

ABILENE CITY COMMISSION - REGULAR MEETING AGENDA
ABILENE PUBLIC LIBRARY, 209 NW FOURTH STREET
August 22, 2016 - 4:00 pm

Note: A Land Bank Board of Trustees Meeting will follow the Regular Meeting.

1. **Call to Order**
2. **Roll Call:** ___ Marshall ___ Shafer ___ Payne ___ Weishaar ___ Dale
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 August 22, 2016 City Commission Meeting;
5. Meeting Minutes: August 8, 2016 Regular Meeting;
6. Designation of a 2000 John Deere 1420 mower with 7-foot mulch deck and Little Wonder Push Edger as surplus and authorizing its public sale or disposal; and
7. An Ordinance amending Section 5-304 of the City Code of the City of Abilene, Kansas, concerning the possession of marijuana.

Public Comments and Communications

8. **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.
9. **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

10. None

Public Hearings

11. A Public Hearing for the purpose of hearing and answering objections of taxpayers relating to the proposed use of all funds and the amount of ad valorem tax for the 2017 Budget for the City of Abilene, Kansas.

Old Business

12. None

New Business

13. Consideration of an Ordinance approving the 2017 Budget for the City of Abilene, Kansas, and attesting to an increase in tax revenues for said Budget.
14. Consideration of a Resolution approving Master Agreement Work Order No. 2-16 with Olsson Associates concerning Construction Administration Services for the NW 11th Street Project.

Reports

15. City Manager's Report

Adjournment

16. Consideration of a motion to adjourn the August 22, 2016 City Commission meeting.

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

- Convention and Visitor Bureau, August 23 at 2:00 pm (Civic Center)
- Airport Advisory Committee, September 1 at 5:00 pm
- Trails, Rails and Tales Event, September 2-4 (Old Abilene Town)
- Commission Study Session, September 6 at 4:00 pm (City Hall)
- City Commission Meeting, September 12 at 4:00 pm
- Planning Commission, September 13 at 4:30 pm

####

**ABILENE LAND BANK BOARD OF TRUSTEES MEETING AGENDA
ABILENE PUBLIC LIBRARY, 209 NW FOURTH STREET
August 22, 2016**

1. Call to Order

2. Roll Call: ___ Marshall ___ Shafer ___ Payne ___ Weishaar ___ Dale

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.)*

3. Agenda Approval for the August 22, 2016 Land Bank Board of Trustees Meeting
4. Meeting Minutes: January 25, 2016 Board of Trustees Meeting

Declaration

5. Declaration. At this time, Trustees may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

Public Hearings

6. None

Old Business

7. None

New Business

8. Consideration of a Resolution terminating a Land Exchange Agreement with Abilene Highlands I, LLC.
9. Consideration of a Resolution terminating the Declaration of Covenants, Conditions, Restrictions affecting the East and West Highlands Additions to the City of Abilene, Kansas.

Reports

10. City Manager's Report

Adjournment

11. Consideration of a motion to adjourn the August 22, 2016 Abilene Land Bank Board of Trustees Meeting.



Abilene City Commission Minutes
Abilene Public Library
August 8, 2016 @ 4:00 p.m.
Abilene, Kansas

1. Call to Order

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

Staff Present: City Manager Dillner, Human Resources Director/City Clerk Soukup, City Attorney Martin, Finance Director Rothchild, Parks & Recreation Director Foltz, Police Chief Mohn, Assistant Police Chief Wilkins, Fire Chief Sims, Public Works Director Schrader, Community Development Director Shea and Alicia Hoffman.

Others Present: Mike Heronemus.

3. Pledge of Allegiance – Mayor Marshall led the Pledge of Allegiance.

Consent Agenda

4. Agenda Approval for the August 8, 2016 City Commission Meeting
5. Meeting Minutes: July 25, 2016, Regular Meeting
6. An Ordinance regulating public offenses within the City of Abilene, Kansas; incorporating by reference the Uniform Public Offense Code for Kansas Cities, Edition of 2016;
7. An Ordinance regulating vehicles upon the streets and highways within the City of Abilene, Kansas; incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2016;
8. This Ordinance will be put on the next Agenda for corrections.
9. Appointment of Barbara Johnson and Rick Johnson to the Sister City to fill unexpired terms ending in May 2017, respectively.

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

Public Comments and Communications

10. 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 Marshall asked for any comments or communications from the public that are not on the agenda.

There were no public comments or communications.

11. 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

12. Recognition of Assistant Police Chief Jason Wilkins.

Police Chief Mohn introduced Jason Wilkins promotion to new Assistant Police Chief.

Public Hearings

13. There were no public hearings.

Old Business

14. There was no old business.

New Business

15. Consideration of a Resolution accepting the Independent Audit of the Financial Statements of the City of Abilene, Kansas for year-ending December 31, 2015, as prepared by Varney and Associates, CPA's, LLC.

City Manager Dillner said at the last study session the auditors from Varney and Associates presented the audit. We have been given a clean audit and all the issues in the prior audit have been addressed and were no longer an issue. This Resolution will be accepting the findings of the audit.

Motion by Commissioner Weishaar, seconded by Commissioner Dale to approve Resolution 080816-1 a **RESOLUTION ACCEPTING THE INDEPENDENT AUDIT OF THE FINANCIAL STATEMENTS OF THE CITY OF ABILENE, KANSAS FOR YEAR-ENDING DECEMBER 31, 2015, AS PREPARED BY VARNEY AND ASSOCIATES, CPA'S, LLC.** Motion carried unanimously 5-0.

16. Consideration of a Resolution accepting the Hotel/Conference Center Feasibility Study as prepared by CBRE Hotels.

City Manager Dillner the study done by CBRE Hotels was presented at the last study session among other details one of the things they recommended as a 100 room hotel plus a 8000 to 10,000 conference center. This just officially accepts the study and additional actions will be up for discussion at future meetings.

Motion by Commissioner Shafer, seconded by Commissioner Weishaar to approve Resolution 080816-2 **OF A RESOLUTION ACCEPTING THE HOTEL/CONFERENCE CENTER FEASIBILITY STUDY AS PREPARED BY CBRE HOTELS.** Motion carried unanimously 5-0.

17. Consideration of an Ordinance authorizing the sale, possession and consumption of alcoholic liquor at a specified location on the public right-of-way and approving the Chisholm Trail Classic Auto Car Show as a special event, all pursuant to K.S.A. 41-719(a)(2) and K.S.A. 41-2645(e)(1).

City Manager Dillner said that Chisholm Trail Classic Auto LLC has made a request for a temporary alcoholic liquor permit for a classic auto show labor day weekend of this year and have requested the closure of Texas Street between Cedar Street and Spruce Street. State law requires the governing body to pass an Ordinance authorizing the closure of the street and approving the temporary alcoholic liquor permit. Then that goes to the State for approval.

Motion by Commissioner Dale, seconded by Commissioner Payne to adopt Ordinance Number 3306, **AN ORDINANCE AUTHORIZING THE SALE, POSSESSION AND CONSUMPTION OF ALCOHOLIC LIQUOR AT A SPECIFIED LOCATION ON THE PUBLIC RIGHT-OF-WAY AND APPROVING THE CHISHOLM TRAIL CLASSIC AUTO CAR SHOW AS A SPECIAL EVENT, ALL PURSUANT TO K.S.A. 41-719(A)(2) AND K.S.A. 41-2645(E)(1).** Motion carried unanimously 5-0.

18. Consideration of a motion authorizing the City Manager to obtain a temporary liquor permit on behalf of the City of Abilene, Kansas for the upcoming Trails, Rails and Tales Event.

City Manager Dillner said that this permit request is not going to require the closure of any public right of way. Because Trails, Rails and Tales is an official City event the direction that staff had received is for the City to go ahead and proceed with the temporary alcoholic permit on behalf of the City. This will be submitted to the State.

Motion by Commissioner Weishaar, seconded by Commissioner Dale to authorize the City Manager to obtain a temporary liquor permit for the upcoming Trails, Rails and Tales event on behalf of the City. Motion carried 4-1, Commissioner Shafer voting no.

19. Consideration of a Resolution authorizing participation in Dickinson County's Jail and Justice Center Study.

City Manager Diller stated that per conversations with Dickinson County and their architect for the Jail and Justice Center the architect Goldberg Group Architects, PC has provided an agreement to include the City in the study for \$19,600.00. The Resolution states that those funds will come from the Capital Improvement Fund which those were set aside for that purpose. We are putting together an RFP package for solicitation for architectural services for different options.

Motion by Commissioner Shafer, seconded by Commissioner Dale to approve Resolution 080816-3, **A RESOLUTION AUTHORIZING PARTICIPATION IN DICKINSON COUNTY'S JAIL AND JUSTICE CENTER STUDY.** Motion carried unanimously 5-0.

20. Consideration of a motion authorizing publication of a Notice of Budget Hearing for the proposed 2017 Budget of the City of Abilene, Kansas, as presented by the City Manager.

City Manager Dillner the annual notice of budget hearing will establish a hearing on August 22, 2014 at 4:00 p.m. to be held in the Commission chambers of the Library to be held for the purpose of hearing an answering objections of tax payers opposed to the use of funds in the ad valorem tax. The current proposed budget would establish a tax rate of 49.706 mills. Which is about 3.4 mills higher than the 2016 year.

Motion by Commissioner Weishaar, seconded by Commissioner Shafer to approve the Notice of Budget Hearing for the proposed 2017 Budget of the City of Abilene, Kansas.

21. Consideration of a motion to recess into executive session for twenty minutes to discuss attorney-client privileged information to include the City Manager and City Attorney.

Motion by Commissioner Weishaar, seconded by Commissioner Payne to recess into executive session for 20 minutes at 4:19 p.m. Motion carried unanimously 5-0.

Motion by Commissioner Weishaar, seconded by Commissioner Shafer to return to regular session at 4:39 p.m. Motion carried unanimously 5-0.

Motion by Commissioner Weishaar, seconded by Commissioner Shafer to return to executive session for 20 minutes at 4:40 p.m. Motion carried unanimously 5-0.

Motion by Commissioner Weishaar, seconded by Commissioner Payne to return to regular session at 5:00 p.m. with no action being taken. Motion carried unanimously 5-0.

Reports

23. City Manager's Report

City Manager Dillner said the process for a CVB Director is ongoing we have 35 application with 11 potential candidates.

The BNSF railroad crossings at 1st Street and 3rd Street are supposed to be fixed within the next 4 to 5 weeks. Staff has received a draft of the 2015 City Audit which will be discussed at the August 2nd study session as well.

24. Consideration of a motion to adjourn the August 8, 2016 City Commission meeting.

Motion by Commissioner Weishaar, seconded by Commissioner Payne to adjourn at 5:03 p.m. Motion carried unanimously 5-0.

(Seal)

Dee Marshall, Mayor

ATTEST:

Penny L. Soukup, CMC
City Clerk

ORDINANCE NO. 3307

AN ORDINANCE AMENDING SECTION 5-304 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS, CONCERNING THE POSSESSION OF MARIJUANA.

WHEREAS, Section 5-304 of the City Code of the City of Abilene, Kansas makes it unlawful to possess marijuana or any substance containing any quantity of the hallucinogenic substances known as tetrahydrocannabinols, and classifies such offense as a Class A Misdemeanor;

WHEREAS, the Kansas Legislature, with the adoption of HB 2462, amended K.S.A. 2015 Supp. 21-5706 to reduce the penalties for possession of marijuana so that a first offense is now classified as a class B nonperson misdemeanor, a second offense is now classified as a class A nonperson misdemeanor, and a subsequent offense is now classified as a drug severity level 5 felony; and

WHEREAS, the Governing Body desires to amend Section 5-304 so that the penalties for first and second offenses for marijuana possession are consistent with state law.

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

SECTION ONE. That Section 5-304 of the City Code of the City of Abilene, Kansas, be amended as follows:

5-304 POSSESSION OF MARIJUANA. It shall be unlawful for any person to possess or have under such person's control the substance commonly known as marijuana or any substance containing any quantity of the hallucinogenic substances known as tetrahydrocannabinols. Upon a first conviction for violation of this section, the convicted person shall be punished by a fine not less than \$200 or greater than \$1,000. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than 180 days. Upon a second conviction of this section, or if the convicted person has a previous conviction of a substantially similar offense under Kansas law or other jurisdiction, the convicted person shall be punished by a fine not less than \$200 or greater than \$2,500. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than one year. Violation of this section is a misdemeanor, and may be prosecuted in municipal court unless such person has two or more prior convictions for violation of this section, or for a substantially similar offense under Kansas law or other jurisdiction.

SECTION TWO. This Ordinance rescinds Ordinance No. 3305 and all previous ordinances in conflict therewith.

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

PASSED AND APPROVED by the governing body of the City of Abilene, Kansas, this 22nd day of August, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, City Clerk

APPROVED AS TO FORM:

Aaron O. Martin, City Attorney

ORDINANCE NO. 3309

AN ORDINANCE APPROVING THE 2017 BUDGET FOR THE CITY OF ABILENE, KANSAS, AND ATTESTING TO AN INCREASE IN TAX REVENUES FOR SAID BUDGET

WHEREAS, the City of Abilene must continue to provide services to protect the health, safety, and welfare of the citizens of this community;

WHEREAS, the cost of providing essential services to the citizens of Abilene continues to increase;

WHEREAS, the City requires an increase to the mill levy, in part, to fulfill its legal obligations associated with debt service issued to finance public improvements for the Highlands development; and

WHEREAS, in accordance with Kansas law, the City conducted a public hearing at its August 22, 2016 regular meeting to provide interested citizens with an opportunity to be heard concerning the proposed budget;

WHEREAS, after careful deliberation, the Governing Body has determined that in order to maintain the public services that are essential for the citizens of this City, it will be necessary to budget property tax revenues in an amount exceeding the mill levy from the 2017 budget; and

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

SECTION ONE. Municipal Budget; Approved. That the Governing Body hereby approves the 2017 Budget for the City of Abilene, as prepared on forms prescribed by the State of Kansas and attached hereto as **Exhibit A**. Such budget pertaining to calendar year 2017 as of and beginning January 1, 2017.

SECTION TWO. Transfers. That all interfund transactions identified in the Schedule of Transfers as contained in said 2017 Budget filing with the State of Kansas are adopted by reference.

SECTION THREE. Implementation. That the City Manager is authorized and directed to implement and to administer, within the budgetary funding limits and within adopted City policy and relevant State and City laws and regulations, said approved 2017 Budget.

SECTION FOUR. Appropriation of Funds. That the 2017 Budget of the City of Abilene shall constitute an appropriation of the money so budgeted, and the City Manager shall be authorized to adjust all salaries, including exempt positions, to pay payrolls and claims, and to make interfund transfers as provided in said Budget of the City of Abilene; provided that all such payments and transfers made shall be deducted from the accounts so appropriated, and that total of payments made by Fund shall not exceed the amount appropriated by Fund.

SECTION FIVE. Accounts Payable. That the Administration Department shall establish regulations as to the manner of payment of the periodic dates on which payrolls and claims shall be paid, provided, that all employees of the City of Abilene shall be paid bi-weekly and no payroll or claim shall be paid until it has been approved by the City Manager, or his designee, and by the Finance Director.

SECTION SIX. Records. The Finance Director shall cause a record to be maintained of all payments of any nature to be maintained.

SECTION SEVEN. Certified Budget to County Clerk. The Finance Director shall be directed to submit a certified copy of the 2017 Budget for the City to the County Clerk in order for the tax rates to be certified on the tax rolls for the 2017 calendar year.

SECTION EIGHT. 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 22nd day of August, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, CMC
City Clerk

EXHIBIT A

2017 Budget

for the

City of Abilene, Kansas

August 22, 2016

Abilene

2017

Computation to Determine Limit for 2017

	Amount of Levy
1. Total tax levy amount in 2016 budget	+ \$ <u>2,437,194</u>
2. Debt service levy in 2016 budget	- \$ <u>499,948</u>
3. Tax levy excluding debt service	\$ <u>1,937,246</u>

2016 Valuation Information for Valuation Adjustments

4. New improvements for 2016:	+ <u>546,181</u>	
5. Increase in personal property for 2016:		
5a. Personal property 2016	+ <u>2,468,411</u>	
5b. Personal property 2015	- <u>2,789,053</u>	
5c. Increase in personal property (5a minus 5b)	+ <u>0</u>	
		(Use Only if > 0)
6. Valuation of annexed territory for 2016		
6a. Real estate	+ <u>0</u>	
6b. State assessed	+ <u>0</u>	
6c. New improvements	- <u>0</u>	
6d. Total adjustment (sum of 6a, 6b, and 6c)	+ <u>0</u>	
7. Valuation of property that has changed in use during 2016		<u>29,971</u>
8. Total valuation adjustment (sum of 4, 5c, 6d & 7)		<u>576,152</u>
9. Total estimated valuation July 1, 2016	<u>53,243,426</u>	
10. Total valuation less valuation adjustment (9 minus 8)		<u>52,667,274</u>
11. Factor for increase (8 divided by 10)		<u>0.01094</u>
12. Amount of increase (11 times 3)		+ \$ <u>21,192</u>
13. 2017 budget tax levy, excluding debt service, prior to CPI adjustment (3 plus 12)		\$ <u>1,958,438</u>
14. Debt service in this 2017 budget		<u>551,615</u>
15. 2017 budget tax levy, including debt service, prior to CPI adjustment (13 plus 14)		<u>2,510,053</u>
16. Consumer Price Index for all urban consumers for calendar year 2015		<u>0.125%</u>
17. Consumer Price Index adjustment (3 times 16)		\$ <u>2,422</u>
18. Maximum levy for budget year 2017 including debt service, not requiring 'notice of vote publication' or adoption of a resolution prior to adoption of the budget (15 plus 17)		\$ <u>2,512,475</u>

If the 2017 adopted budget includes a total property tax levy exceeding the dollar amount in line 18 you must, prior to adoption of such budget, adopt a resolution authorizing such levy and, subsequent to adoption of such budget, publish notice of vote by the governing body to adopt such budget in the official county newspaper and attach a copy of the published notice to this budget.

In no event will such resolution or published notice of the vote be required if the total budget year tax levy is \$1,000 or less.

Abilene

2017

Allocation of MV, RV, 16/20M, Commercial Vehicle, and Watercraft Tax Estimates

Budgeted Fund for 2016	Ad Valorem Levy Tax Year 2015	Allocation for Year 2017				
		MVT	RVT	16/20M Veh	Comm Veh	Watercraft
General	1,463,495	160,001	2,385	890	5,168	1,091
Debt Service	499,948	54,658	815	304	1,766	373
Library	352,434	38,531	575	214	1,245	263
Airport	70,076	7,661	114	43	247	52
Fire Apparatus	51,241	5,602	84	31	181	38
Capital Improvement						
Recreation	0					
TOTAL	2,437,194	266,453	3,973	1,482	8,607	1,817

County Treas Motor Vehicle Estimate 266,453
 County Treas Recreational Vehicle Estimate 3,973
 County Treas 16/20M Vehicle Estimate 1,482
 County Treas Commercial Vehicle Tax Estimate 8,607
 County Treas Watercraft Tax Estimate 1,817

Motor Vehicle Factor 0.10933
 Recreational Vehicle Factor 0.00163
 16/20M Vehicle Factor 0.00061
 Commercial Vehicle Factor 0.00353
 Watercraft Factor 0.00075

**WORKSHEET FOR STATE GRANT-IN-AID TO PUBLIC LIBRARIES AND
REGIONAL LIBRARY SYSTEMS**

Budgeted Year: 2017

Library found in: Abilene
Dickinson

Two tests are used to determine eligibility for State Library Grant. If the grant is approved, then the municipality's library will be paid the grant on February 15 of each year.

First test:

	Current Year <u>2016</u>	Proposed Year <u>2017</u>
Ad Valorem Tax	\$352,434	\$374,515
Delinquent Tax	\$0	\$0
Motor Vehicle Tax	\$41,131	\$38,531
Recreational Vehicle Tax	\$0	\$575
16/20M Vehicle Tax	\$0	\$214
LAVTR	\$0	\$0
	\$0	\$0
TOTAL TAXES	\$393,565	\$413,835
Difference in Total Taxes:	\$20,270	
Qualify for grant:	Qualify	

Second test:

Assessed Valuation	\$52,722,439	\$53,243,426
Did Assessed Valuation Decrease?	No	
Levy Rate	6.685	7.034
Difference in Levy Rate:	0.349	
Qualify for grant:	Qualify	

Overall does the municipality qualify for a grant? **Qualify**

If the municipality would not have qualified for a grant, please see the below narrative for assistance from the State Library.

Abilene

2017

Adopted Budget General Fund - Detail Page 1	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Expenditures:			
General Government			
Salaries	189,406	193,763	199,733
Contractual	37,834	44,960	45,000
Commodities	209,920	116,075	120,000
Capital Outlay	4,560	42,000	0
Transfer to CVB	25,000	25,000	25,000
Total	466,720	421,798	389,733
Police			
Salaries	1,048,415	1,068,817	1,120,573
Contractual	0	0	0
Commodities	127,822	140,890	141,100
Capital Outlay	6,404	6,500	22,000
Transfer	51,192	50,000	32,500
Total	1,233,833	1,266,207	1,316,173
Fire			
Salaries	640,725	703,000	743,769
Contractual	0	0	0
Commodities	74,722	79,313	85,725
Capital Outlay	14,766	43,134	70,634
Total	730,213	825,447	900,128
Streets			
Salaries	307,022	284,822	293,286
Contractual	0	51,922	82,200
Commodities	297,882	297,029	313,650
Capital Outlay	25,412	60,000	0
Total	630,316	693,773	689,136
Flood Control			
Salaries	72,241	98,192	101,512
Contractual	0	0	0
Commodities	35,786	41,727	41,100
Capital Outlay	0		
Total	108,027	139,919	142,612
Parks			
Salaries	180,116	195,398	205,769
Contractual	0	0	0
Commodities	73,067	75,000	88,800
Capital Outlay	2,900	9,762	9,760
Total	256,083	280,160	304,329
Swimming Pool			
Salaries	0	0	0
Contractual	0	0	0
Commodities	21,545	21,500	18,500
Capital Outlay	0	0	0
Total	21,545	21,500	18,500
Community Development			
Salaries	139,057	159,591	162,195
Contractual	0	0	0
Commodities	14,006	19,453	10,650
Capital Outlay	105,111	39,000	25,000
Total	258,174	218,044	197,845
Page 1 - Total	3,704,911	3,866,848	3,958,456

Abilene

2017

Adopted Budget General Fund - Detail Page 2	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Expenditures:			
Inspection			
Salaries	45,939	2,085	0
Contractual	260	5,000	10,000
Commodities	7,424	5,000	10,410
Capital Outlay	0	0	0
Total	53,623	12,085	20,410
Municipal Court			
Salaries	86,494	86,415	89,311
Contractual	30,740	31,000	31,000
Commodities	47,715	42,000	60,325
Capital Outlay	0	0	
Total	164,949	159,415	180,636
Senior Center			
Salaries	4,004	5,245	5,500
Contractual	7,200	7,200	7,200
Commodities	17,730	17,000	18,650
Capital Outlay	0	0	0
Total	28,934	29,445	31,350
Public Transportation			
Salaries	62,455	68,055	70,706
Contractual	0	0	0
Commodities	17,260	18,000	19,200
Capital Outlay	10,792	0	0
Total	90,507	86,055	89,906
Civic Center			
Salaries	0	0	
Contractual	0	27,760	35,000
Commodities	30,508	0	0
Capital Outlay	1,921	2,333	3,500
Total	32,429	30,093	38,500
General Fund Balance Reserve			
Salaries			
Contractual			
Commodities			
Capital Outlay			
Balance Reserve			1,390,000
Total	0	0	1,390,000
Salaries			
Contractual			
Commodities			
Capital Outlay			
Total	0	0	0
Salaries			
Contractual			
Commodities			
Capital Outlay			
Total	0	0	0
Page 2 -Total	370,442	317,093	1,750,802
Page 1 -Total	3,704,911	3,866,848	3,958,456
Grand Total	4,075,353	4,183,941	5,709,258

(Note: Should agree with general sub-totals.)

Abilene

2017

FUND PAGE FOR FUNDS WITH A TAX LEVY

Adopted Budget Library	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	0	9,474	9,474
Receipts:			
Ad Valorem Tax	320,507	352,434	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax			
Motor Vehicle Tax	43,159	41,131	38,531
Recreational Vehicle Tax			575
16/20M Vehicle Tax			214
Commercial Vehicle Tax			1,245
Watercraft Tax			263
Non Tax Revenue	6,093	4,210	4,110
Grants	9,722	8,000	8,521
Interest on Idle Funds			
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	379,481	405,775	53,459
Resources Available:	379,481	415,249	62,932
Expenditures:			
Tax Distributions	370,007	405,775	437,447
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	370,007	405,775	437,447
Unencumbered Cash Balance Dec 31	9,474	9,474	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	370,007	405,775	437,447
Non-Appropriated Balance			
Total Expenditure/Non-Appr Balance			437,447
Tax Required			374,515
Delinquent Comp Rate: 0.0%			0
Amount of -I Ad Valorem Tax			374,515

Adopted Budget Recreation	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1		0	0
Receipts:			
Ad Valorem Tax		0	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax			
Motor Vehicle Tax			
Recreational Vehicle Tax			
16/20M Vehicle Tax			
Commercial Vehicle Tax			
Watercraft Tax			
Interest on Idle Funds			
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	0	0	0
Resources Available:	0	0	0
Expenditures:			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	0	0	0
Unencumbered Cash Balance Dec 31	0	0	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	0	0	0
Non-Appropriated Balance			
Total Expenditure/Non-Appr Balance			0
Tax Required			0
Delinquent Comp Rate: 0.0%			0
Amount of 2016 Ad Valorem Tax			0

Abilene

2017

FUND PAGE FOR FUNDS WITH A TAX LEVY

Adopted Budget Airport	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	210,319	35,785	35,785
Receipts:			
Ad Valorem Tax	61,354	70,076	xxxxxxxxxxxxxxxx
Delinquent Tax	1,648	0	0
Motor Vehicle Tax	5,864	7,034	7,661
Recreational Vehicle Tax		110	114
16/20M Vehicle Tax		40	43
Commercial Vehicle Tax		240	247
Watercraft Tax		50	52
FAA Funding	2,249,441	0	0
Rentals	17,750	15,000	12,800
Land Lease			5,000
Interest on Idle Funds	42	30	30
Neighborhood Revitalization Rebate			0
Miscellaneous	284	100	100
Does miscellaneous exceed 10% Total Re			
Total Receipts	2,336,383	92,680	26,047
Resources Available:	2,546,702	128,465	61,832
Expenditures:			
Contractual Services	0	1,500	1,500
Services and Supplies	17,761	33,000	33,000
Capital Outlay	2,493,156	37,150	23,000
Airport Balance Reserve		21,030	65,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Ex			
Total Expenditures	2,510,917	92,680	122,500
Unencumbered Cash Balance Dec 31	35,785	35,785	xxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	2,769,850	344,450	122,500
Non-Appropriated Balance			
Total Expenditure/Non-Appr Balance			122,500
Tax Required			60,668
Delinquent Comp Rate: 0.0%			0
Amount of 2016 Ad Valorem Tax			60,668

Adopted Budget Fire Apparatus	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	50,521	56,274	36,838
Receipts:			
Ad Valorem Tax	48,269	51,241	xxxxxxxxxxxxxxxx
Delinquent Tax	888	500	500
Motor Vehicle Tax	6,130	5,993	5,602
Recreational Vehicle Tax			84
16/20M Vehicle Tax			31
Commercial Vehicle Tax			181
Watercraft Tax			38
Interest on Idle Funds	14	14	14
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Re			
Total Receipts	55,301	57,748	6,450
Resources Available:	105,822	114,022	43,288
Expenditures:			
Principal Payments	45,000	73,500	113,778
Bond & Interest	4,548	3,584	5,693
Commission & Postage	0	100	100
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Ex			
Total Expenditures	49,548	77,184	119,571
Unencumbered Cash Balance Dec 31	56,274	36,838	xxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	74,223	112,473	119,571
Non-Appropriated Balance			
Total Expenditure/Non-Appr Balance			119,571
Tax Required			76,284
Delinquent Comp Rate: 0.0%			0
Amount of 2016 Ad Valorem Tax			76,284

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2017

FUND PAGE FOR FUNDS WITH A TAX LEVY

Adopted Budget	Prior Year	Current Year	Proposed Budget
Capital Improvement	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	484,465	479,825	480,175
Receipts:			
Ad Valorem Tax	1,042	0	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax	244	200	200
Motor Vehicle Tax	25	0	
Recreational Vehicle Tax			
16/20M Vehicle Tax			
Commercial Vehicle Tax			
Watercraft Tax			
Interest on Idle Funds	106	150	100
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Re			
Total Receipts	1,417	350	300
Resources Available:	485,882	480,175	480,475
Expenditures:			
Special Projects	0	0	479,825
Transfer to General Fund	6,057	0	0
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Ex			
Total Expenditures	6,057	0	479,825
Unencumbered Cash Balance Dec 31	479,825	480,175	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	400,000	506,569	479,825
	Non-Appropriated Balance		
	Total Expenditure/Non-Appr Balance		479,825
	Tax Required		0
Delinquent Comp Rate:	0.0%		0
Amount of 2016 Ad Valorem Tax			0

Adopted Budget	Prior Year	Current Year	Proposed Budget
0	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	0	0	0
Receipts:			
Ad Valorem Tax		0	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax			
Motor Vehicle Tax			
Recreational Vehicle Tax			
16/20M Vehicle Tax			
Commercial Vehicle Tax			
Watercraft Tax			
Interest on Idle Funds			
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Re			
Total Receipts	0	0	0
Resources Available:	0	0	0
Expenditures:			
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Ex			
Total Expenditures	0	0	0
Unencumbered Cash Balance Dec 31	0	0	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	0	0	0
	Non-Appropriated Balance		
	Total Expenditure/Non-Appr Balance		0
	Tax Required		0
Delinquent Comp Rate:	0.0%		0
Amount of 2016 Ad Valorem Tax			0

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2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Highway	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	-31,537	96	45,836
Receipts:			
State of Kansas Gas Tax	174,073	171,040	171,040
County Transfers Gas	0	0	0
KDOT Funds	116,892	200,000	0
Reimbursed Expenses	2,677	0	0
Interest on Idle Funds	820	1,200	800
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	294,462	372,240	171,840
Resources Available:	262,925	372,336	217,676
Expenditures:			
Service & Supplies	24,191	26,500	26,500
Capital Outlay	238,638	300,000	190,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	262,829	326,500	216,500
Unencumbered Cash Balance Dec 31	96	45,836	1,176
2015/2016/2017 Budget Authority Amount	413,500	413,500	216,500

Adopted Budget Recycle	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	249,469	201,181	171,493
Receipts:			
Service Charges	56,437	59,160	41,625
Refunds Received	266	0	0
Sale of Merchandise	22,715	25,000	15,000
Interest on Idle Funds	51	80	80
Miscellaneous			0
Does miscellaneous exceed 10% Total Rec			
Total Receipts	79,469	84,240	56,705
Resources Available:	328,938	285,421	228,198
Expenditures:			
Salaries & Benefits	23,095	0	0
Contractual	67,833	74,000	74,000
Service & Supplies	22,938	27,470	27,720
Capital Outlay	13,891	12,458	12,458
Fund Balance Reserve			100,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	127,757	113,928	214,178
Unencumbered Cash Balance Dec 31	201,181	171,493	14,020
2015/2016/2017 Budget Authority Amount	160,928	115,570	214,178

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2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Parks & Recreation	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	50,521	53,208	29,920
Receipts:			
Alcohol Tax	26,167	16,712	16,712
Gifts/Donations	10,744	0	0
Interest on Idle Funds	9	0	0
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	36,920	16,712	16,712
Resources Available:	87,441	69,920	46,632
Expenditures:			
Capital Outlay	34,233	40,000	40,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	34,233	40,000	40,000
Unencumbered Cash Balance Dec 31	53,208	29,920	6,632
2015/2016/2017 Budget Authority Amount	35,000	40,000	40,000

Adopted Budget Special Alcohol & Drug	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	55,267	74,195	77,705
Receipts:			
Liquor Control Tax	25,413	16,000	16,000
Interest on Idle Funds	15	10	10
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	25,428	16,010	16,010
Resources Available:	80,695	90,205	93,715
Expenditures:			
Awards & Contributions	6,500	7,500	17,000
Capital Outlay	0	5,000	
Special Alcohol & Drug Reserve Balance			70,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	6,500	12,500	87,000
Unencumbered Cash Balance Dec 31	74,195	77,705	6,715
2015/2016/2017 Budget Authority Amount	13,000	12,500	87,000

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2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget	Prior Year	Current Year	Proposed Budget
Special Revenue - Streets	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	146,701	193,147	193,217
Receipts:			
Sales Tax	343,019	325,000	325,000
Interest in Idle Funds	63	70	70
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	343,082	325,070	325,070
Resources Available:	489,783	518,217	518,287
Expenditures:			
Capital Outlay	296,636	325,000	325,000
Fund Balance Reserve			150,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	296,636	325,000	475,000
Unencumbered Cash Balance Dec 31	193,147	193,217	43,287
2015/2016/2017 Budget Authority Amount	300,000	325,000	475,000

Adopted Budget	Prior Year	Current Year	Proposed Budget
Storm Water	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	360,839	423,449	288,149
Receipts:			
User Charges	67,717	68,000	68,000
Reimbursed Expenses	1,583	0	0
Interest on Idle Funds	86	100	100
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	69,386	68,100	68,100
Resources Available:	430,225	491,549	356,249
Expenditures:			
Contractual	0		
Capital Outlay	401	200,000	200,000
Transfer to General Fund	6,375	3,400	3,400
Storm Water Balance Reserve			150,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	6,776	203,400	353,400
Unencumbered Cash Balance Dec 31	423,449	288,149	2,849
2015/2016/2017 Budget Authority Amount	281,375	203,400	353,400

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2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Revenue - Com Ctr	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	153,891	153,924	153,974
Receipts:			
Interest on Idle Funds	33	50	50
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	33	50	50
Resources Available:	153,924	153,974	154,024
Expenditures:			
Capital Outlay	0	0	30,000
Community Center Balance Reserve			100,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	0	0	130,000
Unencumbered Cash Balance Dec 31	153,924	153,974	24,024
2015/2016/2017 Budget Authority Amount	0	0	130,000

Adopted Budget Special Revenue - Lib/Pool	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	297,803	347,718	349,978
Receipts:			
Sales Tax Distribution	480,197	473,310	475,000
Bond Issuance	19,432	0	0
Interest on Idle Funds	49	100	50
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	499,678	473,410	475,050
Resources Available:	797,481	821,128	825,028
Expenditures:			
Principal Payments	395,000	460,000	445,000
Bond Interest	36,921	11,150	27,478
Bond Issuance	17,842	0	0
Fund Balance Reserve			350,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	449,763	471,150	822,478
Unencumbered Cash Balance Dec 31	347,718	349,978	2,550
2015/2016/2017 Budget Authority Amount	454,325	454,325	822,478

See Tab C

Abilene

2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Water	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	297,279	355,603	293,218
Receipts:			
Charges for Services	1,425,899	1,605,579	1,738,576
Sales Tax	8	6	0
Fines and Penalties	23,386	5,638	22,000
Reimbursed Expenses	2,043	7,982	2,000
Antenna Fees	0	14,737	12,500
Bond/Loan Proceeds			160,000
Interest on Idle Funds	5,143	5,545	4,500
Miscellaneous	31,532	25,783	12,000
Does miscellaneous exceed 10% Total Rec			
Total Receipts	1,488,011	1,665,270	1,951,576
Resources Available:	1,785,290	2,020,873	2,244,794
Expenditures:			
Production	424,293	478,810	538,018
Distribution	563,870	705,664	631,058
Commercial	222,589	203,434	248,608
Debt Service	93,693	134,468	169,568
Transfers	125,242	205,279	104,429
Fund Balance Reserve			500,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	1,429,687	1,727,655	2,191,681
Unencumbered Cash Balance Dec 31	355,603	293,218	53,113
2015/2016/2017 Budget Authority Amount	1,485,422	1,751,404	2,191,681

NOTICE OF BUDGET HEARING

2017

The governing body of
Abilene

will meet on August 22, 2016 at 4:00 at Commission Chambers, Abilene Public Library 209 NW 4th Street for the purpose of hearing and answering objections of taxpayers relating to the proposed use of all funds and the amount of ad valorem tax.

Detailed budget information is available at City Hall, 419 N Broadway Street, Abilene, KS 67410 and will be available at this hearing.

BUDGET SUMMARY

Proposed Budget 2017 Expenditures and Amount of 2016 Ad Valorem Tax establish the maximum limits of the 2017 budget.
Estimated Tax Rate is subject to change depending on the final assessed valuation.

FUND	Prior Year Actual for 2015			Current Year Estimate for 2016		Proposed Budget for 2017		
	Expenditures	Actual Tax Rate *	Expenditures	Actual Tax Rate *	Budget Authority for Expenditures	Amount of 2016 Ad Valorem Tax	Estimate Tax Rate *	
General	4,075,353	26.983	4,183,941	27.758	5,709,258	1,540,497	28.933	
Debt Service	778,830	10.010	761,191	9.483	768,451	551,615	10.360	
Library	370,007	6.330	405,775	6.685	437,447	374,515	7.034	
Airport	2,510,917	1.142	92,680	1.329	122,500	60,668	1.139	
Fire Apparatus	49,548	0.973	77,184	0.972	119,571	76,284	1.433	
Capital Improvement	6,057				479,825			
Special Highway	262,829		326,500		216,500			
Recycle	127,757		113,928		214,178			
Special Parks & Recreation	34,233		40,000		40,000			
Special Alcohol & Drug	6,500		12,500		87,000			
Special Revenue - Streets	296,636		325,000		475,000			
Storm Water	6,776		203,400		353,400			
Special Revenue - Com Ctr					130,000			
Special Revenue - Lib/Pool	449,763		471,150		822,478			
Water	1,429,687		1,727,655		2,191,681			
Sewer	1,522,685		1,546,923		2,735,878			
Tourism & Convention	253,575		240,196		277,890			
Recreation Commission	360,588		520,953		567,826			
Non-Budgeted Funds-A	78,288							
Totals for City	12,620,029	45.438	11,048,976	46.227	15,748,884	2,603,578	48.899	
Recreation							0.000	
Totals Includes Recreation	12,620,029	45.438	11,048,976	46.227	15,748,884	2,603,578	48.899	
Less: Transfers	325,188		339,188		309,485			
Net Expenditure	12,294,841		10,709,788		15,439,399			
Total Tax Levied	2,358,929		2,437,194		xxxxxxxxxxxxxxxxxxxx			
Assessed Valuation	51,914,222		52,722,439		53,243,426			

Outstanding Indebtedness,

	2014	2015	2016
January 1,			
G.O. Bonds	10,495,000	9,405,000	8,570,000
Revenue Bonds	6,647,434	7,521,308	17,545,000
Other	18,030,000	17,925,000	5,870,679
Lease Purchase Principal	217,583	199,265	359,298
Total	35,390,017	35,050,573	32,344,977

*Tax rates are expressed in mills

Marcus Rothchild

City Official Title: Finance Director

Abilene

2017

2017 Neighborhood Revitalization Rebate

Budgeted Funds for 2017	2016 Ad Valorem before	2016 Mil Rate before Rebate	Estimate 2017 NR Rebate
General			0
Debt Service			0
Library			0
Airport			0
Fire Apparatus			0
Capital Improvement			0
0			0
0			0
0			0
0			0
0			0
0			0
0			0
0			0
Recreation			0
TOTAL	0	0.000	0

2016 July 1 Valuation: 53,243,426

Valuation Factor: 53,243.426

Neighborhood Revitalization Subj to Rebate: 879,418

Neighborhood Revitalization factor: 879.418

**This information comes from the 2017 Budget Summary page. See instructions tab #13 for completing the Neighborhood Revitalization Rebate table.

RESOLUTION NO. 082216-1

A RESOLUTION APPROVING MASTER AGREEMENT WORK ORDER NO. 2-16 WITH OLSSON ASSOCIATES CONCERNING CONSTRUCTION INSPECTION SERVICES FOR THE NW 11TH STREET PROJECT

WHEREAS, the City Commission approved Resolution No. 071315-3 approving a Master Agreement with Olsson Associates for general engineering services; and

WHEREAS, the City Commission desires to provide construction administration for the NW 11th Street Project to ensure the project is constructed in conformance with the standards and specifications provided in the preliminary engineering.

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

SECTION ONE. Work Order. That Master Agreement Work Order No. 2-16 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 22nd day of August, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, CMC
City Clerk

EXHIBIT A

Master Agreement Work Order No. 2-16

Olsson Associates

(Construction Administration Services - NW 11th Street Project)

LETTER AGREEMENT FOR PROFESSIONAL SERVICES

July 13, 2016

City of Abilene
David Dillner, City Manager
City Hall
419 N Broadway
Abilene, Kansas 67410

Re: **LETTER AGREEMENT FOR PROFESSIONAL SERVICES**
NW 11th Street Construction Administration (the "Project")
Abilene, Kansas

Dear David:

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

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. 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 Letter 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 services to Client for the Project as more specifically described in "Scope of Services" attached hereto. Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such 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:

Start Date: 05/06/16
Anticipated Completion Date: 09/02/16

Olsson will begin its services at the Pre-Construction Conference on May 6, 2016, and complete its services on the Anticipated Completion Date. However, 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, the actual time of personnel performing such services, and all actual reimbursable expenses in accordance with the Labor Rate Schedule and the Reimbursable Expense Schedule attached to this Agreement. 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 Lon Schrader, Public Works Director for the City of Abilene:

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 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 F. Meyers, 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

Print Name _____

Title _____

Dated _____

Attachments

Scope of Services

General Provisions

Labor Rate Schedule

SCOPE OF SERVICES

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated July 8, 2016 between the City of Abilene ("Client") and Olsson Associates ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is indicated below.

PROJECT DESCRIPTION AND LOCATION

Project will be located at: NW 11th Avenue between Vine and Mulberry in Abilene, Kansas.

Project Description: NW 11th Avenue Street Improvements

SCOPE OF SERVICES

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

Construction Administration Services (Time and Expense Basis)

Olsson shall provide the following services ("Scope of Services") to Client for the Project: Periodic Construction Observation on the NW 11th Street Project, anticipated to be weekly based on calls from the Client. At the request of the Client, Olsson will assist the Client in observing performance of the Contractor's work. Olsson shall respond to contract document related inquiries and visual review of general conformance to plans and specifications. Olsson shall lead a pre-construction kick-off meeting, attend periodic construction progress meetings, convey construction concerns to the Contractor and the Client, and shall endeavor to provide protection for the Client.

Our proposed Construction Administration Services do not include the following, but may be provided under the compensation terms of this letter agreement (Time and Expense Basis):

- Environmental assessments
- Geotechnical explorations or evaluations
- Laboratory or field testing of materials
- Density testing
- Construction staking
- Review and approval of Contractor Pay Requests

GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated July 13, 2016 between City of Abilene ("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.

Olsson Associates Standard Billing Rate Schedule 2016

<u>Description</u>	<u>Range</u>
Principal	145.00 - 310.00
Project Manager	135.00 - 160.00
Project Professional	101.00 - 138.00
Assistant Professional	68.00 - 146.00
Designer	90.00 - 133.00
CAD Operator	46.00 - 100.00
Survey	52.00 - 115.00
Construction Services	53.00 - 170.00
Administrative/Clerical	44.00 - 100.00

MANUAL PAYABLES**August 22, 2016**

Date	Check Number	Vendor	Line Item	Amount	Description
8/4/2016	22259	Johns' Auto Upholstery	001-004-520620	\$ 330.00	Repairs to truck #08 seat
8/11/2016	22267	Kansas Alcoholic Beverage Control	001-001-530382	\$ 50.00	TRT - Temporary Liquor Permit
Total				\$ 380.00	

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August 2016

Name	Check Date	Check Amt	
002000 Astra Bank checking			
Paid Chk# 022268	ABILENE & SMOKY VALLEY RR	8/22/2016	\$90.00 USED THEIR BUS AS TROLLEY
Paid Chk# 022269	ABILENE MUNICIPAL COURT	8/22/2016	\$50.00 SEAN FITZGERALDS BOND APPLY 15
Paid Chk# 022270	AIR AND FIRE SYSTEMS INC	8/22/2016	\$66.58 FIRE EXT. RECHARGES
Paid Chk# 022271	ALPHA MEDIA. LLC	8/22/2016	\$105.00 CVB DIRECTOR JOB POSTING
Paid Chk# 022272	AMERICAN PLANNING ASSOC.	8/22/2016	\$413.00 DUES FOR DANIEL SHEA
Paid Chk# 022273	APAC, INC - SHEARS	8/22/2016	\$769.86 HMA FOR STREET REPAIR
Paid Chk# 022274	ARROW PRINTING CO, INC	8/22/2016	\$2,395.45 PROGRAM GUIDES - FALL/WINTER 2
Paid Chk# 022275	AT & T	8/22/2016	\$75.91 INTERNET
Paid Chk# 022276	BAYER CONSTRUCTION CO, IN	8/22/2016	\$1,061.51 ROAD ROCK/ASPHALT
Paid Chk# 022277	MARK A. JONES	8/22/2016	\$500.00 PREP & PAINT BED ON USED DUMP
Paid Chk# 022278	CENTRAL KS FOUNDATION	8/22/2016	\$150.00 CLAUDE GAY
Paid Chk# 022279	CONSOLIDATED PRINTING	8/22/2016	\$1,407.35 PRINTING
Paid Chk# 022280	CONSTRUCTION RENTAL SALIN	8/22/2016	\$635.44 GENERATORS FOR TRT
Paid Chk# 022281	CUMMINS CENTRAL POWER, LL	8/22/2016	\$1,577.90 DIAGNOSIC FRR FOR GENERATOR/FU
Paid Chk# 022282	D S & O RURAL ELECTRIC COO	8/22/2016	\$254.70 ELECTRIC SERVICE @ WATER TOWER
Paid Chk# 022283	DK CTY SHERIFF	8/22/2016	\$980.00 JULY 2016 PRISONER CARE
Paid Chk# 022284	DON'S TIRE & SUPPLY	8/22/2016	\$2,210.72 TIRES FOR RESCUE #1
Paid Chk# 022285	DPC INDUSTRIES, INC	8/22/2016	\$630.00 CHLORINE CYLINDERS
Paid Chk# 022286	DRUMMOND, SARAH	8/22/2016	\$1,640.00 DAVID BLAIR BOND REFUND
Paid Chk# 022287	EXPRESS PRINT & SIGNS	8/22/2016	\$153.77 ADULT VB SHIRTS
Paid Chk# 022288	FLINT HILLS YOUTH FOOTBALL	8/22/2016	\$390.00 YOUTH FOOTBALL
Paid Chk# 022289	MIKE FREY	8/22/2016	\$3,180.00 RESTROOM COUNTERTOP REPLACEMEN
Paid Chk# 022290	HD SUPPLY WATERWORKS	8/22/2016	\$3,513.38 METERIAL FOR 2" WATER SERVICE
Paid Chk# 022291	MICHAEL HOOK	8/22/2016	\$1,458.33 CONTRACT LABOR
Paid Chk# 022292	JERRY A. MILLER	8/22/2016	\$300.00 AUGUST AWOS
Paid Chk# 022293	KANSAS GAS SERVICE	8/22/2016	\$452.33 GAS SERVICE
Paid Chk# 022294	KDHE	8/22/2016	\$320.00 WATERWATER ANNUAL PERMIT FEE F
Paid Chk# 022295	MARK KINDERKNECHT	8/22/2016	\$480.00 NUISANCE ABATEMENT @ 409 SW 3R
Paid Chk# 022296	KS TREASURER	8/22/2016	\$3,609.13 JUNE & JULY 2016
Paid Chk# 022297	M & M TIRE & AUTO	8/22/2016	\$1,499.56 MISC REPAIRS
Paid Chk# 022298	MCPHERSON SADDLE CLUB	8/22/2016	\$250.00 PERFORMACE
Paid Chk# 022299	MDH UNLIMITED, LLC	8/22/2016	\$904.50 CVB BILLBOARD DESIGN/TRT PARAD
Paid Chk# 022300	MEYER, DON	8/22/2016	\$500.00 RENTAL SEPT. 3-4
Paid Chk# 022301	MID KS COOPERATIVE ASSOC.	8/22/2016	\$353.00 CORNERSTONE 5 PLUS
Paid Chk# 022302	MIDWEST CONCRETE MATERIA	8/22/2016	\$555.00 CONCRETE
Paid Chk# 022303	MUNICIPAL SUPPLY, INC	8/22/2016	\$330.00 PIPE
Paid Chk# 022304	OCCK INC.	8/22/2016	\$6,166.67 JULY 2016 SERVICE
Paid Chk# 022305	OLSSON ASSOCIATES	8/22/2016	\$32,834.16 RUNWAY REHAB ENGINEERING PROJE
Paid Chk# 022306	PACE ANALYTICAL SERVICES	8/22/2016	\$157.60 BI-MONTHLY BASIN TEST
Paid Chk# 022307	BECKY POLZELLA	8/22/2016	\$380.00 38 RECITAL COSTUMES
Paid Chk# 022308	PURVIS LAW OFFICE, LLC	8/22/2016	\$357.50 COLTER KRAFT 16-0227
Paid Chk# 022309	QUILL	8/22/2016	\$67.41 PEN REFILLS/SPEAKERS/OUTLET ST
Paid Chk# 022310	RENT ME TENTS	8/22/2016	\$1,275.00 TENT RENTALS
Paid Chk# 022311	DONNA REYNOLDS	8/22/2016	\$6.55 BUCKAROO CAMP SUPPLIES
Paid Chk# 022312	RIDE INTO HISTORY	8/22/2016	\$2,250.00 HISTORIC PERFORMERS FOR TRT
Paid Chk# 022313	SALINA JOURNAL	8/22/2016	\$622.42 ANTIQUE FEST ADS

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Name	Check Date	Check Amt	
Paid Chk# 022314 SEW-EURODRIVE, INC	8/22/2016	\$2,544.67	GEAR BOX W/ADAPTER
Paid Chk# 022315 STEAGALL, RED	8/22/2016	\$7,500.00	PERFORMANCE FOR TRT
Paid Chk# 022316 STERADIAN LASER TAG	8/22/2016	\$381.79	LASER TAG FOR TRT
Paid Chk# 022317 STOPSTICK, LTD.	8/22/2016	\$18.00	STOP STICK
Paid Chk# 022318 STRAKA, ROGER	8/22/2016	\$1,100.00	LONGHORN CATTLE DRIVE FOR TCT
Paid Chk# 022319 T & M CONCRETE CONSTRUCTI	8/22/2016	\$80,707.55	PAY #2 ON NW 11TH ST PROJECT
Paid Chk# 022320 THOMAS OUTDOOR ADVERTISI	8/22/2016	\$405.00	BILLBOARDS
Paid Chk# 022321 TRAILS END CAR WASH	8/22/2016	\$208.50	CAR WASHES - JULY
Paid Chk# 022322 UNITED ROTARY BRUSH CORP	8/22/2016	\$558.96	MAIN BROOM STRIPS
Paid Chk# 022323 US POST OFFICE-POSTMASTER	8/22/2016	\$1,100.00	REGULAR BILLING SEPT 2016
Paid Chk# 022324 VARNEY & ASSOCIATES	8/22/2016	\$14,500.00	2015 AUDIT
Paid Chk# 022325 VISA - UMB ADMINISTRATION	8/22/2016	\$2,546.66	SUPPLIES
Paid Chk# 022326 VISA - UMB COMMUNITY DEVEL	8/22/2016	\$299.26	SUPPLIES
Paid Chk# 022327 VISA - UMB CVB	8/22/2016	\$1,130.54	SUPPLIES
Paid Chk# 022328 VISA - UMB FIRE DEPT	8/22/2016	\$1,249.06	SUPPLIES
Paid Chk# 022329 VISA - UMB MUNICIPAL COURT	8/22/2016	\$335.16	SUPPLIES
Paid Chk# 022330 VISA - UMB PARKS	8/22/2016	\$7,461.27	SUPPLIES
Paid Chk# 022331 VISA - UMB POLICE DEPT	8/22/2016	\$2,430.77	SUPPLIES
Paid Chk# 022332 VISA - UMB PUBLIC WORKS	8/22/2016	\$3,140.78	SUPPLIES
Paid Chk# 022333 WAITT OUTDOOR	8/22/2016	\$2,284.00	BILLBOARDS
Paid Chk# 022334 WESTAR ENERGY	8/22/2016	\$53,610.36	ELECTRIC SERVICE
Paid Chk# 022335 WESTERN MUSIC ASSOC. -	8/22/2016	\$7,000.00	WMA ENTERTAINMENT FOR TRT
Paid Chk# 022336 WILKINSON, JUANITA	8/22/2016	\$840.00	BOND REFUND 16-0131
Paid Chk# 022337 WILLGRATTEN PUBLICATIONS L	8/22/2016	\$432.91	REC ADS/VAN AD
Total Checks		\$269,164.97	

FILTER: None

MANUAL PAYABLES**August 8, 2016**

Date	Check Number	Vendor	Line Item	Amount	Description
7/20/2016	22181	T & M Concrete Constructio	037-000-530230	\$ 115,381.60	1st pymt for NW 11th St. Project
7/22/2016	22182	Abilene Municipal Band	001-001-520890	\$ 9,000.00	2016 Budget Allocation
7/28/2016	22186	Electro Fire Pyrotechnics	001-001-530382	\$ 4,000.00	Fireworks - TRT
Total				\$ 128,381.60	

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Name	Check Date	Check Amt	
002000 Astra Bank checking			
Paid Chk# 022187 ABILENE MUNICIPAL COURT	8/8/2016	\$684.50	BRANDON LAMBERT 15-0558 BOND A
Paid Chk# 022188 ABILENE PRINTING & OFFICE	8/8/2016	\$1,971.79	WATER BILLS & ENVELOPES
Paid Chk# 022189 ABILENE ROTARY CLUB	8/8/2016	\$296.50	2ND QTR DUES - DILLNER
Paid Chk# 022190 APAC, INC - SHEARS	8/8/2016	\$1,029.47	HMA FOR STREET REPAIRS
Paid Chk# 022191 ARLAN CO INC	8/8/2016	\$1,564.97	CHEMICALS
Paid Chk# 022192 BANYON DATA SYSTEMS	8/8/2016	\$5,010.00	SOFTWARE SUPPORT
Paid Chk# 022193 BAYER CONSTRUCTION CO, IN	8/8/2016	\$2,948.44	HMA & ROCK FOR STREET REPAIRS
Paid Chk# 022194 BNSF RAILWAY COMPANY	8/8/2016	\$332.23	SEWER LINE LEASE 8/3/16-8/2/17
Paid Chk# 022195 CENTRAL STATES LEEDS	8/8/2016	\$450.00	TRAINING - WILKINS
Paid Chk# 022196 CF REPAIR, LLC	8/8/2016	\$719.61	REPLACE A/C COMPRESSOR, DRYER
Paid Chk# 022197 CINTAS FIRST AID & SAFETY	8/8/2016	\$135.28	1ST AID SUPPLIES
Paid Chk# 022198 CLARK, MIZE & LINVILLE CHART	8/8/2016	\$9,213.50	JUNE 2016 LEGALS
Paid Chk# 022199 CNA SURETY	8/8/2016	\$105.00	SURETY BOND - JANE FOLTZ
Paid Chk# 022200 COMMERCE BANK	8/8/2016	\$23,098.70	STREET SWEEPER LEASE
Paid Chk# 022201 COOPER, KELLY	8/8/2016	\$1,500.00	JULY 2016 CLEANING
Paid Chk# 022202 DETROIT INDUSTRIAL TOOL	8/8/2016	\$201.00	DIAMOND BLADE
Paid Chk# 022203 DK CTY ADMINISTRATION	8/8/2016	\$752.72	DIESEL FUEL
Paid Chk# 022204 DON'S TIRE & SUPPLY	8/8/2016	\$22.25	TIRE REPAIR CAR 7
Paid Chk# 022205 EAGLE COMMUNICATIONS	8/8/2016	\$270.00	ETHERNET AUG 2016
Paid Chk# 022206 JANE FOLTZ	8/8/2016	\$317.98	JUNE-JULY 2016 MILEAGE
Paid Chk# 022207 FORENSIC PSYCHOLOGY ASSO	8/8/2016	\$450.00	EVALUATION - HUEN
Paid Chk# 022208 HD SUPPLY WATERWORKS	8/8/2016	\$166.12	REPAIR SLEEVES 12" MAIN
Paid Chk# 022209 HERITAGE CENTER	8/8/2016	\$99.00	YEARLY MEMBERSHIP FEE
Paid Chk# 022210 HICKMAN, EDWARD W.	8/8/2016	\$400.00	LIFT STATION MAINT.
Paid Chk# 022211 MICHAEL HOOK	8/8/2016	\$1,458.33	CONTRACT LABOR
Paid Chk# 022212 IMAGE QUEST	8/8/2016	\$143.95	MAINT FEES 7/20-8/20/16
Paid Chk# 022213 KANSAS ONE-CALL SYSTEM, IN	8/8/2016	\$226.00	LOCATES
Paid Chk# 022214 KAW VALLEY ENGINEERING	8/8/2016	\$2,580.00	ENGINEERING SERVICE FOR KLINK
Paid Chk# 022215 KDHE BUREAU OF WATER	8/8/2016	\$276,223.26	17 OF 40 PAYMENTS FOR WWTP
Paid Chk# 022216 KDHE	8/8/2016	\$2,663.00	WATER TESTING 2ND QTR
Paid Chk# 022217 KEY EQUIPMENT & SUPPLY	8/8/2016	\$458.02	SEWER TRUCK REPAIRS
Paid Chk# 022218 MARK KINDERKNECHT	8/8/2016	\$120.00	NUISANCE ABATEMENT - 805 N VIN
Paid Chk# 022219 KRWA	8/8/2016	\$920.00	YEARLY MEMBERSHIP FEE
Paid Chk# 022220 KS TREASURER	8/8/2016	\$809,935.63	GO BOND 2013 PRINCIPAL & INTER
Paid Chk# 022221 LA RUE DISTRIBUTING INC	8/8/2016	\$84.91	COFFEE
Paid Chk# 022222 BRANDON LAMBERT	8/8/2016	\$85.00	BRANDON LAMBERT 15-0558
Paid Chk# 022223 LEAGUE KS MUNICIPALITIES	8/8/2016	\$339.56	STO & UPOC 2016
Paid Chk# 022224 LINDER ELECTRIC	8/8/2016	\$480.00	ELECTRICAL REPAIRS
Paid Chk# 022225 LONGNECKER, DAYNA C.	8/8/2016	\$50.00	ROSE GARDEN RENTAL REFUND - R
Paid Chk# 022226 MCPHERSON CONCRETE PROD	8/8/2016	\$488.60	EXTRA STORM DRAIN PIPE FOR NW
Paid Chk# 022227 MIDWEST CONCRETE MATERIA	8/8/2016	\$3,234.50	STREET & STORM DRAIN REPAIRS &
Paid Chk# 022228 NEOFUNDS BY NEOPOST	8/8/2016	\$295.89	POSTAGE
Paid Chk# 022229 NEX-TECH	8/8/2016	\$2,525.82	PHONE SERVICE
Paid Chk# 022230 OCCUPATIONAL PERFORMANC	8/8/2016	\$266.00	PHYSICAL TEST & DRUG SCREENS -
Paid Chk# 022231 OSBORN PROPERTIES	8/8/2016	\$200.00	BILLBOARDS
Paid Chk# 022232 PACE ANALYTICAL SERVICES	8/8/2016	\$555.40	LAB TESTING

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Name	Check Date	Check Amt	
Paid Chk# 022233 PRAIRIE FIRE COFFEE	8/8/2016	\$165.60	COFFEE SUPPLIES
Paid Chk# 022234 QUILL	8/8/2016	\$367.90	TOOL SET/CHAIR/BACKUP/FOLDERS/
Paid Chk# 022235 R E PEDROTTI CO, INC	8/8/2016	\$536.00	REPAIRS TO SCADA CONTROL
Paid Chk# 022236 REAL TIME PRODUCTS	8/8/2016	\$1,200.00	SOUVENIRS - ABILENE MAGNETS
Paid Chk# 022237 CHARLES D COOPER	8/8/2016	\$600.00	JULY 2016 CLEANING
Paid Chk# 022238 RHV DO IT BEST HARDWARE	8/8/2016	\$3.98	KEYS FOR COMM DEVEL OFFICE
Paid Chk# 022239 ROBSON OIL CO, INC	8/8/2016	\$5,909.36	FUEL
Paid Chk# 022240 SAGE PRODUCTS, INC	8/8/2016	\$177.00	PAPER TOWELS
Paid Chk# 022241 SALINA SUPPLY CO	8/8/2016	\$284.00	METER GASKETS
Paid Chk# 022242 SAMS CLUB/GECF	8/8/2016	\$77.98	MEMBERSHIP FEE
Paid Chk# 022243 SELLERS TRACTOR CO INC	8/8/2016	\$332.84	SWEEPER DIRT SHOE PARTS
Paid Chk# 022244 SMART INSURANCE	8/8/2016	\$205.00	INSURANCE - LIBRARY
Paid Chk# 022245 LINGS, LLC	8/8/2016	\$353.90	MIXER FOR POOL SOUND SYSTEM
Paid Chk# 022246 STOUT SERVICE & SALES, INC	8/8/2016	\$925.00	STUMP REMOVAL/BAGWORM SPRAYING
Paid Chk# 022247 SUPERIOR SANITATION SERVIC	8/8/2016	\$410.00	TRASH SERVICE @ CVB, RECYCLE &
Paid Chk# 022248 ANDREA K. SWISHER	8/8/2016	\$3,125.00	AUG 2016 SERVICE
Paid Chk# 022249 THE APPLIANCE CENTER	8/8/2016	\$98.23	BOOSTER STATION A/C REPAIRS
Paid Chk# 022250 THOMAS OUTDOOR ADVERTISI	8/8/2016	\$405.00	BILLBOARDS
Paid Chk# 022251 UNIFIRST CORPORATION	8/8/2016	\$2,059.43	UNIFORM SERVICE
Paid Chk# 022252 US BANK EQUIPMENT FINANCE	8/8/2016	\$669.25	COPIER LEASE 7/21-8/21/16
Paid Chk# 022253 VAN DIEST CHEMICAL CO	8/8/2016	\$2,255.60	WEED CONTROL CHEMICALS
Paid Chk# 022254 VERIZON WIRELESS	8/8/2016	\$1,174.70	CELL PHONE SERVICE
Paid Chk# 022255 JACK E MEEHAN	8/8/2016	\$128.00	LAUNDRY
Paid Chk# 022256 WEBB HOME CENTER	8/8/2016	\$108.31	LUMBER & SUPPLIES FOR TRT
Paid Chk# 022257 WINDON, MICHELLE	8/8/2016	\$620.15	MICHELLE WINDON - BOND REFUND
Total Checks		\$1,177,265.16	

FILTER: None

**City of Abilene
Payroll Expenditures Report
08/08/2016 PP#16**

PAYROLL CODE		TOTALS
	NET SALARIES	\$ 75,418.30
051 & 501	OASDI - CITY/EMPLOYEE	\$ 13,228.00
049 & 502	MEDICARE - CITY/EMPLOYEE	\$ 3,093.64
001	FEDERAL WITHHOLDING - EMPLOYEE	\$ 9,711.52
056, 057, 059, & 503	KPERS - CITY/EMPLOYEE	\$ 8,985.72
505	KPERS RETIREE/EMPLOYER	\$ 137.70
153	KPERS GROUP LIFE - EMPLOYEE	\$ 92.64
061 & 504	KPF - CITY/EMPLOYEE	\$ 10,615.48
155	KPF GROUP LIFE- EMPLOYEE	\$ 40.76
105 & 540	WADDELL & REED 457 - CITY/EMPLOYEE	\$ 1,865.00
204	WADDELL & REED 529 - EMPLOYEE	\$ 125.00
110	WADDELL & REED SAVINGS - EMPLOYEE	\$ 220.00
005	STATE TAX - EMPLOYEE	\$ 3,030.28
120 & 170	AFLAC INSURANCE - EMPLOYEE	\$ 640.01
102	VISION CARE DIRECT - EMPLOYEE	\$ 151.25
104	VSP VISION PLANS - EMPLOYEE	\$ 202.65
140 & 510	HEALTH INSURANCE - CITY/EMPLOYEE	\$ 21,056.53
111 & 520	IMPACT SPORTS & FITNESS- CITY/EMPLOYEE	\$ 225.25
200	KS PAYMENT CENTER SUPPORT - EMPLOYEE	\$ 355.44
206	CALIFORNIA CHILD SUPPORT - EMPLOYEE	\$ 461.53
207	GARNISHMENT	\$ 518.80
150 & 160	FLEXIBLE SPENDING ACCOUNT - EMPLOYEE	\$ 1,117.45
121	POLICE & FIREMENS INS. - EMPLOYEE	\$ 20.92
	TOTAL PAYROLL EXPENDITURES	\$ 151,313.87

**City of Abilene
Payroll Expenditures Report
07/29/2016 PP#15**

PAYROLL CODE	DESCRIPTION	TOTALS
	NET SALARIES	\$ 86,096.65
051 & 501	OASDI - CITY/EMPLOYEE	\$ 14,781.14
049 & 502	MEDICARE - CITY/EMPLOYEE	\$ 3,456.98
001	FEDERAL WITHHOLDING - EMPLOYEE	\$ 10,906.85
056, 057, 059, & 503	KPERS - CITY/EMPLOYEE	\$ 9,150.12
153	KPERS GROUP LIFE - EMPLOYEE	\$ -
061 & 504	KPF - CITY/EMPLOYEE	\$ 9,986.98
155	KPF GROUP LIFE- EMPLOYEE	\$ -
105 & 540	WADDELL & REED 457 - CITY/EMPLOYEE	\$ 1,865.00
204	WADDELL & REED 529 - EMPLOYEE	\$ 125.00
110	WADDELL & REED SAVINGS - EMPLOYEE	\$ 220.00
005	STATE TAX - EMPLOYEE	\$ 3,381.95
120 & 170	AFLAC INSURANCE - EMPLOYEE	\$ -
102	VISION CARE DIRECT - EMPLOYEE	\$ -
104	VSP VISION PLANS - EMPLOYEE	\$ -
140 & 510	HEALTH INSURANCE - CITY/EMPLOYEE	\$ -
111 & 520	IMPACT SPORTS & FITNESS- CITY/EMPLOYEE	\$ -
200	KS PAYMENT CENTER SUPPORT - EMPLOYEE	\$ 355.44
206	CALIFORNIA CHILD SUPPORT - EMPLOYEE	\$ 461.53
207	GARNISHMENT	\$ 518.80
150 & 160	FLEXIBLE SPENDING ACCOUNT - EMPLOYEE	\$ -
121	POLICE & FIREMENS INS. - EMPLOYEE	\$ -
	TOTAL PAYROLL EXPENDITURES	\$ 141,306.44



**Abilene Land Bank Board of Trustees Minutes
Abilene Public Library
January 25, 2016 @ 4:30 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, Human Resources Director/City Clerk Soukup, Finance Director Rothchild, Parks & Recreation Director Foltz and Community Development Director Shea.

Others Present: Mike Heronemus, Ryan Wedel.

Consent Agenda

3. Agenda Approval for January 25, 2016 Land Bank Board of Trustees Meeting

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

Public Comments and Communications

4. 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.

5. 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.

Old Business

6. There was no old business.

New Business

7. Consideration of a Resolution approving a Land Exchange Agreement with Abilene Highlands I, LLC concerning the exchange of real property.

City Manager Dillner said this will swap 14 lots at the Highlands West side with 17 acre in Cedar Ridge. Both parties have agreed to provide title insurance of \$40,000 for the properties to be exchanged in the transaction.

The City will require the Developer to provide a letter of credit equal to two years of special assessments which will be held by the City for four years or until the project is constructed and the final certificate of occupancy is issued for the units. The City will also release the letter of credit in the event the agreement is assigned to a third party. Per the agreement, the Land Bank would defer the special assessments on the fourteen lots for two years as construction is progressing. The first installment of specials will be due once the construction is complete and payments will continue for twenty years. If the special assessments or property taxes are not paid the City will not issue any building permits and the City may draw on the letter of credit. The Land Bank may also seek damages to expenses related to the land exchange transaction. The City will consider a request by the Developer to include the property in the neighborhood revitalization program in order to allow this incentive within these overlay districts the City Commission would have to amend the neighborhood revitalization program. The Developer would have to request and successfully receive application of one or both of the overlay districts on the exchanged property. The Developer understands that neither of these actions may be guaranteed in the Land Exchange Agreement. The Developer agrees to pay 100% of the title insurance for the transfer of the deposited property, 100% of the escrow and closing fee, the cost of recording the deeds, the cost of obtaining an appraisal or other required due diligence and any attorney fees and expenses incurred by the Developer. The Land Bank agrees to pay the title insurance for the transfer of the received property and any attorney fees and expenses incurred by the Land Bank. City Manager Dillner explained which lots are included in this exchange from Cedar Ridge and he also explained that the City will still have to pay the debt service on the bonds from the Highland Development but the special assessments will not be certified against these properties for two years. When the defer ends the party that owns the property at that time will be liable for the specials until they are paid off. The debt service and the special assessments will not be paid on the same schedule.

Motion by Commissioner Marshall, seconded by Commissioner Payne to approve **RESOLUTION 012616-1 A RESOLUTION APPROVING A LAND EXCHANGE AGREEMENT WITH ABILENE HIGHLANDS I, LLC CONCERNING THE EXCHANGE OF CERTAIN REAL PROPERTY.** Motion carried unanimously 5-0.

Reports

8. None.

Adjournment

9. **Consideration of a motion to adjourn the January 25, 2016 Land Bank Board of Trustees Meeting.**

Motion by Commissioner Payne, seconded by Commissioner Marshall to adjourn at 4:44 p.m. Motion carried unanimously 5-0.

(Seal)

Dennis P. Weishaar, Mayor

ATTEST:

Penny L. Soukup, CMC
City Clerk

LAND BANK RESOLUTION NO. 082216-1

A RESOLUTION TERMINATING A LAND EXCHANGE AGREEMENT WITH ABILENE HIGHLANDS I, LLC

WHEREAS, the Land Bank Board of Trustees (“Board”) entered into a Land Exchange Agreement (“Agreement”) with Abilene Highlands I, LLC for the exchange of certain real property with the adoption of Land Bank Resolution No. 012516-1;

WHEREAS, certain terms and conditions provided in the Agreement were not fulfilled as required for the Agreement to be closed upon;

WHEREAS, the Board desires to terminate said Agreement so as to maintain flexibility for the defined real property.

THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE LAND BANK OF THE CITY OF ABILENE, KANSAS:

SECTION ONE. Land Bank Interest; Terminated. That the Land Exchange Agreement with Abilene Highlands I, LLC, as adopted by Land Bank Resolution No. 012516-1, is hereby expressly terminated, and shall be considered null and void.

SECTION TWO. Effective Date. This Resolution shall become effective and in full force from and after its passage and adoption.

PASSED AND APPROVED by the Board of Trustees of the Land Bank of the City of Abilene, Kansas this 22nd day of August, 2016.

**LAND BANK OF THE
CITY OF ABILENE, KANSAS**

By: _____
Dee Marshall, Chair

ATTEST:

Penny Soukup, CMC
City Clerk

LAND BANK RESOLUTION NO. 082216-2

A RESOLUTION TERMINATING THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AFFECTING THE EAST AND WEST HIGHLANDS ADDITIONS TO THE CITY OF ABILENE, KANSAS

WHEREAS, on December 28, 2015, the City of Abilene Land Bank (“Land Bank”) acquired ownership of the following described real estate located in the City of Abilene (“Land Bank Property”):

Lots 1-12, Block 1, East Highlands; Lots 3-8, Block 3, East Highlands; Lots 4-11, Block 4, East Highlands; Lots 4-10, Block 5, East Highlands; Lots 8-13, Block 11, East Highlands; Tracts A & B, East Highlands; and

Lots 1-28, Block 1, West Highlands; Lots 1-32, West Highlands; Lots 1-16, West Highlands; Lots 1-2, West Highlands; Lot 1, Block 8, West Highlands; Tracts A, B, C, West Highlands.

All tracts located in the City of Abilene, Dickinson County, Kansas.

WHEREAS, the Land Bank Property constitutes a majority of the real estate included within the larger real estate developments known as the East Highlands and the West Highlands subdivisions, which subdivisions are legally described in Exhibit A attached and incorporated hereto (“Development”);

WHEREAS, the Development, including the Land Bank Property, are subject to certain covenants, conditions, restrictions, and easements within that certain Declaration of Covenants, Conditions, Restrictions and Dedication of Easements (“Declarations”), dated October 13, 2008, executed by Abilene Highlands, LP, a Nevada limited partnership, and recorded at Misc. Book 270, Page 628 in the office of the Dickinson County Kansas Register of Deeds.

WHEREAS, the Declarations were originally intended to protect the value, desirability, and attractiveness of the Development, in connection with the original developer’s planned development of residential housing, but the original developer determined that the planned development was not feasible, abandoned the proposed development, and conveyed the Land Bank Property to the Land Bank.

WHEREAS, the Land Bank has determined that the Declarations are no longer required, and termination of the Declarations will facilitate the future development and sale of the lots within the Development.

WHEREAS, pursuant to Article 10, Section 1 of the Declarations, the Declarations may be terminated upon approval of the collective owners of seventy percent (70%) of all the lots within the Development; by virtue of the Land’s Bank’s ownership of the Land Bank Property, the Land Bank owns more than seventy percent (70%) of all the lots within the Development;

THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE LAND BANK OF THE CITY OF ABILENE, KANSAS:

SECTION ONE. Declarations Terminated. Pursuant to Article 10, Section 1 of the Declarations, the Governing Body hereby terminates the Declarations.

SECTION TWO. Register of Deeds; Authorization to File. The City Manager is hereby authorized, empowered, and directed to record a copy of this Resolution with the Office of the Dickinson County Register of Deeds, to be indexed to the Development real property legally described in Exhibit A attached hereto; and the City Manager is further authorized, empowered, and directed to take such further action on behalf of the Land Bank as deemed necessary to effectuate the foregoing resolution and the termination of the Declarations.

SECTION THREE. Effective Date. This Resolution shall become effective and in full force from and after its passage.

PASSED AND APPROVED by the Board of Trustees of the Land Bank of the City of Abilene, Kansas this 22nd day of August, 2016

**LAND BANK OF THE
CITY OF ABILENE, KANSAS**

By: _____
Dee Marshall, Chair

ATTEST:

Penny Soukup, CMC
City Clerk

EXHIBIT A

**Declaration of Covenants, Conditions, Restrictions,
and Dedication of Easements**

Abilene Highlands, LP

MISC. BOOK: 270
PAGE: 628

**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND DEDICATION
OF EASEMENTS**

THIS DECLARATION AND DEDICATION (the "**Declaration**") is made this 13th day of October, 2008, by Abilene Highlands, LP, a Nevada limited partnership, or its assigns (referred to as "**Declarant**").

RECITALS

1. Declarant is the legal and/or equitable owner of real estate located in Abilene, Dickinson County, Kansas, and described on Exhibit A, attached to and by reference made a part of this Declaration (referred to as the "**Real Estate**").
2. Declarant desires to place certain covenants, conditions, restrictions, easements, charges and liens upon the Real Estate for the benefit of Declarant and Declarant's successors, grantees and assigns, and to protect the value and desirability of the Real Estate.
3. Declarant hereby agrees that the Real Estate shall be subject to the protective covenants, conditions, restrictions, reservations, liens and charges set forth in this Declaration.

DECLARATION

NOW, THEREFORE, Declarant declares that the Real Estate is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens described in this Declaration, for the purposes of (i) enhancing and protecting the value, desirability and attractiveness of the Real Estate, (ii) encouraging and assisting the orderly economic development of the Real Estate, (iii) increasing the public benefit to be derived from the Real Estate, (iv) preserving the amenities and for the maintenance of the same located on the Real Estate, (v) promoting the efficient development of the Real Estate, and (vi) protecting the owners, lessees and sublessees of property against incompatible uses of surrounding property, and (vii) promoting safety to life, health and property in the area. These easements, covenants, restrictions and conditions shall run with the Real Estate and shall be binding upon all parties having or acquiring any right, title or interest in the Real Estate, or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE ONE

DEFINITIONS

1. "**Association**" shall mean and refer to the Abilene Highlands Homeowners' Association, a not-for-profit corporation, formed or to be formed pursuant to the laws of the State of Kansas.

2. "**Common Area**" shall mean that part of the Real Estate and all improvements located thereon owned, operated, and/or maintained by the Association for the common use and enjoyment of the residents of the Real Estate, and shall include the following:

(a) All real estate owned in fee simple by the Association, if any, evidenced by a deed or deeds to the Association, recorded in the office of the Register of Deeds of Dickinson County, Kansas.

(b) Any structures, trees, landscaping, lighting equipment, decorative equipment, area marker or markers, or other improvements owned, operated, and/or maintained by the Association and located upon the Common Areas.

(c) All easements, rights, and appurtenances belonging thereto necessary to the existence, maintenance, and safety of the Lots and the Common Area.

(d) All personal property owned by the Association, if any, intended for use by the Association in the exercise of its powers as set forth in this Declaration.

(e) All that portion of the Real Estate owned and/or operated by the Association as common area, open space, park land, stormwater drainage, and/or stormwater detention areas, if any.

3. "**Common Expenses**" shall mean and include the following:

(a) Expenses of administration; insurance expenses; and expenses incurred in the maintenance, operation, repair, and replacement of the Common Areas and the portions of the Real Estate to be maintained by the Association, if any; and

(b) Expenses declared Common Expenses by the Association and assessed against the Owners.

4. "**Declarant**" shall mean and refer to Abilene Highlands, LLC, a Kansas limited liability company, or its assigns.

5. **"Design Guidelines"** shall mean and refer to the design guidelines that shall be promulgated by the Architectural Control Committee, as may be amended from time to time, all of which Design Guidelines shall be made a part of this Declaration by reference thereto.
6. **"Lot"** shall mean a subdivided lot within the Real Estate as shown on the Plats.
7. **"Member"** shall mean and refer to each Owner as provided herein.
8. **"Mortgagee"** shall mean and refer to any person, persons, or entities holding a first mortgage secured by a Lot and improvements thereon.
9. **"Owner"** shall mean and refer to the record owner, whether one or more Persons of the fee simple title to a Lot, including a contract purchaser of a Lot. The term "Owner" shall not mean any Mortgagee unless and until such Mortgagee has acquired fee simple title to a Lot pursuant to foreclosure or any proceeding in lieu of foreclosure.
10. **"Person"** shall mean a natural individual, corporation, partnership, limited liability company, trustee, or other legal entity capable of holding title to real property.
11. **"Plats"** means the final plats of West Highlands and East Highlands, subdivisions in the City of Abilene, Dickinson County, Kansas, as recorded in the Office of the Register of Deeds of Dickinson County, Kansas, and from time to time amended or supplemented.
12. **"Real Estate"** shall mean and refer to the submitted land described in Exhibit A, attached to and by reference made a part of this Declaration.
13. **"Residence"** shall mean and refer to the dwelling structure to be constructed on each Lot.
14. Other terms may be defined in specific provisions contained in this Declaration and shall have the meaning assigned in such definition.

ARTICLE TWO

PROPERTY SUBJECT TO DECLARATION AND THE ASSOCIATION

1. **Property.** The Real Estate described on Exhibit A, attached to and made a part of this Declaration, shall be held, transferred, sold, conveyed, and occupied subject to this Declaration.

2. **Membership.** Every person or entity who is an Owner of the fee simple interest in one or more Lots shall be a Member of the Association. Ownership of a Lot shall be the sole qualification for membership.

3. **Voting in the Association.** Voting in the Association shall be as follows:

(a) **Voting.** Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 2 of this Article. When more than one person holds an interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves, determine; but in no event shall more than one vote be cast with respect to any Lot.

(b) **Declarant's Control of the Association.** Notwithstanding anything in this Article or elsewhere in this Declaration to the contrary, Declarant shall maintain absolute and exclusive control over the Association and the Architectural Control Committee, including appointment and removal of the President and all other officers of the Association, all directors of the Association board of directors and all members of the Architectural Control Committee, during Declarant's Marketing Phase as defined in this Declaration. Until such time, Declarant, in Declarant's sole and absolute discretion, will be entitled to amend this Declaration, amend the Bylaws and Articles of Incorporation of the Association, and cast all votes with respect to the election and removal of Association officers and/or directors and members of the Architectural Control Committee, or any other matter requiring the vote or approval of Association members. Declarant may (but shall not be required to), at any time, voluntarily relinquish all or any part of Declarant's control and rights under this Article.

4. **Quorum Proxies, Voting.**

(a) The quorum requirements for meetings of the Association's Members shall be as described in the Association's Bylaws.

(b) At all meetings of the Association, a Member may vote in person or by proxy executed in writing by such Member. Such proxies shall be filed with the Secretary of the Association before or at the time of a meeting. No proxy shall be valid after twelve (12) months from the date of its execution. Every proxy shall be revocable and shall automatically cease upon conveyance by a member of his Lot.

5. **Articles of Incorporation and Bylaws.** Except as specifically set forth in this Declaration, all provisions applicable to notice, voting and quorum requirements for all actions to be taken by the Association shall be as set forth in its Articles of Incorporation and/or Bylaws. In any event, if any provision set forth in this Declaration applicable to notice, voting, and quorum requirements are in conflict with any provisions of Kansas law applicable to not-for-profit

corporations on the date of this Declaration, or at any time after such date, the applicable provisions of Kansas law shall control.

6. **Change of Membership in Association.** Change of membership in the Association shall be established by recording a deed or other instrument in the Office of the Register of Deeds of Dickinson County, Kansas, establishing a record title to a Lot and the delivery to the Association of a copy of such instrument. The Owner designated by such instrument shall thereby become a member of the Association, and the membership of the prior Owner shall thereby be terminated. In the event a Lot shall be sold pursuant to a contract by the terms of which the record title to the Lot shall not pass until full payment of the purchase price has been made by the contract purchaser, an Affidavit of Equitable Interest setting forth the name of the contract purchaser and a description of the Lot sold shall be made by both the contract seller and the contract purchaser, and recorded in the Office of the Register of Deeds of Dickinson County, Kansas. A copy of such Affidavit of Equitable Interest shall be provided to the Association, together with the address of the contract seller to which notices required by this Declaration or the Bylaws shall be mailed. The contract purchaser as named in such Affidavit of Equitable Interest shall thereupon be considered the Owner of the Lot described therein for all purposes of this Declaration, the Bylaws, Design Guidelines and rules and regulations of the Association, and, by entering into such purchase contract, agrees to assume all obligations imposed upon the Owner of such Lot as are imposed by this Declaration, the Bylaws, Design Guidelines and rules and regulations of the Association. In no event, however, shall the contract seller be released from any obligation as the Owner of the Lot described in such Affidavit until a deed conveying fee simple title to the Lot to the contract purchaser shall have been recorded in the Office of the Register of Deeds of Dickinson County, Kansas, and a copy of such deed delivered to the Association. In lieu of recording a deed with the Register of Deeds, a final order entered by a court of competent jurisdiction transferring ownership of a Lot shall transfer such title, provided a certified copy of such final order is delivered to the Association. If title to a Lot shall be transferred by a transfer-on-death deed, the death of the Owner shall transfer such title as set forth in such deed, provided a certified copy of the death certificate, or other evidence of death as may be required by the Association, shall be delivered to the Association.

ARTICLE THREE

COVENANT FOR MAINTENANCE FEES OR CHARGES

1. **Regular and Special Fees and Charges.** Each Owner, by accepting a deed, whether expressed in the deed, hereby agrees to pay to the Association or its nominee:

- (a) Regular fees or charges; and
- (b) Special fees or charges to be fixed, established, and collected from time to time as provided in this Declaration

2. **Purpose of Regular Fees or Charges.** The regular fees or charges levied by the Association shall be used for the following purposes:

- (a) Maintenance and care of the Common Areas, if any.
- (b) Construction and maintenance of an area marker (or markers) for the Real Estate, if any.
- (c) Managing the Association, including necessary legal and accounting expenses.
- (d) Establishing contingency reserves as determined to be necessary or desirable from time to time by the board of directors of the Association.
- (e) Paying insurance premiums for all insurance secured by the board of directors pursuant to this Declaration. Such insurance premiums may include, without limitation, premiums for public liability, property damage, and directors and officers' liability insurance to the extent deemed necessary by the board of directors.
- (f) Paying such other charges and Common Expenses as may be elsewhere required or authorized by this Declaration, or that the board of directors of the Association may from time to time determine necessary or desirable to meet the purposes of the Association as stated in its Articles of Incorporation, Bylaws, and in this Declaration.

3. **Regular Fees or Charges; Limits Thereon.** Prior to December 31 of each calendar year, the board of directors of the Association shall prepare a budget for the following calendar year which shall cover the estimated costs of maintaining the Common Areas and performing the obligations and exercising the powers established under this Declaration. On the basis of this budget, the monthly assessments for each Owner for the following year shall be established by the Association. On or before the first day of each calendar year, a copy of the annual budget for such calendar year, together with the proposed regular fees or charges allocable to each Lot, if any, shall be delivered to each Owner. If an annual budget is not made as required, a monthly payment in the amount required by the last prior budget shall be due from each Lot Owner upon each payment date until changed by new regular fees and charges established by a new budget. Within sixty (60) days following the end of each calendar year, the board of directors shall send to each Owner an annual report of assets and liabilities of the Association determined as of the last day of such calendar year. All computations and reports relating to obligations to be performed by the Association under this article shall be accomplished in accordance with accepted accounting practices. Upon reasonable notice, mortgagees and Owners shall have the right to examine the books and records of the Association at the Association's office. At the end of each calendar year, the Association shall determine, as soon as is reasonably possible, all of the costs incurred in that year, and if the costs have exceeded the

budget, the deficiency shall be taken into account and defrayed as part of the budget for the following calendar year. If there is an excess of regular fees or charges collected for such calendar year, such excess shall also be taken into account preparing the budget.

4. **Special Fees for Noncompliance with Declaration.** The Association may levy special fees or charges against any Owner to reimburse the Association for costs incurred for the purpose of bringing an Owner, his Residence, or such Owner's Lot, into compliance with the provisions of the Declaration, the Articles, the Bylaws, the Design Guidelines, and any rules and regulations, which special fees or charges may be assessed upon the vote of the board of directors after notice to the Owner and a reasonable opportunity for such Owner to be heard by the board of directors.

5. **Uniform Rate of Fees or Charges.** Both regular and special fees or charges, other than those imposed in accordance with Section 4 of this Article, must be fixed by the board of directors of the Association at a uniform rate for all Lots.

6. **Date of Commencement of Regular Fees or Charges: Due Date.** Regular fees or charges shall be due and payable either monthly on the first day of each month, or quarterly on the first day of January, April, July, and October (as determined by the board of directors) in equal installments, and shall be delinquent if not paid within five (5) days after becoming due and payable. The board of directors may, in its discretion, permit an Owner to pay regular fees or charges in one annual payment, on or before March 1, and if so paid to give to the Owner making such an advance payment a reasonable discount for such prepayment; provided, however, that no discount in excess of ten percent (10%) shall be given without the affirmative vote of eighty percent (80%) of all the Owners at an annual or special meeting of such Owners. An Owner shall become obligated to pay assessments upon acceptance of title to or taking of possession of such Lot and/or Residence. The board of directors may, in its sole discretion, reduce the regular fees or charges assessed against the Owner of a Lot (or Lots) until a Residence is constructed on such Lot (or Lots). Assessments may also be paid by, for and on behalf of Owners by their mortgagees under such terms and agreements as the Association may from time to time deem appropriate by action of its board of directors.

7. **Duties of the Board of Directors with Respect to Fees or Charges.**

(a) At least thirty (30) days prior to December 31 of each year, the board of directors shall, by resolution, determine the amount of the regular fee or charge. Written notice of such regular fee or charge shall be given to each Owner. Failure of the Association to give written notice of any regular fee or charge prior to December 31 of any year shall not invalidate any such fee or charge levied thereafter, nor shall failure to levy any regular fee or charge for any one year affect the right of the Association's board of directors to do so for any subsequent year. Any Owner who becomes subject to any fee or charge subsequent to December 31 of any year shall commence payment of such

fee or charge on a pro rata basis commencing on the date such Owner accepts title to or takes possession of the Lot.

(b) The board of directors shall upon demand at any time furnish to any Owner liable for fees or charges hereunder a certificate in writing signed by the president or secretary of the Association setting forth whether all fees or charges have been paid to date. A reasonable charge may be made by the board of directors for the issuance of such certificate. Such certificate may be recorded in the office of the Register of Deeds for Dickinson County, Kansas, and upon recording shall constitute conclusive evidence of payment of any fee or charge for the period stated in the certificate.

(c) The Association, acting by its board of directors shall enforce payment of the fees or charges in accordance with this Declaration.

8. **Effect of Non-payment of Fees or Charges.**

(a) If any fee or charge or any part thereof is not paid on the date when due, the unpaid amount of such fee or charge shall become delinquent and shall thereupon be a continuing lien on the Lot and/or individual Residence, if any, of the non-paying Owner, and the Association may, but shall not be required to, file a statement (a "**Lien Statement**") in the office of the Register of Deeds of Dickinson County, Kansas, setting forth the amount due and the lien in favor of the Association, which Lien Statement may state that it covers unpaid statements occurring after the date of the Lien Statement. All such unpaid fees or charges, together with interest and any cost of collection, shall also be the personal obligation of the person who was the Owner of such Lot at the time such fee or charge became due, and shall also bind such Owner's heirs, executors, administrators, successors, and assigns. No Owner may waive or otherwise escape liability for the fees or charges provided herein by non-use of any Lot or Residence, or by abandonment of such Owner's Lot or Residence.

(b) If any fee or charge is not paid within thirty (30) days after becoming delinquent, the same may bear interest at a rate equal to the maximum rate on notes and bonds then allowable in the State of Kansas, or fifteen percent (15%), whichever shall be the lesser, on such fee or charge from the date it was due, if the board of directors by resolution, elects to assess interest on any such nonpaid fee or charge, together with all expenses, including attorney's fees (if and to the extent allowed by law) incurred by the board of directors in attempting to collect such fee or charge.

(c) The Association may by resolution elect to commence an action in a court of competent jurisdiction against the Owner personally obligated to pay any fee or charge, and the Owner of record of any Lot in the event it has been transferred, to enforce payment of delinquent fees or charges and to foreclose the lien against the Lot. The lien against any Lot shall continue for a period of five (5) years from the date a Lien

Statement is recorded in the Office of the Register of Deeds of Dickinson County, Kansas, or if a Lien Statement is not so recorded, then the date of delinquency and no longer unless a foreclosure action shall have been filed. In the event such action is filed within five (5) years from the date the Lien Statement is recorded, or if not recorded within five (5) years from the date of delinquency, the lien shall continue until termination of the action and until sale of the Lot under the execution of judgment establishing the same.

9. **Subordination of the Lien to Mortgages; Notice of Nonpayment to Mortgagee.** The lien of the fees or charges, regular and special, shall be subordinate and inferior to the lien of any first mortgage now or hereafter placed upon any Lot subject to fees or charges; provided, however, that such subordination shall apply only to the fee or charge which becomes due and payable prior to the sale, whether public or private, of such Lot pursuant to a decree of foreclosure of any such mortgage or a deed in lieu of foreclosure. Such sale or deed in lieu of foreclosure shall not relieve a Lot from liability for the amount of any fees or charges thereafter becoming due, nor from the lien of any subsequent fee or charge. Any holder of a first mortgage on a Lot who acquires title to such Lot pursuant to foreclosure or deed in lieu of foreclosure shall take title free of any claims for unpaid fees or charges against the Lot which accrued prior to the date title is acquired by such holder. The board of directors, whenever so requested in writing by any mortgagee or contract seller of a Lot, shall promptly, in writing, notify the mortgagee or contract seller of any default in the performance by the individual Owner or contract purchaser of any obligation under this Declaration and any then unpaid charges or fees assessed against the Lot.

10. **Exempt Property.** Notwithstanding any provision of this Declaration to the contrary, the following property subject to this Declaration shall be exempted from the fees, charges, and liens created herein: All property dedicated to and accepted by the City of Abilene, Kansas, or any public utility for public use and purposes, and all Lots owned by Declarant.

ARTICLE FOUR

MANAGEMENT, MAINTENANCE, AND REPAIRS AND ASSOCIATION DUTIES AND POWERS

1. **Manager or Managing Agent.** The board of directors may employ for the Association a management company or a manager, at a compensation established by the board of directors, to perform such duties and services as the board of directors shall authorize. No management contract or agreement shall, however, be for a period longer than three (3) years from the date of execution, and all such management contracts or agreements shall contain a provision allowing termination thereof by the board of directors at any time, with or without cause, on ninety (90) days (or less) prior written notice to the manager or management company.

2. **Maintenance, Repair, Alteration and Improvements.**

(a) **By the Association:**

The responsibility of the Association shall be as follows:

- (i) Provide routine maintenance and care of all Common Areas, if any.
- (ii) Maintain an area marker (or markers), if any, for the Real Estate.

The frequency and the materials to be used in the performance of all such routine repair, maintenance, and care shall be in the sole discretion of the board of directors of the Association and shall not be subject to the control of any Owner. In the event that the need for non-routine maintenance, repair or care, or for extraordinary services to any Lot, shall be caused by or through the willful act or negligence of an Owner, his family, guests, or invitees, the cost of such maintenance, repair or care, shall be added to and become an additional fee or charge, in addition to the fee or charge to which such Owner is subject, if any, and shall be paid by or on behalf of such Owner within thirty (30) days after written demand therefor from the board of directors of the Association, shall be enforceable and secured by a lien as in the case of all other fees or charges.

(b) **By Individual Owner:** The responsibility of each Owner shall be to maintain his Lot and/or Residence and all structures, parking areas, and other improvements located thereon in a state of good condition and repair and in the manner consistent with these Declarations, the Bylaws, the Design Guidelines, and the rules and regulations.

3. **Duties.** The Association shall have the following duties:

- (a) To maintain the Common Area, if any.
- (b) If determined desirable by the board of directors in their sole discretion, to construct an area marker (or markers) and if so constructed, to maintain such area marker (or markers) for the Real Estate.
- (c) To obtain and provide public liability, casualty, and other such insurance deemed necessary by the Association.
- (d) To do and perform such other things as may from time to time be necessary to maintain the quality and appearance of the Real Estate.

4. **Powers.** The Association shall have the following powers:

(a) To fix, levy, and collect fees and charges, whether regular or special, for the purpose of performing its duties under this Declaration.

(b) To make and enforce reasonable rules and regulations governing the use of the Real Estate and the Common Areas, if any, and the maintenance of the Lots and Residences in the Real Estate, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

(c) To take any action or perform any act authorized in this Declaration.

(d) To perform, carry out, and exercise any and all other powers, functions, measures, and tasks deemed necessary by the Association for the convenience, benefit, and enjoyment of the Owners, and to fix, levy, and collect any fees and charges necessary to pay the cost of any of the foregoing.

5. **Implementation of Powers and Duties.** The Association shall carry out its duties and exercise its powers pursuant to the following provisions:

(a) **Limitation Upon Liability of Association.** Notwithstanding the duty of the Association to maintain and repair parts of the properties, the Association shall not be liable to any Owner, his family, invitees, guests, or tenants, for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association.

(b) **Restraint Upon Assignment of Shares in Assets.** The share of an Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his Lot.

(c) **Approval or Disapproval of Matters.** Whenever the decision of an Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner if in an Association meeting, unless the joinder of record Owners is specifically required by this Declaration.

(d) **Voting Rights.** Members of the Association shall be entitled to voting rights as set forth in this Declaration.

(e) **Books of Receipts and Expenditures.** The board of directors shall keep detailed accurate records, in chronological order, of receipts and expenditures affecting the Real Estate and the operations under this Declaration, and such record shall specify and itemize the maintenance and repair expenses of the Association and any other expenses incurred. Such records and any vouchers authorizing payments shall be available for examination by Owners at convenient weekday hours.

(f) **Legal Action.** The Association shall have the right and authority, but not the obligation, for and on behalf of the Owners to initiate or defend any legal action or claim arising out of their ownership of Lots, and to negotiate any settlement thereof, including, without limitation, the payment of all or any part of a claim and to levy as a special assessment upon the Owner or Owners against whom such legal action or claim shall have been asserted.

(g) **Borrow Money.** The board of directors shall have the right to borrow money to meet requirements from time to time for working capital, Common Expenses, and emergencies; however, no single loan shall exceed \$20,000.00, loans at any time outstanding shall not exceed \$100,000.00 in the aggregate, and no loan shall be entered into having a maturity date in excess of five (5) years. Any loan or loans in excess of such limits or for a longer maturity shall be made only with the affirmative vote in person or by proxy of at least 80% of the members at an annual or special meeting of the members.

ARTICLE FIVE

NEW CONSTRUCTION, IMPROVEMENTS, AND ALTERATIONS

1. **Architectural Control Committee.** There is hereby established an Architectural Control Committee, which shall consist of three (3) persons appointed by Declarant. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Architectural Control Committee, the remaining members shall have full authority to designate a successor. In the event that there shall be no remaining members of the Architectural Control Committee who can name a successor or successors, whether by death or by resignation and Declarant's Marketing Phase shall have expired, and in only of such events, a majority of the Owners shall be entitled to name the persons who shall serve on the Architectural Control Committee. The affirmative vote of a majority of the members of the Architectural Control Committee shall be required in order to adopt or promulgate any rule or regulation or to make any finding, determination, ruling, or order, or to issue any permit, consent, authorization, or approval pursuant to the authority contained in this Declaration.

2. **Enforcement.** The Architectural Control Committee and/or the Association shall have the authority and standing to enforce in courts of competent jurisdiction, the provisions of this Article and the decisions of the Architectural Control Committee established in this Article. Enforcement shall be by proceedings at law or in equity, against any Person or Persons violating or attempting to violate any covenant contained in this Article or decision of the Architectural Control Committee either to restrain violation or recover damages, or both.

3. **New Construction.** No building or construction of any kind shall be erected, placed, or performed on any Lot until construction plans and specifications, including, but not limited to, specifications on exterior materials and colors, a plan showing the location of the

structure, and a landscape plan, have been approved by the Architectural Control Committee as to type of materials, exterior colors, harmony of external design with existing structures, location of the building on the Lot, finished grade elevation, front and side yard planting, landscaping and sprinkling plan. The term "construction," as used in this Article, shall include within its definition staking, clearing, excavating, and other similar site work. The Architectural Control Committee shall have complete discretion as to the extent of detail required in plans and specifications to be submitted to it, and may waive any submission requirement called for by this Article.

4. **Improvements and Alterations.** No Owner may paint or otherwise decorate or change the appearance of any exterior portion of the Owner's Residence or the grade or topography of the Owner's Lot without the prior written consent of the Architectural Control Committee. No permission or approval shall be required (i) to repaint in accordance with an originally approved color scheme, (ii) to rebuild in accordance with originally approved plans and specifications, or (iii) to decorate any Residence or other improvement or Lot with temporary seasonal decorations that do not constitute a nuisance or annoyance to the neighborhood or which detracts from the attractiveness of the Real Estate. Nothing herein shall be construed to limit the right of an Owner to remodel the interior of the Owner's Residence or to paint the interior of the Owner's Residence any color he desires.

5. **Approval or Disapproval of Plans.** The Architectural Control Committee shall have twenty (20) days following submission in writing by the owner of required plans, specifications, and other information, in which to approve or disapprove such plans and specifications, or to request additional information reasonably required by the Architectural Control Committee. If the Architectural Control Committee shall fail to approve or disapprove such plans, or to request additional information within such twenty (20) day period, the plans shall be deemed to be approved and the requirements of this Article shall be deemed to have been fully complied with. Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to the provisions of this Declaration and upon approval by the applicable governmental agency authorized to issue building permits, a copy of such plans and specifications and a copy of all building permits as approved shall be deposited among the permanent records of the Architectural Control Committee and a copy of such plans and specifications and building permits bearing such approval in writing, shall be returned to the applicant submitting the same.

6. **Limitations.** Construction or alterations in accordance with plans and specifications approved by the Architectural Control Committee shall be commenced within six (6) months following the date upon which such plans and specifications are approved, and shall be substantially complete within twelve (12) months following the date of commencement or within such longer period as the Committee shall specify in its approval. In the event construction is not commenced within such period, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from plans and specifications ap-

proved by the Committee without the prior consent in writing of the Committee. Approval for use on any Lot of any particular plans and specifications or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications or any elements or features thereof in the event such plans and specifications are subsequently submitted for use upon any other Lot or Lots.

7. **Certification of Compliance.** Upon the completion of the construction or alteration of any Residence or other improvements or structure in accordance with plans and specifications approved by the Architectural Control Committee, the Committee shall, at the request of the Owner, issue a certificate of compliance which shall be prima facie evidence that the Residence, building, or other improvements or structures referred to in the certificate have been approved by the Committee and constructed or installed in full compliance with the provisions of this Article and the Design Guidelines, and with such other provisions and requirements of this Declaration as may be applicable. If such completed or altered Residence or improvement or structure shall fail to comply with the plans and specifications approved by the Architectural Control Committee or otherwise fails to comply with the provisions of the Declaration or the Design Guidelines promulgated by the Committee, the Committee shall have the right, in addition to other rights provided in this Declaration, to record a certificate of non-compliance in the Office of the Register of Deeds of Dickinson County, Kansas, setting forth the reasons or basis of the determination by the Committee that the Residence, improvement or structure fails to comply and any subsequent Owner shall be bound by the certificate of non-compliance and the remedies available to the Committee under this Declaration. Nothing in this paragraph 7 shall require the Committee to record a certificate of non-compliance and the Committee's failure to record a certificate of non-compliance shall not be deemed to be a waiver of the Committee's rights to enforce the provisions of this Declaration. If an Owner or proposed purchaser of an Owner's interest in a Residence shall desire affirmative evidence of compliance, then the Owner or proposed purchaser may seek to obtain a certificate of compliance in accordance with this paragraph.

8. **Design Guidelines.** The Architectural Control Committee may from time to time adopt and promulgate the Design Guidelines which may include, without limitation, design and construction requirements for each Residence or improvement, and the form and content of plans and specifications to be submitted for approval and may publish the Design Guidelines and/or establish such criteria relative to architectural styles or details, or other matters, as it may consider necessary or appropriate. The Design Guidelines shall not be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to the provisions of this Article. The Design Guidelines may be amended by a majority vote of the Architectural Control Committee, without the approval of the Owners, Board of Directors or any other Person; provided, however, that any change to the Design Guidelines shall only apply to construction that shall occur after the promulgation of the amendment to such Design Guidelines. The Design

Guidelines may have different standards for different areas of the Real Estate covered by this Declaration to address different situations and locations of various Lots within the Real Estate.

9. **Right to Remove or Correct Violations.** In the event any Residence, building, or other improvements or structure shall be commenced, erected, placed, moved or maintained upon any Lot, otherwise than in accordance with the provisions and requirements of this Article and the Design Guidelines, then the same shall be considered to have been undertaken in violation of this Article and without the required approval of the Architectural Control Committee, and, upon written notice from the Architectural Control Committee, such Residence, building, or other structure or improvements shall be promptly removed. In the event it is not removed, or the violation is not otherwise terminated within fifteen (15) days after notice of such violation is delivered to the Owner of the Lot upon which such violation exists, then the Architectural Control Committee and the Association shall have the right, through its agents and employees (but only after a resolution of the Architectural Control Committee or the board of directors of the Association, as the case may be) to enter upon such Lot and to take such steps as may be necessary to remove or otherwise terminate such violation. The costs (including legal and court costs) incurred by the Architectural Control Committee or the Association to enforce the provisions hereof may be assessed against the Lot upon which such violation occurred and the Owner of such Lot. When the costs are so assessed, a statement of such costs shall be delivered to the Owner of said Lot at which time the assessment shall become due and payable and a continuing lien upon such Lot, and a binding personal obligation of the Owner of such Lot, in all respects and in accordance with the provisions relating to liens provided elsewhere in this Declaration. The Architectural Control Committee and the Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions of this Article, or any other provisions or requirements of this Declaration, exist on such Lot; and neither the Association, the Architectural Control Committee nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE SIX

EASEMENTS

In addition to easements hereinbefore or hereinafter specifically created or reserved, the following easements are hereby created or reserved:

1. **Easement to Architectural Control Committee.** An easement is hereby created in favor of the Association and its agents, permitting it to enter into or upon any Lot for the purpose of performing its powers and duties as described herein. The right established in this paragraph shall be exercised in a reasonable manner.

2. **Easement for Utilities.** For the purpose of supplying utilities and various services to the Residences, the Declarant shall have and hereby reserves easements to locate, construct, maintain, and use, or authorize the location, construction, maintenance and use of such portions of the Real Estate as Declarant may designate for drains, storm water detention, sanitary and storm sewers, gas and water mains and lines, electrical and telephone lines, cable television conduits and lines, community television antenna lines, fire warning and security systems and other utility lines and conduits for any and all purposes. Public utilities furnishing services (e.g., water, electricity, gas, sewage, telephone, and cable television) to the Residences shall have access to the Lots and Residences, as may be necessary for the installation, repair, or maintenance of such services. Nothing in this paragraph shall be construed or interpreted as implying or placing any obligation on Declarant to supply any utilities or the services described in this paragraph.

3. **Drainage Easement.** An easement is hereby created in favor of The Association, permitting it to enter on, over and under the Real Estate, for the purpose of maintaining and correcting drainage of surface water to comply with all ordinances and regulations, as amended from time to time, of the City of Abilene, Dickinson County, Kansas and to insure reasonable standards of health, safety and appearance. Such easement expressly includes the right to trim, cut and remove any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary for such purposes, following which the Association shall restore the affected property to its original condition to the extent reasonably practicable. The Association shall give reasonable notice of its intent to take any such action provided under this paragraph to all affected owners unless in the sole discretion of the Association an emergency exists which must be remedied before such notice could reasonably be given. The reservation of an easement and right under this paragraph shall in no way be construed or interpreted to place or imply an obligation on the Association to maintain and correct the drainage and detention of surface water within the Real Estate.

4. **Easement for Area Marker.** An easement is hereby created in favor of the Association, permitting it to enter on, over and under the Real Estate for the purpose of constructing, maintaining, landscaping, repairing, and replacing an area marker (or markers), together with the right to construct and maintain electrical utility service to the area marker (or markers) for lighting; provided, however, that the foregoing shall not be construed or interpreted as placing or implying any obligation on The Association to install or maintain an area marker or markers on the Real Estate.

5. **Easements Run with the Land.** All easements and rights herein established shall run with the land, and unless in gross, shall inure to the benefit of and be binding upon the Owners of all Lots located within the Real Estate, and their successors, heirs, and assigns, whether or not such easements are mentioned or described in any deed of conveyance.

ARTICLE SEVEN

USE RESTRICTIONS

1. **Use of Land as Single Family Residence.** Each Residence shall consist of a single-family residence and be constructed upon an individual Lot as described in the Plats recorded in the Office of the Register of Deeds for Dickinson County, Kansas. Each Lot conveyed shall be designated by a separate legal description and shall constitute a fee simple estate subject to the terms, conditions, and provisions of this Declaration.
2. **Residences.** The Residences are to be used only for providing living accommodations and for related uses and enjoyment. No Lot or Residence shall be used for any commercial purpose; provided, however, that nothing in this paragraph shall preclude the use of a Residence for an incidental commercial use such as for the providing of piano lessons or in-home day-care services so long as such use does not constitute a nuisance or annoyance to the neighborhood or which detracts from the attractiveness of the Real Estate.
3. **Leasing.** No Residence shall be rented for transient purposes, or to more than four (4) persons who are not related by blood or marriage; provided, however, that the restrictions on the number of tenants shall be interpreted in a manner consistent with the Fair Housing Act, 42 U.S.C. §3602, et seq., as amended, or the State act against discrimination, K.S.A. 44-1015, et seq., as amended, or any local regulation prohibiting housing discrimination. No Owner shall be entitled to rent the Owner's Residence if he is delinquent in the payment of any assessment required by this Declaration. All leases or rental agreements shall contain a provision to the effect that the rights of the tenant to use and occupy the Residence shall be subject and subordinate in all respects to the provisions of this Declaration. The provisions of this paragraph shall not apply to any institutional mortgagee of any Residence who obtains possession of a Residence as a result of any remedies provided by law or in the mortgage, as a result of a foreclosure sale or other judicial sale, or as a result of any proceedings, arrangement, or deed in lieu of foreclosure.

ARTICLE EIGHT

GENERAL RESTRICTIONS

1. **Lot Frontage.** Any Residence constructed on any portion of any Lot shall present an appropriate elevation and frontal appearance to be designated by the Architectural Control Committee and if not so designated, then consistent with the regulations, ordinances and resolutions of the City of Abilene, Kansas.

2. **Lot Setback.** The Residences built on each Lot shall be set back from any public street a distance no less than the minimum setback required by ordinance of the City of Abilene, Kansas. No fence or wall shall be erected, placed, or altered on any Lot nearer to any street than the minimum building setback line required by ordinances of the City of Abilene, Kansas.

3. **Permitted Height of Residences.** The maximum height allowable for any building to be set on a Lot shall be the maximum allowed by the ordinances of the City of Abilene, Kansas, or such lesser size as provided in the Design Guidelines.

4. **Construction Requirements.** The Construction requirements shall be addressed in the Design Guidelines promulgated by the Architectural Control Committee. If the Design Guidelines shall not be promulgated or until the Design Guidelines are promulgated, then the following requirements shall be the constructions requirements for the Residences, which requirements can be superceded, amended, revised or added to by the Design Guidelines:

(a) Exterior walls of all Residences, structures, and appurtenances thereto shall be of brick, stone, dryvit, stucco, wood shingles, composition siding, wood paneling, wood siding, glass, glass blocks, or any combination thereof. Roofs shall be covered with 3-tab, composition "Timberline" type shingles or such other material acceptable to the Architectural Control Committee and that is comparable in appearance, flame resistant or retardant and meets or exceeds any fire prevention standards established by any building code which has been adopted and which is applicable to the Residence. All brick and stone applications shall be consistent with the architectural design of the Residence, and approval of the design application by the Architectural Control Committee shall be based on the creativity of the design and the coverage of the square footage to which the brick and stone shall be applied. The landscaping plan and all landscaping on a Lot must be laid out in such a manner as to preserve viewing lines and shall not obstruct unreasonably any views of a neighboring Lot or to any streets and intersections. Each Residence shall include at least a two-car enclosed garage.

(b) No Residence or appurtenant structure shall be permitted to stand with its exterior in an unfinished or damaged condition for longer than six (6) months, and for each month thereafter that the exterior of a Residence shall stand in an unfinished condition, a fine of Fifty Dollars (\$50.00) per day shall be assessed against the Owner as a special charge for which the Architectural Control Committee shall have all enforcement, collection, and lien rights it has with respect to other charges and fees under this Declaration.

(c) Any construction changes or alterations to the design of the original exterior building structure or landscaping plan must have prior written approval of the Architectural Control Committee.

5. **Temporary Structures and Outbuildings.** No structure of a temporary character or other outbuilding shall be placed or used on any Lot at any time as a residence, either temporarily or permanently. No outbuilding or other detached structure appurtenant to a Residence shall be erected on any Lot without the written approval of the Architectural Control Committee. No dog pen or dog run shall be constructed without the prior written approval of the Architectural Control Committee, following submission of the Lot Owner of design plans and elevation drawings showing site location.

6. **Signs.** No sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. No professional or commercial signs of any type or form shall be allowed. Except as specifically permitted in this paragraph, no signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any said Lots without the written approval of the Architectural Control Committee.

7. **Oil and Mining Operation and Oil Tanks.** No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot. No tank for storage of fuel may be maintained above the surface of the ground on any said Lot without the written approval of the Architectural Control Committee.

8. **Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes; subject, however, to prior approval of any dog pens or dog runs, in accordance herewith. All pets shall be leashed and under the direct supervision and control of its owner when they are outside of a Residence; provided, however, that a pet shall not be required to be leashed if such pet is within a functioning, underground or wireless fence.

9. **Overhead Wires Prohibited.** No power or telephone service connection lines may be erected or maintained above the surface of the ground on any of the Lots.

10. **Pergolas Prohibited.** No pergola, or any detached structure intended primarily for ornamental purposes, may be erected on any part of a Lot without the written approval of the Architectural Control Committee.

11. **Antennas and Clotheslines.** Except to the extent prohibited by law, external radio antennas, television antennas, satellite dishes and other antenna systems (collectively referred to as an "Antenna") greater than one (1) meter in diameter shall not be permitted outside the structure without the written approval of the Architectural Control Committee. To the extent

allowed by law, all Antennas regardless of size shall be installed in the rear of the Residence or such other location to ensure that such Antenna is located and screened to the greatest extent possible from the view of neighboring properties so long as such location does not increase the price or impair installation, maintenance or use of the Antenna. No external clotheslines, clothes racks, or clothes hangers shall be constructed or used on or about any Lot or Residence.

12. **Parking.** No part of the Real Estate, including driveways and parking areas (other than private, enclosed garages), shall be used for the parking of trailers, mobile homes, boats, boat trailers, recreational vehicles, equipment, machinery, or trucks.

13. **No Noxious or Offensive Activities Permitted.** No noxious or offensive activity shall be carried on within the Real Estate, nor shall any trash, ashes, or other refuse be thrown, placed, or dumped upon any exposed area nor shall anything ever be done which may be or become an annoyance or nuisance to the Owners. Each Owner shall refrain from making or permitting any disturbing noise by himself, the Owner's family, employees, agents, visitors, licensees, lessees, and pets, and to refrain from permitting anything by such persons or pets that will interfere with the rights, comforts, or convenience of the other Owners. All trash or refuse shall be stored by each Owner within the Owner's Residence or appurtenant garage. All trash and refuse shall be placed in closed containers, securely covered, and delivered at such times, and to such locations, as may be determined by the Architectural Control Committee, for trash pickup by the City of Abilene, Kansas.

14. **Fences and Enclosures.** No fences or enclosures of any type of nature whatsoever shall be constructed, erected, placed, or maintained on any Lot, except such fences or enclosures as may be authorized by the Architectural Control Committee. No chain link fencing shall be permitted.

15. **Drainage.** Each Owner shall refrain from interference with the established drainage pattern over the Owner's Lot or from adjoining or other Lots, and shall make adequate provision for proper drainage from any such other Lot in the event the established drainage over the Owner's Lot is changed or altered.

16. **Storage.** No storage of any type shall be allowed at any time on a Lot, except within the private enclosed Residence or appurtenant garage, and any such storage shall not be stored in such manner as to be exposed to public view. Storage within a garage shall not be so great as to cause an Owner not to use the Owner's garage for the purpose of parking the Owner's car(s). No boat, camper, trailer, truck, mobile home, or recreational vehicle of any type whatsoever may be parked, stored, or otherwise located at any location within the Real Estate, except for a period of time reasonably necessary for loading or unloading of personal property into or from the same by an Owner.

17. **Repairs of Vehicles on Real Estate.** No major repair, rebuilding, or maintenance of any vehicle shall be permitted except within the private enclosed garage, if any, of an Owner.

No major repair, rebuilding, or maintenance of any vehicle shall be permitted in open parking areas. This restriction shall include, but is not limited to, automobiles, trucks, campers, trailers and boats.

18. **Basketball Goals.** Basketball goals shall be permitted, however, the basketball goals may only be attached to a Residence over the garage door.

19. **Mailboxes.** Mailboxes shall be arranged and located by the United State Post Office in a "cluster" arrangement. The Architectural Control Committee shall have no responsibility with respect to mailboxes or their location, all of which shall be the responsibility of the individual Owners and the United States Postal Service.

20. **Limitation of Restrictions.** Notwithstanding anything herein to the contrary, the Declarant, its agents and assigns, may, while constructing and selling Residences, maintain such facilities upon the Real Estate as, in its sole discretion, may be necessary or convenient, including but without limitation, offices, storage areas, model units, and signs.

21. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plats. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE NINE

LOTS SUBJECT TO DECLARATION, THE BYLAWS, DESIGN GUIDELINES, AND RULES AND REGULATIONS

All present and future owners of Residences and tenants and occupants of the Residences shall be subject to and shall comply with the provisions of this Declaration, the Bylaws, Design Guidelines and rules and regulations, as amended, modified, revised, supplemented or superseded from time to time. The acceptance of deed or conveyance or the entering into of a lease or the entering into occupancy of any Lot or Residence shall constitute an agreement that the provisions of this Declaration, the Bylaws, Design Guidelines and rules and regulations, as amended, modified, revised, supplemented or superseded from time to time, are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Lot and Residence situated thereon, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof. Failure of an Owner to comply with this Declaration, the Bylaws, Design Guidelines and rules and regulations, as amended, modified, revised, supplemented or superseded from time to time, shall entitle the other Owners to the following relief, in addition to the remedies that may be provided by law:

(a) **Enforcement.** Any Owner and the Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner or the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) **Negligence.** An Owner shall be liable for the expense of any maintenance, repair, or replacement to or of any Lot or Residence, including the Owner's own, rendered necessary by the Owner's act, neglect or carelessness, or by that of any member of the Owner's household, or the Owner's or their guests, employees, agents or lessees.

(c) **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of an Owner to comply with the terms of the Declaration, as amended, modified, revised, supplemented or superseded from time to time, the prevailing party in such proceeding shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

(d) **Abating and Enjoining Violations by Residence Owners.** The breach of any provision of this Declaration, shall give the Declarant and/or the Association the right, in addition to any other rights set forth herein: (a) to enter on or in the Lot on or in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and they shall not thereby be deemed guilty in any manner of trespass; and/or (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

(e) **Remedies Cumulative.** All rights, remedies and privileges granted to the Declarant, the Architectural Control Committee, or any Owner, pursuant to the terms, provisions, covenants, or conditions of this Declaration, shall be deemed to be cumulative, and the exercise of any one or more of them shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

ARTICLE TEN

GENERAL PROVISIONS

1. **Amendments.** This Declaration may be amended, modified, revised, supplemented, superseded or terminated in whole or in part, (collectively, "to amend" or an "Amendment") from time to time. Except as elsewhere provided, any Amendment of this

Declaration shall require the approval of the Owners of seventy percent (70%) of all the Lots within the Real Estate. In all events, the Amendment when adopted shall either (i) be executed by all the Owners who approved of such Amendment, or (ii) bear the signature of the President of the Association and shall be attested by the secretary, who shall state whether the Amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording of the Amendment to Declaration in the appropriate governmental offices.

2. **Rights of Declarant.**

(a) **Required Approvals.** Notwithstanding any provision of paragraph 1 of this Article to the contrary, until the expiration of the Marketing Phase, this Declaration may not be amended by the Owners pursuant to paragraph 1 of this Article without the written consent of Declarant, which may be withheld for any reason.

(b) **Declarant's Right to Amend.** Notwithstanding any other provision of this Article, until the expiration of the Marketing Phase, Declarant reserves the right to amend this Declaration without the approval of any Owner or other Person; provided, however, that no such Amendment shall have the effect of changing the Plats of an Owner's Lot without the consent of the Owner.

(c) **Marketing Phase Defined.** The Marketing Phase of the Real Estate, for purposes of this Declaration, shall be conclusively deemed to be the period between the recording of this Declaration and the earlier of (i) the date that seventy percent (70%) of the Lots within the Real Estate have been sold by Declarant to third parties, or (ii) the date that is seven (7) years from the date this Declaration is recorded.

(d) **Assignment or Relinquishment.** Notwithstanding any provision in this Declaration to the contrary, during the Marketing Phase, Declarant may unilaterally assign, transfer or convey, without the approval or joinder of any of the Owners or any Person, any or all of Declarant's rights created or reserved to the Declarant under this Declaration. Such assignment, transfer or conveyance may be to (i) any Person who is acquiring one or more Lots owned by Declarant at the time of or immediately before or after the transfer of Declarant's rights, or (ii) any lender holding a mortgage on all the Lots owned by Declarant at the time of, or immediately prior to or following, the transfer of Declarant's rights under this paragraph. Any such assignment, transfer or conveyance shall be effective only when such assignment, transfer or conveyance has been signed by the transferor and the transferee and has been recorded in the Office of the Register of Deeds of Dickinson County, Kansas. Declarant may (but shall not be required to), at any time, voluntarily relinquish all or any part of Declarant's control and rights under this Declaration by executing and recording a document setting forth such relinquishment and recording such document.

3. **Disclosure of Soil Condition:** It is recommended that each Owner obtain any tests pertaining to subsurface conditions of its or their Lot prior to construction and prior to

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purchasing a Lot or Residence. By accepting a deed to a Lot or Lots, the Owners hereby waive any and all objections to or complaints about physical characteristics and existing conditions of the Lot, including, without limitation, type of soil, subsurface conditions, suitability of the subsurface conditions for the construction of any improvements, and each Owner hereby forever releases and discharges Declarant, its successors and assigns from all claims, demands and liability related in any way thereto. If inspections are not performed regarding all or part of the Lot or Residence owned by such Owner, such Owner is bound by whatever information an inspection would have revealed, and waives any claim, right or cause of action relating to or arising from any condition of the Lot or Residence that would have been apparent had inspections been performed.

4. **Severability.** The invalidity in whole or in part of covenants or restrictions, or any paragraph, subparagraph, sentence, clause, phrase or word, or other provision of this Declaration shall not affect the validity of the remaining portions thereof.

4. **Captions.** The captions are inserted only as a matter of convenience and for reference, and in no way define, limit, modify, or supplement this Declaration or the intent of any provision thereof.

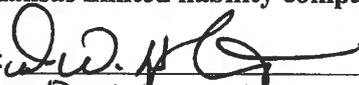
5. **Construction.** Whenever the context so permits, the use of plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, this Declaration has been executed the day and year first above written.

DECLARANT: ABILENE HIGHLANDS, LP
a Nevada limited partnership

By its General Partner:

ABILENE HIGHLANDS, LLC,
a Kansas limited liability company

By: 
Name: Daniel W Hopteris
Title: Manager

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PAGE: 652

STATE OF TEXAS, COUNTY OF DALLAS) ss:

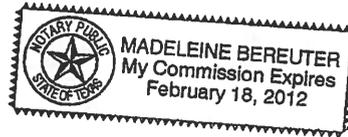
BE IT REMEMBERED, that on this 13th day of October, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Daniel W Hopkins (name), Manager (title) of Abilene Highlands, LLC, a Kansas limited liability company, the General Partner of Abilene Highlands, LP, a Nevada limited partnership, who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same on behalf of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

Maedleine Beruter
Notary Public

My Appointment Expires: 2/18/12

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EXHIBIT A

Legal Description of Submitted Real Estate

Lots 1-12, Block 1, East Highlands
Lots 3-8, Block 3, East Highlands
Lots 4-11, Block 4, East Highlands
Lots 4-10, Block 5, East Highlands
Lots 8-13, Block 11, East Highlands
Tracts A & B, East Highlands

Lots 1-28, Block 1, West Highlands
Lots 1-32, Block 2, West Highlands
Lots 1-16, Block 3, West Highlands
Lots 1-2, Block 4, West Highlands
Lot 1, Block 8, West Highlands
Tracts A, B, C, West Highlands

All located in the City of Abilene, Dickinson County, Kansas



STATE OF KANSAS 03350
DICKINSON COUNTY

This instrument was filed for
record on 10/20/2008 at 11:57 AM
& duly recorded in
Book 270 at Page 628

Kenneth J. Sleeman Register of Deeds

Deputy

KJS