

**ABILENE CITY COMMISSION - REGULAR MEETING AGENDA**  
**ABILENE PUBLIC LIBRARY, 209 NW FOURTH STREET**  
**July 13, 2015 - 4:00 pm**

1. **Call to Order**
2. **Roll Call:**     \_\_\_ Weishaar   \_\_\_ Marshall   \_\_\_ Payne   \_\_\_ Shafer   \_\_\_ Ray
3. **Pledge of Allegiance**

**Consent Agenda** (*Consent Agenda items will be acted upon by one motion unless a majority of the City Commission votes to remove an item for discussion and separate action.*)

4. Agenda Approval for the July 13, 2015 City Commission Meeting
5. Meeting Minutes: June 22, 2015 Regular Meeting

**Public Comments and Communications**

6. **Public Comments.** Persons who wish to address the City Commission regarding items not on the agenda and that are under the jurisdiction of the City Commission may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court are not permitted. Speakers are limited to three minutes. Any presentation is for informational purposes only. No action will be taken.
7. **Declaration.** At this time City Commissioners may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

**Proclamations and Recognition**

8. None

**Public Hearings**

9. None

**Old Business**

10. None

**New Business**

11. Consideration of an Ordinance approving a Conditional Use Permit for 102 Highland Drive, at the request of Scott and Tracy Osterman, for the operation of a bed and breakfast inn in an "R-1, Low Density Residential District" in the City of Abilene, Kansas.
12. Consideration of a Resolution approving a Financial Services Agreement with Piper Jaffray & Co. for financial services related to the issuance of Series 2015-A General Obligation Bonds and Series 2015-B General Obligation Refunding Bonds of the City of Abilene, Kansas.
13. Consideration of a motion accepting the terms of financing from First Bank Kansas concerning the issuance of Series 2015-A General Obligation Bonds and Series 2015-B General Obligation Refunding Bonds of the City of Abilene, Kansas.
14. Consideration of a Resolution approving a Master Agreement with Alfred Benesch and Company concerning engineering services for the Abilene Municipal Airport.
15. Consideration of a Resolution approving a Professional Services Agreement with Olsson Associates concerning engineering services for the City of Abilene, Kansas.
16. Consideration of a motion to accept a bid of \$286,588.40 from APAC-Shears for the implementation of the 2015 Local Street Improvement Program.

17. **Consideration of a motion to recess into executive session for the purposes of discussing non-elected personnel for fifteen minutes to include the City Manager.**
18. **Consideration of a motion to return from executive session with only those items mentioned in the previous item being discussed and no action being taken.**

**Reports**

19. **City Manager's Report**
20. **Expenditures Report**

**Adjournment**

21. **Consideration of a motion to adjourn the July 13, 2015 City Commission meeting. *(The City Commission will conduct a Budget Work Session following the regular meeting.)***

**Future Meeting Reminders: *(All meetings at Abilene Public Library unless otherwise noted)***

- Planning Commission meeting, July 14 at 4:30 pm
- Sister City Committee, July 14 at 7 pm (CVB)
- Heritage Commission meeting, July 16 at 4:00 pm
- Economic Development Council, July 21 at 4:00 pm
- Commission Study Session, July 21 at 7:00 pm
- Omitama Sister City Delegation to Abilene

**Abilene City Commission Minutes**  
**Abilene Public Library**  
**June 22, 2015 @ 4:00 p.m.**  
**Abilene, Kansas**

**1. Call to Order**

**2. Roll Call** – City Commission Present: Mayor Weishaar, Commissioners Ray, Payne, Marshall and Shafer.

Staff Present: City Manager Dillner, Deputy City Clerk Mohr, Finance Director Rothchild, City Attorney Guilfoyle, Convention & Visitors Bureau Director Purkis, Parks & Recreation Director Foltz, and City Inspector Stuck.

Others Present: Gary Hanson-Stumbo Hanson, LLP, Rick Benware-Flint Hills Grain/Gavilon, Beth Weibert-Flint Hills Grain/Gavilon, Charles Ault-Duell-Norton Wasserman Jones & Kelly, LLC, Hank Royer, Mary Carson-Triplett Woolf & Garretson, LLC, Dustin Avey-Piper Jaffray, Floyd Danner, Rod Markley, James Stout, Bruce Dale and Mike Heronemus-Abilene Reflector Chronicle.

**3. Pledge of Allegiance** - Mayor Weishaar led the Pledge of Allegiance.

**Consent Agenda**

4. Agenda Approval for the June 22, 2015 City Commission Meeting

5. Meeting Minutes: June 8, 2015, Regular Meeting

6. Acceptance of the First Quarter, 2015 Financial Reports and Utilization Statistics from Memorial Health System, Inc., on behalf of the Public Building Commission of the City of Abilene, Kansas.

Motion by Commissioner Marshall, seconded by Commissioner Ray to approve the Consent Agenda as presented. Motion carried unanimously 5-0.

**Public Comments and Communications**

**7. Public Comments.** Persons who wish to address the City Commission regarding items not on the agenda and that are under the jurisdiction of the City Commission may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court are not permitted. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.

Mayor Weishaar asked for any comments or communications from the public that are not on the agenda.

There were no public comments or communications.

**8. Declaration.** At this time City Commissioners may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations.

**Proclamations and Recognition**

9. There were no proclamations or recognitions.

## Public Hearings

### **10. A Public Hearing to receive and hear complaints and objections to the proposed Special Assessments for the construction of the Improvements in the City, as authorized by Resolutions No. 061013-2 and 030915-2 of the City of Abilene, Kansas.**

City Manager Dillner gave information about the proposed Special Assessments related to the Dawson Cottage Addition. Mary Carson, Dustin Avey and himself conducted a conference call with one of the property owners opposing their special assessments and they have come up with a proposal that all parties have agreed upon.

Mayor Weishaar opened the public hearing at 4:04 p.m.

Mary Carson, Triplett Woolf & Garretson, LLC, said she was here last meeting and we adjourned the public hearing on this because we had a letter of objection to calculations of assessments on the property owned by the Huston's, the former Eagle's property. In addressing the concerns that were expressed by their attorney and also by looking at the assessment rolls we have figured out that one thing that had happened was there were sanitary sewer improvements that were not petitioned for so they were not authorized to be assessed, so we pulled that piece of that cost out and made that a City at large cost. We also discussed with Charles Ault-Duell, the attorney for the Huston's, regarding how to address their complaints to the assessments to the improvement costs for the water line and their concerns that since the Eagles did already have existing water service and was not going to be tapping into the new water line that runs on the south side of the property. Since they would not be accessing that service they believe that they should not be assessed that particular cost, that their property was not benefitted by it at this time.

When we looked at it, we agreed that was a reasonable point to be made. If the property develops at some point and there is an attachment to the new water line, the property owner at that time would pay for not only a connect fee but also some sort of a special fee that would reimburse the City for the cost of that portion of the water line cost. After we discussed all of this, we recalculated the assessment roll and that is what is before you tonight. We have amended that ordinance to include that as well.

City Manger Dillner stated the City of Abilene will be responsible for approximately \$48,720.00. The sanitary sewer cost will come from the sanitary sewer fund, the portion of the cost that is related to water will come from the water fund and the City will assess an impact fee on those properties so as they develop they will then pay a building permit plus the impact fee so the City will be reimbursed for those out of pocket costs up front. The bulk of the project is sanitary sewer related so a majority of the at-large costs will come from the sanitary sewer fund which currently has a balance of about \$1.6 million in it.

Charles Ault-Duell-Norton Wasserman Jones & Kelly, LLC, attorney for Huston said he and his clients do support the proposed amendments that Mary pointed out. To be clear, there is a third parcel, which is Prairie Hills Lot 2, that his client will be paying full freight on. It is just the western two properties that already had water service on that we objected to and that issue has been resolved successfully with staff.

Mayor Weishaar closed the public hearing at 4:09 p.m.

## Old Business

### **11. Consideration of an Ordinance approving a Conditional Use Permit for 109 S. Elm Street, at the request of Flint Hills Grain, LLC, for the construction of a grain storage bin duplex in an "I-1, Light Industrial District" in the City of Abilene, Kansas.**

City Manager Dillner presented information regarding the Conditional Use Permit for 109 S. Elm Street. The Planning Commission recommends approval with the following conditions being met:

- a. The property owner shall dedicate sufficient real property to the City to address, to the satisfaction of the City Attorney, the existing encroachment on the public right-of-way and to bring the property into compliance with existing setback requirements for the applicable zoning district.
- b. The Applicant is proposing several items to address dust and noise issues of the operation. Any replacement of aeration fans or related equipment must be of similar or higher quality grade.
- c. The property owner shall apply an acceptable surface treatment on-site to reduce dust caused by vehicular traffic entering, traveling through and exiting the site prior to the issuance of a Certificate of Occupancy. The Applicant will submit to the City a specification sheet of the product proposed for use. The City will monitor the site for dust resulting from vehicular movements on the site following the issuance of the Certificate of Occupancy.
- d. Applicant shall provide the City with an annual inspection report of the facilities and providing documentation of any repairs completed during the year to address any mechanical equipment issues.
- e. The Applicant shall comply with all applicable federal and state environmental air quality laws.
- f. A Certificate of Occupancy for the new facility shall only be granted upon submittal of an approved traffic plan which addresses the following items: 1) traffic movements to and from the site shall not unduly impede public access to the public right-of-way; and 2) trucks shall not double stack on any public street in a manner that prevents use of the public right-of-way.
- g. The City will enforce the provisions of the Conditional Use Permit as provided in Article 30 of the Zoning Regulations. Such enforcement may include revocation of the Conditional Use Permit.

Commissioner Shafer asked what the purpose of zoning ordinances.

City Attorney Guilfoyle said the purposes of zoning ordinances are to control growth and expansion within the City, to designate areas where certain types of growth can take place. They keep things such as a meat packing plant from opening up downtown, something like that would be an obnoxious type use. They put everything in its own zone and keep it there.

Commissioner Shafer asked what the purpose of setbacks are.

City Attorney Guilfoyle stated setbacks are to insure there is enough room for utilities and expansion of the street if need be.

City Attorney Guilfoyle said the City is not being asked to change the zoning ordinance. The property in question is already zoned "I-1, Light Industrial". The only thing that is happening is that on an I-1 property a grain elevator is a conditional use. That is exactly what it says in the zoning code so in order for them to proceed with a new grain elevator on that spot they have to go through the conditional use process. That is mandated, they are following the zoning code to a "T"

Commissioner Shafer said he agrees with that. He thinks we would have wound up in this same position had this all occurred prior to the construction, it would not have made a difference.

City Manager Dillner said the only thing that would have been different is the setback issue would not exist.

Commissioner Shafer asked if it was Attorney Guilfoyle's legal opinion that this will withstand any court challenges.

City Attorney Guilfoyle stated it is his opinion that if it goes to court the conditional use won't be upset by the court. One thing we have to remember here is the argument can be made by Flint Hills that they really didn't need this conditional use permit because if it was an expansion of an existing use within the contiguous area, arguably you don't need the conditional use permit.

Mayor Weishaar said this has been an unfortunate series of events with plenty of anks on both sides of the issue and it has been very sensitive for a number of reasons. He is pleased that we have gotten this far and that Flint Hills Grain has agreed to do everything they have been asked to do and more. At this point he will support this going forward.

Motion by Commissioner Shafer, seconded by Commissioner Ray to adopt Ordinance No. 3271 **AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR 109 S. ELM STREET, AT THE REQUEST OF FLINT HILLS GRAIN, LLC, FOR THE CONSTRUCTION OF A GRAIN STORAGE BIN IN AN "I-1, LIGHT INDUSTRIAL DISTRICT: OF THE CITY OF ABILENE, KANSAS.** Motion carried 4-1, Commissioner Marshall voting no.

## **12. Consideration of an Ordinance vacating a portion of a Right-of-Way and Street within the city limits of the City of Abilene, Kansas.**

City Attorney Guilfoyle stated there is a problem with the setback where the grain bin is currently located. A building permit was issued by the City, probably in error, at one point. The foundations of the building were built prior to actually knowing that it was into the right-of-way. The actual grain bin itself sticks out six feet into the City street right-of-way on the west side of Elm Street. The setbacks in that area, if it is a front, are 25 feet so that would put approximately 3 foot into the street itself. What he has proposed is that the City vacates the right-of-way which is all the way to the curb and approximately 3 feet into the street which would be the curb and gutter and a few inches of asphalt. As part of that, Flint Hills would agree to enter into a joint use agreement with the City, which allows the City to work on the right-of-way and to do whatever they need to do in the right-of-way without any legal consequences to the City. The City would retain any easements for utilities that would be going through that area but all of the utilities have been relocated or were already located on the east side of Elm Street. That might be a side setback of the actual buildings and then there would be no setbacks at all, it would be zero. They could build right up to the right-of-way which would still be six foot over onto the City's right-of-way. To make sure everything is covered and we don't have to come back again, we have a shared road agreement with Flint Hills, the City should be covered. The public will not be out anything, the street will still be there and the public can use it, nobody's right to use that street is going to be interfered with. He recommends this ordinance be passed.

Hank Royer said he is there representing several concerned citizens. His concern is that from the get go the plan by Flint Hills was to build this into the City street. The plans they submitted in December showed it would be 6.7 feet into the City street and would need 20 feet of frontage so they were actually planning on building it in the City street from day one. The City issued a building permit and on March 24<sup>th</sup> they started construction.

On that very day I became aware of where they were building to. I called it to the attention of the City that very day of where they were building to and that they were building in the City right-of-way. Everyone is aware that they were building on the City street, they had a survey that showed it and I later had a survey done that confirmed it, yet they were allowed to construct it which is history now. They worked on it rather vigorously before the conditional use permit came up on May 12<sup>th</sup>. At that time the Planning Commission was told there was going to be a land swap.

In fact in the conditional use permit, the very first condition says that they will dedicate to the City of Abilene adequate land to allow them to acquire the land they need. That is what the Planning Commission ordered, that is what you just approved. I pointed out to the Planning Commission that you can't swap land; it is not legal in Kansas. I stated the authority and apparently it was agreed upon. Now it is before you requesting that you just give them 26.7 feet of the street to this foreign corporation. The land belongs to the tax payers, the citizens of Abilene. I think that is wrong. I don't think they should just come and build an elevator that won't fit on their land; they could have built a smaller structure. I don't think it is right for you to ask the tax payers to give up their street for this company to build something that doesn't fit on their own land.

Hank Royer said when they started using their scale; it is also built in violation of the City zoning. The frontage or it is possibly also on the street. I did not have time to have a survey done but the east corner of the old scale is 16 feet from the street and the entire new scale operation is built on the other side of it so they have to totally be violating the setback requirement and they are probably in the City street with their scale also, they designed it also to be in violation. I don't think that their intentional building of structures that are too big for their own land should be blessed by you at the expense of the taxpayers with no consideration and the Planning Commission was told there is going to be a land swap and they are not going to give it to you then the Planning Commission should have been able to reconsider this because they may have gone with a different decision if they thought the City was going to be taken on it.

Hank Royer said if you approve this, in the ordinance itself it states that it will not be effective for 30 days. I ask you to note that you cannot issue an occupancy permit for that structure during those 30 days because it is a right of any taxpayer to appeal this. This is so unusual; the law is written that any taxpayer has 30 days to appeal this.

Gary Hanson-Stumbo Hanson, LLP, attorney for Flint Hills Grain, said in response to Mr. Royer's comments, we had a survey complete, the facility is he is talking about are not on City property and it is his understanding that where that is located a different set back applies because it is a side street that adjoins a front street. Our survey demonstrates that Mr. Royer's concerns are unfounded.

Mr. Hanson said as to this ordinance, this is not extraordinary or unusual, it is in State law. The criteria for you to act on this ordinance are very straight forward, is this necessary or expedient. It is not a gift, it is a vacation of a portion of a street which in return the City is being granted full use of that street that it currently enjoys. The City doesn't own that land the way it owns park land or vacant land that might be developed sometime in the future, it is held for a very specific purpose for the use of the right-of-way. The City will still have the use of that right-of-way for utilities, vehicles, emergencies etc. To some extent the company has agreed to share in the cost of maintenance and improvement of that. As to the expediency, Mr. Royer insists that the Planning Commission can't consider economic impact and that you cannot consider economic impact and I can assure economic impact is what these things are all about. Certainly the impact that this improvement has on the City of Abilene, the company has 15 full time employees, has just spent \$3.5 million improving its facilities that allows it to be economically viable in Abilene for years to come. It certainly has an impact and it is expedient to the City to take reasonable measures outlined here in order to allow that to occur.

Motion by Commissioner Ray, seconded by Commissioner Payne to adopt Ordinance No. 3275 **AN ORDINANCE VACATING A PORTION OF A RIGHT-OF-WAY AND STREET WITHIN THE CITY OF ABILENE, KANSAS.** Motion carried 4-1, Commissioner Marshall voting no.

**13. Consideration of an Ordinance of the City of Abilene, Kansas, levying Special Assessment Taxes on certain real properties in the City, for the purposes of paying the cost of certain internal improvements benefiting such real properties; providing notice of and collection of such Special Assessment Taxes.**

Dustin Avey-Piper Jaffray, presented information regarding levying Special Assessments on the Dawson Cottage Addition. We usually allow 30 days as a prepay period for payment of special assessments. The two property owners involved have agreed to reduce that to a 15 day prepay period. Once the financing is completed we will certify the special assessments.

Motion by Commissioner Payne, seconded by Commissioner Marshall to approve Ordinance No. 3273 **AN ORDINANCE OF THE CITY OF ABILENE, KANSAS, LEVYING SPECIAL ASSESSMENT TAXES ON CERTAIN REAL PROPERTIES IN THE CITY, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF INTERNAL IMPROVEMENTS BENEFITING SUCH REAL PROPERTIES; PROVIDING FOR GIVING NOTICE OF THE SPECIAL ASSESSMENTS TAXES BY PUBLICATION AND MAILING; AND PROVIDING FOR THE COLLECTION OF SPECIAL ASSESSMENT TAXES.**

Motion carried unanimously 5-0.

**New Business**

**14. Consideration of a Resolution of the City of Abilene, Kansas, authorizing and providing for the underwriting and offering for sale of the City's (I) General Obligation Bonds, Series 2015-A in the approximate principal amount of \$375,000 and (II) General Obligation Refunding Bonds, Series 2015-B in the approximate principal amount of \$1,365,000.**

Dustin Avey-Piper Jaffray, said this covers a couple of items. In 2013 the City issued temporary notes in the amount of \$380,000 to fund the initial improvements. Once the project is completed we will certify the final costs of the project and go through the proceedings to levy assessments against the properties benefited from the improvements. In this case there are a couple of different twists, there is a City at-large portion and the balance of the project will be then assessed to the properties. We will go through a pre-pay period so the property owners will know exactly what their pre-pay amounts are. They will have 15 days to decide if they want to pre-pay their assessments. If they pre-pay them we will take the pre-payment dollars and we will reduce the amount of the bonds issued against the improvements. If they do not pre-pay them we will do a long term financing for them and the properties will be assessed over a ten year period. The bond issue is anticipated to be about \$375,000 before any funds are prepaid.

From a logistics standpoint rates are still very favorable. Your local banks have been very supportive of your bond issues in the past. We will send out letters to all local banks requesting terms and conditions for financing by July 7<sup>th</sup>. Upon getting those terms and condition we will prepare documents which are most beneficial to the City. We will then bring this back to the City Commission on July 27<sup>th</sup> for approval.

The other component of this is interest rates still remain at favorable levels and in 2007 the City approved a sales tax .35% for the purpose of the library and pool project. Those bonds can be refinanced at anytime so as

part of this process, and given what current interest rates are, we thought we would send the same letter to local banks as well to see if the terms and conditions would be favorable as far as providing a savings by refinancing.

Mayor Weishaar stated if he understands the action puts the process in motion and before final action is taken on this bond issue, it will still come back to this body.

Dustin Avey said that is correct.

Motion by Commissioner Ray, seconded by Commissioner Marshall to approve Resolution No. 062215-1 A **RESOLUTION OF THE CITY OF ABILENE, KANSAS AUTHORIZING AND PROVIDING FOR THE UNDERWRITING AND OFFERING FOR SALE OF THE CITY'S (I) GENERAL OBLIGATION BONDS, SERIES 2015-A IN THE APPROXIMATE PRINCIPAL AMOUNT OF \$375,000 AND (II) GENERAL OBLIGATION REFUNDING BONDS, SERIES 2015-B IN THE APPROXIMATE PRINCIPAL AMOUNT OF \$1,365,000.** Motion carried unanimously 5-0.

**15. Motion to accept a bid of \$69,730.00 from J. V. Manufacturing, Inc. for a horizontal material baler for the Recycling Center.**

City Manager Dillner presented information regarding bids received for a horizontal baler for the Recycling Center. Bids were requested from 3 companies and 2 companies returned bids. It is recommended to accept the low bid from J. V. Manufacturing, Inc. in the amount of \$69,730.00. This will be paid from the capital balance in the recycling fund.

Motion by Commissioner Payne, seconded by Commissioner Ray to approve the bid from J. V. Manufacturing for a horizontal baler for the Recycling Center in the amount of \$69,730.00. Motion carried unanimously 5-0.

## **Reports**

### **16. City Manager Reports**

City Manager Dillner reported there is a budget study session following the meeting today.

City Manager Dillner will be out of the office on Friday, June 26<sup>th</sup> for a KMIT board meeting.

### **17. Expenditure Report**

## **Adjournment**

### **18. Consideration of a motion to adjourn the June 22, 2015 City Commission meeting.**

Motion by Commissioner Payne, seconded by Commissioner Marshall to adjourn at 4:50 p.m. Motion carried unanimously 5-0.

(Seal)

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Dennis P. Weishaar, Mayor

ATTEST:

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Shayla L. Mohr  
Deputy City Clerk

**ORDINANCE NO. 3276**

**AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR 102 HIGHLAND DRIVE, AT THE REQUEST OF SCOTT AND CHRIS OSTERMANN, CONCERNING THE OPERATION OF A BED AND BREAKFAST INN IN AN “R-1, LOW DENSITY RESIDENTIAL DISTRICT” OF THE CITY OF ABILENE, KANSAS**

**WHEREAS**, the property owners of record have requested the City consider a Conditional Use Permit to allow for the operation of a bed and breakfast inn at property generally described as 102 Highland Drive in Abilene, Kansas, as provided in **Exhibit A** as attached hereto;

**WHEREAS**, the Planning Commission conducted a public hearing on June 9, 2015, and comments were received from the public both in support of and in opposition to the proposed Conditional Use Permit; and

**WHEREAS**, the Planning Commission recommended the Governing Body approve a Conditional Use Permit allowing the operation of a bed and breakfast inn at the aforementioned address.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:**

**SECTION ONE.** Findings of Fact. That the Findings of Fact, as provided in the Staff Report attached hereto, are hereby accepted and approved by the City Commission.

**SECTION TWO.** Conditional Use Permit. That a Conditional Use Permit is hereby granted to Flint Hills Grain, LLC. for the construction of a grain storage bin as generally provided in the Conditional Use Permit application, as attached hereto on property legally described as follows:

*A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE 6TH P.M., IN THE CITY OF ABILENE, DICKINSON COUNTY, KANSAS, DESCRIBED AS FOLLOWS:*

*BEGINNING AT A POINT ON THE NORTH LINE OF SAID SECTION 16, 40 FEET WEST OF THE NORTHEAST CORNER OF SAID NORTHWEST CORNER; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID QUARTER SECTION 200.0 FEET; THENCE WEST 150.0 FEET; THENCE NORTH 200.0 FEET TO THE NORTH LINE OF SAID SECTION 16; THENCE EAST OF THE NORTH LINE OF SAID SECTION 16, 150.0 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART DEEDED FOR PUBLIC HIGHWAY PURPOSES.*

**SECTION THREE.** Permit Conditions, Approval. Per Section 26-110, the Planning Commission may impose, and City Commission may approve, reasonable conditions on approval of a Conditional Use

Permit. Additional conditions for this permit are approved as provided in the Staff Report as attached hereto.

**SECTION FOUR. Implementation.** The City Manager, or designee, is hereby authorized to issue a Conditional Use Permit once all conditions have been reasonably met.

**SECTION FIVE. Effective Date.** This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

**PASSED AND ADOPTED** by the Governing Body of the City of Abilene, Kansas this 13<sup>th</sup> day of July, 2015.

**CITY OF ABILENE, KANSAS**

By: \_\_\_\_\_  
Dennis P. Weishaar, Mayor

ATTEST:

\_\_\_\_\_  
Penny Soukup, CMC

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark Guilfoyle, P.A.  
City Attorney

**EXHIBIT A**

**Conditional Use Permit Application**

**and**

**Staff Report**

**for**

**102 Highland Drive**

**City of Abilene, Kansas**

**July 13, 2015**

## STAFF REPORT

### ***PC 15-5 Consideration of a Conditional Use Permit for 102 Highland Drive to become a bed and breakfast inn.***

#### GENERAL INFORMATION

<b>Date:</b>	June 2, 2015
<b>Owner:</b>	Scott and Christine Ostermann
<b>Applicant:</b>	Chris Ostermann
<b>Requested Action:</b>	Consideration of a Conditional Use Permit
<b>Purpose:</b>	To allow a single family home to be converted into a Bed and Breakfast
<b>Location address:</b>	102 Highland Drive
<b>Comprehensive Plan:</b>	The Comprehensive Plan shows this address as "Low Density Residential."
<b>Sites Existing Zoning:</b>	"R-1 – Low Density Residential"
<b>Surrounding Zoning and Land Use:</b>	North <i>C-3 Commercial</i>
	South <i>R-1 Low Density Residential</i>
	East <i>C-3 Commercial</i>
	West <i>R-1 Low Density Residential</i>
<b>Land Area:</b>	The site contains approximately 0.5 acres
<b>Notice Date:</b>	The proposal was published in the official newspaper on May 19, 2015 and noticed by mail as required by the Zoning Regulations.

#### COMMENTS

- **Departmental Comments:** No comments have been received at the time of writing this report: June 3, 2015 at 10:15 am.
- **Public Comments:** No comments have been received at the time of writing this report: June 3, 2015 at 10:15 am.

#### Recommendation and Findings

Staff is recommending approval of the Conditional Use permit with the following findings as outlined in Article 26-110:

- Consistency with intent and purpose of the zoning regulations** – The proposal is interpreted as being consistent with the intent and purpose of the zoning regulations since bed and breakfast inns are allowed as a conditional use in the "R-1, Low Density Residential District." There are also several single family dwellings located in such zoning districts throughout Abilene that are operating as bed and breakfast inns.
- Compatibility of proposed use with surrounding uses** – A bed and breakfast inn is a compatible use for the existing uses surrounding the property as the surrounding uses are commercial and low density residential in nature. Bed and breakfast inns do not deviate much from these currently existing uses.
- Public infrastructure** – The use will not have an adverse impact on public water or sewer as these services are already existing and provide sufficient capacity to meet the demand that would be needed for the proposed use. Generally, a bed and breakfast inn does not use more utility services than a standard single family residence. Access to the site is provided off of Highland Drive, which also includes the availability of parking for the site sufficient for the proposed use.

- 1 2 3
- d. **Necessity of the proposal due to changes in the affected area** – There are no changes in the affected area that are a driving factor to cause this change.
  - e. **Length of time the property has remained vacant** – Not applicable.
  - f. **Compatibility of the subject property for the proposed use** – Staff is of the opinion that the property is compatible with the proposed use. The property has been used as a residence before the proposal for a bed and breakfast inn. In addition, the structure is of sufficient size to accommodate visitors with little to no adverse impact on the surrounding neighborhood.
  - g. **Whether the Comprehensive Plan is furthered and supported by this proposal** – The Comprehensive Plan is both furthered and supported by the proposal. While the Comprehensive Plan does not anticipate the proposed site as commercial, the Comprehensive Plan does make note of the importance of tourism to the local economy. In Chapter 6, the Comprehensive Plan briefly discusses the various tourism attractions in Abilene. One could reasonably understand the need for increased temporary living venues such as hotel/motels and bed and breakfast inns. Adding to the available lodging and event space in the City of Abilene can also help other local businesses by providing meeting space and lodging for business visitors.
  - h. **Adverse impacts on adjacent properties if all conditions placed upon the request are met** –
    - i. **Traffic Congestion:** The use will not likely generate traffic in levels that exceed most single family uses. Therefore the impact on the neighborhood is expected to be minimal.
    - ii. **Noise:** Bed and breakfast facilities do not usually create any additional noise beyond that generated by a single family residence. Therefore the impact on the neighborhood is expected to be minimal.
    - iii. **Parking:** On-street parking along the north side of Highland Drive is currently available. Also, the applicants have advised they would like to create a parking lot on the property. If this parking lot is created, it will need to adhere to Article 22-305 of the Zoning Regulations, which states as follows:

*“Surfacing. All off-street parking facilities, loading areas, vehicular storage areas and drives and access to and from such areas shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Such paving must be completed prior to occupancy of the facility that the paving is intended to serve, unless temporary occupancy approval is received from the Zoning Administrator. An exception to the surfacing requirements may be granted by the Board of Zoning Appeals in instances where the off-street areas take access from a graveled public street.*

*Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.*

*The Zoning Administrator may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof. In reviewing a request for temporary occupancy prior to accomplishing required paving, the Zoning Administrator shall consider the following criteria:*

- a. Season of the year.*
- b. Effect on the adjoining property.*
- c. Surfacing of the connecting street.*
- d. Surfacing of existing adjoining parking facilities.*

*Should the owner receive approval of the Zoning Administrator for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning*

*Administrator that guarantees all paving shall be complete prior to the deadline given by the Zoning Administrator."*

- iv. **Signage:** The applicant will be required to adhere to Article 27 of the Zoning Regulations if the applicant plans to install a sign within the corporate limits of Abilene.
- v. **Safety:** Bed and breakfast facilities generally do not represent a change in the occupancy and do not require alterations to the structure for health or safety reasons. However, it is prudent to take reasonable actions to ensure that adequate fire alarms, doors and entryways are in place. A bed and breakfast does not generally pose a greater threat to neighboring properties than existing residential uses.
- i. **Solid waste disposal facilities** – Not Applicable.
- j. **Other items for consideration** – In evaluating individual Conditional Use Permit applications, the Planning Commission may also consider the occurrence of similar land use patterns throughout the City.

**Planning Commission Options:**

1. Recommend approval of the Conditional Use permit. If this option is chosen, the following conditions of approval are strongly recommended:
  - a. All relevant local, state and federal regulations will be followed to include permitted signage and occupancy certificates.
  - b. Approval must be obtained from the Kansas Department of Transportation and the City of Abilene if the applicant desires to create an entrance off of Buckeye Avenue.
  - c. Any significant change in use or physical alteration of the land or structures may require a review of this Conditional Use Permit, as determined by the Zoning Administrator.
  - d. The applicant must adhere to the maximum occupancy limit for their event space as set forth by the Zoning Regulations and City Code at the time of approval.
  - e. Any parking created on the property shall adhere to Article 22-305 and any parking stall requirements as established by City Code at the time of approval.
2. Recommend denial of the Conditional Use Permit.
3. Table for further information.

June 9 meeting P/C  
Application (Returned) by  
Man 12

# DEVELOPMENT APPROVAL APPLICATION FORM

419 N. Broadway · Abilene, Kansas 67410 · Tel: (785) 263-2550 · Fax: (785) 263-2552 · www.abilenecityhall.com

**INSTRUCTIONS:** This Application and all required fees and information must be submitted in accordance with the Code of the City of Abilene and the City of Abilene Zoning and Subdivision Regulations. All information requested in this application must be provided and answered completely.

## PART I: TO BE COMPLETED BY APPLICANT

### APPLICATION INFORMATION

#### APPLICATION FOR (CHECK APPROPRIATE BOX):

- |  |  |
|--|--|
| <input type="checkbox"/> ADMINISTRATIVE APPEAL             | <input type="checkbox"/> LOT SPLIT                         |
| <input type="checkbox"/> ANNEXATION                        | <input type="checkbox"/> NON-CONFORMING USE CERTIFICATE    |
| <input type="checkbox"/> CERTIFICATE OF APPROPRIATENESS    | <input type="checkbox"/> PRELIMINARY PLAT                  |
| <input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT      | <input type="checkbox"/> PLANNED DEVELOPMENT               |
| <input checked="" type="checkbox"/> CONDITIONAL USE PERMIT | <input type="checkbox"/> REPLAT                            |
| <input type="checkbox"/> DEVELOPMENT CODE AMENDMENT        | <input type="checkbox"/> REZONING / ZONING MAP AMENDMENT   |
| <input type="checkbox"/> FINAL PLAT                        | <input type="checkbox"/> SITE PLAN                         |
| <input type="checkbox"/> HOME OCCUPATION PERMIT            | <input type="checkbox"/> VACATION (PLAT, STREET, EASEMENT) |
| <input type="checkbox"/> LANDMARK DESIGNATION              | <input type="checkbox"/> VARIANCE                          |
| <input type="checkbox"/> LOT SPLIT                         |  |

#### FOR OFFICIAL USE ONLY

Appn Number: PC15-5

Date Received: 5/6/15

Received By: TJP

#### BRIEF DESCRIPTION OF APPLICATION PURPOSE:

Small bed and breakfast with the usage of a small cement space

### APPLICANT INFORMATION

#### APPLICANT/AGENT (If Not Property Owner):

Name: Chris Ostermann Tel: (785) 479-3749  
 Business Name: THE ENGLE HOUSE Fax: ( )  
 Address: 102 Highland  
 City: Abilene State: KS Zip Code: 67410  
 E-mail: scott007@att.net

#### PROPERTY OWNER (If Different from Applicant/Agent):

Name: Scott and Christine Ostermann Tel: (785) 479-7053  
 Business Name: Fax: ( )  
 Address: 415 Brice Ct  
 City: Abilene State: KS Zip Code: 67410  
 E-mail: scott007@att.net

#### ENGINEER/ARCHITECT/SURVEYOR:

Name: LANDMARK SURVEYING & MAPPING INC Tel: (785) 263-2625  
 Business Name: > Fax: ( )  
 Address: 102 S Van Buren St  
 City: Abilene KS State: KS Zip Code: 67410  
 E-mail:

PROPERTY INFORMATION

PROPERTY ADDRESS OR GENERAL LOCATION (IN RELATION TO NEAREST STREETS):

102 Highland Ave, Abilene TX @ Buckeye and Highland

PROPERTY TAX IDENTIFICATION NUMBER:

021115160 2001001000

ZONING:

Existing:

R-1

Proposed:

NA

LAND USE:

Existing:

Residential

Proposed:

GROSS SIZE OF PLAT/LOT:

Residential: 22,500 SA feet Commercial: Industrial: Other: Total:

NUMBER OF LOTS:

Residential: 1 Commercial: Industrial: Other: Total:

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 2
Maximum Height of Buildings or Structures: 40 ft

Total Building Area: 2100 sq ft
Total Impervious Area: 1st flr

EXISTING PUBLIC FACILITIES:

Public Private Other (Describe)

Water Service: [X] Public [ ] Private [ ] Other
Wastewater Service: [X] Public [ ] Private [ ] Other
Roadway Access: [X] Public [ ] Private [ ] Other

FLOODPLAIN INFORMATION:

Floodway: [ ] Yes [X] No FIRM Map-Panel Number:
Floodway Fringe: [ ] Yes [X] No Zone:

ARE ANY OTHER PERMITS OR DEVELOPMENT APPROVALS REQUIRED, APPLIED FOR OR RECEIVED FOR THE APPLICATION PROPERTY BY THE CITY OR ANY OTHER JURISDICTION OR AGENCY?

[ ] Yes [ ] No If Yes, Describe Briefly and Attach a Copy of Each Permit, Approval or Application

APPLICANT/PROPERTY OWNER CERTIFICATION\*

I/we acknowledge receipt of the instruction sheet explaining the method of submitting this application. I/we realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. I/we further certify that the foregoing information is true and correct to the best of our knowledge. I/we acknowledge that the City of Abilene Planning Commission, Board of Zoning Appeals or City Commission shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

Chris Overmann
Applicant Signature

05/05/2015
Date

Scott Oster
Property Owner Signature

05/05/2015
Date

\* This Application must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this Application.

**PART II - TO BE COMPLETED BY STAFF**

**DOCUMENTS TO BE SUBMITTED WITH APPLICATION\*\***

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Copy of Deed | <input type="checkbox"/> Easements and Covenants          | <input type="checkbox"/> Location Map                               |
| <input type="checkbox"/> Site Plan               | <input type="checkbox"/> Preliminary Plat                 | <input type="checkbox"/> Final Plat                                 |
| <input type="checkbox"/> Infrastructure Plans    | <input type="checkbox"/> Development Agreement            | <input type="checkbox"/> Grading and Stormwater Plans               |
| <input type="checkbox"/> Elevation Survey        | <input type="checkbox"/> Traffic Impact Study             | <input type="checkbox"/> Construction Plans                         |
| <input type="checkbox"/> Performance Agreement   | <input type="checkbox"/> Proof of Notification            | <input type="checkbox"/> Utility Plans                              |
| <input type="checkbox"/> Text Amendment Language | <input type="checkbox"/> Property Owner List              | <input type="checkbox"/> Comprehensive Plan Amendment Justification |
| <input type="checkbox"/> Annexation Boundary Map | <input type="checkbox"/> Operating Characteristics Report | <input type="checkbox"/> Administrative Appeal Justification        |
| <input type="checkbox"/> Variance Justification  | <input type="checkbox"/> Other _____                      |   |

Additional document requirements provided to applicant on \_\_\_\_\_. The applicant is advised that the application is not accepted for public review until such time as the above identified documents are submitted and a Determination of Complete Application is certified.

David B. Dillner  
Name

City Manager  
Title

David B. Dillner  
Signature

5/6/15  
Date

\*\* Number of copies for submission determined by Zoning Administrator. The Zoning Administrator may request additional information as deemed necessary to properly evaluate the permit application.

**APPLICATION REVIEW**

**DECISION-MAKING BODY:**  Staff  Planning Commission  Board of Zoning Appeals  City Commission  
 Heritage Commission  Other (specify):

**DATE OF INITIAL HEARING(S):** June 9 / P/C July 13<sup>th</sup> / CC

**FEE AMOUNT:** \$ 100 **DATE FEE PAID:** 5/6/15

**DETERMINATION OF COMPLETE APPLICATION:**

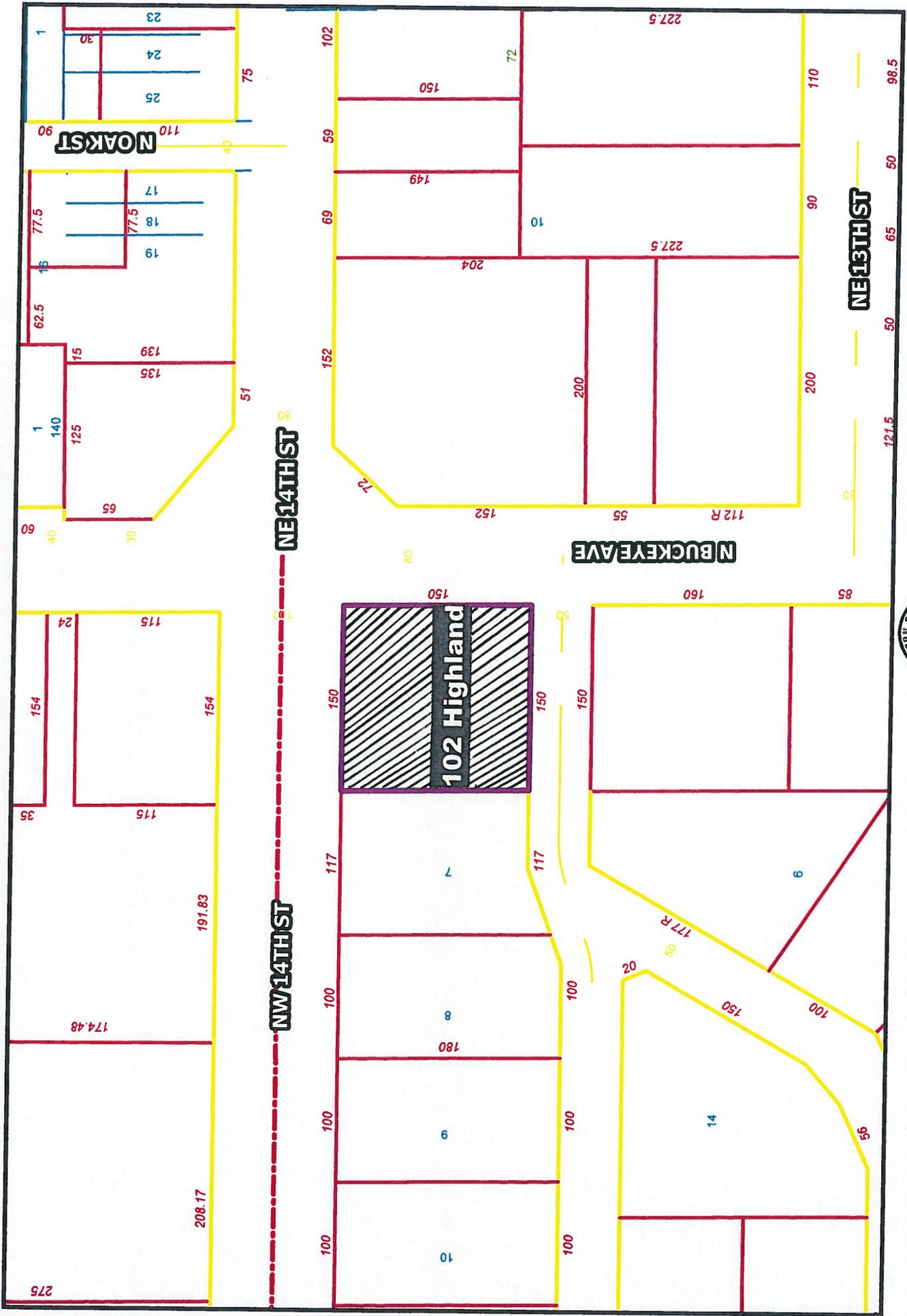
I certify that the Development Approval Application and attached documents are sufficient in form and content for review and recommendation by the decision-making bodies of the City of Abilene. As such, all required notifications and hearings may proceed pursuant to City regulations and procedures. This certification does not preclude the review, recommendation and/or decision-making bodies from requesting additional information as deemed necessary to serve the public interest.

David B. Dillner  
Name

City Manager  
Title

David B. Dillner  
Signature

5/6/15  
Date



This map is for informational purposes only and should not be used to determine precise boundaries, roadways, property boundary lines or legal descriptions. It shall not be construed to be an official survey of any data depicted. --Dickinson County GIS

1 inch = 105 feet

Date Printed: 5/8/2015

**RESOLUTION NO. 071315-1**

**A RESOLUTION APPROVING A FINANCIAL SERVICES AGREEMENT WITH PIPER JAFFRAY & CO. FOR FINANCIAL SERVICES RELATED TO THE ISSUANCE OF SERIES 2015-A GENERAL OBLIGATION BOND AND SERIES 2015-B GENERAL OBLIGATION REFUNDING BONDS OF THE CITY OF ABILENE, KANSAS**

**WHEREAS**, the City of Abilene desires to enter into an Agreement with Piper Jaffray & Co., as attached hereto as **Exhibit A**, for financial services related to the issuance of Series 2015-A General Obligation Bonds and Series 2015-B General Obligation Refunding Bonds of the City of Abilene.

**NOW, THEREFORE BE IT RESOLVED**, by the City Commission of the City of Abilene, as follows:

**SECTION ONE.** Agreement. That an Agreement with Piper Jaffray & Co. is hereby adopted as attached hereto as **Exhibit A**.

**SECTION TWO.** Implementation. The Mayor is hereby authorized to execute the aforementioned Agreement, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

**SECTION THREE.** Effective Date. That the effects of this Resolution shall be in full force after its approval by the City Commission.

**PASSED AND APPROVED** by the Governing Body of the City of Abilene, Kansas this 13<sup>th</sup> day of July, 2015.

**CITY OF ABILENE, KANSAS**

By: \_\_\_\_\_  
Dennis P. Weishaar, Mayor

**ATTEST:**

\_\_\_\_\_  
Penny Soukup, CMC  
City Clerk

**EXHIBIT A**

**Agreement for Financial Services**

**with**

**Piper Jaffray & Co.**

**July 13, 2015**

## FINANCIAL SERVICES AGREEMENT

This Financial Services Agreement, (the Agreement) is entered into the 23<sup>rd</sup> day of June, 2015, by and between the City of Abilene, Kansas (the "Issuer") and Piper Jaffray & Co. (the "Financial Services Provider").

### RECITALS

WHEREAS, the Issuer requires the provision of financial services in connection with the issuance by the Issuer of Series 2015-A General Obligation Bonds and Series 2015-B General Obligation Refunding Bonds (the "Project") and any new issues of municipal bonds as identified from time to time in a separate, subsequent letter amendment to this Agreement (each a Project, and collectively, the "Projects") in substantially the form attached as Exhibit A to this Agreement, which are incorporated herein (each, a Project Amendment, and, collectively, the Project Amendments).

WHEREAS, the Issuer desires to engage the Financial Services Provider to render the services.

WHEREAS, the Issuer has selected Triplett, Woolf & Garretson LLC as bond counsel ("Bond Counsel") and has not relied on Financial Services Provider for any assistance selecting Bond Counsel, Financial Services Provider is not party to the engagement agreement between Issuer and Bond Counsel, including having a working knowledge of any limitations under said agreement; and Financial Services Provider shall assume no responsibility for the work or opinions provided by Bond Counsel;

NOW THEREFORE, in consideration of the mutual covenants and stipulations hereinafter set forth, the parties agree as follows:

**Section 1. Scope of Services.** The Scope of Services shall include assistance in the following areas with respect to each Project or Projects identified in a Project Amendment.

- a) Develop and recommend a timeline for the Project
- b) Provide alternative debt retirement schedules including relevant cash flows
- c) Comment on the value and use of credit ratings or credit enhancement; coordinate the process securing credit rating or credit enhancement
- d) Propose relevant bond terms appropriate for the type of security being sold
- e) Review the Preliminary and final Official Statement.
- f) If a portion of any financing considered includes an advance refunding, subscribe for SLGS.
- g) Upon completion of the official statement by the Issuer, distribute the Issuer's official statement to potential bidders.
- h) Assist the Issuer in the Issuer's conduct of the competitive bid process by evaluating and recommending the bids received to the Commission of the Issuer for consideration
- i) Coordinate the closing of the transaction

#### Extent of Duties Arising under this Agreement

The Issuer and the Financial Services Provider intend and agree that, to the extent the performance of services by the Financial Services Provider with respect to a Project constitutes municipal advisory activities within the meaning of proposed rule 15Ba1 of the Securities Exchange Act of 1934 or otherwise creates a duty of the Financial Services Provider under Section 15B(c)(1) of the Securities Exchange Act of 1934 or Rule G-23 of the Municipal Securities Rulemaking Board, such duty does not extend beyond the services to be provided with respect to that Project and such duty does not extend to or to any other contract, agreement, relationship, or understanding of any nature between the Issuer and the Financial Services Provider.

#### Section 2. Compensation.

The compensation for providing the services set forth under this agreement shall be based on the following schedules:

***General Obligation Bonds:***

When the Issuer elects to use the Financial Services Provider for its General Obligation Bonds which are to be sold through a competitive sale, the following fee schedule will apply.

**GENERAL OBLIGATION BONDS**

<b><u>If the amount of Bonds Issued is equal To or more than</u></b>	<b><u>And not more than</u></b>	<b><u>Then the fee shall be</u></b>
\$ 0	\$1,000,000	\$10,000
1,000,001	3,000,000	20,000
3,000,001	5,000,000	35,000
5,000,001	7,000,000	45,000
7,000,001	10,000,000	55,000

It is understood that no compensation is due to Financial Services Provider unless and until the issue is completed. If for any reason the issue is not completed, no fee is payable to Financial Services Provider.

Furthermore, if the issue takes a form other than a general obligation bond or note issue, we reserve the right to negotiate a fee with the Issuer.

**Section 3 Expenses:** The Financial Services Provider will be responsible for all of the Financial Services Provider's out-of-pocket expenses, including communication, cost of financial analysis and reports prepared in fulfilling its duties outlined herein. The Issuer will be responsible for the payment of all fees and expenses commonly known as Costs of Issuance, including but not limited to: publication expenses, local legal counsel, bond counsel, ratings, credit enhancement, printing of bonds, printing and distribution of required disclosure documents, trustee fees, paying agent fees, CUSIP registration and the like. Our fee for preparation and distribution of the preliminary and final official statement for each series of bonds will be \$5,000.

**Section 4. Term of Agreement.** The term of this Agreement shall begin on the date of execution set forth above or on the date of any amendment hereto respecting a Project and shall terminate on the close and delivery of the bonds issued to finance the Project.

The Issuer or the Financial Services Provider may terminate this Agreement at any time on written notice to the other party and all fees due to the Financial Services Provider shall be due and payable upon termination by the Issuer. Should this Agreement contemplate multiple Projects, unless earlier terminated, the obligations of the Financial Services Provider with respect to any Project shall terminate immediately upon the closing or settlement of securities issued to finance the Project and the Financial Services Provider shall thereafter have no continuing fiduciary or other duties to the Issuer under this Agreement and specifically the Project Amendment to this Agreement in connection with that Project. The provisions of Sections 3, 10, 11, 14 and 15 shall survive termination of this Agreement.

**Section 5. Independent Contractor.** The Financial Services Provider is an independent contractor and nothing herein contained shall constitute or designate the Financial Services Provider or any of its employees or agents as employees or agents of the Issuer.

**Section 6. Assignment.** Neither the Financial Services Provider nor the Issuer shall have the right or power to assign this Agreement or parts thereof, or its respective duties, without the express written consent of the other party. Acquisition of the Financial Services Provider by a third party firm shall not constitute an assignment of this Agreement.

**Section 7. Entire Agreement/Amendments.** This Agreement, including any amendments hereto which are expressly incorporated herein, constitute the entire Agreement between the parties hereto and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Financial Services Provider and the Issuer.

**Section 8. Not Liable for Advice of Third Party Financial Services Providers:** Should the Issuer seek advice from third party financial services providers, bankers or legal advisors or others providing guidance similar in scope to that contemplated herein, the Issuer agrees that the Financial Services Provider shall not be held liable for advice or recommendations made to the Issuer by third party financial services providers, bankers or legal advisors.

**Section 9. Legal Advice.** The Financial Services Provider is not legal counsel or an accountant and is not providing legal or accounting guidance. None of the Services contemplated in this Agreement shall be construed as or a substitute for legal services.

**Section 10. Indemnification** To the extent the Issuer is authorized by law to indemnify the Financial Services Provider, the Issuer will indemnify and hold harmless the Financial Services Provider, each individual, corporation, partnership, trust, association or other entity controlling the Financial Services Provider, any affiliate of the Financial Services Provider or any such controlling entity and their respective directors, officers, employees, partners, incorporators, shareholders, servants, trustees and agents (hereinafter the "Indemnitees") against any and all liabilities, penalties, suits, causes of action, losses, damages, claims, costs and expenses (including, without limitation, fees and disbursements of counsel) or judgments of whatever kind or nature (each a "Claim"), imposed upon, incurred by or asserted against the Indemnitees arising out of or based upon the Issuer's gross negligence or wilfull acts, errors or omissions in the performance of its obligations under this Agreement or any other resolution, document or covenant with respect to the Bonds issued by the Issuer as contemplated herein.

The Issuer acknowledges and understands that state and federal laws relating to disclosure in connection with municipal securities, including but not limited to the Securities Act of 1933 and Rule 10b-5 promulgated under the Securities Exchange Act of 1934, may apply to the Issuer and that the failure of the Financial Services Provider to advise the Issuer respecting these laws shall not constitute a breach by the Financial Services Provider or any of its duties and responsibilities under this Agreement.

**Section 11. Notices.** Any written notice or communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal services, when deposited in the United States' mail, first-class postage prepaid, addressed to the Issuer at:

City of Abilene, Kansas  
419 N Broadway  
Abilene, Kansas 67401

or to the Financial Services Provider at:

Piper Jaffray & Co.  
Attn: Public Finance Department  
11635 Rosewood Street  
Leawood, Kansas 66211

**Section 12. Consent to Jurisdiction; Service of Process.** . The parties each hereby (a) submits to the jurisdiction of any Minnesota State Court or Federal court sitting in Kansas with respect to any actions and proceedings arising out of or relating to this Agreement, (b) agrees that all claims with respect to such actions or proceedings may be heard and determined in such court, (c) waives the defense of an inconvenient forum, (d) agrees not to commence any action or proceeding relating to this Agreement other than in a Minnesota State Court or Federal court sitting in Kansas and (e) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

**Section 13. Counterparts; Severability.** This Agreement may be executed in two or more separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

**Section 14. Parties in Interest.** This Agreement, including rights to indemnity and contribution hereunder, shall be binding upon and inure solely to the benefit of each party hereto, any Indemnitee and their respective successors, heirs and assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 15. Waiver of Jury Trial.** THE PARTIES EACH HEREBY AGREES TO WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**Section 16. General**

The failure of either of the parties to enforce any right or provision under this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. No waiver shall be implied from a failure of either party to exercise a right or remedy. In addition, no waiver of a party's right or remedy will affect the other provisions of this Agreement.

The captions in this Agreement are included for convenience of reference only and are in no way meant to define or limit any of the provisions contained in this Agreement or otherwise affect their construction or effect. When a word or phrase is enclosed in parenthesis and quotation marks, i.e., ("Word"), then that word or phrase shall be interpreted as if fully written out in the following format: "(hereinafter referred to as the 'Word')," and thereafter in this Agreement, that word or phrase shall stand as an abbreviation of the longer phrase to which it relates.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**City of Abilene, Kansas**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Piper Jaffray & Co.**

*Dusti Aray*

Managing Director

## DISCLOSURE OF CONFLICTS OF INTEREST WITH VARIOUS FORMS OF COMPENSATION

The Municipal Securities Rulemaking Board (MSRB) requires us, as your municipal advisor, to provide written disclosure to you about the actual or potential conflicts of interest presented by various forms of compensation. We must provide this disclosure even if you have already chosen a particular form of compensation. The municipal advisor's client should select a form of compensation that best meets its needs and the agreed upon scope of services.

Forms of Compensation; Potential Conflicts. The forms of compensation for municipal advisors vary according to the nature of the engagement and requirements of the client, among other factors. Various forms of compensation present actual or potential conflicts of interest because they may create an incentive for an advisor to recommend one course of action over another if it is more beneficial to the advisor to do so. This document discusses various forms of compensation and the timing of payments to the advisor.

Fixed fee. Under a fixed fee form of compensation, the municipal advisor is paid a fixed amount established at the outset of the transaction. The amount is usually based upon an analysis by the client and the advisor of, among other things, the expected duration and complexity of the transaction and the agreed-upon scope of work that the advisor will perform. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, the advisor may suffer a loss. Thus, the advisor may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. There may be additional conflicts of interest if the municipal advisor's fee is contingent upon the successful completion of a financing, as described below.

Hourly fee. Under an hourly fee form of compensation, the municipal advisor is paid an amount equal to the number of hours worked by the advisor times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest if the client and the advisor do not agree on a reasonable maximum amount at the outset of the engagement, because the advisor does not have a financial incentive to recommend alternatives that would result in fewer hours worked. In some cases, an hourly fee may be applied against a retainer (e.g., a retainer payable monthly), in which case it is payable whether or not a financing closes. Alternatively, it may be contingent upon the successful completion of a financing, in which case there may be additional conflicts of interest, as described below.

Fee contingent upon the completion of a financing or other transaction. Under a contingent fee form of compensation, payment of an advisor's fee is dependent upon the successful completion of a financing or other transaction. Although this form of compensation may be customary for the client, it presents a conflict because the advisor may have an incentive to recommend unnecessary financings or financings that are disadvantageous to the client. For example, when facts or circumstances arise that could cause the financing or other transaction to be delayed or fail to close, an advisor may have an incentive to discourage a full consideration of such facts and circumstances, or to discourage consideration of alternatives that may result in the cancellation of the financing or other transaction.

Fee paid under a retainer agreement. Under a retainer agreement, fees are paid to a municipal advisor periodically (e.g., monthly) and are not contingent upon the completion of a financing or other transaction. Fees paid under a retainer agreement may be calculated on a fixed fee basis (e.g., a fixed fee per month regardless of the number of hours worked) or an hourly basis (e.g., a minimum monthly payment, with additional amounts payable if a certain number of hours worked is exceeded). A retainer agreement does not present the conflicts associated with a contingent fee arrangement (described above).

Fee based upon principal or notional amount and term of transaction. Under this form of compensation, the municipal advisor's fee is based upon a percentage of the principal amount of an issue of securities (e.g., bonds) or, in the case of a derivative, the present value of or notional amount and term of the

derivative. This form of compensation presents a conflict of interest because the advisor may have an incentive to advise the client to increase the size of the securities issue or modify the derivative for the purpose of increasing the advisor's compensation.

**Acknowledgement**

The undersigned hereby acknowledges that he/she has received this disclosure and that he/she has been given the opportunity to raise questions and discuss the foregoing matters with the advisor.

**City of Abilene, Kansas**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





Voice: 785.268.2550  
 Fax: 785.268.2552  
 www.abilencityhall.com

Dwight D. Eisenhower Municipal Building  
 119 N. Broadway, PO Box 519  
 Abilene, Kansas 67110

Re: Request for Proposals – Series 2015-B General Obligation Refunding Bonds

The City hereby requests interest rates and related fee for the issuance of the Series 2015-B General Obligation Refunding Bonds. The City plans to refund its Series 2008 Bonds with the proceeds from the issue.

Par Amount: Series 2015-B approximately \$1,365,000 (Subject to Change)

Bank Qualified: Yes

Dated Date: August 13, 2015

Delivery Date: August 13, 2015

Interest Payment: Semi-annual beginning December 1, 2015

First Principal Payment: June 1, 2016

Final Maturity: June 1, 2018

Call Date: Non-Callable

PLEASE PROVIDE THE FOLLOWING:

Maturity Date	Principal Amount	Rate	Yield
6/1/2016	450,000	0.55%	0.55%
6/1/2017	465,000	0.90%	0.90%
6/1/2018	450,000	1.30%	1.30%

**TIMELINE:**

June 23, 2015: Distribute Request for Proposal

July 8, 2015: Receive Proposal Responses

July 9, 2015: Select Purchaser and Begin Preparation of Legal Documents

July 27, 2015: Commission adopts Bond Resolution/Ordinance

August 13, 2015: Delivery of Funds and Closing of Bond Issue

Home of the Eisenhower Presidential Library and Museum





Voice: 785.263.2550  
Fax: 785.263.2552  
[www.abilencityhall.com](http://www.abilencityhall.com)

Dwight D. Eisenhower Municipal Building  
119 N. Broadway, PO Box 519  
Abilene, Kansas 67110

Please provide terms for this financing by July 8, 2015. It is expected the City Commission will take action and approve the Bond resolution at the regular July 27, 2015 meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Marcus Rothchild'.

Marcus Rothchild

Finance Director

Denominations: *\$100,000 minimum.*

Delivery of Certificates: *The City anticipates delivery of a single certificate for each maturity of the Bonds.*

Private Placement: *The City intends to directly place the Bonds with a financial institution. Accordingly the City has not prepared an official statement for the Bonds and is not making a continuing disclosure undertaking under SEC Rule 15c2-12 with respect to the Bonds. All purchasers of Bonds will be required to sign an agreement acknowledging that they (a) are capable of evaluating the credit risks of an investment in the Bonds; (b) have obtained any necessary information to evaluate the structure and credit of the Bonds; (c) have not relied on representations of the City or its representatives to make the decision to purchase the Bonds; and (d) are purchasing the Bonds for their own accounts and do not intend to reoffer, sell or redistribute the Bonds.*

Home of the Eisenhower Presidential Library and Museum





Voice: 785.263.2550  
 Fax: 785.263.2552  
[www.abilene-cityhall.com](http://www.abilene-cityhall.com)

Dwight D. Eisenhower Municipal Building  
 119 N. Broadway, PO Box 519  
 Abilene, Kansas 67410

Re: Request for Proposals – Series 2015-A General Obligation Bonds

The City hereby requests interest rates and related fee for the issuance of the Series 2015-A General Obligation Bonds. The City plans to refinance its Series 2013 temporary notes which were issued to construct various internal improvements.

Par Amount: Series 2015-A approximately \$245,000 (Subject to Change)

Bank Qualified: Yes

Dated Date: August 13, 2015

Delivery Date: August 13, 2015

Interest Payment: Semi-annual beginning March 1, 2016

First Principal Payment: September 1, 2016

Final Maturity: September 1, 2025

Call Date: September 1, 2022 and any date thereafter in whole or in part

PLEASE PROVIDE THE FOLLOWING:

Maturity Date	Principal Amount	Rate	Yield
9/1/2016	20,000	0.70%	0.70%
9/1/2017	25,000	1.00%	1.00%
9/1/2018	25,000	1.35%	1.35%
9/1/2019	25,000	1.45%	1.45%
9/1/2020	25,000	1.65%	1.65%
9/1/2021	25,000	1.90%	1.90%
9/1/2022	25,000	2.05%	2.05%
9/1/2023	25,000	2.15%	2.15%
9/1/2024	25,000	2.30%	2.30%
9/1/2025	25,000	2.45%	2.45%

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Fax: 785.263.2552  
[www.abileneityhall.com](http://www.abileneityhall.com)

Dwight D. Eisenhower Municipal Building  
119 N. Broadway, PO Box 519  
Abilene, Kansas 67410

TIMELINE:

June 23, 2015: Distribute Request for Proposal

July 8, 2015: Receive Proposal Responses

July 9, 2015: Select Purchaser and Begin Preparation of Legal Documents

July 27, 2015: Commission adopts Bond Resolution/Ordinance

August 13, 2015: Delivery of Funds and Closing of Bond Issue

Please provide terms for this financing by July 8, 2015. It is expected the City Commission will take action and approve the Bond resolution at the regular July 27, 2015 meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marcus Rothchild".

Marcus Rothchild

Finance Director

*Delivery of Certificates: The City anticipates delivery of a single certificate for each maturity of the Bonds.*

*Private Placement: The City intends to directly place the Bonds with a financial institution. Accordingly the City has not prepared an official statement for the Bonds and is not making a continuing disclosure undertaking under SEC Rule 15c2-12 with respect to the Bonds. All purchasers of Bonds will be required to sign an agreement acknowledging that they (a) are capable of evaluating the credit risks of an investment in the Bonds; (b) have obtained any necessary information to evaluate the structure and credit of the Bonds; (c) have not relied on representations of the City or its representatives to make the decision to purchase the Bonds; and (d) are purchasing the Bonds for their own accounts and do not intend to reoffer, sell or redistribute the Bonds.*

Home of the Eisenhower Presidential Library and Museum



SOURCES AND USES OF FUNDS

City of Abilene, Kansas  
General Obligation Bonds  
Series 2015-A (Refund 2013 Temp Note)  
FINAL

Dated Date 08/13/2015  
Delivery Date 08/13/2015

Sources:

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Bond Proceeds:	
Par Amount	245,000.00
Other Sources of Funds:	
Available Cash	29,935.24
Prepay City	48,721.08
Prepay Property Owner	76,810.02
	<hr/>
	155,466.34
	<hr/>
	400,466.34

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Uses:

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Refunding Escrow Deposits:	
Cash Deposit	381,548.50
Cost of Issuance:	
Financial Advisor	7,500.00
Bond Counsel	7,500.00
Paying Agent	2,500.00
CUSIP Fee	500.00
Kansas State Treasurer Setup Fee	300.00
Transcript Approval	250.00
Bond Registration	30.00
Bond Redemption	30.00
Miscellaneous	307.84
	<hr/>
	18,917.84
	<hr/>
	400,466.34

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BOND DEBT SERVICE

City of Abilene, Kansas  
General Obligation Bonds  
Series 2015-A (Refund 2013 Temp Note)  
FINAL

Period Ending	Principal	Coupon	Interest	Debt Service
09/01/2016	20,000	0.700%	4,425.75	24,425.75
09/01/2017	25,000	1.000%	4,075.00	29,075.00
09/01/2018	25,000	1.350%	3,825.00	28,825.00
09/01/2019	25,000	1.450%	3,487.50	28,487.50
09/01/2020	25,000	1.650%	3,125.00	28,125.00
09/01/2021	25,000	1.900%	2,712.50	27,712.50
09/01/2022	25,000	2.050%	2,237.50	27,237.50
09/01/2023	25,000	2.150%	1,725.00	26,725.00
09/01/2024	25,000	2.300%	1,187.50	26,187.50
09/01/2025	25,000	2.450%	612.50	25,612.50
	245,000		27,413.25	272,413.25

BOND DEBT SERVICE

City of Abilene, Kansas  
 General Obligation Bonds  
 Series 2015-A (Refund 2013 Temp Note)  
 FINAL

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
03/01/2016			2,318.25	2,318.25	
09/01/2016	20,000	0.700%	2,107.50	22,107.50	24,425.75
03/01/2017			2,037.50	2,037.50	
09/01/2017	25,000	1.000%	2,037.50	27,037.50	29,075.00
03/01/2018			1,912.50	1,912.50	
09/01/2018	25,000	1.350%	1,912.50	26,912.50	28,825.00
03/01/2019			1,743.75	1,743.75	
09/01/2019	25,000	1.450%	1,743.75	26,743.75	28,487.50
03/01/2020			1,562.50	1,562.50	
09/01/2020	25,000	1.650%	1,562.50	26,562.50	28,125.00
03/01/2021			1,356.25	1,356.25	
09/01/2021	25,000	1.900%	1,356.25	26,356.25	27,712.50
03/01/2022			1,118.75	1,118.75	
09/01/2022	25,000	2.050%	1,118.75	26,118.75	27,237.50
03/01/2023			862.50	862.50	
09/01/2023	25,000	2.150%	862.50	25,862.50	26,725.00
03/01/2024			593.75	593.75	
09/01/2024	25,000	2.300%	593.75	25,593.75	26,187.50
03/01/2025			306.25	306.25	
09/01/2025	25,000	2.450%	306.25	25,306.25	25,612.50
	245,000		27,413.25	272,413.25	272,413.25

BOND PRICING

City of Abilene, Kansas  
 General Obligation Bonds  
 Series 2015-A (Refund 2013 Temp Note)  
 FINAL

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Principal Cost
Serial Bond:						
	09/01/2016	20,000	0.700%	0.700%	100.000	20,000.00
	09/01/2017	25,000	1.000%	1.000%	100.000	25,000.00
	09/01/2018	25,000	1.350%	1.350%	100.000	25,000.00
	09/01/2019	25,000	1.450%	1.450%	100.000	25,000.00
	09/01/2020	25,000	1.650%	1.650%	100.000	25,000.00
	09/01/2021	25,000	1.900%	1.900%	100.000	25,000.00
	09/01/2022	25,000	2.050%	2.050%	100.000	25,000.00
	09/01/2023	25,000	2.150%	2.150%	100.000	25,000.00
	09/01/2024	25,000	2.300%	2.300%	100.000	25,000.00
	09/01/2025	25,000	2.450%	2.450%	100.000	25,000.00
		245,000				245,000.00

Dated Date	08/13/2015	
Delivery Date	08/13/2015	
First Coupon	03/01/2016	
Par Amount	245,000.00	
Original Issue Discount		
Production Underwriter's Discount	245,000.00	100.000000%
Purchase Price	245,000.00	100.000000%
Accrued Interest		
Net Proceeds	245,000.00	

BOND SUMMARY STATISTICS

City of Abilene, Kansas  
 General Obligation Bonds  
 Series 2015-A (Refund 2013 Temp Note)  
 FINAL

Dated Date	08/13/2015
Delivery Date	08/13/2015
Last Maturity	09/01/2025
Arbitrage Yield	1.973366%
True Interest Cost (TIC)	1.973366%
Net Interest Cost (NIC)	1.983234%
All-In TIC	3.521831%
Average Coupon	1.983234%
Average Life (years)	5.642
Weighted Average Maturity (years)	5.642
Duration of Issue (years)	5.322
Par Amount	245,000.00
Bond Proceeds	245,000.00
Total Interest	27,413.25
Net Interest	27,413.25
Bond Years from Dated Date	1,382,250.00
Bond Years from Delivery Date	1,382,250.00
Total Debt Service	272,413.25
Maximum Annual Debt Service	29,075.00
Average Annual Debt Service	27,105.80
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life
Serial Bond	245,000.00	100.000	1.983%	5.642
	245,000.00			5.642

	TIC	All-In TIC	Arbitrage Yield
Par Value	245,000.00	245,000.00	245,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense		-18,917.84	
- Other Amounts			
Target Value	245,000.00	226,082.16	245,000.00
Target Date	08/13/2015	08/13/2015	08/13/2015
Yield	1.973366%	3.521831%	1.973366%

ESCROW REQUIREMENTS

City of Abilene, Kansas  
General Obligation Bonds  
Series 2015-A (Refund 2013 Temp Note)  
FINAL

Period Ending	Interest	Principal Redeemed	Total
08/14/2015	1,548.50	380,000.00	381,548.50
	1,548.50	380,000.00	381,548.50

SOURCES AND USES OF FUNDS

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Dated Date           08/13/2015  
Delivery Date       08/13/2015

Sources:

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Bond Proceeds:	
Par Amount	1,365,000.00
	<hr/>
	1,365,000.00

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Uses:

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Refunding Escrow Deposits:	
Cash Deposit	1,345,567.76
Cost of Issuance:	
Financial Advisor	7,500.00
Bond Counsel	7,500.00
Paying Agent	1,000.00
CUSIP Fee	500.00
Kansas State Treasurer Setup Fee	300.00
Transcript Approval	300.00
Bond Registration	30.00
Bond Redemption	30.00
Miscellaneous	2,272.24
	<hr/>
	19,432.24
	<hr/>
	1,365,000.00

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SUMMARY OF BONDS REFUNDED

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Series 2008, 2008:					
SERIAL	06/01/2016	3.800%	420,000.00	08/14/2015	100.000
	06/01/2017	3.900%	445,000.00	08/14/2015	100.000
	06/01/2018	4.000%	470,000.00	08/14/2015	100.000
			1,335,000.00		

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PRIOR BOND DEBT SERVICE

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2015			26,057.50	26,057.50	
06/01/2016	420,000	3.800%	26,057.50	446,057.50	472,115
12/01/2016			18,077.50	18,077.50	
06/01/2017	445,000	3.900%	18,077.50	463,077.50	481,155
12/01/2017			9,400.00	9,400.00	
06/01/2018	470,000	4.000%	9,400.00	479,400.00	488,800
	1,335,000		107,070.00	1,442,070.00	1,442,070

SAVINGS

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Date	Prior Debt Service	Refunding Debt Service	Savings	Present Value to 08/13/2015 @ 1.0464793%
06/01/2016	472,115.00	469,932.00	2,183.00	2,280.73
06/01/2017	481,155.00	479,885.00	1,270.00	1,313.81
06/01/2018	488,800.00	440,655.00	48,145.00	46,791.72
	1,442,070.00	1,390,472.00	51,598.00	50,386.26

Savings Summary

PV of savings from cash flow	50,386.26
Net PV Savings	50,386.26

SUMMARY OF REFUNDING RESULTS

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Dated Date	08/13/2015
Delivery Date	08/13/2015
Arbitrage yield	1.046479%
Escrow yield	0.000000%
Value of Negative Arbitrage	
Bond Par Amount	1,365,000.00
True Interest Cost	1.046479%
Net Interest Cost	1.047368%
Average Coupon	1.047368%
Average Life	1.782
Par amount of refunded bonds	1,335,000.00
Average coupon of refunded bonds	3.939951%
Average life of refunded bonds	1.837
PV of prior debt to 08/13/2015 @ 1.046479%	1,415,386.26
Net PV Savings	50,386.26
Percentage savings of refunded bonds	3.774252%
Percentage savings of refunding bonds	3.691301%

BOND DEBT SERVICE

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2015			3,724.50	3,724.50	
06/01/2016	460,000	0.550%	6,207.50	466,207.50	469,932
12/01/2016			4,942.50	4,942.50	
06/01/2017	470,000	0.900%	4,942.50	474,942.50	479,885
12/01/2017			2,827.50	2,827.50	
06/01/2018	435,000	1.300%	2,827.50	437,827.50	440,655
	1,365,000		25,472.00	1,390,472.00	1,390,472

BOND PRICING

City of Abilene, Kansas  
 General Obligation Refunding Bonds  
 Series 2015-B  
 FINAL

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Principal Cost
Serial Bond:						
	06/01/2016	460,000	0.550%	0.550%	100.000	460,000.00
	06/01/2017	470,000	0.900%	0.900%	100.000	470,000.00
	06/01/2018	435,000	1.300%	1.300%	100.000	435,000.00
		1,365,000				1,365,000.00

Dated Date	08/13/2015	
Delivery Date	08/13/2015	
First Coupon	12/01/2015	
Par Amount	1,365,000.00	
Original Issue Discount		
Production	1,365,000.00	100.000000%
Underwriter's Discount		
Purchase Price	1,365,000.00	100.000000%
Accrued Interest		
Net Proceeds	1,365,000.00	

BOND SUMMARY STATISTICS

City of Abilene, Kansas  
 General Obligation Refunding Bonds  
 Series 2015-B  
 FINAL

Dated Date	08/13/2015
Delivery Date	08/13/2015
Last Maturity	06/01/2018
Arbitrage Yield	1.046479%
True Interest Cost (TIC)	1.046479%
Net Interest Cost (NIC)	1.047368%
All-In TIC	1.864629%
Average Coupon	1.047368%
Average Life (years)	1.782
Weighted Average Maturity (years)	1.782
Duration of Issue (years)	1.768
Par Amount	1,365,000.00
Bond Proceeds	1,365,000.00
Total Interest	25,472.00
Net Interest	25,472.00
Bond Years from Dated Date	2,432,000.00
Bond Years from Delivery Date	2,432,000.00
Total Debt Service	1,390,472.00
Maximum Annual Debt Service	479,885.00
Average Annual Debt Service	496,597.14
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life
Serial Bond	1,365,000.00	100.000	1.047%	1.782
	1,365,000.00			1.782

	TIC	All-In TIC	Arbitrage Yield
Par Value	1,365,000.00	1,365,000.00	1,365,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense		-19,432.24	
- Other Amounts			
Target Value	1,365,000.00	1,345,567.76	1,365,000.00
Target Date	08/13/2015	08/13/2015	08/13/2015
Yield	1.046479%	1.864629%	1.046479%

ESCROW REQUIREMENTS

City of Abilene, Kansas  
General Obligation Refunding Bonds  
Series 2015-B  
FINAL

Period Ending	Interest	Principal Redeemed	Total
08/14/2015	10,567.76	1,335,000.00	1,345,567.76
	10,567.76	1,335,000.00	1,345,567.76

**RESOLUTION NO. 071315-2**

**A RESOLUTION APPROVING A MASTER AGREEMENT WITH ALFRED BENESCH AND COMPANY CONCERNING ENGINEERING SERVICES FOR THE ABILENE MUNICIPAL AIRPORT**

**WHEREAS**, the City of Abilene desires to enter into an Agreement with Alfred Benesch and Company as attached hereto as **Exhibit A**, for airport engineering services for the Abilene Municipal Airport.

**NOW, THEREFORE BE IT RESOLVED**, by the City Commission of the City of Abilene, as follows:

**SECTION ONE. Agreement**. That an Agreement with Alfred Benesch and Company is hereby adopted as attached hereto as **Exhibit A**.

**SECTION TWO. Implementation**. The Mayor is hereby authorized to execute the aforementioned Agreement, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

**SECTION THREE. Effective Date**. That the effects of this Resolution shall be in full force after its approval by the City Commission.

**PASSED AND APPROVED** by the Governing Body of the City of Abilene, Kansas this 13<sup>th</sup> day of July, 2015.

**CITY OF ABILENE, KANSAS**

By: \_\_\_\_\_  
Dennis P. Weishaar, Mayor

**ATTEST:**

\_\_\_\_\_  
Penny Soukup, CMC  
City Clerk

**EXHIBIT A**

**Agreement for Engineering Services**

**with**

**Alfred Benesch and Company**

**July 13, 2015**



**CONSULTING SERVICES AGREEMENT**

CLIENT	City of Abilene, KS	Project Name	Abilene Municipal Airport Engineering
Address	419 N. Broadway Street	Services	Master Agreement
	PO Box 519	Project Location	Abilene, Kansas
Telephone	785.263.2550		
Client Contact	David Dillner	Consultant PM	Brad Waller
Client Job No.		Consultant Job No.	

This AGREEMENT is made by and between the City of Abilene, hereinafter called "CLIENT," and Alfred Benesch & Company, hereinafter called "CONSULTANT", for professional consulting services as specified herein. CONSULTANT agrees to provide CLIENT with requested consulting services more specifically described as follows (or shown in Attachment A):

On-Call Engineering Services for the Abilene Municipal Airport

The GENERAL CONDITIONS and the following Attachments are hereby made a part of the AGREEMENT:

- Attachment A: Scope of Services and Fee Estimate
  - Attachment B: Schedule of Unit Rates
  - Attachment C: \_\_\_\_\_
- or
- Exhibit A: Work Authorizations specifying Method of Payment, Scope, and Fee

By signing this AGREEMENT, CLIENT acknowledges that it has read and fully understands this AGREEMENT and all attachments thereto. CLIENT further agrees to pay CONSULTANT for services described herein upon receipt of invoice by CLIENT for the CONSULTANT's estimated fee as described below:

- BY LUMP SUM: \$ \_\_\_\_\_.
- BY TIME AND MATERIALS: \$ \_\_\_\_\_.
- BY OTHER PAYMENT METHOD (See Attachment \_\_\_\_\_): \$ \_\_\_\_\_.
- AS SHOWN ON SERIALLY NUMBERED WORK AUTHORIZATIONS USING EXHIBIT A

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT:

<b>CLIENT</b>	<b>ALFRED BENESCH &amp; COMPANY</b>
BY: _____	BY: _____
AUTHORIZED REPRESENTATIVE	AUTHORIZED REPRESENTATIVE
PRINT NAME: _____	PRINT NAME: <u>Bradley J. Waller</u>
TITLE: _____, 20____	TITLE: <u>Vice President</u>
DATE: _____, 20____	DATE: <u>June 3</u> , 20 <u>15</u>
	BENESCH OFFICE: <u>Manhattan</u>
	ADDRESS: <u>3226 Kimball Ave.</u>
	<u>Manhattan, KS 66503</u>

**PLEASE SIGN AND RETURN ONE COPY TO ALFRED BENESCH & COMPANY (ADDRESS ABOVE).**

## GENERAL CONDITIONS

### SECTION I - SERVICES BY CONSULTANT

#### **1.1 General**

CONSULTANT shall provide services under this AGREEMENT only upon request of the CLIENT, and only to the extent defined and required by the CLIENT. These services may include the use of outside services, outside testing laboratories, and special equipment.

Attachments to this AGREEMENT are as identified on the signature page to this AGREEMENT or using serially numbered Work Authorizations, and with these GENERAL CONDITIONS, are all as attached hereto, and made a part of this AGREEMENT.

#### **1.2 Scope of Services and Fees**

The services to be performed by CONSULTANT and the associated fee are attached hereto and made a part of this AGREEMENT or using by serially numbered Work Authorizations, all as identified on the signature page to this AGREEMENT, and shall be performed by the CONSULTANT in accordance with the CLIENT's requirements. It is mutually understood that CONSULTANT'S fee is not a firm contractual amount except the total fee by the CONSULTANT shall not be exceeded unless authorized in writing by the CLIENT. The intent of the Scope of Services is to identify the services to be provided by CONSULTANT. However, it is specifically understood that by written notice to CONSULTANT, CLIENT can decrease or, with concurrence of CONSULTANT, increase the Scope of Services.

### SECTION II - PAYMENTS TO CONSULTANT

#### **2.1 Method of Payment**

Payment for CONSULTANT'S personnel services and direct expenses shall be expressed in U. S. dollars, and based on the Method of Payment which is identified on the signature page to this AGREEMENT or serially numbered Work Authorizations, attached hereto, and made a part of this AGREEMENT.

#### **2.2 Payment for Personnel Services**

##### **2.2.1 Payment**

Payment for the services rendered by CONSULTANT'S personnel shall be based on the hours of chargeable time and in accordance with CONSULTANT'S Schedule of Unit Rates, which is identified on the signature page to this AGREEMENT and attached hereto, and made a part of this AGREEMENT.

##### **2.2.2 Chargeable Time**

Chargeable time for CONSULTANT'S personnel is that portion of their time devoted to providing services requested by CLIENT. Chargeable time for field personnel located away from CONSULTANT'S office for more than one week is a minimum of eight hours per day and five days per calendar week, except for federally declared legal holidays or during an employee's sick leave or vacation time. Travel time from CONSULTANT'S office to an assigned work site, and return to CONSULTANT'S office, is chargeable time; or if more economical for CLIENT, CONSULTANT shall lodge its personnel overnight near the work site in lieu of traveling back to CONSULTANT'S office at the end of each work day.

##### **2.2.3 Overtime Rates**

The basis for payment to CONSULTANT for each hour worked in excess of forty (40) hours in any calendar week shall be the applicable hourly rate as specified in the Schedule of Unit Rates.

#### **2.3 Payment for Direct Expenses**

##### **2.3.1 Payment**

For Direct Expenses incurred by CONSULTANT, payment to CONSULTANT by the CLIENT shall be in accordance with CONSULTANT'S Schedule of Unit Rates.

##### **2.3.2 Direct Expenses**

For the purposes of this AGREEMENT, Direct Expenses to be contracted and managed by CONSULTANT and payable by CLIENT to CONSULTANT shall include: Outside Services including the services and reimbursable expenses for firms other than CONSULTANT which are necessary for the work the CONSULTANT is directed to perform; Laboratory Tests and related reports necessary for the work the CONSULTANT is directed to perform, either by the CONSULTANT or by an outside service for the CONSULTANT; Special Equipment expenses including the costs of the CONSULTANT locating, acquiring, leasing, or renting any equipment or facilities not currently owned, leased, or rented by CONSULTANT at the time of the request for services which are necessary to enable CONSULTANT to provide the services requested; vehicles furnished by CONSULTANT for CONSULTANT'S authorized travels and for CONSULTANT'S field personnel; Per Diem expense or actual costs of maintaining CONSULTANT'S field personnel on or near the Project site, for each day of field assignment away from CONSULTANT'S office; and Other Direct Expenses associated with all services provided hereunder and identified in the Schedule of Unit Rates.

#### **2.4 Payment Conditions**

**2.4.1** CONSULTANT shall submit monthly invoices for all personnel services and direct expenses under this AGREEMENT and a final invoice upon completion of services.

**2.4.2** Invoices are due and payable upon receipt by CLIENT. Interest at a rate of 1.5% per month, or the maximum allowed by law, will be charged on all past due amounts starting thirty (30) days after date of invoice. Payments will first be credited to interest and then to principal.

**2.4.3** In the event of a disputed or contested invoice, only that portion so contested will be withheld from payment and the CLIENT will pay the undisputed portion. No interest will accrue on any reasonably contested portion of the invoice until mutually resolved.

**2.4.4** If CLIENT fails to make payment in full to CONSULTANT within sixty (60) days after the date of the undisputed invoice, CONSULTANT may, after giving seven (7) days' written notice to CLIENT, suspend services under this AGREEMENT until paid in full, including interest. CONSULTANT shall have no liability to CLIENT for delays or damages caused by such suspension of services. CLIENT agrees to pay all costs of collection, including reasonable attorney's fees, incurred by CONSULTANT as a result of CLIENT'S failure to make payments in accordance with this AGREEMENT. No final plans, documents or reports will be released for any purpose until CONSULTANT has been paid in full.

**2.4.5** The billing rates specified in the Schedule of Unit Rates for subsequent years shall be adjusted annually in accordance with CONSULTANT's costs of doing business, subject to CLIENT's review and concurrence.

### **SECTION III - Term of Agreement**

#### **3.1 Term**

CONSULTANT's obligations to perform under this AGREEMENT shall extend from the date of execution until terminated by either party.

#### **3.2 Abandonment of Work**

CLIENT shall have the absolute right to abandon any work requested hereunder or to change the general scope of the work at any time, and such action on its part shall in no event be deemed a breach of contract.

#### **3.3 Termination of AGREEMENT**

##### **3.3.1 Termination with Cause**

The obligation to provide further services under this AGREEMENT may be terminated with cause by either party. In the event of such termination, either party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. In the event of termination by CONSULTANT caused by failure of the CLIENT to perform in accordance with the terms of this AGREEMENT, CLIENT shall pay for all services performed prior to the effective date of the termination, including all project termination expenses, collection fees and legal expenses. CONSULTANT shall prepare a progress report, including information as to all the services performed by CONSULTANT and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this AGREEMENT to the CLIENT upon receipt of final payment. In the event of termination by the CLIENT caused by failure by CONSULTANT to perform in accordance with the terms of this AGREEMENT, CONSULTANT shall prepare a progress report, including information as to all the services performed by CONSULTANT and the status of the services as of the date of the termination and provide information and documents developed under the terms of this AGREEMENT to the CLIENT. Upon receipt of all other information and documents, CLIENT shall pay CONSULTANT for services performed prior to the effective date of the termination.

##### **3.3.2 Termination without Cause**

Either party may, at its sole discretion, terminate this AGREEMENT without cause at any time. In the event of such termination, the terminating party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. Upon termination, CONSULTANT shall prepare a progress report, including information as to all the services performed by CONSULTANT and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this AGREEMENT to the CLIENT upon receipt of final payment.

#### **3.4 Payment for Work Upon Abandonment or AGREEMENT Termination**

If CLIENT abandons requested work or terminates this AGREEMENT, CONSULTANT shall be paid on the basis of work completed to the date of abandonment or effective date of termination. CONSULTANT shall perform no activities other than reasonable wrap-up activities after receipt of notice of abandonment or termination. Payment for the work shall be as established under Section II.

### **SECTION IV - General Considerations**

#### **4.1 Assignment and Responsibility for Personnel**

**4.1.1** The assignment of personnel and all phases of the undertaking of the services which CONSULTANT shall provide hereunder shall be subject to the oversight and general guidance of CLIENT.

**4.1.2** While upon the premises of CLIENT or property under its control, all employees, agents, and subconsultants of CONSULTANT shall be subject to CLIENT's rules and regulations respecting its property and the conduct of its employees thereon.

**4.1.3** However, it is understood and agreed that in the performance of the work and obligations hereunder, CONSULTANT shall be and remain an independent Consultant and that the employees, agents or subconsultants of CONSULTANT shall not be considered employees of or subject to the direction and control of CLIENT. CONSULTANT shall be responsible for the supervision and performance of all subconsultants which are to perform hereunder.

#### **4.2 Insurance**

**4.2.1** CONSULTANT shall furnish CLIENT a certificate of insurance upon request showing amounts and types of insurance carried by CONSULTANT, which certificate shall contain a commitment by the Insurance Company that during the time any work is being performed by CONSULTANT under this AGREEMENT it will give CLIENT notice of cancellation or non-renewal of the insurance coverage shown on such certificates in accordance with policy provisions.

#### **4.3 Successors and Assigns**

**4.3.1** CLIENT and CONSULTANT each binds itself and its partners, successors, executors, administrators, assigns, and legal representatives to the other party to this AGREEMENT and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this AGREEMENT.

**4.3.2** Neither CONSULTANT nor CLIENT shall assign or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this AGREEMENT without the written consent of the other party, except as stated in paragraph 4.3.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this AGREEMENT. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent consultants, associates, and subconsultant's as it may deem appropriate to assist in the performance of services hereunder.

**4.3.3** Nothing herein shall be construed to give any rights or benefits hereunder to any one other than CLIENT and CONSULTANT except as otherwise provided herein.

#### **4.4 Compliance with Law**

**4.4.1** CONSULTANT shall comply with, and cause its subconsultants to comply with, applicable Federal, state, and local laws, orders, rules, and regulations relating to the performance of the services CONSULTANT is to perform under this AGREEMENT.

**4.4.2** Neither the CONSULTANT nor the CONSULTANT's agents or employees shall discriminate against any employee or applicant for employment to be employed in the performance of this AGREEMENT with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin.

#### **4.5 Ownership and Reuse of Documents**

**4.5.1** All drawings, specifications, test reports, and other materials and work products which have been prepared or furnished by CLIENT prior to this AGREEMENT shall remain CLIENT's property. CLIENT shall make available to CONSULTANT copies of these materials as necessary for the CONSULTANT to perform the services requested hereunder.

**4.5.2** All drawings, specifications, test reports, and other materials and work products, including computer aided drawings, designs, and other data filed on electronic media which will be prepared or furnished by CONSULTANT (and CONSULTANT's independent professional associates and subconsultants) under this AGREEMENT, are instruments of service in respect to the Project and CONSULTANT shall retain an ownership and property interest therein whether or not the Project is completed. CLIENT may make and retain copies for information and reference in connection with the use and the occupancy of the Project by CLIENT and others; however, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project. Further, CONSULTANT makes no warranty as to the compatibility of computer data files with computer software and software releases other than that used by CONSULTANT in performing services herein, and to the condition or availability of the computer data after an acceptance period of thirty (30) days from delivery to CLIENT. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT or to CONSULTANT's independent professional associates or subconsultants, and CLIENT shall indemnify and hold harmless CONSULTANT and CONSULTANT's independent professional associates and subconsultants from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle CONSULTANT to further compensation at rates to be agreed upon by CLIENT and CONSULTANT.

#### **4.6 Severability**

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

#### **4.7 Location of Underground Utilities**

It shall be the CLIENT's responsibility to locate and physically mark all underground utilities and structures which lie within the work area prior to the start of subsurface investigations. If the CLIENT elects not to assume this responsibility, CLIENT shall notify CONSULTANT and shall compensate CONSULTANT for all costs associated with locating and physically marking

said underground utilities and structures over and above the estimated project fee. CLIENT shall indemnify and hold CONSULTANT harmless from any damages and delays resulting from unmarked or improperly marked underground utilities and structures. For reasons of safety, CONSULTANT will not begin work until this has been accomplished.

#### **4.8 Subsurface Investigations**

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics might vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the CONSULTANT.

#### **4.9 CONSULTANT's Personnel at Project Site**

**4.9.1** The presence or duties of the CONSULTANT personnel at a Project site, whether as onsite representatives or otherwise, do not make the CONSULTANT or its personnel in any way responsible for those duties that belong to the CLIENT and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the project documents and any health or safety precautions required by such construction work. The CONSULTANT and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor or other entity or any other persons at the site except CONSULTANT's own personnel.

**4.9.2** The presence of CONSULTANT's personnel at a construction site is for the purpose of providing to CLIENT a greater degree of confidence that the completed work will conform generally to the project documents and that the integrity of the design concept as reflected in the project documents has been implemented and preserved by the contractor(s). CONSULTANT neither guarantees the performance of the contractor(s) nor assumes responsibility for contractor(s)' failure to perform their work in accordance with the project documents.

#### **4.10 Opinions of Cost, Financial Considerations, and Schedules**

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, the CONSULTANT has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. CONSULTANT's opinions of probable Total Project Costs and Construction Costs provided for herein as appropriate are made on the basis of CONSULTANT's experience and qualifications and represent CONSULTANT's judgments as an experienced and qualified professional consultant familiar with the construction industry. CONSULTANT makes no warranty that the CLIENT's actual Total Project or Construction Costs, financial aspects, economic feasibility, or schedules will not vary from the

CONSULTANT's opinions, analyses, projections, or estimates. If CLIENT wishes greater assurance as to any element of the Total Project or Construction cost, feasibility, or schedule, CLIENT will employ an independent cost estimator, contractor, or other appropriate advisor.

#### **4.11 Disposition of Samples and Equipment**

##### **4.11.1 Disposition of Samples**

No samples and/or materials will be kept by CONSULTANT longer than thirty (30) days after submission of the final report unless agreed otherwise.

##### **4.11.2 Hazardous or Potentially Hazardous Samples and Materials**

In the event that samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, CONSULTANT will, after completion of testing, return such samples and materials to CLIENT, or have the samples and materials disposed of in accordance with CLIENT's directions and all applicable laws. CLIENT agrees to pay all costs associated with the storage, transportation, and disposal of samples and materials. CLIENT recognizes and agrees that CONSULTANT at no time assumes title to said samples and materials, and shall have no responsibility as a handler, generator, operator, transporter, or disposer of said samples and materials.

##### **4.11.3 Contaminated Equipment**

All laboratory and field equipment contaminated in CONSULTANT's performance of services will be cleaned at CLIENT's expense. Contaminated consumables will be disposed of and replaced at CLIENT's expense. Equipment (including tools) which cannot be reasonably decontaminated shall become the property and responsibility of CLIENT. At CLIENT's expense, such equipment shall be delivered to CLIENT, or disposed of in the same manner specified in 4.11.2 above. CLIENT agrees to pay CONSULTANT the fair market value of any such equipment which cannot reasonably be decontaminated and is delivered to CLIENT pursuant to this AGREEMENT.

#### **4.12 Discovery of Unanticipated Pollutant and Hazardous Substance Risks**

**4.12.1** If CONSULTANT, while performing the services, discovers pollutants and/or hazardous substances that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated cost of CONSULTANT's services will be reconsidered and that this AGREEMENT shall immediately become subject to renegotiation or termination.

**4.12.2** In the event that the AGREEMENT is terminated because of the discovery of pollutants and/or hazardous substances posing unanticipated risks, it is agreed that CONSULTANT shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of termination of this AGREEMENT, including, if necessary, any additional labor or reimbursable charges incurred in demobilizing.

**4.12.3** CLIENT also agrees that the discovery of unanticipated pollutants and/or hazardous substances may make it necessary for CONSULTANT to take immediate measures to protect health and safety. CONSULTANT agrees to notify CLIENT as soon as practically possible should unanticipated pollutants and/or hazardous substances be suspected or encountered. CLIENT authorizes CONSULTANT to take measures that in CONSULTANT's sole judgment are justified to preserve and protect the health and safety of CONSULTANT's

personnel and the public. CLIENT agrees to compensate CONSULTANT for the additional cost of taking such additional precautionary measures to protect employees' and the public's health and safety. This section is not intended to impose upon CONSULTANT any duties or obligations other than those imposed by law.

## **SECTION V - Professional Responsibility**

### **5.1 Performance of Services**

Client acknowledges that the performance of professional services is not an exact science, and errors and omissions may occur that are within the industry standard of practice which states that CONSULTANT will strive to perform services under this AGREEMENT in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document, or otherwise.

### **5.2 Limitation of Liability**

CLIENT and CONSULTANT agree to allocate certain of the risks so that, to the fullest extent permitted by law, CONSULTANT's total liability to CLIENT is limited to \$50,000 or CONSULTANT's fee, whichever is greater, this being the CLIENT's sole and exclusive remedy for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of this AGREEMENT from any cause or causes. Such causes include, but are not limited to, CONSULTANT's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty. CLIENT understands that dollar limits higher than that indicated above are available. If CLIENT wishes to discuss these other limits and their impact on CONSULTANT's fee, CLIENT should contact CONSULTANT prior to executing this AGREEMENT.

### **5.3 No Special or Consequential Damages**

CLIENT and CONSULTANT agree that to the fullest extent permitted by law neither party shall be liable to the other for any special, indirect, or consequential damages whatsoever, whether caused by either party's negligence, errors, omissions, strict liability, breach of contract, breach of warranty, or other cause or causes.

### **5.4 Indemnification**

To the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold CONSULTANT, its officers, directors, employees, and subconsultants harmless from and against any and all claims, damages, losses and expenses, defense costs including attorneys' fees, and court or arbitration costs and other liabilities arising out of or resulting from, wholly or in part, the performance of CONSULTANT's services hereunder; provided that CLIENT shall not indemnify CONSULTANT against liability for damages or expenses to the extent caused by the negligence of CONSULTANT, its officers, directors, employees, or subcontractors.

### **5.5 No Third Party Beneficiaries**

CLIENT and CONSULTANT expressly agree that AGREEMENT does not confer upon any third party any rights as beneficiary to this AGREEMENT. CONSULTANT accepts no responsibility for damages, if any, suffered by any third party as the result of a third party's use of the work product, including reliance, decisions, or any other action taken based upon it.

CLIENT agrees that CONSULTANT's services and work

products are for the exclusive present use of CLIENT. CLIENT agrees that CONSULTANT's compliance with any request by CLIENT to address or otherwise release any portion of the work product to a third party shall not modify, rescind, waive, or otherwise alter provisions of this AGREEMENT nor does it create or confer any third party beneficiary rights on any third party.

## **SECTION VI - Miscellaneous Provisions**

### **6.1 Notices**

Any notice to either party herein shall be in writing and shall be served either personally or by registered or certified mail addressed to the signing party shown on the signature page.

### **6.2 Joint Preparation**

For purposes of contract interpretation and for the purpose of resolving any ambiguity in this AGREEMENT, the parties agree that this Agreement was prepared jointly by them and/or their respective attorneys.

### **6.3 Headings**

Headings used in this AGREEMENT are for the convenience of reference only and shall not affect the construction of this AGREEMENT

### **6.4 Dispute Resolution**

If negotiation in good faith fails to resolve a dispute within thirty (30) days of written notice of the dispute by either party, then the parties agree that each dispute, claim or controversy arising from or related to this AGREEMENT or the relationships which result from this AGREEMENT shall be subject to mediation as a condition precedent to initiating legal or equitable actions by either party. Unless the parties agree otherwise, the mediation shall be in accordance with the Commercial Mediation Procedures of the American Arbitration Association then currently in effect. A request for mediation shall be filed in writing with the American Arbitration Association and the other party. No legal or equitable action may be instituted for a period of ninety (90) days from the filing of the request for mediation unless a longer period of time is provided by agreement of the parties. Cost of mediation shall be shared equally between the parties and shall be held in a location mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a mediated settlement agreement, which agreement shall be enforceable as a settlement in any court having jurisdiction thereof.

Furthermore, in no circumstances shall a party to this AGREEMENT be joined by the other party to any other lawsuit, dispute or legal proceeding involving a party and any of the party's, consultants, subconsultants, lower tier subconsultants, other design professionals, construction managers, or other individuals or entities unless the parties agree to be joined in writing.

During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

### **6.5 Governing Law**

This AGREEMENT is to be governed by the laws of the jurisdiction in which the project is located. For locations outside of the United States, this AGREEMENT shall be governed by the laws of the State of Illinois.

### **6.6 Entire Agreement**

This AGREEMENT, along with those documents specified, attached, or hereby cited together, and serially numbered Work Authorizations if used, constitute the entire AGREEMENT between the parties hereto and no changes, modifications, extensions, terminations, or waivers of this agreement, or other documents, or any of the provisions herein, or therein contained, shall be valid unless made in writing and signed by duly authorized representatives of both parties.

**RESOLUTION NO. 071315-3**

**A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH  
OLSSON ASSOCIATES CONCERNING ENGINEERING SERVICES FOR THE CITY OF  
ABILENE, KANSAS**

**WHEREAS**, the City of Abilene desires to enter into an Agreement with Olsson Associates as attached hereto as **Exhibit A**, for general engineering services for the City.

**NOW, THEREFORE BE IT RESOLVED**, by the City Commission of the City of Abilene, as follows:

**SECTION ONE. Agreement**. That an Agreement with Olsson Associates is hereby adopted as attached hereto as **Exhibit A**.

**SECTION TWO. Implementation**. The Mayor is hereby authorized to execute the aforementioned Agreement, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

**SECTION THREE. Effective Date**. That the effects of this Resolution shall be in full force after its approval by the City Commission.

**PASSED AND APPROVED** by the Governing Body of the City of Abilene, Kansas this 13<sup>th</sup> day of July, 2015.

**CITY OF ABILENE, KANSAS**

By: \_\_\_\_\_  
Dennis P. Weishaar, Mayor

**ATTEST:**

\_\_\_\_\_  
Penny Soukup, CMC  
City Clerk

**EXHIBIT A**

**Agreement for Engineering Services**

**with**

**Olsson Associates**

**July 13, 2015**



## MASTER AGREEMENT FOR PROFESSIONAL SERVICES

June 22, 2015

City of Abilene  
Attn: David Dillner  
P.O. Box 519  
419 N. Broadway Street  
Abilene, KS 67410

Re: **MASTER AGREEMENT FOR PROFESSIONAL SERVICES**

Dear Dillner:

It is our understanding that City of Abilene, Kansas ("Client") requests Olsson Associates, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Master Agreement for Professional Services, Olsson's General Provisions, and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement").

The purpose of the Agreement is to provide the Client and Olsson with an operating agreement covering on-going services provided to Client. Upon request for services from the Client, Olsson will send to the Client a proposed **Work Order** for approval by Client. The Work Order will include the project location, anticipated start and completion dates, project description, compensation, and the Scope of Services. Olsson will commence work on individual projects upon receipt of a signed Work Order. An example of a Work Order is attached for your reference.

Olsson has acquainted itself with the information provided by Client relative to the Master Agreement and based upon such information offers to provide the services described in each Work Order. Client warrants that it is either the legal owner of the property to be improved by each Work Order or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions (and any exhibits attached hereto), which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Master Agreement and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide Client the Scope of Services for Projects as specified in each project Work Order. Olsson shall invoice Client for all services as outlined in each project Work Order. Olsson's services may vary for each project. Olsson shall not commence work on any Work Order without Client's prior approval in writing.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**SCHEDULE FOR SERVICES**

Details of the schedule for each project will be outlined in the Work Order.

**COMPENSATION**

Compensation for each project will be outlined in the Work Order. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of the invoice date.

**TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Agreement and the Agreement will represent the entire understanding between Client and Olsson with respect to any project subject to a Work Order. The Agreement may only be modified in writing signed by both parties.

Unless otherwise set forth in writing, Client's designated representative shall be David Dillner, 785-263-2550, citymgr@abilenecityhall.com.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below (indicating Client's designated representative if different from the party signing). Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of maximum 30 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By \_\_\_\_\_  
Mark A. Bachamp, P.E.

By \_\_\_\_\_  
Stan Meyer, P.E.

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**CITY OF ABILENE**

By \_\_\_\_\_  
Signature

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

Attachments

Sample Work Order

Labor Rates

General Provisions



## MASTER AGREEMENT WORK ORDER

This exhibit is hereby attached to and made a part of the Master Agreement for Professional Services dated June xx, 2015 between City of Abilene, Kansas ("Client") and Olsson Associates ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is as indicated below.

### **GENERAL**

Olsson has acquainted itself with the information provided by Client relative to the project and based upon such information offers to provide the services described below for the project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property.

### **PROJECT DESCRIPTION AND LOCATION**

Project will be located at: \_\_\_\_\_

Project Description: \_\_\_\_\_

### **SCOPE OF SERVICES**

Olsson shall provide the following services (Scope of Services) to Client for the Project:

#### **Phase 100 – Surveying Services**

**Task 101:** ALTA Survey with Topography. Olsson will prepare an ALTA survey with topography for the overall 170 acre Belvoir Winery Parcel in accordance with the furnished title report and the 2011 ALTA/ACSM survey requirements. All Property corners are to be set and a boundary survey drawing will be produced denoting any encroachments either way across the property lines. All survey work is to be conducted to meet the precision and positional accuracy standards contained in the Minimum Standards for Boundary Surveys as established by the State of Missouri. As part of this task Olsson will also prepare an aerial topographic survey with one foot contours on 170 acres including setting two on-site benchmarks. We have assumed an additional 6 field days will be required to obtain data on the obscured areas (tree massing). Title work and ownership certificate to be provided by the Client or if ordered by Olsson, paid for by the Client.

**Fee \$xxxx.00**

**Task 102:** Preliminary Plat. Olsson will prepare a one lot preliminary plat for the overall site in accordance with the City of Liberty criteria. Portions of the fees associated with task 201 will be billed as part of this task in order to meet City of Liberty criteria. Title work and ownership certificate to be provided by the Client or if ordered by Olsson, paid for by the Client.

**Fee \$xxxx.00**

**Phase 200 – Planning Services**

Task 201: Preliminary Development Plan – Overall Site. Olsson will prepare a Preliminary Development Plan for the overall site (170 acres) based on the concept site plan provided by client on February 17, 2014 for submittal to the City of Liberty for approval. Plans will include the following:

- a. Preliminary Site Plan
- b. Preliminary Grading Plan
- c. Preliminary Drainage Plan
- d. Preliminary Utility Plan

**Fee \$xxxx.00**

**Phase 300 – Final Engineering Services**

Task 301: Final Storm Drainage Report. Olsson will prepare a final storm drainage report based on the approved overall preliminary storm drainage report for submittal to City staff for approval. This report will be prepared in accordance with City and Owner Criteria.

**Fee \$xxxx.00**

**Phase 400 – Construction Services**

Task 401: Limited Construction Administration. Limited construction administration services including review of shop drawings for Civil related items and issuance of project change orders and clarifications. We have provided an allowance for this item. The Client will be notified on a monthly basis for the percent of allowance used, at the 80% usage amount, and for approval should this allowance be exceeded.

**Fee \$xxxx.00\***

**Phase 900 – Project Meetings and Expenses**

Task 901: Project Meetings. Attendance by Olsson representatives at planning commission, city council, and neighborhood meetings if requested. Services for meetings will be invoiced hourly.

**Fee \$Hourly**

Task 902: Expenses. Includes all project related reimbursable expenses as defined in the Reimbursable Expense Schedule of this letter agreement.

**Fee \$See Reimbursable Expense Schedule**

**TOTAL FEE \$xxxx.00**  
**+ Hourly Costs (Task 901)**  
**+ Expenses (Task 902)**

Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

### **SCHEDULE FOR OLSSON'S SERVICES**

Unless otherwise agreed, Olsson expects to perform its services under the Agreement as follows:

Anticipated Start Date: \_\_\_\_\_  
Anticipated Completion Date: \_\_\_\_\_

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

### **COMPENSATION**

Client shall pay to Olsson for the performance of the Scope of Services a fixed fee of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Olsson's reimbursable expenses for this Project are included in the fixed fee. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

### **TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative shall be David Dillner.

If this Work Order satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of maximum 30 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By \_\_\_\_\_  
Mark A. Bachamp, P.E.

By \_\_\_\_\_  
Stan Meyer, P.E.

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept this Work Order, please sign:

**CITY OF ABILENE**

By \_\_\_\_\_  
Signature

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

# LABOR RATE SCHEDULE 2015

## LABOR RATES

<u>Description</u>	<u>Range</u>
Principal.....	145 - 300
Project Manager.....	135 - 160
Project Professional.....	101 - 137
Assistant Professional.....	68 - 130
Designer.....	90 - 130
CAD Operator.....	46 - 105
Survey.....	52 - 115
Construction Services.....	53 - 170
Administrative/Clerical.....	44 - 100

Special Services not included in above categories will be provided on a special labor rate schedule.

# GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated June 22, 2015 between City of Abilene, Kansas ("Client") and Olsson Associates, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

## **SECTION 1—OLSSON'S SCOPE OF SERVICES**

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

## **SECTION 2—ADDITIONAL SERVICES**

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate schedules; earnings or expense statements; cash flow or

economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

2.3 Whenever, in its sole discretion, Olsson determines additional services as set forth in this Section 2.3 are necessary to avoid a delay in the completion of the Project(s) ("Necessary Additional Services"), Olsson shall perform or obtain from others such services without waiting for specific instructions from Client, and Olsson will be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any:

2.3.1 Services in connection with work directive changes and/or change orders directed by the Client to any contractors.

2.3.2 Services in making revisions to drawings and specifications occasioned by the acceptance of substitutions proposed by contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor(s); or evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the Project(s).

2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.3.4 Additional or extended services during construction made necessary by (1) work damaged during construction, (2) a defective, inefficient or neglected work by any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any contractor.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been paid in full and Client has fully satisfied all of its obligations under this Agreement.

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 Jobsite safety. Neither the professional activities of Olsson, nor the presence of Olsson or its employees or sub-consultants at the Project shall impose any duty on Olsson relating to any health or safety laws, regulations, rules, programs or procedures.

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until

the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

3.11 Providing and assuming all responsibility for: interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods. Client waives any claims against Olsson and releases Olsson from liability relating to or arising out of such services and agrees, to the fullest extent permitted by law, to indemnify and hold Olsson harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to such actions and services.

#### **SECTION 4—MEANING OF TERMS**

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the

contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Construction Cost Estimate": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such

observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons; provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.2 Assignment of this Agreement or transfer of the Project(s) by either party to any other entity without the prior written consent of the other party;

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client and (a) a final determination of default is entered against Olsson under Section 6.2 and (b) Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably

incurred by Olsson in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, any fees, costs or expenses incurred by Olsson in preparing or negotiating any proposals submitted to Client for Olsson's Scope of Services or Optional Additional Services under this Agreement and all other expenses directly resulting from the termination and a reasonable profit of ten percent (10%) of Olsson's actual costs (including overhead) incurred.

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

### **6.2 Arbitration or Litigation**

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by binding arbitration or litigation at the sole discretion and choice of Olsson. If Olsson chooses arbitration, the arbitration proceeding shall proceed in accordance with the Construction Industry Arbitration Rules of the AAA.

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any arbitration or litigation involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any other person or entity, regardless of who originally initiated such proceedings.

6.2.3 If Olsson chooses arbitration or litigation, either may be commenced at any time prior to or after completion of the Project(s), provided that if arbitration or litigation is commenced prior to the completion of the Project(s), the obligations of the parties under the terms of this Agreement shall not be altered by reason of the arbitration or litigation being conducted. Any arbitration hearings or litigation shall take place in Lincoln, Nebraska, the location of Olsson's home office.

6.2.4 The prevailing party in any arbitration or litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

### **6.3 Certification of Merit**

Client agrees that it will not assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against Olsson, or any Olsson subconsultant, unless Client has first provided Olsson with a sworn certificate of merit affidavit setting forth the factual and legal basis for such Claim (the "Certificate"). The Certificate shall be executed by an independent engineer ("Certifying Engineer") currently licensed and practicing in the jurisdiction of the Project site. The Certificate must contain: (a) the name and license number of the Certifying Engineer; (b) the qualifications of the Certifying Engineer, including a list of all publications authored in the previous 10 years and a list of all cases in which the Certifying Engineer testified within the previous 4 years ; (c) a statement by the Certifying Engineer setting forth the factual basis for the Claim; (d) a statement by the Certifying Engineer of each and every act, error, or omission that the Certifying Engineer contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Certifying Engineer of all opinions the Certifying Engineer holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Certifying Engineer; and (g) a list of every individual who provided Certifying Engineer with any information regarding the Project. The Certificate shall be provided to Olsson not less than thirty (30) days prior to any arbitration or litigation commenced by Client or not less than ten (10) days prior to the initial response submitted by Client in any arbitration or litigation commenced by someone other than Client. The Certificate is a condition precedent to the right of Client to assert any Claim in any litigation or arbitration and Client's failure to timely provide a Certificate to Olsson will be grounds for automatic dismissal of the Claim with prejudice.

## **SECTION 7—MISCELLANEOUS**

### **7.1 Reuse of Documents**

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s). Such Work Product is not intended or represented to be suitable for reuse

by Client or others on extensions of the Project(s) or on any other Project(s). Client will not distribute or convey such Work Product to any other persons or entities without Olsson's prior written consent which shall include a release of Olsson from liability and indemnification by the third party. Any reuse of Work Product without written verification or adaptation by Olsson for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Olsson, or to Olsson's independent professional associates or consultants, and Client shall indemnify and hold harmless Olsson and Olsson's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation of Work Product will entitle Olsson to further compensation at rates to be agreed upon by Client and Olsson.

### **7.2 Electronic Files**

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be Client's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the Client. Client shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Olsson, its officers, directors, employees and sub consultants against any and all damages, liabilities, claims or costs, including reasonable attorney's and expert witness fees and defense costs, arising from any changes made by anyone other than Olsson or from any reuse of the electronic files without the prior written consent of Olsson.

### **7.3 Construction Cost Estimate**

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Construction Cost Estimate provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s)

or construction costs may reasonably vary from Olsson's Construction Cost Estimate. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client shall employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Construction Cost Estimate was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Construction Cost Estimate was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Construction Cost Estimate, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Construction Cost Estimate.

#### **7.4 Prevailing Wages**

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

#### **7.5 Samples**

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

#### **7.6 Standard of Care**

Olsson will strive to perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same locality under similar circumstances at the time Olsson's services are performed. This Agreement creates no other representation, warranty or guarantee, express or implied.

#### **7.7 Force Majeure**

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall

take promptly whatever reasonable steps are necessary to relieve the effect of such cause.

#### **7.8 Confidentiality**

In performing this Agreement, the parties may disclose to each other written or oral non-public, confidential or proprietary information, including but not limited to, information of a business, planning, marketing or technical nature and models, tools, hardware and software, and any documents, reports, memoranda, notes, files or analyses that contain, summarize or are based upon any proprietary or confidential information (hereafter referred to as the "Information").

7.8.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless Client is a public entity and the release of Information is required by law or legal process.

7.8.2 The existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.8.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.8.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.8.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.8.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.8.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.8.3.5 is received from a third party not subject to any confidentiality obligations.

7.8.4 In the event that the Receiving Party is required by law or legal process to disclose any of Information of the Disclosing Party, the Receiving Party required to disclose such Information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.8.5 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the Information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all Information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such Information. If the Receiving Party exercises its option to destroy the Information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.8.6 The parties acknowledge that disclosure or use of Information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.8.7 The obligations of confidentiality set forth herein shall survive termination of this Agreement, but shall only remain in effect for a period of one (1) year from the date the Information is first disclosed.

## **7.9 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination**

7.9.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson in the use of such information.

7.9.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client. Client agrees to indemnify and hold Olsson harmless from any and all claims that Olsson is a generator, arranger, transporter, or disposer of hazardous waste as a result of any actions of Olsson, including, but not limited to, Olsson signing a Hazardous Waste Manifest, Bill of Lading or other form on behalf of Client.

7.9.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

7.9.4 Client shall release Olsson of any liability for, and shall defend and indemnify Olsson against any and all

claims, liability and expense resulting from operations under this Agreement on account of injury to, destruction of, or loss or impairment of any property right in or to oil, gas, or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth, and for any loss or damage to any formation, strata, reservoir beneath the surface of the earth.

7.9.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

7.9.5.1 Unless otherwise provided herein, Client shall assume all responsibility for, including control and removal of, and protect, defend and save harmless Olsson from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in Olsson's possession and control and directly associated with Olsson's equipment.

7.9.5.2 In the event a third party commits an act or omission which results in pollution or contamination for which either Olsson or Client, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between Olsson and Client, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

## **7.10 Controlling Law and Venue**

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Nebraska. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Nebraska.

## **7.11 Subconsultants**

Olsson may utilize as necessary in its discretion subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

## **7.12 Assignment**

7.12.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.12.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.12.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate to assist in the performance of services under this Agreement.

7.12.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

### **7.13 Indemnity**

Olsson and Client mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that each party is responsible for such damages, liabilities or costs on a comparative basis of fault.

### **7.14 Limitation on Damages**

7.14.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.14.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.14.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted

by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall not exceed the amount of Olsson's fee earned under this Agreement. Client acknowledges that such causes include, but are not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.

### **7.15 Entire Agreement**

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.

# City of Abilene ~ Street Rehabilitation

Project No. 15-1SR												
Item No.	Description	Quantity	Unit	Estimate		Apac-KS Shears Div.		Bayer Construction		Shilling Construction		
				Unit Price	Bid Price	Unit Price	Bid Price	Unit Price	Bid Price	Unit Price	Bid Price	
1)	Mobilization	1	L.S.	\$7,500.00	\$7,500.00	\$8,307.20	\$8,307.20	\$8,100.00	\$8,100.00	\$30,500.00	\$30,500.00	
2)	Traffic Control	1	L.S.	\$10,000.00	\$10,000.00	\$8,638.85	\$8,638.85	\$17,200.00	\$17,200.00	\$20,000.00	\$20,000.00	
3)	Finish Dirt Work and Seeding.	1	L.S.	\$3,500.00	\$3,500.00	\$4,581.20	\$4,581.20	\$3,200.00	\$3,200.00	\$2,500.00	\$2,500.00	
4)	2" Machine Milling (Contractor to retain millings)	18,948	S.Y.	\$1.50	\$28,422.00	\$1.20	\$22,737.60	\$2.50	\$47,370.00	\$4.25	\$80,529.00	
5)	2" HMA inlay	18,948	S.Y.	\$8.50	\$161,058.00	\$7.90	\$149,689.20	\$10.00	\$189,480.00	\$9.50	\$180,006.00	
6)	Remove and Replace Concrete curb/gutter 24" wide.	414	L.F.	\$28.00	\$11,592.00	\$24.85	\$10,287.90	\$34.00	\$14,076.00	\$44.00	\$18,216.00	
7)	Remove and Replace Concrete curb/gutter 30" wide.	1,450	L.F.	\$28.00	\$40,600.00	\$26.70	\$38,715.00	\$35.00	\$50,750.00	\$46.50	\$67,425.00	
8)	Remove and Replace 8" Thick Valley Gutter.	306.5	S.Y.	\$68.00	\$20,842.00	\$54.00	\$16,551.00	\$80.00	\$24,520.00	\$76.00	\$23,294.00	
9)	Remove and Replace 6" ADA accessible sidewalk ramp.	36	S.Y.	\$90.00	\$3,240.00	\$176.15	\$6,341.40	\$84.00	\$3,024.00	\$166.00	\$5,976.00	
10)	Concrete & Asphalt Sawing (typical 8" depth)	664	L.F.	\$3.50	\$2,324.00	\$4.25	\$2,822.00	\$4.00	\$2,656.00	\$3.05	\$2,025.20	
11)	Remove and Install new sewer manhole ring/lid (typical 7" to 9" height) 5' x 5' concrete.	10	Each	\$500.00	\$5,000.00	\$840.00	\$8,400.00	\$450.00	\$4,500.00	\$1,110.00	\$11,100.00	
12)	Over excavation and place 8" compacted AB-3 for valley gutters.	123.3	Tons	\$35.00	\$4,315.50	\$35.20	\$4,340.16	\$19.00	\$2,342.70	\$21.00	\$2,589.30	
13)	Remove & install water valve box top section with 2'x2'	5	Each	\$250.00	\$1,250.00	\$525.00	\$2,625.00	\$250.00	\$1,250.00	\$675.00	\$3,375.00	
14)	Remove & replace 8" concrete radius & apron adjacent to valley	36.3	S.Y.	\$68.00	\$2,468.40	\$70.30	\$2,551.89	\$80.00	\$2,904.00	\$76.00	\$2,758.80	
	<b>TOTAL BID</b>				<b>\$302,111.90</b>		<b>\$286,588.40</b>		<b>\$371,372.70</b>		<b>\$450,294.30</b>	

<b>MANUAL PAYABLES</b>					
<b>June 22, 2015</b>					
Date	Check Number	Vendor	Line Item	Amount	Description
06/03/15	19793	Emma Detrixhe	001-001-520970	\$ 140.00	Reimb. Towing from Civic Center parking lot/Farmers Market
<b>Total</b>				\$ 140.00	

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sts	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chk#
01070 ABILENE ANIMAL HOSPITAL, PA	20150889	C	06/22/15	STRAY BOARDING	26.60		
01214 ABILENE FLYING SERVICE	20150840	C	06/22/15	MOWING FOR MAY	79.50		
01220 ABILENE HIGH SCHOOL	20150841	C	06/22/15	JR COWBOY/COWGIRL TENNIS CAMP - ATTN: COACH BERRY & WILDMAN	100.00		
999164 ABILENE MIDDLE SCHOOL	20150842	C	06/22/15	JR COWBOY BB CAMP 2015 - ATTN: COACH KLEIN	78.00		
01250 ABILENE MUNICIPAL COURT	20150843	C	06/22/15	HOWARD SCHNEIDER 14-0734 BOND FORFEITURE	190.00		
999177 ABILENE OPTIMIST	20150844	C	06/22/15	112 T-BALL PARTICIPANTS	1,463.50		
01320 ABILENE REFLECTOR-CHRONICLE	20150845	C	06/22/15	MAY 2015 LEGALS & ADS	398.97		
01350 ABILENE TERMITE & PEST CO	20150846	C	06/22/15	VAN ADVERTISING& GRAD ADS	146.70		
19396 APAC, INC - SHEARS	20150847	C	06/22/15	PEST CONTROL CC MAY 2015	185.00		
01696 ARLAN CO INC	20150848	C	06/22/15	PEST CONTROL SR CENTER MAY 2015	35.00		
02014 BAYER CONSTRUCTION CO, INC	20150890	C	06/22/15	18.13 TONS OF HMA	1,281.24		
02050 BERRY EQUIPMENT	20150849	C	06/22/15	6 RESCUE TUBES/I THERMOMETER/I EXTENSION POLE/15 FLOATS/100 FT ROPE	681.94		
03129 CEDAR HOUSE FOUNDATION	20150891	C	06/22/15	17.43 TONS OF HMA/45.34 TONS OF AB-3 AND 1 1/2 ROCK	1,549.44		
03140 CENTRAL MECHANICAL CONSTR.	20150892	C	06/22/15	PARTS FOR ASPHALT ROLLER	200.06		
03417 CONSOLIDATED PRINTING	20150850	C	06/22/15	GRANT	5,000.00		
03430 CONTINENTAL ANALYTICAL	20150851	C	06/22/15	INSTALL POOL RESTROOM WATER HEATERS	347.20		
04005 D S & O RURAL ELECTRIC COOP	20150893	C	06/22/15	VISITOR'S GUIDE	3,490.00		
04320 DK CTY SHERIFF	20150894	C	06/22/15	LAB ANALYSIS	713.00		
05230 EXPRESS PRINT & SIGNS	20150895	C	06/22/15	MONTHLY BASIN SAMPLES	713.00		
06160 FLINT HILLS YOUTH FOOTBALL	20150852	C	06/22/15	ELECTRIC SERVICE @ WATER TOWER & LIGHT CORNER CLR GARTEN	173.66		
08145 HD SUPPLY WATERWORKS	20150853	C	06/22/15	PRISONER CARE MAY 2015	1,085.00		
02383 HOMMAN, BRAD	20150854	C	06/22/15	STAFF SHIRTS/I TBALL SHIRT	148.30		
09138 ISG TECHNOLOGY, INC	20150855	C	06/22/15	124 TBALL SHIRTS	687.25		
10100 JOHN'S SERVICE	20150856	C	06/22/15	YOUTH TACKLE FOOTBALL	10,140.00		
11223 KANSAS ONE-CALL SYSTEM, INC	20150896	C	06/22/15	PITS/METER BOXES/RINGS	5,452.83		
11454 KDHE	20150857	C	06/22/15	REPAIR BROKEN PAGER	135.00		
	20150858	C	06/22/15	RUN CABLE FOR BODY CAM DOCK	507.50		
	20150897	C	06/22/15	TOW CAR 7 - BREAK DOWN	65.00		
	20150898	C	06/22/15	LOCATES	273.00		
	20150899	C	06/22/15	RENEW LAB ACCREDITATION @ WTP	350.00		

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sis	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chk#
06127 KS GAS SERVICE	20150859	C	06/22/15	GAS SERVICE	770.43		
12012 LA RUE DISTRIBUTING INC	20150900	C	06/22/15	COFFEE	80.87		
	20150922	C	06/22/15	COFFEE	73.06		
999196 LABETTE COMMUNITY COLLEGE	20150860	C	06/22/15	FIRE SCHOOL FOR GABRIEL A. DICK	20.00		
12070 LAST CHANCE GRAPHICS	20150861	C	06/22/15	ABILENE LOGO EMBROIDER ON SHIRTS	60.00		
	20150901	C	06/22/15	SIGNAGE FOR FARMER'S MARKET	60.00		
999197 LA WRENCE, JEANA	20150902	C	06/22/15	1/2 OF CONTRACT LABOR AGREEMENT FOR CONCIERGE SERVICE	500.00		
999526 MEHGAN, JACK E.	20150903	C	06/22/15	TABLECLOTHES	95.00		
13200 MEMORIAL HOSPITAL	20150862	C	06/22/15	FALLS/JEFFREY	743.77		
09085 MID KS COOPERATIVE ASSOC,	20150904	C	06/22/15	GRASS SEED FOR FINISHING WATER PROJECTS IN YARDS	175.00		
11227 MIDWEST CONCRETE MATERIALS	20150905	C	06/22/15	REPAIR MANHOLE RINGS	716.63		
13458 MORRIS PUBLISHING GROUP, LLC	20150906	C	06/22/15	NO PLACE LIKE HOME ADS	1,432.50		
13700 MVP AUTO GLASS	20150863	C	06/22/15	NEW WINDSHIELD VAN #1	245.00		
14171 NEOFUNDS BY NEOPOST	20150865	C	06/22/15	POSTAGE	538.33		
14170 NEOPOST USA INC	20150864	C	06/22/15	METER RENTAL	138.00		
14190 NEX-TECH RURAL TELEPHONE	20150866	C	06/22/15	PHONE SERVICE	2,424.62		
14840 OCCK INC.	20150867	C	06/22/15	MAY 2015 SERVICE	6,166.67		
16111 PEPSI COLA BOTTLING CO	20150868	C	06/22/15	BD & POOL CONCESSIONS	2,602.20		
16050 PEREGRINE CORPORATION	20150869	C	06/22/15	A/P CHECKS	217.62		
16300 PRAIRIE FIRE COFFEE	20150907	C	06/22/15	COFFEE	127.70		
16402 PURVIS, JOHN	20150870	C	06/22/15	MERI CARLISLE 15-0367	97.50		
	20150871	C	06/22/15	CHAD MILLER 15-0289	65.00		
17009 QUILL	20150908	C	06/22/15	COFFEE CREAMER/PAPER/FOLDERS	278.90		
999193 RANKIN, CARLA	20150872	C	06/22/15	REFUND WSI COLTON	185.00		
999185 ROBERTS-MEYER, SHARON	20150909	C	06/22/15	CONTRACT LABOR ARTS FESTIVAL	1,250.00		
999195 ROTHCHILD, MARCUS	20150873	C	06/22/15	MILEAGE TO BUDGET WORKSHOP	33.35		
19080 SAGE PRODUCTS, INC	20150910	C	06/22/15	PARTS FOR MARKING WATER LINES	169.00		
19115 SALINA MEDIA GROUP	20150911	C	06/22/15	ADS FOR SUMMER LABORERS	70.00		
19180 SALINA SUPPLY CO	20150912	C	06/22/15	3 FIRE HYDRANTS	4,732.00		
19195 SAMS CLUB/GEFC	20150874	C	06/22/15	OFFICE SUPPLIES & POOL CONCESSIONS	237.36		
	20150875	C	06/22/15	POOL & BD CONCESSION SUPPLIES	505.01		
	20150876	C	06/22/15	POOL & BD CONCESSIONS/MINI TRIATHLON	693.85		

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sts	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chk#
999083 SHERWIN WILLIAMS	20150913	C	06/22/15	REPAIR PARTS FOR TRAFFIC MARKING MACHINE	17.98		
19550 SMART INSURANCE	20150877	C	06/22/15	INSURANCE ON NEW ANIMAL CONTROL TRUCK	746.00		
19551 SMITH HEATING & AIR	20150914	C	06/22/15	SERVICE ON WWTP A/C UNIT	239.74		
19715 STANION WHOLESale ELECTRIC	20150915	C	06/22/15	LIGHTS	15.74		
999192 STRAUSS-GONZALES, RACHEL	20150878	C	06/22/15	REFUND SEWER FEE	347.45		
20355 TRAILS END CAR WASH	20150916	C	06/22/15	CAR WASHES-MAY	156.53		
23210 UNIFIRST CORPORATION	20150879	C	06/22/15	UNIFORM SERVICE	2,547.38		
11724 US BANK EQUIPMENT FINANCE	20150880	C	06/22/15	COPIER LEASE	163.30		
16260 US POST OFFICE-POSTMASTER	20150881	C	06/22/15	REGULAR BILLING JULY 2015/ROCKET RUN	1,100.00		
11221 VERIZON WIRELESS	20150882	C	06/22/15	CELL PHONE SERVICE	1,289.05		
22014 VISA - UMB ADMINISTRATION	20150883	C	06/22/15	SUPPLIES	1,163.49		
22019 VISA - UMB COMMUNITY DEVELOP	20150917	C	06/22/15	SUPPLIES	85.37		
22016 VISA - UMB CVB	20150918	C	06/22/15	SUPPLIES	602.85		
22015 VISA - UMB FIRE DEPT	20150884	C	06/22/15	SUPPLIES	1,085.43		
22012 VISA - UMB MUNICIPAL COURT	20150885	C	06/22/15	SUPPLIES	344.32		
22010 VISA - UMB PARKS	20150886	C	06/22/15	SUPPLIES	4,889.41		
22011 VISA - UMB POLICE DEPT	20150919	C	06/22/15	SUPPLIES	427.66		
22021 VISA - UMB PUBLIC WORKS	20150920	C	06/22/15	SUPPLIES	4,276.35		
999194 WALTERS, JODI	20150887	C	06/22/15	SWIM TEAM REFUND	48.00		
23159 WESTAR ENERGY	20150888	C	06/22/15	ELECTRIC SERVICE	40,627.46		
25010 ZEE MEDICAL, INC	20150921	C	06/22/15	1ST AID SUPPLIES	95.85		
				Report Total	121,470.42		

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sts	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chkt#
01065 A-1 WATER WELL SERVICE, INC	20150925	C	07/13/15	REPAIRS TO WELL #16	3,542.00		
01070 ABILENE ANIMAL HOSPITAL, PA	20150965	C	07/13/15	STRAY ANIMAL	78.75		
01250 ABILENE MUNICIPAL COURT	20150926	C	07/13/15	PANTELEO DIPASQUALE 14-0263/13-0168	325.00		
01290 ABILENE PRINTING & OFFICE	20150927	C	07/13/15	TERRY PACK 15-0119	925.00		
01350 ABILENE TERMITE & PEST CO	20150928	C	07/13/15	ENVELOPES	642.75		
19396 APAC, INC - SHEARS	20150929	C	07/13/15	ANNUAL RENEWAL - OLD PARK SHOP	140.00		
01696 ARLAN CO INC	20150930	C	07/13/15	YEARLY RENEWAL - CITY BUILDING	135.00		
01748 AT & T	20150966	C	07/13/15	JUNE SERVICE - PEST CONTROL SR. CENTER	35.00		
02014 BAYER CONSTRUCTION CO, INC	20150931	C	07/13/15	RUNWAY REHAB	274,663.00		
02268 BLIXT C & D LANDFILL	20150932	C	07/13/15	HMA FOR STREET REPAIRS	2,157.59		
03275 CINTAS FIRST AID & SAFETY	20150933	C	07/13/15	10 LOUNGE CHAIR BACKS	505.35		
03417 CONSOLIDATED PRINTING	20150967	C	07/13/15	NEW INTERNET LINE	185.17		
03430 CONTINENTAL ANALYTICAL	20150934	C	07/13/15	AG LIME, AB-3, HMA	1,018.29		
18150 COOPER, CHARLES D.	20150935	C	07/13/15	CLEAN-UP PALLETS & REMOVE	15.00		
03441 COOPER, KELLY	20150936	C	07/13/15	1ST AID SUPPLIES & GATORADE	343.30		
999207 COUNCIL GROVE SWIM LEAGUE ME	20150952	C	07/13/15	COPIES	246.04		
999206 COUNCIL GROVE SWIM TEAM	20150937	C	07/13/15	EFFLUENT SAMPLING	315.20		
999199 DAVIS, BRAYDEN	20150938	C	07/13/15	JUNE 2015 CLEANING	600.00		
999538 DAVIS, PENNY	20150939	C	07/13/15	JUNE 2015 CLEANING	1,500.00		
999203 DELAY, CHRIS	20150953	C	07/13/15	57 LEAGUE MEET SHIRTS	686.00		
04130 DENNY'S PLUMBING & HEATING	20150954	C	07/13/15	50 PARTICIPANTS LEAGUE MEET	300.00		
04244 DK CTY ADMINISTRATION	20150940	C	07/13/15	REFUND OVERPAYMENT 14-0332	20.00		
04263 DK CTY EDC	20150941	C	07/13/15	VAN TRAINING - MILEAGE	31.05		
04292 DK CTY HISTORICAL SOCIETY	20150942	C	07/13/15	REFUND - LA TENNIS & ADV. TENNIS	40.00		
05046 EAGLE COMMUNICATIONS	20150943	C	07/13/15	REPAIR KITCHEN SINK FAUCET - NO WATER HOT SIDE	165.00		
05230 EXPRESS PRINT & SIGNS	20150944	C	07/13/15	DIESEL FUEL	874.02		
	20150945	C	07/13/15	ECO. DEVELEMENT	50,000.00		
	20150955	C	07/13/15	MEMBERSHIP	100.00		
	20150946	C	07/13/15	ETHERNET JULY 2015	270.00		
	20150947	C	07/13/15	COWTOWN - QLC	373.40		
	20150948	C	07/13/15	125 DANCE DECALS	428.37		
	20150949	C	07/13/15	225 JULY 4TH ROCKET RUN SHIRTS	1,238.75		
	20150950	C	07/13/15	67 DANCE RECITAL SHIRTS	304.85		

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sts	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chk#
999200 GREENING, BRANDI	20150951	C	07/13/15	REFUND BAND SHELL	15.00		
08145 HD SUPPLY WATERWORKS	20150956	C	07/13/15	METERS & COUPLINGS	4,205.50		
08410 HOLT MOTOR CO, INC	20150968	C	07/13/15	REPAIRS CAR 12 & 7	1,184.00		
02383 HOMMAN, BRAD	20150957	C	07/13/15	PAGER REPAIR & REPLACE BROKEN ANTENNA	44.75		
999160 HOOK, MICHAEL	20150958	C	07/13/15	CIVIC CENTER SETUP	150.00		
09069 IMAGE QUEST	20150959	C	07/13/15	COPIER BASE SERVICE	31.57		
	20150960	C	07/13/15	COPIER CHARGES	40.67		
	20150961	C	07/13/15	MAINT. FEE 6/20-7/20/15	136.95		
	20150969	C	07/13/15	COPIER MAINT.	10.00		
999204 JONES TRAILER CO.	20150962	C	07/13/15	BOX FOR NEW ANIMAL CONTROL VEHICLE	9,149.26		
11009 KA-COMM, INC.	20150963	C	07/13/15	REMOVE EQUIPMENT ON CAR 10	155.75		
11450 KDHE	20150964	C	07/13/15	ANNUAL WASTE WATER PERMIT	370.00		
11254 KINDERKNECHT, MARK	20150970	C	07/13/15	NUISANCE ABATEMENT @ 322 NE 11TH	180.00		
11475 KS DEPT OF REVENUE	20150971	C	07/13/15	WATER PROTECTION & CLEAN DRINKING WATER FEES- APR, MAY & JUNE 2015	2,830.92		
11480	20150972	C	07/13/15	DMV CHECKS	50.00		
19770 KS TREASURER	20150973	C	07/13/15	COLLECTION FEES - APRIL, MAY, JUNE 2015	4,099.91		
12012 LA RUE DISTRIBUTING INC	20150975	C	07/13/15	COFFEE	99.17		
12037 LAMPTON WELDING SUPPLY	20150974	C	07/13/15	PLASMA CUTTER REPAIRS	170.84		
999197 LAWRENCE, JEANA	20150976	C	07/13/15	PORTION OF CONTRACTUAL SERVICES FOR CONCIERGE SERVICE	250.00		
12125 LINDER ELECTRIC	20150977	C	07/13/15	NEW MOTOR FOR WELL #3 & PARTS FOR FLOURIDE ROOM	4,492.56		
	20150978	C	07/13/15	ELECTRICAL WORK IN COMM. DEVELOP. DEPT	50.00		
12130 LIONS CLUB	20150979	C	07/13/15	DIAMOND #1 - LIGHT REPAIR	384.44		
999150 MARK GUILFOYLE, ATTORNEY PA	20150980	C	07/13/15	KELLEE LION'S CLUB MEMBERSHIP	96.50		
13170 MEADE BATTERY & ELECTRICAL CO	20150981	C	07/13/15	JULY 2015 SERVICE	2,083.33		
999526 MEHMAN, JACK E.	20150982	C	07/13/15	TRUCK TAIL SHAFT	20.00		
13200 MEMORIAL HOSPITAL	20150983	C	07/13/15	CLEANING TABLECLOTHS	100.50		
13275 MID AMERICA AWARDS	20150984	C	07/13/15	THEODORE KRETZER	811.96		
11227 MIDWEST CONCRETE MATERIALS	20150985	C	07/07/15	BABY BEAUTY TROPHIES - 4TH OF JULY	94.50		
	20150986	C	07/07/15	CONCRETE FOR WATER LEAK, SEWER MANHOLES & SIDEWALK @ 3RD ST BRIDGE ON FLOOD DIKE	1,497.50		
09090 MILLER, JERRY A.	20150987	C	07/07/15	AWOS MAINT. FEE JUNE	300.00		

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sis	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chk#
14190 NEX-TECH RURAL TELEPHONE	20150988	C	07/07/15	PHONE SERVICE	2,397.86		
14845 OCCUPATIONAL PERFORMANCE CO	20150989	C	07/07/15	DOT DRUG SCREENS - HIRSCH, SCHRADER, YOUNG & TIMBROOK/PHYSICAL - SHEA	400.00		
11728 OFFICE OF CHIEF FINANCIAL OFFI	20150990	C	07/07/15	BASICS OF BUDGETING WORKSHOP - MARCUS ROTHCHILD	50.00		
14860 OLSSON ASSOCIATES	20150991	C	07/07/15	RUNWAY REHAB 013-0286	24,125.37		
15030 OSBORN PROPERTIES	20150992	C	07/07/15	BILLBOARDS	200.00		
15090 OZ ENDURANCE	20150993	C	07/07/15	MINI TRI SUPPLIES	748.00		
16111 PEPSI COLA BOTTLING CO	20150994	C	07/07/15	BD CONCESSION - POP	1,554.62		
	20150995	C	07/07/15	POOL - POP	215.00		
16131 PETERSON MONUMENTS & DESIGN,	20150996	C	07/07/15	MEMORIAL MARKER FOR PARKS, SIEVERS & PICKING	257.50		
999208 POLZELLA, BECKY	20150997	C	07/07/15	42 COSTUME RENTALS	420.00		
999156 POLZELLA, JESSICA	20150998	C	07/07/15	DANCE RECITAL SUPPLIES	385.88		
	20150999	C	07/07/15	LEOTARDS & SHIPPING	52.45		
16300 PRAIRIE FIRE COFFEE	20151000	C	07/07/15	COFFEE	41.90		
16401 PURKIS, GLENDA	20151001	C	07/07/15	MILEAGE	161.00		
17009 QUILL	20151002	C	07/07/15	EVIDENCE SUPPLIES	61.47		
	20151003	C	07/07/15	SD CARDS/STICKY NOTES	161.88		
	20151004	C	07/07/15	PADDED ENVELOPES	31.98		
18017 R E PEDROTTI CO, INC	20151005	C	07/07/15	RADIO REPAIR WATER TOWER TO PLANT SIGNALS	83.75		
18320 ROBSON OIL CO, INC	20151006	C	07/07/15	10PK OF GREASE	64.20		
	20151007	C	07/07/15	FUEL	10,206.44		
999202 RUSSELL, CAROL	20151008	C	07/07/15	WSI TRAINING	225.00		
19080 SAGE PRODUCTS, INC	20151009	C	07/07/15	SUPPLIES	308.47		
	20151010	C	07/07/15	MARKING PAINT, INSECT REPELLENT, TRASH BAG RETAINERS	612.20		
19180 SALINA SUPPLY CO	20151011	C	07/07/15	METER GASKETS, COUPLINGS	121.73		
19195 SAMS CLUB/GEFC	20151012	C	07/07/15	POOL/BD & OFFICE SUPPLIES	595.70		
	20151013	C	07/07/15	SR CENTER/OFFICE SUPPLIES	50.63		
	20151014	C	07/07/15	POOL CONCESSIONS	62.30		
	20151015	C	07/07/15	SERVICE FEE - CHARGE FOR DETAILED BILL	50.00		
999083 SHERWIN WILLIAMS	20151016	C	07/07/15	PAINT STRIPER REPAIRS	156.86		
19715 STANION WHOLESale ELECTRIC	20151017	C	07/07/15	RECYCLING LIGHT & WATER TOWER LIGHT REPAIRS	256.48		

CITY OF ABILENE

Summary Voucher Listing

Open, Completed, Printed, Requisitions

Vendor Number & Name	Voucher No	Sts	Date	Memo	Voucher Total	Scheduled Partial Payments	Man Chk#
19837 STOUT SERVICE & SALES, INC	20151018	C	07/07/15	REPAIRS FOR HUSTLER MOWER	20.00		
19892 SUPERIOR SANITATION SERVICE	20151019	C	07/07/15	TRASH SERVICE @ CVB, RECYCLING & WWTP	240.00		
	20151020	C	07/07/15	TRASH SERVICE @ SR CENTER, BALL DIAMONDS & COMM. CENTER	230.00		
19900 SWISHER, ANDREA K.	20151021	C	07/07/15	JULY 2015 SERVICE	2,083.33		
20244 THOMAS OUTDOOR ADVERTISING	20151022	C	07/07/15	BILLBOARDS	130.00		
20355 TRAILS END CAR WASH	20151023	C	07/07/15	CAR WASHES - JUNE	186.06		
23210 UNIFIRST CORPORATION	20151024	C	07/07/15	UNIFORM SERVICE	2,012.60		
11724 US BANK EQUIPMENT FINANCE	20151025	C	07/07/15	COPIER LEASE 6/21-7/21/15	440.62		
	20151026	C	07/07/15	COPIER LEASE	163.30		
21050 UTILITY SERVICE CO, INC	20151027	C	07/07/15	3RD QTR WATER TOWER MAINENANCE	25,370.04		
22020 VAN DIEST CHEMICAL CO	20151028	C	07/07/15	WEED SPRAYING CHEMICALS	768.90		
11221 VERIZON WIRELESS	20151029	C	07/07/15	CELL PHONE SERVICE	1,286.45		
23020 WAGEWORKS	20151030	C	07/07/15	FSA MONTHLY ADMIN FEES FOR MAY	115.00		
23025 WAITT OUTDOOR	20151031	C	07/07/15	BILLBOARDS	1,810.00		
999205 WASHINGTON ROOFING & INSULATI	20151032	C	07/13/15	WATER TREATMENT PLANT ROOF REPAIR	1,500.00		
999242 WEST, BARRY	20151033	C	07/13/15	18 KIDS IN THE KITCHEN	360.00		
25030 ZEYS MARKET	20151034	C	07/13/15	POOL & BD CONCESSIONS	200.75		
				Report Total	456,285.18		



**City of Abilene**  
**Payroll Expenditures Report**  
**07/02/15**

	TOTALS
NET SALARIES	\$ 79,576.34
OASDI - CITY/EMPLOYEE	\$ 13,833.48
MEDICARE - CITY/EMPLOYEE	\$ 3,235.22
FEDERAL WITHHOLDING - EMPLOYEE	\$ 9,675.14
KPERS - CITY/EMPLOYEE	\$ 9,928.92
KPF - CITY/EMPLOYEE	\$ 10,845.55
WADDELL & REED 457 - CITY/EMPLOYEE	\$ 2,086.00
WADDELL & REED SAVINGS - EMPLOYEE	\$ 290.00
STATE TAX - EMPLOYEE	\$ 3,084.95
AFLAC INSURANCE - EMPLOYEE	\$ 556.82
VISION PLANS - EMPLOYEE	\$ 289.76
HEALTH INSURANCE - CITY/EMPLOYEE	\$ 21,304.22
ATHLETIC CLUBS - CITY/EMPLOYEE	\$ 178.22
KS PAYMENT CENTER SUPPORT - EMPLOYEE	\$ 785.64
WAGE GARNISHMENTS - EMPLOYEE	\$ 776.15
FLEXIBLE SPENDING ACCOUNT - EMPLOYEE	\$ 1,035.46
POLICE & FIREMENS INS. - EMPLOYEE	\$ 20.92
<b>TOTAL PAYROLL EXPENDITURES</b>	<b>\$ 157,502.79</b>

## General Fund

	Audited 2013	Actual 2014	Projected 2015	Proposed 2016
Unencumbered Cash Balance Jan 1	\$ 1,783,171	\$ 1,492,286	\$ 1,457,810	\$ 1,460,019
<b>REVENUE</b>				
Property Tax	\$ 1,200,284	\$ 1,257,693	\$ 1,314,704	\$ 1,526,737
Delinquent Tax	\$ 29,123	\$ 18,224	\$ 23,674	\$ 15,000
Motor Vehicle Tax	\$ 145,286	\$ 136,560	\$ 149,017	\$ 145,000
Local Sales Tax	\$ 1,242,239	\$ 1,263,712	\$ 1,280,200	\$ 1,302,744
Franchise Taxes	\$ 704,957	\$ 746,655	\$ 728,806	\$ 700,000
KLINK	\$ 30,729	\$ 30,750	\$ 132,225	\$ 130,000
Local Alcoholic Liquor	\$ 17,813	\$ 12,716	\$ 14,328	\$ 15,000
Intergovernmental Aid	\$ 63,764	\$ -	\$ -	\$ -
License/Permit Fees	\$ 44,878	\$ 53,789	\$ 73,656	\$ 81,000
Fines and Penalties	\$ 148,736	\$ 139,996	\$ 180,128	\$ 160,000
Charges for Service	\$ 25,193	\$ 29,263	\$ 25,310	\$ 30,000
Interest Income	\$ 9,328	\$ 7,019	\$ 8,174	\$ 9,000
Rent	\$ 3,870	\$ 11,355	\$ 21,422	\$ 10,980
Grants	\$ 44,571	\$ 64,926	\$ 93,532	\$ 68,380
Reimbursed Expenses	\$ 58,691	\$ 56,052	\$ 38,133	\$ -
Transfers	\$ 164,225	\$ -	\$ 159,775	\$ 150,000
Other	\$ 37,560	\$ 27,840	\$ 22,456	\$ 15,000
<b>Total Receipts</b>	<b>\$ 3,971,247</b>	<b>\$ 3,856,550</b>	<b>\$ 4,265,549</b>	<b>\$ 4,358,841</b>
<b>Resources Available</b>	<b>\$ 5,754,418</b>	<b>\$ 5,348,836</b>	<b>\$ 5,723,359</b>	<b>\$ 5,818,860</b>
<b>EXPENDITURES</b>				
<b>GENERAL GOVERNMENT</b>				
Personnel	\$ 232,732	\$ 223,428	\$ 217,290	\$ 193,462
Contractual	\$ 7,233	\$ 7,780	\$ 15,837	\$ 9,200
Services and Supplies	\$ 152,749	\$ 184,207	\$ 201,291	\$ 116,075
Capital Outlay	\$ 78,915	\$ 13,415	\$ 10,000	\$ -
Capital Outlay: Chisholm Trail Celebration	\$ -	\$ -	\$ 20,000	\$ 20,000
Transfer: Convention and Tourism Fund	\$ 25,000	\$ -	\$ 25,000	\$ 25,000
Transfer	\$ 23,126	\$ -	\$ -	\$ -
<b>Subtotal</b>	<b>\$ 519,755</b>	<b>\$ 428,830</b>	<b>\$ 489,418</b>	<b>\$ 363,737</b>
<b>POLICE</b>				
Personnel	\$ 970,089	\$ 974,267	\$ 1,068,442	\$ 1,089,867
Services and Supplies	\$ 135,499	\$ 135,341	\$ 142,878	\$ 166,150
Capital Outlay	\$ 9,533	\$ 5,097	\$ 7,000	\$ 7,000
Capital Outlay: Animal Control Vehicle/Cameras	\$ -	\$ -	\$ 48,467	\$ -
Capital Outlay: Police Patrol Vehicles (2)	\$ -	\$ -	\$ -	\$ 63,200
<b>Subtotal</b>	<b>\$ 1,115,121</b>	<b>\$ 1,114,705</b>	<b>\$ 1,266,787</b>	<b>\$ 1,326,217</b>
<b>FIRE</b>				
Personnel	\$ 566,101	\$ 587,358	\$ 651,135	\$ 655,486
Services and Supplies	\$ 68,334	\$ 78,059	\$ 81,156	\$ 82,700
Capital Outlay	\$ 12,968	\$ 16,399	\$ 9,955	\$ -
Capital Outlay: Airpacks (12)	\$ -	\$ -	\$ -	\$ 75,600
<b>Subtotal</b>	<b>\$ 647,403</b>	<b>\$ 681,816</b>	<b>\$ 742,246</b>	<b>\$ 813,786</b>
<b>STREETS</b>				
Personnel	\$ 310,540	\$ 314,979	\$ 304,777	\$ 288,646
Contractual	\$ -	\$ -	\$ -	\$ 57,721
Service and Supplies	\$ 302,848	\$ 354,854	\$ 290,616	\$ 322,650
Capital Outlay	\$ 484,848	\$ 51,189	\$ 61,939	\$ -
Capital Outlay: Dump Truck	\$ -	\$ -	\$ -	\$ 60,000
Capital Outlay: Weed Sprayer Truck	\$ -	\$ -	\$ -	\$ -
<b>Subtotal</b>	<b>\$ 1,098,236</b>	<b>\$ 721,022</b>	<b>\$ 657,332</b>	<b>\$ 729,017</b>
<b>FLOOD CONTROL</b>				
Personnel	\$ 57,629	\$ 61,644	\$ 74,168	\$ 99,122
Service and Supplies	\$ 36,845	\$ 40,705	\$ 41,030	\$ 42,500
<b>Subtotal</b>	<b>\$ 94,474</b>	<b>\$ 102,349</b>	<b>\$ 115,198</b>	<b>\$ 141,622</b>
<b>PARKS</b>				
Personnel	\$ 165,418	\$ 167,869	\$ 194,557	\$ 198,885
Contractual	\$ -	\$ -	\$ -	\$ -
Service and Supplies	\$ 72,865	\$ 78,466	\$ 74,600	\$ 78,500
Capital Outlay	\$ 10,155	\$ 5,015	\$ 4,000	\$ -
Capital Outlay: Park Shop Addition	\$ -	\$ -	\$ -	\$ -
Capital Outlay: Miscellaneous Park Imp.	\$ -	\$ -	\$ -	\$ 1,700
Capital Outlay: 72-inch Front Mount Mower	\$ -	\$ -	\$ -	\$ 24,500
<b>Subtotal</b>	<b>\$ 248,438</b>	<b>\$ 251,350</b>	<b>\$ 273,157</b>	<b>\$ 303,585</b>
<b>SWIMMING POOL</b>				
Commodities	\$ 10,782	\$ 21,249	\$ 18,470	\$ 21,550
<b>Subtotal</b>	<b>\$ 10,782</b>	<b>\$ 21,249</b>	<b>\$ 18,470</b>	<b>\$ 21,550</b>

<b>General Fund</b>	<b>Audited 2013</b>	<b>Actual 2014</b>	<b>Projected 2015</b>	<b>Proposed 2016</b>
<b>EXPENDITURES (cont.)</b>				
<b>COMMUNITY DEVELOPMENT</b>				
Personnel	\$ 192,601	\$ 185,342	\$ 235,802	\$ 229,686
Contractual	\$ -	\$ 4,820	\$ 5,000	\$ 10,000
Service and Supplies	\$ 35,910	\$ 28,914	\$ 15,212	\$ 22,160
Capital Outlay	\$ 17,000	\$ -	\$ -	\$ -
Capital Outlay: Business Investment Grants	\$ -	\$ 49,998	\$ 53,000	\$ -
Capital Outlay: ED Corp.	\$ -	\$ -	\$ 50,000	\$ 50,000
<b>Subtotal</b>	<b>\$ 245,511</b>	<b>\$ 269,074</b>	<b>\$ 359,014</b>	<b>\$ 311,846</b>
<b>MUNICIPAL COURT</b>				
Personnel	\$ 80,333	\$ 81,338	\$ 85,895	\$ 86,736
Contractual	\$ 6,383	\$ 3,526	\$ 29,000	\$ 31,000
Service and Supplies	\$ 49,563	\$ 56,593	\$ 74,171	\$ 60,825
<b>Subtotal</b>	<b>\$ 136,279</b>	<b>\$ 141,457</b>	<b>\$ 189,066</b>	<b>\$ 178,561</b>
<b>SENIOR CENTER</b>				
Personnel	\$ 63,508	\$ 3,949	\$ 4,251	\$ 5,223
Contractual	\$ 7,800	\$ 7,200	\$ 8,000	\$ 7,200
Service and Supplies	\$ 37,869	\$ 18,617	\$ 14,958	\$ 18,850
<b>Subtotal</b>	<b>\$ 109,177</b>	<b>\$ 29,766</b>	<b>\$ 25,209</b>	<b>\$ 31,273</b>
<b>PUBLIC TRANSPORTATION</b>				
Personnel	\$ -	\$ 60,997	\$ 67,275	\$ 67,968
Service and Supplies	\$ -	\$ 21,975	\$ 26,944	\$ 21,700
Capital Outlay	\$ -	\$ 10,727	\$ 12,000	\$ -
<b>Subtotal</b>	<b>\$ -</b>	<b>\$ 93,699</b>	<b>\$ 106,219</b>	<b>\$ 89,668</b>
<b>CIVIC CENTER</b>				
Service and Supplies	\$ 31,388	\$ 31,089	\$ 20,224	\$ 31,775
Capital Outlay	\$ 5,568	\$ 4,620	\$ 1,000	\$ -
<b>Subtotal</b>	<b>\$ 36,956</b>	<b>\$ 35,709</b>	<b>\$ 21,224</b>	<b>\$ 31,775</b>
<b>SUMMARY</b>				
Unencumbered Cash Balance Jan 1	\$ 1,783,171	\$ 1,492,286	\$ 1,457,810	\$ 1,460,019
Revenues	\$ 3,971,247	\$ 3,856,550	\$ 4,265,549	\$ 4,358,841
Expenditures	\$ 4,262,132	\$ 3,891,026	\$ 4,263,340	\$ 4,342,637
<b>Unencumbered Cash Balance Dec 31</b>	<b>\$ 1,492,286</b>	<b>\$ 1,457,810</b>	<b>\$ 1,460,019</b>	<b>\$ 1,476,223</b>
<b>% of Cash Balance to Expenditures</b>	<b>35.0%</b>	<b>37.5%</b>	<b>34.2%</b>	<b>34.0%</b>

**FUND NOTES**

1. Assessed valuation increased 1.5% to \$52,676,645; a mill is now worth \$52,677.
2. Sales tax projected to increase 2% over 2015 receipts.
3. Franchise fees are projected to remain at the same rate, or 5% of gross receipts for utilities.
4. Projecting a 14% increase in revenue from license and permit fees that would be increased.
5. Includes 2% merit increase at estimated cost of \$72,253.
6. Includes 1% Cost-of-Living Adjustment to Pay Plan at estimated cost of \$59,170.
7. **General Government:** \$25,000 transfer to CVB; and \$20,000 for Chisholm Trail Celebration; \$10,000 expense in 2015 related to software.
8. **Police:** \$63,200 for replacement of two police patrol vehicles.
9. **Fire:** \$75,600 for replacement of twelve airpacs (13 to be replaced in 2017).
10. **Streets:** \$60,000 dump truck. Weed sprayer truck removed from proposed budget (\$25,000).
11. **Parks:** \$24,500 front-mount mower; \$1,700 undefined park project; and removed park shop addition for transportation vans (\$70,000).
12. **Community Development:** \$50,000 Economic Development Corp.; \$10,000 for demolitions; removed Business Investment Grants (\$56,000).
13. **Public Transportation:** No cost related to van replacement.
14. Estimated mill levy increase of 2.000 is needed to end year with nearly the same carryover balance as beginning of year.
15. Estimated total mill levy for City is 47.199, compared to 45.438 in 2015 and would generate about \$218,033 in new revenue.

<b>PROPERTY TAX SUMMARY</b>	<b>2015</b>	<b>2016</b>	<b>% Change</b>
General Fund	26.983	28.983	7.4%
Debt Service	10.010	9.491	-5.2%
Library	6.330	6.619	4.6%
Fire Apparatus	0.973	0.973	0.0%
Airport	1.142	1.133	-0.8%
Capital Improvement	0.000	0.000	0.0%
<b>TOTAL</b>	<b>45.438</b>	<b>47.199</b>	<b>3.9%</b>
<b>Impact on Property Taxes</b>			
	<b>2015</b>	<b>2016</b>	<b>\$ Change</b>
\$150,000 Single-Family Residence	\$ 784	\$ 814	\$ 30
\$250,000 Single-Family Residence	\$ 1,306	\$ 1,357	\$ 51
\$350,000 Commercial Business	\$ 3,976	\$ 4,130	\$ 154
\$1.5 million Commercial Business	\$ 11,360	\$ 11,800	\$ 440