of Abilene and the city's extraterritorial jurisdiction, free of charge.
2. Provide assistance with international trade and government contracting and procurement to Abilene business people wanting to sell their goods/services to federal, state and local governmental agencies.
3. Provide review and evaluation services for the SBIR/STTR programs.
4. Submit a written report to DCOA by April 10, 2016 of progress made through the activities specified above since October 1, 2015. The report shall also be presented orally to the DCOA during the April 2016 board meeting, or the first board meeting to occur subsequent to April 10, 2016.

In addition, a second written report will be submitted by October 10, 2016 of progress made since April 2016. Likewise, the report shall be presented orally to the DCOA during the October 2016 board meeting, or the first board meeting to occur subsequent to October 10, 2016.

5. Furnish to the DCOA Chief Executive Officer, within 30 days of the end of the invoice period, invoices detailing eligible expenses and a written report of the following:
 - a. Counseling hours spent with each Abilene client and a summary of actions taken;
 - b. The number of jobs created or retained by clients; and
6. Maintain and, upon request, make available for inspection or audit by any authorized representative of the DCOA, books, documents, and other evidence pertaining to the cost and expenses of this contract, hereinafter called the "Records", to the extent and in such detail as will properly reflect all costs, direct and indirect, of labor, material, equipment, supplies and services and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. All records shall be maintained in accordance with generally accepted accounting principles.
7. Maintain records for three (3) years after final payment on any programs under this contract.

III. DURATION, TERMINATION

This contract may be terminated by the DCOA or the SBDC, in whole or in part, whenever such termination is in the best interest of the DCOA or the SBDC. Termination will be effective sixty (60) days after delivery of Notice of Termination specifying to what extent performance or work under the contract has been terminated. If no notice of termination is received from either party prior to August 2, 2016, this contract expires without notification on September 30, 2016.

IV. STATUS OF SBDC AS INDEPENDENT CONTRACTOR

SBDC shall operate hereunder as an Independent Contractor and not as an officer, agent, servant, or employee of the DCOA. SBDC shall have exclusive control of, and the exclusive right to control, the details of the work and services performed hereunder, and all persons performing same as long as such services are consistent with this agreement. For the duration of this Agreement, SBDC shall be solely responsible for the acts and omissions of SBDC's officers, directors, authorized agents, servants, and employees in connection with this Agreement.

The DCOA shall neither be responsible nor liable for the acts or omissions of SBDC's officers, directors, agents, or employees. The doctrine of respondeat superior shall not apply between the DCOA and SBDC or between the DCOA and any subcontractors.

SBDC shall neither be responsible nor liable for the acts or omissions of the DCOA's officers, directors, agents, or employees. The doctrine of respondeat superior shall not apply between SBDC and the DCOA nor between the SBDC and any subcontractors.

Nothing herein shall be construed as creating a partnership or joint enterprise between the DCOA and SBDC. It is expressly agreed that no officer, director, member, agent, employee, subcontractor, licensee, or invitee of SBDC is in the paid service of the DCOA. The DCOA does not have the legal right to control the details of the tasks performed hereunder by SBDC, its officers, directors, members, agents, employees, subcontractors, program participants, licensees, or invitees. In no event shall any person participating in the program of SBDC be an officer, agent, servant, or employee of the DCOA.

V. VENUE

Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance, attempted performance or non-performance of this Agreement, venue for said action shall be in the City of Abilene, Taylor County, Texas.

VI. ASSIGNMENT

The SBDC shall not assign all or any part of its rights, privileges, or duties under this Agreement without the prior written approval of the DCOA. Any attempted assignment of same without approval shall be void, and shall constitute a breach of this Agreement.

VII. INDEMNITY

To the extent allowable by the laws and constitution of the State of Texas, the SBDC agrees to indemnify, hold harmless and defend DCOA and the City of Abilene ("City"), their respective officers, agents, and employees from and against all liability for claims, liens, suits, demands, and/or actions for damages, injuries to person (including death), property damage, (including loss of use), and expenses including court costs and attorney's fees, and reasonable costs arising out of or resulting from SBDC's activities under this Agreement and arising out of or resulting from the intentional acts or negligence of SBDC, its officers, agents, employees, or invitees.

SBDC further agrees that it shall at all times exercise reasonable precautions on behalf of, and be responsible for the safety of, its officers, agents, employees, customers, visitors, as well as their property, while performing the tasks required under this Agreement.

It is further agreed with respect to the above indemnity that the DCOA and SBDC will each provide the other prompt and timely notice of any event covered which in any way, directly or indirectly, contingently or otherwise, affects or might affect SBDC or DCOA, and each shall have the right to reasonably compromise and defend the same to the extent of its own interest.

VIII. AGREEMENT

This Agreement shall constitute the sole agreement between the SBDC and the DCOA relating to the object of this Agreement and correctly sets forth the complete rights, duties, and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

**TEXAS TECH UNIVERSITY FOR THE
SMALL BUSINESS
DEVELOPMENT CENTER**
2579 S. Loop 289, Suite 210
Lubbock, TX 79423

**DEVELOPMENT CORPORATION OF
ABILENE, INC.**
P.O. Box 60
Abilene, TX 79604-0060

Kathleen Harris, Associate Vice President
For Research

Kent Sharp, Chief Executive Officer

Date: _____

Date: _____

ATTEST:

ATTEST:

Name:
Title:

Kim Tarrant, Chief Administrative Officer

Approved as to form:

Stanley Smith, Asst. City Attorney