

ABILENE CITY COMMISSION - STUDY SESSION AGENDA
DWIGHT D. EISENHOWER MEMORIAL BUILDING - 419 N. BROADWAY AVENUE
October 4, 2016 - 4:00 pm

1. **PUBLIC COMMENTS**. Persons who wish to address 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.

2. **ITEMS FOR PRESENTATION AND DISCUSSION**
 - a. **Great Plains Theater Period Lights**

 - b. **2017 Trails, Rails, and Tales Funding**

 - c. **Halloween Street Closures**

 - d. **Proposed Changes to LKM Bylaws**

 - e. **Changes to Insurance Umbrella Limits**

3. **ITEMS PROPOSED FOR THE CONSENT AGENDA**
 - a. **Meeting Minutes: September 26, 2016 regular meeting**

4. **ITEMS TO BE PLACED ON THE REGULAR AGENDA**
 - a. **An Ordinance amending Section 20-9 of the Zoning Regulations of the City of Abilene, Kansas concerning fences.**

 - b. **A Resolution adopting a Community Improvement District Policy for the City of Abilene, Kansas.**

5. **REPORTS**
 - a. **City Manager's Report**

6. **MEETINGS OF NOTE** (*Meetings at Abilene Public Library unless otherwise provided*)
 - League of Kansas Municipalities Annual Conference, October 8-10 (Overland Park, Kansas)
 - City Commission Meeting, Oct 11 at 4 pm
 - Sister City, Oct 11 at 7 pm
 - Planning Commission, Oct 13 at 4 pm
 - Economic Development Council, Oct 19 at 4 pm
 - City Commission Study Session, Oct 18 at 4 pm (City Hall)
 - Heritage Commission, Oct 20 at 4 pm
 - City Commission Meeting, Oct 24 at 4 pm
 - Recreation Commission, Oct 24 at 5:30 PM (Community Center)
 - Convention & Visitor's Bureau Board, Oct 25 at 2 pm (Civic Center)



MEMORANDUM

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Great Plains Theater Period Lights
DATE: September 30, 2016

ISSUE:

The City Commission is asked to consider a partnership to relocate period lighting from the former Great Plains Theater lot on the corner of Mulberry Street and NW 3rd Street to its new location on Cottage Avenue.

BACKGROUND:

The City had previously installed four period lights at the Great Plains Theater Mulberry Street location. Following the GPT fire, the period lights were left on-site until the site was acquired by the adjacent property owner.

Great Plains Theater has since relocated to the former Alco corporate offices, now owned by Thunderstruck Bumpers, Inc., and has asked for the period lights to be relocated to provide lighting for patrons accessing their facility.

The current proposal calls for the four period lights to be installed parallel to N. Campbell Street. The City would install concrete bases and the light fixtures and Linder Electric would install the conduit and wiring and new meter service. The metering would be connected to and billed from Thunderstruck's electric service. Ownership for the period lights would remain with the City in similar manner as the period lights in downtown Abilene.

RECOMMENDATION:

Staff recommends relocation of the period lights to N. Campbell Street to provide lighting for Great Plains Theater patrons. The City Commission will need to determine if it desires to partner in the cost of installing the light fixtures beyond the City's contribution in labor and materials for the concrete bases and installation of light fixtures.

FISCAL NOTE:

The cost of the project is estimated as follows: \$8,400 for installation of conduit, wiring, and new meter service by Linder Electric and \$850 for City's installation and labor associated with concrete bases and light fixture installation. The total cost of the project is estimated at \$9,250. The cost of the project could be billed to Great Plains Theater in whole, or paid in part by both parties at the direction of the City Commission.

ATTACHMENTS:

- Information prepared by Public Works Director Lon Schrader



Voice: 785.263.3510
Fax: 785.263.3594
www.abilenecityhall.com

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

August 15,2016

Cost for installation of Period type street lights at Great Plains Theatre

Estimate from Linder Electric to provide and install labor and materials for underground boring, conduit, wiring and new meter service*.....\$8400

Estimate for Public Works personnel to provide and install all labor and materials for concrete bases and actual light fixtures.....\$850

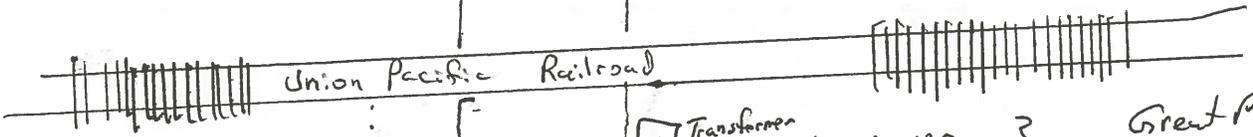
Total with new service*\$9,250

*Existing electrical service for GPT is provided by Thunderstruck Inc. service connection and the cost is therefore compensated for in the rental arrangement between Thunderstruck Inc. and GPT. In their previous location(NW 3rd/Mulberry), **actual** monthly average usage for the four period lights was \$20. The monthly service charge from Westar added another \$16/month. **If** power could be supplied from one of the existing buildings rather than securing a brand new service, the installation cost(from Linder) would be reduced by \$1500 and the monthly operating cost by the \$16/servive fee from Westar.

Lon Schrader
Public Works



Not to scale



N. Campbell

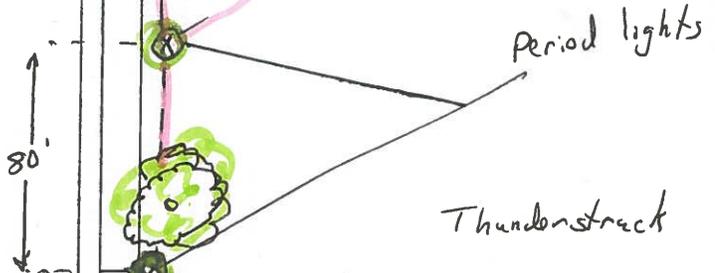


Transformer
Supply power
metered service?

Great Plains Theatre

Period light
proposal for
Great Plains Theatre

supply
power?
from GPT/Thunderstruck

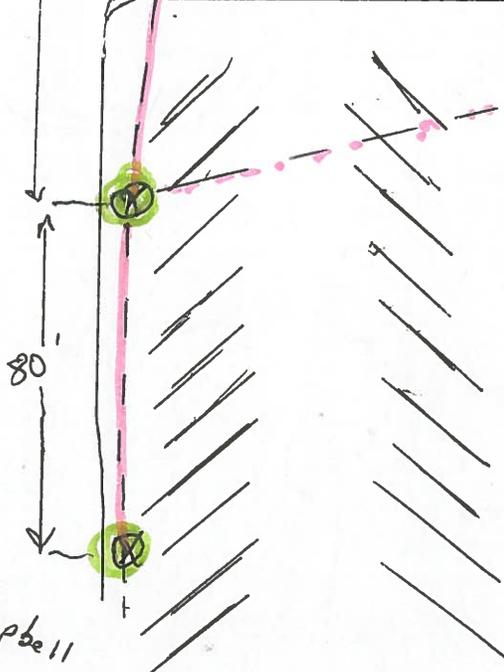


110'

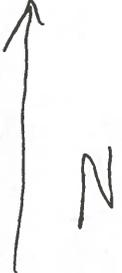
Cottage

supply power
storage building
Thunderstruck

Parking lot



N. Campbell





MEMORANDUM

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Trails, Rails, and Tales 2017
DATE: September 30, 2016

ISSUE:

The City Commission is asked to consider funding for the 2017 edition of the Trails, Rails, and Tales celebrating the 150th anniversary of the Chisholm Trail.

BACKGROUND:

The Trails, Rails, and Tales event was held Labor Day weekend and generated a net loss of \$15,796. The City budgeted \$20,000 in the 2016 budget for the event and \$35,000 for the event coordinator using funds from the General Fund Reserve. In addition, the City Commission approved an appropriation of \$15,000 that was unspent from appropriated funds in 2015. If one considers the City's entire appropriated contribution, the event generated a profit of \$19,204. This requires the City Commission to allocate the carryover balance to next year's event.

The 2016 event was planned to serve as a trial run for a much larger event in 2017. The committee has prepared a budget that calls for \$332,000 in expenses of which the most prominent expenses are \$80,000 for entertainment, \$70,000 in marketing, and \$55,000 for administration (primarily the event coordinator contract). Estimated revenue is \$332,000 and includes \$75,000 in corporate sponsorships, \$40,000 in grants, \$50,000 from gate sales, \$20,000 from merchandise, and \$18,000 from vendor fees.

RECOMMENDATION:

Staff recommends the City contribute to the 2017 Trails, Rails, and Tales event, although the appropriate level of funding is something that should be discerned by the City Commission. The City Manager recommends that any contribution made by the City come from the General Fund Reserve, to include any funds budgeted in 2016 but not spent, and in-kind contributions from City labor. In addition, the City Commission could elect to allocate transient guest tax receipts in excess of the typical \$135,000 generated in any given calendar year to offset the effect on the General Fund.

FISCAL NOTE:

The TRT Committee is requesting \$100,000 from the City to support the 2017 Trails, Rails, and Tales event. The 2016 event did not generate carryover funds, so the funds would be appropriated from the General Fund Reserve. The General Fund Reserve is estimated to end the year at about \$1.4 million, so an appropriation of this size would reduce the reserve to about \$1.3 million.

The General Fund Reserve is authorized by City policy to be appropriated using the following criteria: a) one-time expenditures which do not substantially increase recurring operating costs; b) newly identified or previously unfunded capital improvement projects or equipment, considered in light of the full capital improvement program; c) shifting of capital projects from bond or lease financing to “pay-as-you-go” financing to reduce future debt service costs; d) start-up expenditures for new programs undertaken at mid-year, provided that such action is considered in the context of revenue expectations and expenditure obligations in future budget years; and e) Transfers to Capital Improvement or Equipment Reserve Funds.

ATTACHMENTS:

- 2016 Trails, Rails, and Tales Financial Report
- 2017 Trails, Rails, and Tales Budget

2016 Trails, Rails and Tales

<u>Expense</u>	<u>Actual Expense</u>	<u>TRT Budget</u>
Event Planner	\$ 35,000.00	
Advertising	\$ 16,768.78	\$ 46,500.00
American Indian Spirit Dancers	\$ 12,022.36	
Supplies	\$ 11,237.18	\$ 17,800.00
Red Steagall	\$ 10,223.00	
Longhorns	\$ 8,000.00	\$ 8,000.00
Western Music Association	\$ 7,900.00	
Merchandise	\$ 5,511.79	\$ 4,500.00
Misc. Entertainment	\$ 4,038.18	\$ 20,800.00
Fireworks	\$ 4,000.00	
City Employee Hours	\$ 2,500.00	
Insurance	\$ 1,507.00	\$ 2,000.00
Bullshead Saloon	\$ 1,256.13	
Security	\$ 364.00	\$ 2,500.00
TOTAL EXPENSE	\$ 120,328.42	\$ 102,100.00

<u>Revenue</u>	<u>Actual Revenue</u>	<u>TRT Budget</u>
City Contribution for Event Planner	\$ 35,000.00	\$ 15,000.00
Community Foundation Grants	\$ 26,000.00	\$ 25,000.00
Ticket Sales	\$ 17,860.00	\$ 26,000.00
Corporate Sponsors/Donations	\$ 7,980.97	\$ 15,000.00
Dickinson County	\$ 5,000.00	
Metal Steers	\$ 3,000.00	
Bulls Head Saloon	\$ 2,121.75	
Chuckwagon Breakfast	\$ 1,683.46	\$ 500.00
Vendor Fees	\$ 1,540.00	\$ 2,500.00
Lazer Tag/TX Hold 'em/Howdy	\$ 1,040.00	
Plant Sale	\$ 860.32	
Merchandise	\$ 825.18	\$ 15,000.00
Chili Cook Off	\$ 704.00	\$ 4,000.00
Friday Ticket Sales	\$ 445.00	
Water/Rootbeer Sales	\$ 275.00	
Square	\$ 196.44	
TOTAL REVENUE	\$ 104,532.12	\$ 103,000.00

NET PROFIT/LOSS (15,796.30)

2016 CITY CONTRIBUTION	\$ 50,796.30
Event Planner	\$ 35,000.00
Budget Expenses	\$ 15,796.30

2016 City Budget Amount	\$ 20,000.00
2015 City Approved Budget Carryover	\$ 15,000.00
Total City Budget Approved	\$ 35,000.00

CT150 Budget 2017

Revenue:

Corporate Sponsorships	75000
Grants/Foundations	40000
City	100000
County	5000
Individual Donations	<u>5000</u>
	225000

Earned Income:

Gate Sales	50000	10,000@\$5
Vendor Fees	18000	15@\$200, 100@\$150
Merchandise Sales	20000	
Fundraising Events	7000	
Bull head Saloon	10000	
Texas Holdem	<u>2000</u>	
	107000	

Total Revenue 332000

Expenses:

Entertainment	80000	R. Steagell, Headliner, American Indians, WMAKS, lodging
Other Entertainment	10000	Clydesdale Horses, Mounted Cavalry, Equine Clubs
Longhorn Cattle	12000	Parade and train loading reenactment
Reenactors	2500	Joe McCoy, others
Howdy	1200	Longhorn photos
Administration	55000	Event Coordinator, postage, insurance, printing, city staff hours, miscel.
Staging/Sound	15000	
Fireworks	15000	
Logistics	15000	Porta potties, ice, hospitality, props, generators, fencing
Security	2000	
Marketing/TRT	50000	TV, Radio, Print, brochures, posters, distribution, social media,
Merchandise	10000	
Saloon Supplies/Mgmt	5000	
Signage	5000	
Marketing/Other Events	<u>20000</u>	State Ball, NDay of Cowboy, Cowboy Poetry Rodeo, WBH Rodeo, CTDay
	297700	

Uncommitted Expenses 34300

Total Expenses 332000



Dwight D. Eisenhower Municipal Building
419 N. Broadway Street, PO Box 519
Abilene, KS 67410
www.abilenecityhall.com
Phone: (785) 263-2550
Fax: (785) 263-2552

September 6, 2016

Justin Brands, Inc.
Attn: Sponsorships/Donation
PO Box 548
Fort Worth, TX 76101-0547

To Whom It May Concern:

The City of Abilene, Kansas invites your corporation to become a major sponsor for "Trails, Rails, and Tales," an historic western heritage celebration to commemorate the 150th anniversary of the Chisholm Trail. In the late 1800s, Joseph McCoy had the idea of bringing Texas longhorns to railheads in Abilene, Kansas in order to ship cattle to major markets in the east. The trail, forged by Jesse Chisholm, would become the first major cattle trail that would spark the legend of the American west and its quintessential character... the American cowboy.

In 1867, Abilene welcomed the first Texas longhorns to town. During the next few years, over a million longhorns and countless cowboys would make the approximately 700 mile journey to Abilene. The cattle would be sold and shipped to market and the cowboys would frivolously spend their newly found fortune at Abilene's many saloons, brothels, and general stores. Tom "Bear" Smith and Wild Bill Hickok were eventually brought in during this tumultuous time to bring law and order to the chaos wrought by the cowboys after their long journeys.

The cowboys and cattle created a stir with area farmers when crops of red winter wheat was trampled along the trail. After several years of "hell on Earth," the sod busting farmers were successful in moving the Abilene cowtown west, and in so doing set the history of the Kansas prairie to growing wheat to feed the world.

Now, 150 years later, Abilene will celebrate this exciting period in American history and invites you to celebrate with us. Your corporation has a special connection to the western heritage of the cowboy and the Chisholm Trail, and we feel that your presence would add to our special event commemorating the beginning of the cowboy era.

The 149th celebration was well attended for a first-time event. The City estimates that over 5,000 people came to Abilene during Labor Day weekend. Next year's event will be even bigger with more fun and entertainment for the family! Be sure to reserve your major sponsorship for "Trails, Rails, and Tails - the 150th Anniversary of the Chisholm Trail" today and help us share the story of the American cowboy and the Chisholm Trail.

Sincerely,

Dee Marshall
Mayor

Wild Bill Hickok
Honorary Marshall

Joseph McCoy
Cattle Trail Proprietor



Home of the Eisenhower Presidential Library, Museum and Boyhood Home
Historic End of the Chisholm Trail

September 27, 2016

Governing Body Message for Bylaws Changes



Greetings from the Governing Body –

At our September meeting, the Governing Body recommended unanimously two bylaws changes. These will be submitted for approval to the Convention of Voting Delegates at the Annual Business Meeting in Overland Park on October 10. We ask that you give them your careful consideration prior to the meeting. This mailing contains the description and details of each of these bylaws changes, as well as an infographic detailing some benefits of League membership.

Our first recommended change concerns Article 3 – Officers and Governing Body. The changes would codify the longstanding practice of allowing each city with population in excess of 120,000 to have representation on the Governing Body. Creating up to five “large city” director positions will take these cities out of the mix for the other director positions. This, in turn, will increase the League’s ability to broaden Governing Body diversity (such as regional distribution, elected and appointed officials, gender, race and ethnicity) with the other 12 director positions.

Article 11 – Membership Dues & Subscriptions – also has changes proposed. The result would be the creation of a new base charge for all member cities. This base charge will be in addition to the assessed valuation and per capita charges that currently comprise a city’s dues. The bylaws change also includes the deletion of authority for assessments for the League building and the Major Policy Initiative Fund.

The League Budget Committee met four times this summer. After studying the budget, the direction of the League, the services provided and current available resources, their recommendation was that a dues increase – via the proposed base charge – was necessary. The full Governing Body unanimously agreed with the recommendation.

For 2017, dues would be a combination of a city’s per capita charge and assessed valuation charge, plus the following base charge: For Cities of the First Class, the base charge would be a 15% surcharge of their combined per capita and assessed valuation charges that currently comprise a city’s dues. Cities of the Second Class would have a base charge of \$475, and Cities of the Third Class would have a base charge of \$250.

- Page 2 -

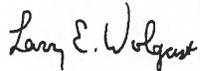
Approval of the bylaws change would mark the first time since 2002 that any change has been made in the League's dues structure. In creating the recommended base charge, the Governing Body was guided by the principles of simplicity, sustainability, flexibility, and the ability to pay a "fair share." We believe the proposed bylaws changes and base charge reflect those principles.

Having undertaken our first satisfaction survey of member cities, the results show that you see League services as valuable. Whether it is legal consultation, legislative advocacy, training and education, or publications, the League is meeting and exceeding most of your expectations. We agree there is great value in belonging to the League.

Such services and expertise comes with a cost, however. The publications provided each member city have a value of over \$200 alone. Staff has worked to minimize operations costs, and in the past two budget cycles we have realized \$57,000 in annual savings. Per the Strategic Plan, staff has reviewed programs, services and staff positions to identify those relevant to best meet the needs of the membership.

Should you have any questions or concerns about these proposed bylaws changes, please contact me, Governing Body members, or Erik Sartorius, our executive director.

On behalf of the Governing Body,



Larry Wolgast
President
League of Kansas Municipalities

Proposed Bylaws Change for “Large City” Representation

ARTICLE 3. OFFICERS AND GOVERNING BODY

Section 1. Governing Body Constituted. The officers of the League shall be a president, vice president, executive director, 12 elected directors, “large city” directors, as defined in Section 3, and each past president who continues to serve in the municipal office the officer held while president on an uninterrupted basis shall be eligible to serve as a voting ex officio director, except that no past president shall serve in such capacity if that official's city is otherwise represented on the governing body of the League. The officers shall constitute the governing body of the League. The Executive Director shall serve as a non-voting member of the governing body.

Section 2. Qualifications. The elected officers and the ex officio directors shall be appointed or elected officers of a member city. Such officers shall hold one of the following positions with a city: mayor, councilmember, commissioner, city manager, city administrator, clerk, treasurer, city attorney, or finance officer. All officers of the League, except large city directors, the ex officio directors and the executive director, shall be elected at the annual meeting and shall hold office until their successors are elected and have qualified. No officer shall be eligible to serve if the officer's city is otherwise represented on the governing body. The executive director shall be appointed by the governing body.

Section 3. “Large City” Representation. Each member city with a population in excess of 120,000 may be represented on the governing body in the position of either president, vice president, ex officio director or “large city” director. A “large city” shall be represented by no more than one person on the governing body. “Large city” directors shall serve under the same qualifications and terms of office as the 12 elected directors. A “large city” may submit a qualified candidate to the governing body for approval.

Section 4 3. Terms of Office. The term of office of the president and vice president shall be one year. The terms of office of the elected directors and “large city” directors shall be three years. Four of said elected directors shall be elected each year. The executive director shall hold office at the pleasure of the governing body.

Section 5 4. Vacancies. A vacancy shall occur on the League governing body when an officer submits a written resignation, or no longer holds municipal office. All vacancies in elective offices shall be filled by appointment by the president, with the consent of the governing body, for the unexpired term, except that of president and vice president. When a vacancy occurs in the office of president, the vice president shall become president for the unexpired term. A vacancy in the office of vice president shall be filled by appointment by the governing body from its membership for the unexpired term.

Section 6 5. Voting and Committees. All decisions of the governing body shall be made by a majority vote of the members thereof. The president shall preside at meetings of the governing body and the executive director shall be the secretary. The president shall have power to appoint the members of such committees as may be established by the governing body.

ARTICLE 4. ELECTION OF OFFICERS; CITY VOTES (No changes. Provided for reference.)

Section 1. Election and Oaths. The election of officers, except the ex officio directors and the executive director, shall be held on the last day of the annual conference. The elected and appointed officers of the League shall subscribe to the oaths required of city officials by state law.

Section 2. Nominating Committee. Nominations for elected officers shall be made by a nominating committee which shall be chaired by the immediate past president and shall consist of not less than five officers of member cities who shall be appointed by the president with the consent of the governing body. The names, titles, and addresses of the members of the nominating committee shall be published in *Kansas Government Journal* at least 10 days before the meeting at which the officers are elected. The nominating committee shall make its report in writing to the annual conference at a time not later than 24 hours prior to the start of the annual business meeting. Such reports shall be available from the president or executive director. Additional nominations may be made in writing and must be presented to the president or executive director at least 12 hours prior to the start of the annual business meeting. Each such additional nomination shall be supported by the signatures of 10 city voting delegates at the conference.

**Proposed Bylaws Change
Establishing a Base Charge for Dues**

ARTICLE 11. MEMBERSHIP DUES AND SUBSCRIPTIONS

Section 1. Dues. The annual membership dues and research subscription for each member city shall be payable in advance of the first day of January in each year, and shall consist of: ~~(a) a per capita charge based on population; and (b) a charge based on an assessed valuation charge; added together to comprise the base charge for each city. and, (c) a base charge to each city.~~

~~**a. Population Per Capita Charge:** The portion of the base charge Calculated on the basis of population, as determined by the most recent state certified census, shall be as follows:~~

	<u>Per Capita Charge</u>
Cities under 1,000	.250
Cities of 1,000-1,999	.185
Cities of 2,000-4,999	.160
Cities of 5,000-19,999	.150
Cities of 20,000-49,999	.145
Cities of 50,000-149,000	.120
Over 149,000	.080

~~**b. Assessed Valuation Charge:** The portion of the base charge Calculated on the basis of the tangible assessed valuation of each city, as reported by the county for the previous year, shall be as follows:~~

Assessed Valuation	Charge per \$10,000 of assessed valuation
\$1-999,999	.800
\$1,000,000-1,999,999	.650
\$2,000,000-4,999,999	.440
\$5,000,000-19,999,999	.370
\$20,000,000-49,999,999	.360
\$50,000,000-299,999,999	.340
\$300,000,000-699,999,999	.250
\$700,000,000-999,999,999	.165
\$1,000,000,000 and over	.140

~~**c. Base Charge.** (1) Each year, prior to or in conjunction with the governing body meeting immediately preceding the League's fall conference, the governing body shall review the previous year's dues structure, revenues and expenditures, membership, and such other areas as they may deem appropriate. Based upon such review, and in their discretion, the governing body may establish a base charge to be assessed to each member city as a part of the dues assessment for the next calendar year. The base charge to be established under this Article may vary from year-to-year.~~

~~(2) Notwithstanding the provisions in c(1), above, the base charge for dues payable for calendar year 2017 shall be established on or before October 31, 2016.~~

de. Valuation Changes. The governing body of the League is authorized to adjust the valuation charge specified in subsection b if changes are made by state law, constitutional amendment or assessment practices which significantly affect local assessed valuations, and may also, beginning in 1992, levy surcharges on dues and research payments to reflect changes in the consumer price index, but no such change shall be made which annually increases the total of dues and research subscription payments in excess of 5%.

~~**d. Building Assessment.** Beginning with the 1995 dues assessment, the governing body of the League is authorized to levy a surcharge for a term of no more than 15 years on the annual dues of League member cities that do not elect to prepay their total proportionate share of the cost of the acquisition, renovation and equipping of the League headquarters building and adjacent parking space located at 300 S.W. 8th Avenue in Topeka, Kansas, which was approved by vote of the League membership in 1994, in an amount sufficient to pay the annual proportionate cost thereof.~~

~~**e. Major Policy Initiatives Fund.** Beginning with the dues assessment for the 2003 calendar year and continuing through the dues assessment for the 2007 calendar year, the Governing Body of the League may levy a special surcharge on the annual dues and research assessments of member cities to be deposited in a separate Major Policy Initiatives Fund. The total amount budgeted for the Major Policy Initiatives Fund each calendar year shall not exceed 20% of the aggregate dues and research assessments of member cities for the same calendar year. The monies in such fund shall be expended to finance special studies, consulting services, and other projects as identified by the League Executive Committee as major policy initiatives. As of the effective date of this section, all monies in the Environmental Research Fund shall be deposited in the Major Policy Initiatives Fund.~~

Section 2. Division of Dues. The amount paid in dues and research subscriptions by each member city shall be credited 50% as annual dues and 50% as research subscriptions for said city. The governing body of the League may authorize special first-year membership rates to nonmember cities.



**Abilene City Commission Minutes
Abilene Public Library
September 26, 2016 @ 4:00 p.m.
Abilene, Kansas**

1. Call to Order

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

Staff Present: Human Resources Director/City Clerk Soukup, City Attorney Martin, Finance Director Rothchild, Parks & Recreation Director Foltz, Community Development Director Shea, Police Chief Mohn, Fire Chief Sims, Municipal Court Clerk Hoffman, Investigator Kupper, Officer Kobiskie, Officer Schrader, Officer Carranza, Officer Williams and Animal Control Officer Ragsdale.

Others Present: Mike Heronemus, Breanna Stevens, Steve Davis (DKSO), Beth Weibert, Brandon Legg, Chris Ferris (DKSO) and Ray Numweiler (DKSO).

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

Consent Agenda

4. Agenda Approval for the September 26, 2016 City Commission Meeting

5. Meeting Minutes: September 12, 2016, Regular Meeting

6. Change of the October 10th City Commission Meeting to October 11th due to the League of Kansas Municipalities meeting.

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

Public Comments and Communications

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

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

There were no public comments or communications.

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

There were no declarations.

Proclamations and Recognition

9. Law Enforcement Proclamation

Mayor Marshall read the Law Enforcement Proclamation for the week of September 25, 2016 as Law Enforcement Week and presented it to Police Chief Mohn. She thanked the officers for their service to the City of Abilene and Dickinson County.

Public Hearings

10. There were no public hearings.

Old Business

11. Consideration of a Resolution approving a License Agreement with Flint Hills Grain, LLC granting use of the S. Elm Street public right-of-way.

City Attorney Martin said this item asks the City Commission to consider a license agreement with Flint Hills, Grain, LLC. The City owns the right-of-way to S. Elm Street as it does for any street that was dedicated via a plat. The City, as a general rule, has exclusive use of the right-of way. In this instance, Flint Hills Grain has asked the City for permission to encroach over the City's right-of-way for the purpose of extending their fall protection system that they currently have, that will enable Flint Hills Grain to safely load and step onto rails that are going along the railway there.

City Attorney Martin said according to the City Manager's report, the right-of-way for S. Elm Street is seldom used by the public for traffic purposes and the portion of S. Elm Street proposed for the extension is not accessible by thru traffic. The street does not extend south of the existing rail spur and the city does not have any plans to extend S. Elm Street south to SW 3rd Street. The extended fall protection system would be at least twenty foot clearance above the right-of-way so it has been confirmed there would be no vehicular obstruction if a car or truck were to drive through.

City Attorney Martin said a few of the high points of the license agreement are that it is terminable by the City at any time upon 180 days written notice. That 180 days is not a magic number, it is just something we plugged in anticipating that both sides would have enough notice in the event of any sort of public improvement that necessitated them to move it. If the City does elect to terminate that license agreement, Flint Hills Grains has obligated itself to remove the improvements from the right-of-way within that 180 days. Finally, Flint Hills has agreed to indemnify the City so in the event that some sort of damage would be caused or liability incurred because of the encroachment, the City would not be held responsible for that.

Commissioner Dale asked if the City Manager talked to him about the possibility of getting some language in here that would cause the vacation of that one block to take place at some point.

City Attorney Martin said if the City were to vacate the right-of-way, this license agreement would become a mute point because we don't give permission to encroach on anything if we no longer own it and that is the effect of vacating. The act of vacating the right-of-way is a separate procedure. It requires a petition, notice in the paper and a hearing followed by the adoption of an ordinance. It could be addressed in here, however the concern about trying to do that is the act of vacating would be a legislative or quasi-judicial act and we can't

really contractually obligate ourselves to that until we have that actual hearing. It is safe to say that to the extent that we come back in a month or two months and vacate, we can formally terminate the license agreement.

Commissioner Dale said in his opinion it would be good for the City not to have the obligation of that one block and there is nothing in the license agreement that would hold them to it later on. If we vacate the block, the City won't be responsible for the utilities located there anymore.

City Attorney Martin said there are two ways a vacation can be initiated. One is the owner of both sides of the street petitions so in this case Flint Hills owns both sides of the street so it would be pretty easy for them to put a petition together. The other way is for the City Planning Commission can self initiate it on behalf of the City, so even if Flint Hills decided they did not want to do it, there is a way to initiate that vacation process, bring it to a public hearing and decide if it is in the City's best interest vacate it.

Mayor Marshall asked if it is in the City of Abilene's language to vacate it.

City Attorney Marshall said it is a function of state law. The state statute provides those two separate and distinct processes for initiating vacation.

Motion by Commissioner Weishaar, seconded by Commissioner Payne to approve Resolution No. 092616-1 **A RESOLUTION APPROVING A LICENSE AGREEMENT WITH FLINT HILLS GRAIN, LLC GRANTING USE OF THE S. ELM STREET PUBLIC RIGHT-OF-WAY.** Motion carried unanimously 5-0.

New Business

12. There was no new business.

Reports

13. City Manager's Reports

None.

Adjournment

14. Consideration of a motion to adjourn the September 26, 2016 City Commission meeting.

Motion by Commissioner Payne, seconded by Commissioner Shafer to adjourn at 4:14 p.m. Motion carried unanimously 5-0.

(Seal)

Dee Marshall, Mayor

ATTEST:

Penny L. Soukup, CMC
City Clerk

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Proposed Text Amendment to Section 20-9 of the Supplemental Regulations
Concerning Fences
DATE: September 30, 2016

BACKGROUND

Jeff Elliott has requested a text amendment to Section 20-9 of the Zoning Regulations be prepared by staff to allow the construction of an eight foot fence in along the front and side property lines of 102 NE 4th Street in the “C-4, Central Business District.”

Presently, Section 20-901(e) states as follows with respect to fences in commercial districts:

“A fence may be erected in a commercial district or industrial district to not more than an eight foot maximum height, except no fence shall have a height greater than four feet in a required front yard, except where these Regulations provide otherwise.”

RECOMMENDATION

The Planning Commission unanimously recommended approval of a text amendment to Section 20-901 of the Zoning Regulations to clarify the maximum heights for fences or walls projecting into required yards. In addition, the text amendment also proposes several clarifications to Section 20-9, including a provision requiring security fences for permanent swimming pools. This provision was a law of the City that was not included in the recent revisions to the Zoning Regulations.

PLANNING COMMISSION ACTION

Per Section 26-104(b) of the Zoning Regulations, “when a proposed amendment would result in a change in the text of the regulations, but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and its reasons for recommending approval or denial.”

The Planning Commission considered the comments provided during the Public Hearing and elected to recommend approval of the proposed text amendments. No comments were received in opposition to the proposed text amendment.

PROTEST PETITION

This item is not subject to Protest Petition because the request is for a text amendment that would change the text of the Zoning Regulations but would not result in change of zoning classification of any specific property.

FACTORS CONSIDERED BY THE PLANNING COMMISSION

1. Nature and effect of such proposed amendment. The proposed text amendment makes several changes to Section 20-9 of the Zoning Regulations, primarily to clarify several sections but also to amend language requested by the applicant to allow a fence of up to eight feet in height in a front yard within the “C-4, Central Business District.” There are other properties in the “C-4, Central Business District” that presently have a similar situated fence as what is proposed with the text amendment. RHV Hardware, located at 305 N. Buckeye Avenue, has a fence exceeding four feet in height located adjacent to NE 3rd Street and Kirby Avenue. As such, staff does not believe that the proposed text amendment will detrimentally affect properties within commercial districts.

2. Reasons for recommending approval or denial.

The Planning Commission recommend approval of the text amendment to the governing body for approval based on the nature and effect of the proposed amendment concurring with the Staff Report as well as the fact that previous regulations governing fences for permanent pools had been rescinded unintentionally.

CITY COMMISSION OPTIONS

Per Section 26-104(c) of the Zoning Regulations, the City Commission has the following options with respect to this item:

1. Approve the recommendation of the Planning Commission with change;
2. Override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or
3. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. Upon return of a recommendation from the Planning Commission, the Governing Body may take whatever action it deems necessary.

CITY OF ABILENE
PLANNING COMMISSION
MEETING MINUTES

September 13, 2016
Meeting at 4:30 p.m.
Abilene Public Library
209 NW 4th Street

Members Present: Kyle Campbell, Steven Olson (Vice-Chair), Michelle Stephens and Travis Sawyer (Chair)

Members Absent: Gene Bielefeld and Rod Boyd

Staff Present: David Dillner, City Manager, Jennie Hiatt, CD Administrative Assistant and Daniel Shea, Community Development Director

Others Present: none

Call to Order & Roll Call.

Chair Sawyer called the meeting to order.

Hiatt took roll call with four of the seven Commissioners present.

Approval of Agenda.

Olson made a motion to approve the agenda as written. The motion was seconded by Stephens. The motion passed unanimously. (4-0)

Approval of Meeting Minutes – August 9, 2016.

Campbell made a motion to approve the minutes as written. The motion was seconded by Olson. The motion passed unanimously. (4-0)

Business.

1. **Public Hearing**, PC 16-6, a request by Jeff Elliott, 106 NE. 4th Street, for the consideration of an ordinance amending Section 20-9 Fences of the Zoning Regulations.

Sawyer made sure that the applicant was present.

Shea presented the staff report.

Dillner updated the Planning Commission about

Campbell asked about the fence being similar to the one that RHV has recently put up.

Sawyer asked the applicant if they had any comments.

Elliott passed around pictures to the commissioners.

There was discussion.

Sawyer opened up the public hearing and seeing that there wasn't any public to comment he then closed the public hearing.

There was further discussion.

Campbell made a motion to recommend approval of Section 20-9 as amended, to include findings from staff, with the additional changes of allowing concertina wire or looped barbed-wire fences for law enforcement use under #6 and to also add the regulations to include a 30 inch water depth for above and in-ground (permanent) pools under #3. The motion was seconded by Olson. The motion passed unanimously. (4-0)

Comments.

The next regular scheduled meeting is on *October 11, 2016*.

Adjournment.

Campbell made a motion to adjourn the meeting. The motion was seconded by Bielefeld. The motion passed unanimously (4-0) and the meeting was adjourned.

Minutes Submitted,

Minutes Approved,

Daniel J. Shea, MRCP
Community Development Director

Travis Sawyer, Chair or
Steven Olson, Vice-Chair

ORDINANCE NO. ____

AN ORDINANCE APPROVING A TEXT AMENDMENT TO ARTICLE 20, SECTION 20-9 OF THE ZONING REGULATIONS OF THE CITY OF ABILENE, KANSAS, CONCERNING FENCES

WHEREAS, the Planning Commission conducted a public hearing on September 13, 2016 regarding the a text amendment to Article 20 of the Zoning Regulations;

WHEREAS, the Planning Commission recommended the Governing Body approve a Text Amendment to Article 20 of the Zoning Regulations upon making certain findings of fact as provided to the Governing Body in a Staff Report dated September 13, 2016 and attached hereto as **Exhibit A**; and

WHEREAS, the City Commission desires to amend the applicable sections of its Zoning Regulations as provided herein.

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

SECTION ONE. That Section 20-9 of the Zoning Regulations of the City of Abilene, Kansas, be amended as follows:

SECTION 20-9 FENCES

20-901 Except as otherwise specifically provided elsewhere in these regulations or other codes and regulations of the City the following restrictions shall apply to the construction of all fences or improvements, replacements or extensions of existing fences.

- A. No fence shall be constructed at a location where it would constitute a traffic hazard.
- B. A property owner may install a fence within a dedicated easement at his or her own risk of having to remove or repair such fence due to the lawful activities of persons or entities under the easement.
- C. For corner lots the following rules shall apply: All sides adjacent to a street shall be considered front yards, with the one on the non-address side having the lesser setback requirement. The primary front yard shall meet the applicable district setback. However, on corner lots back to back with another corner lot, the fence may be installed up to the non-address side property line, in the front yard setback area.
- D. For institutional uses in residential or public districts, such as schools, parks, hospitals and cemeteries, a fence may be constructed in the front yard setback provided it complies with Subsections b, d and e of this section, and has a maximum eight foot height.
- E. A fence may be erected in a commercial district or industrial district to not more than an eight foot maximum height, ~~except no fence shall have a height greater than four feet in a required front yard,~~ except where these Regulations provide otherwise.
- F. A fence may be erected in a residential district to not more than eight foot maximum height, ~~except for fences in the front or side yards,~~ except where these Regulations provide otherwise ~~except as otherwise provided in this Section.~~

G. Fences in Required Yarding regulations.

1. Fences projecting into required yards shall conform to the following maximum heights:
 - a. Residential Districts: Fences or walls shall not exceed six feet in height for any required side yard, four feet in height for a required front yard, and eight feet in height for required rear yards.
 - b. Commercial Districts: Fences or walls shall not exceed eight feet in height.
 - c. Industrial Districts: Fences or walls shall not exceed eight feet in height.
2. ~~An ornamental fence or wall not more than six feet in height may project into or enclose any required side yard and four feet in height for a required front yard, to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yard, provided such fences and walls do not exceed a height of eight feet.~~
3. Security fences not less than six feet in height shall be required for permanent and temporary swimming pools that exceed a depth of thirty inches.
4. Barbed wire fences are prohibited inside the City limits, except:
 - a. When property exclusively used for agricultural purposes is annexed into the City and the barbed wire fencing does not pose a risk to pedestrians. Risk to pedestrians shall be presumed when any barbed wire fencing is located within ten feet of any pedestrian sidewalk, street or public thoroughfare.
 - b. On top of perimeter fencing of storage areas in industrial and commercial district zones, provided that barbed wire atop such fences shall be at least six feet above the ground with a maximum fence height of eight feet;
5. Electric charged fences are prohibited inside the City limits except:
 - a. An electric fence not exceeding twenty-four volts and completely contained within a landowner's fenced property shall be permitted if the landowner first obtains approval from the City; and
 - b. Electronic detector loops for animal containment systems shall not be classified as an electric charged fence.
6. Concertina wire or looped barbed-wire fences are prohibited inside the City limits except for use by law enforcement for detention facilities.

SECTION TWO. Existing Section 20-9 of the Zoning Regulations of the City of Abilene, Kansas is hereby repealed.

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 __ day of _____, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, City Clerk

APPROVED AS TO FORM:

Aaron O. Martin, City Attorney



MEMORANDUM

TO: Economic Development Council
FROM: David Dillner, City Manager
SUBJ: Community Improvement District ("CID") Policy
DATE: September 12, 2016

ISSUE:

The Economic Development Council is asked to consider a Community Improvement District ("CID") policy as another tool for the City's economic development toolbox. State law presently authorizes municipalities to implement a CID to promote economic development in a community, although the City has yet to develop policies governing how this incentive is to be administered in Abilene. City staff has prepared the following policy for the Council's review.

BACKGROUND:

The State of Kansas authorized municipalities to create Community Improvement Districts (also known as CIDs) with the adoption of the Community Improvement District Act that was approved in 2005. The Act allows cities to levy an additional retailer's sales tax of up to 2% on retail sales occurring within a defined district. In addition, a municipality may levy special assessments on properties located within the district.

The proceeds from both the additional sales tax and the special assessments must be invested in the district on eligible project expenses such as buildings and structures, transportation improvements (such as streets), public infrastructure, pools, parking garages, transit facilities, and lakes and dams.

CIDs may be formed upon receipt of a petition by all or a portion of property owners within the proposed district. Therefore, the property owners must consent to the additional sales tax and/or special assessments levied within the district. Cities may fund CIDs with special assessments, a CID sales tax, any other funds appropriated by the City, or any combination of these funding sources.

The maximum total sales tax that may be levied within a CID is 2%, and any incremental sales tax must increase in increments of 0.10% or 0.25%. The City's current sales tax rate is 9.1%; any additional sales tax authorized by a CID would be in addition to this rate. The proposed policy would limit the additional sales tax rate to 1%. The maximum term for a CID is twenty-two years.

The City may finance a CID three ways: 1) Pay-as-you-go. Funds are made available to pay for eligible project expenses or to reimburse the developer as funds are generated from the project. This is the most conservative financing method since it limits the risk to the performance of the development. 2) Special Obligation Bonds. The City may issue special obligation bonds to finance a CID project. Special obligation bonds are not General Obligation (G.O.) Bonds, and do not count against the City's debt limit. They will require a premium interest rate because they are not backed by the full faith and credit of the municipality.

3) General Obligation Bonds. The City may also issue its G.O. bonds, in which the City guarantees the repayment of the principal and interest for the bonds. In the event that sufficient revenue is not generated by the district in any given year, the City is obligated to appropriate funds to make up the difference which may require an increase in property taxes. If the amount of G.O. bonds issued exceeds 3% of the City's assessed valuation the amount will count against the City's debt limit.

OPTIONS:

1. Recommend the Governing Body approve the attached resolution and subsequent CID Policy as presented.
2. Provide staff additions or changes for the policy and recommend approval with such additions or changes.
3. Request additional information from staff to aid in the decision making process.

RECOMMENDATION:

Staff recommends approval of Option 1 in order to expand the City's economic development toolbox by adding an administrative procedure for Community Improvement Districts within the City of Abilene as presently authorized by state law.

FISCAL NOTE:

The adoption of the aforementioned policy has no fiscal impact on the City of Abilene at this time. In the event a proposed development requests and receives approval for a CID, the City will not lose any revenue it already receives since the incentive is paid from revenue generated from the development. The property owners within the development would propose an additional sales tax and/or special assessments to be levied on the properties within the proposed development.

ATTACHMENTS:

- Community Improvement District Overview prepared by Dustin Avey of Piper Jaffray
- Eligible Project Comparison Exhibit
- Proposed Adopting Resolution
- Proposed Community Improvement District (CID) Policy

RESOLUTION NO. _____

A RESOLUTION ADOPTING A COMMUNITY IMPROVEMENT DISTRICT POLICY FOR THE CITY OF ABILENE, KANSAS

WHEREAS, the City of Abilene, Kansas (the "City"), is authorized by K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive, as amended, to create a Community Improvement District ("CID") for economic development purposes and any other purpose for which public money may be expended; and

WHEREAS, it is recognized that economic development is best achieved through a balanced effort; and

WHEREAS, the economic development goals of the City include economic diversification, broadening the property tax base, stimulating private investment, support of existing development, preservation and improvement of environmental quality, and the creation of quality employment opportunities;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS, AS FOLLOWS:

SECTION ONE. Adoption. The attached Community Improvement District Policy (the "Policy") is hereby approved and adopted by reference.

SECTION TWO. Modifications. The City Manager is authorized from time to time to amend or modify the Policy as needed to conform with all pertinent state and federal regulations, and to clarify wording within the Policy to fit the interpretation, intent and practical aspects of implementing the Policy, all with the acknowledgement that any substantive changes or amendments will come first before the Governing Body for review and formal action.

SECTION THREE. Severability. If any provision of the Policy is declared unconstitutional, or the application to any person or circumstance is held to be invalid, the validity of the remainder of the Policy and its applicability to other persons and circumstances shall not be affected.

SECTION FOUR. Effective Date. This Resolution shall be in full force and effect after its adoption by the Governing Body.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this __ day of _____, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, CMC
City Clerk

CITY OF ABILENE, KANSAS
Community Improvement District Policy

I. SCOPE.

The Governing Body of the City of Abilene, Kansas (“Governing Body”) is responsible for encouraging and promoting the City’s economic health. The Community Improvement District Act (the “Act”), K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive, as amended, authorizes the City to create Community Improvement Districts (“CIDs” and individually a “CID”) for the purpose of financing CID Projects. The creation of a CID is a complex legal and administrative matter requiring clear direction from the Governing Body.

II. AUTHORITY OF GOVERNING BODY; DISCLAIMER.

The authority and decision to approve the establishment of a CID is within the sole discretion of the Governing Body of the City. The Governing Body, by its inherent authority, reserves the right to reject any petition for the creation of a CID at any time in the review process when it considers such action to be in the best interest of the City. The City does not relinquish its authority to initiate projects by whatever other financing means it deems necessary to promote the general health and welfare of the City.

The City shall not be bound by any advice, action, agreement, statement or other communication made by City staff or consultants, or the Governing Body, including the information contained herein, until after the Governing Body’s approval of an ordinance or resolution creating a CID.

This policy statement does not constitute legal advice regarding the application or petition to create a CID. Those persons or entities considering making application to the City under the Act to create a CID are strongly encouraged to consult private legal counsel.

III. DEFINITIONS.

- a. “Applicant” means the person or entity who files an application for a CID with the City of Abilene.
- b. “City Administrative Fee” means a fee payable from CID Funds or, if applicable, bond proceeds, of not to exceed 5% of the total cost of the CID Project to reimburse the City for services rendered by the City in the administration and supervision of the CID Project by its general officers. The \$1,500 application fee shall be applied as a credit against the percentage charged for the City Administrative Fee.
- c. “CID Funds” means money collected from Revenue Sources for the purpose of paying CID Project costs through either the issuance of bonds or pay-as-you-go financing.
- d. “CID Project” means (1) any project whether within the CID, to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend: (i) buildings, structures and facilities; (ii) sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heading and electrical services and connections located within or without the public right-of-way, water mains and extensions, and other site improvements; (iii) parking garages; (iv) streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers; (v) parks, lawns, trees and other landscape; (vi) communication and information booths, bus stops and other shelters, stations, terminals, hangars, rest rooms and kiosks; (vii) paintings, murals, display cases, sculptures, fountains and other cultural amenities; (viii) airports, railroads, light rail and other mass transit facilities; and (ix) lakes, dams, docks,

wharfs, lake or river ports, channels and levies, waterways and drainage conduits; (2) within the CID, to operate or to contract for the provision of music, news, child care, or parking lots or garages, and buses, minibuses or other modes of transportation; (3) within the CID, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons; (4) within the CID, to provide or contract for cleaning, maintenance and other services to public or private property; (5) within the CID, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the CID, promotion of such activity and special events and furnishing music in any public place; (6) within the CID, to support business activity and economic development, including but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business; (7) within the CID, to provide or support training programs for employees of businesses; and (8) to contract for or conduct economic impact, planning, marketing or other studies.

- e. "CID Sales Tax" means the community district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax, and amendments thereto, authorized by K.S.A. 12-6a31 as amended from time to time.
- f. "City" means the City of Abilene, Kansas.
- g. "Development" means the proposed development or redevelopment project including the CID Project to be paid in whole or in part with CID Funds and all other capital costs of improvements related to the CID Project to be paid from sources other than the Revenue Sources.
- h. "Development Agreement" means a written agreement between the City and the Petitioner or its assigns for the completion of a CID Project. Such agreement shall address issues involved in the CID Project, including but not limited to the following: schedule of construction; acquisition of land; eligible CID expenses; scope of development (including development criteria); indemnity of the City and insurance requirements; reimbursement of City costs; financing (private and/or public); transfer restrictions prior to completion; maintenance and restrictive covenants; City inspection and information access rights; reporting requirements; remedies upon default; performance requirements; termination rights; obligation on behalf of the Petitioner to comply with applicable law, including remaining current on all taxes, and the disbursement of CID Funds to pay the City Administrative Fee.
- i. "Petitioner" means the person or entity that has completed the preliminary review process and has properly and timely filed a formal petition to create a CID with the City Clerk.
- j. "Project Costs" means all costs authorized by the Act to be paid for with CID Funds but excluding cost of the Applicant's attorneys' fees or for costs incurred prior to submission of the CID application to the City, except for engineering and design costs and other necessary preliminary expenditures approved by the City.
- k. "Revenue Sources" means all of or any portion of the following: (1) a pledge of special assessments, if any, imposed in the CID pursuant to the Act which have been paid in full prior to the date set aside by the Governing Body of the City as provided in K.S.A. 12-6a10 and amendments thereto; (2) a pledge of special assessments, if any, imposed in the CID pursuant to the Act, to be paid in installments; (3) a pledge of all of the revenue received from the CID Sales Tax, if any; (4) a pledge of the City's full faith and credit to use its ad valorem taxing authority for the repayment of full faith and credit bonds issued pursuant to K.S.A. 12-6a36 and amendments thereto; and (5) any other funds appropriated by the City for the purpose of paying project costs including the principal and interest of bonds issued pursuant to the Act.
- l. All other terms shall have the same meaning as those terms as defined in the Act.

IV. CRITERIA.

- a. The decision to establish a CID is within the sole discretion of the Governing Body. In determining whether to approve a petition to establish a CID, the Governing Body will evaluate whether the creation of the CID is in the City's best interest, by considering one or more of the following criteria:
 - i. Attracts retail development to positively enhance the economic climate of and benefit the City;
 - ii. Results in the building of infrastructure beyond what the City would require or would otherwise build; and
 - iii. Promotes new development, rejuvenation, and/or redevelopment within the City.
- b. In determining whether to approve a petition to establish a CID, the Governing Body will give preference to those petitions that provide for the following:
 - i. The use of CID Funds is limited to capital costs (the City will not authorize the use of CID Funds for operating expenses except as allowed by state law and only if the petitioner can demonstrate that the use of such funds for operations meets a public interest to the satisfaction of the Governing Body);
 - ii. The use of pay-as-you-go financing in which CID Funds are used to reimburse Project Costs without the issuance of bonds;
 - iii. The proposed CID Sales Tax, if applicable, will not exceed 2%;
 - iv. The proposed CID is expected to perform such that it will not require the full duration as allowed by state law; and
 - v. The proposed Development includes public improvements to be paid with CID Funds or funds of the Applicant or other private parties bonds.

V. BOND ISSUANCE.

The City typically expects to utilize pay-as-you-go financing for CID Projects rather than the issuance of bonds or notes under the Act. If due to exceptional circumstances, the Governing Body elects to consider the issuance of bonds or notes for a CID Project, the following guidelines will apply to such issues unless an exception is approved by the Governing Body:

- a. The minimum principal amount of a special obligation bond or note issue will be \$3 million.
- b. The minimum denominations of special obligation bonds or notes shall be not less than \$100,000. Minimum denominations may be reduced when one or more of the following are met:
 - 1. The project(s) being bond financed are substantially leased;
 - 2. The estimated revenue stream yields significant debt service coverage on the bonds;
 - 3. Construction of the project(s) being bond financed is 100% complete;
 - 4. The repayment term is less than or equal to 60% of the maximum permitted repayment term; and/or

- 5. Waiver of the minimum denomination requirement by the Governing Body.
- c. The special obligation bonds or notes will be placed with qualified institutional investors.
- d. The City will select the underwriter/placement agent for the special obligation bonds or notes.
- e. The City may require that an independent feasibility study of future CID Sales Tax or special assessment revenues be performed and the cost of such study shall be borne by the Applicant.
- f. The City may establish other conditions relating to the security for the special obligation bonds or notes such as minimum projected coverage ratios, minimum equity investment, completion of construction, execution of lease agreements for leased parcels, etc.
- g. The issuance of bonds or notes with the City's full faith and credit or annual appropriation backing will primarily be reserved for public improvements. The Governing Body may also elect to issue General Obligation Bonds for a CID Project if it may be demonstrated by the petitioner to the satisfaction of the Governing Body that "but for" the issuance of General Obligation Bonds the project would not otherwise be feasible. The issuance of bonds or notes with the City's full faith and credit or annual appropriation backing must demonstrate to the satisfaction of the Governing Body an at-large benefit to the City and that such issuance of bonds or notes will not negatively impact the City's credit rating.

VI. PRELIMINARY REVIEW PROCESS.

A preliminary review of a CID application will be conducted as outlined in this Section in order to provide the Applicant with an early determination as to whether the CID Project will be in the best interest of the City. The creation of a CID will be initiated and preliminarily reviewed in the following manner:

- a. Applicant shall present, in a form and manner satisfactory to the City staff, the following preliminary information regarding the proposed CID to the City Manager for consideration by City staff:
 - i. The use of pay-as-you-go financing in which CID Funds are used to reimburse Project Costs without the issuance of bonds;
 - ii. A detailed description that identifies the proposed buildings, facilities, and other improvements to be constructed or improved in the CID and outside the CID, including the estimated date on which construction of the improvements will be commenced and completed;
 - iii. Estimated cost of the Development and the CID Project;
 - iv. Proposed method of financing the CID Project;
 - v. Proposed amount and method of assessment, if applicable;
 - vi. Proposed amount of CID Sales Tax, if applicable;
 - vii. Map of the proposed CID with accompanying tax parcel I.D. information;
 - viii. Legal description of the boundaries of the proposed CID;
 - ix. If a CID Sales Tax is being proposed, the current and proposed taxable retail sales within the CID;

- x. The current and proposed uses of facilities within the CID, including the status of any lease arrangements; and
 - xi. Identification of the current owners of property within the CID and any existing rights of the Applicant to acquire property within the CID.
- b. The City's Finance Director, in consultation with other City staff, City Attorney, City Bond Counsel and City Financial Advisor, may request, at any time during the preliminary review process, additional information to assist in the determination of whether the creation of the proposed CID is in the City's best interest.
 - c. At the time of application, the Applicant shall pay an initial non-refundable application fee of \$1,500 and shall agree in a written Funding Agreement with the City to pay for all of the fees of the City's attorney, the City's bond counsel and the City's financial advisor in conjunction with the CID review process, the establishment of a CID, and the issuance of bonds, if applicable, for the CID. In connection with the Funding Agreement, the Applicant shall deposit an initial sum of money (typically, \$10,000) with the City to pay for the fees of the City's outside professionals in connection with the CID, however, the amount of the initial deposit will be determined by the City Manager on a case-by-case basis depending on the size and scope of the CID Project. Any portion of such deposit that is not needed to pay for the fees of the City's outside professionals shall be returned to the Applicant after all activities related to the establishment of the CID have been completed or if the Governing Body determines not to proceed with the establishment of the CID. **(See Attachment A — CID Funding Agreement Example.)**
 - d. If, after review of the application with any amendments or supplements, City staff determines that at least one of the criteria for creating the proposed CID is met, the City's Finance Director will forward the application, as amended and supplemented, through the City Manager to the Governing Body, for its preliminary consideration. If the City staff determines that the application does not meet any of the criteria set forth above, then the application will be rejected and the Applicant notified in writing.
 - e. If the application is forwarded to the Governing Body for its preliminary consideration, the application will be reviewed by the Governing Body in a study session to gain consensus regarding the proposed CID Project and financing plan. If the Governing Body consensus is to move forward, City staff will continue work on the CID Project through the final approval process.

VII. FINAL APPROVAL PROCESS.

The information provided below is a summary of the procedures for filing a CID petition. Because this policy does not set forth all the statutory requirements, Applicants are encouraged to read the Act prior to petitioning the City for a CID and consult their own legal counsel with any questions regarding interpretation of the Act.

- a. Within 180 days after the study session at which the Governing Body has completed its preliminary review of the application, the Petitioner shall file with the City Clerk a formal petition for the creation of a CID based upon the concept of the proposed CID and finance plan that was preliminarily reviewed by the Governing Body.
- b. If the Applicant fails to timely file a formal CID petition, the City shall require the Applicant to renew its application. All costs assessed and/or paid during the preliminary approval process shall be non-refundable and non-creditable to any renewal application. If the Applicant desires to renew the CID application, the Applicant shall be required to pay all fees and costs associated with said filing.

- c. The petition for the creation of the CID shall be in such form and contain all such information as is required by the Act, and shall include all additional, supplemental information as may be requested by the City staff. No petition will be accepted by the City Clerk or without the minimum signatures required by the Act. As of the date of this Policy, the minimum signatures required by the Act are: (i) for a CID that is financed in whole or in part with a CID Sales Tax, the petition must be signed by the owners of more than 55% of the land area within the proposed district and the owners collectively owning more than 55% by assessed value of the land area within the proposed district, and (ii) for a CID that is financed by special assessments with no CID Sales Tax, the petition must be signed by the owners of 100% of the land area within the proposed district. No person or entity shall be able to remove such person's or entity's name from the petition after the Governing Body has commenced consideration thereof, or after seven days from the date it is filed with the City Clerk, whichever is sooner.
- d. The City staff and City Bond Counsel will prepare a Development Agreement in consultation with the Petitioner.
- e. Following the filing of a valid petition, the Governing Body may, but is not required to, direct City staff to take any action described and allowed by statute to create the CID and to approve the execution of the Development Agreement.

VIII. COMPLIANCE WITH STATE STATUTE.

All procedures regarding final approval of a petition as herein set forth are intended to follow the procedures and authority as outlined in the Community Improvement District Act, K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive, for the creation of Community Improvement Districts. Any conflict between this policy and the Act shall be interpreted in favor of the provisions set forth in the Act.

IX. GOVERNING BODY ACTIONS.

No elected or appointed officer, employee or committee of the City, or other public or private body or individual, shall be authorized to speak for or commit the Governing Body of the City to the establishment of a CID. The establishment of a CID is in the sole discretion of the Governing Body and until the Governing Body has completed all statutorily prescribed steps necessary to establish a CID, any actions by the Governing Body or its officers or representatives shall be an expression of good faith intent, but shall not in any way bind the City to establish a CID.

Approval of the creation of a CID based on the information presented does not constitute an implied or other approval of a site plan, special use permit, plat, rezoning or other land development application. All proposals for Development are subject to land use approvals by the appropriate body.

X. WAIVER OF REQUIREMENTS.

The Governing Body reserves the right to grant or deny a CID under circumstances beyond the scope of this policy or to waive provisions herein. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any statutory requirement of State law.

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ATTACHMENT A

CID FUNDING AGREEMENT EXAMPLE

This FUNDING AGREEMENT (the "Agreement") is entered into this date of _____, 20____
between _____ (the "Applicant"), and the City of Abilene,
Kansas (the "City").

RECITALS

- a. The City is a municipal corporation duly organized and existing under the laws of the state of Kansas and authorized by Community Improvement District Act (the "Act"), K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive, to provide Community Improvement District ("CID") financing for certain qualified projects upon compliance with the procedures set forth in the Act.
- b. The Applicant is a [Type of Company: LLC, Corporation, Partnership, etc.].
- c. Applicant has requested that the City consider the establishment of a CID (as defined in the Act) and, if approved, to implement and administer the CID through its completion. In order to do so, the City must retain outside administrative and professional staff, outside counsel and consultants, and incur expenses, but is without a source of funds to pay such staff, counsel, consultants and expenses.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter expressed, the parties mutually agree as follows:

SECTION ONE. CID Application.

By execution of this Agreement, the Applicant is applying to the City for the establishment of a CID. The Applicant agrees, represents and warrants that any information provided to the City in connection with the CID shall be accurate and complete to the best knowledge of the manager or member of the Applicant providing such information.

SECTION TWO. Services to be Performed by the City.

The City shall retain outside administrative and professional staff, outside counsel and consultants, and incur expenses which it, in its sole discretion, deems necessary to:

- a. Consider the establishment of a CID in accordance with the provisions of the Act, prepare an independent feasibility study and market study on behalf of the City, give all notices, make all publications, hold all hearings as required by the Act, prepare the required resolution and ordinance to establish the CID;
- b. If the Governing Body establishes the CID, prepare and consider in accordance with the provisions of the CID Act, give all notices, make all publications, hold all hearings as required by the Act and prepare the required resolution and ordinance to approve the CID;
- c. If the Governing Body approves the CID, prepare and negotiate a definitive agreement between the parties for implementation of the CID; and
- d. If a definitive agreement is entered into, administer the CID and definitive agreement until terminated or completed.

SECTION THREE. Payment.

The Applicant shall pay the City for its fees and expenses; the time of its outside administrative and professional staff, as the City may from time to time deem appropriate; all charges for the City's outside counsel and consultants; and all other expenses incurred by the City in providing the services set forth in Section 2 (the "Charges"), subject to the following conditions:

- a. In order to insure the prompt and timely payment of the Charges, the Applicant shall establish a fund in the amount of \$_____ (the "Fund") by paying such amount to the City contemporaneously with the execution of this Agreement, receipt of which is hereby acknowledged. Thereafter, the City shall pay all Charges from moneys on deposit in the Fund and shall provide a statement thereof to the Applicant on a monthly basis which statement shall provide the amount expended from the Fund, the purpose of the expenditure, the date of the expenditure and the recipient of the money. If, in the judgment of the City's Finance Director, there are insufficient amounts on deposit in the Fund to pay for the projected Charges expected to be incurred, the Applicant shall make a subsequent deposit or deposits into the Fund in an amount equal to the initial deposit or such other amount which in the judgment of the City's Finance Director is required to provide sufficient funds to pay the projected Charges. Such additional deposit shall be made within 7 days of the receipt of the Applicant of notification by the City's Finance Director of the amount required.
- b. Following the establishment of the CID (or, if bonds are issued, upon the closing of the bond issue), the Applicant will pay the City Administrative Fee as set forth in the City's Community Improvement District Policy.
- c. All statements submitted to the City for Charges from its outside counsel or consultants shall be payable within 30 days of receipt thereof from moneys on deposit in the Fund. If sufficient amounts are not on deposit in the Fund to pay such Charges, the City shall be relieved of its obligations hereunder and no further services or activity will be performed by the City to further the proposed CID until an amount sufficient to pay such Charges, plus an amount sufficient to satisfy any further deposit request made by the City's Finance Director for projected Charges, is made. All unpaid balances on statements submitted to the City for Charges shall be subject to a penalty of two percent (2%) per month until paid, but in no event shall such penalty exceed eighteen percent (18%).

SECTION FOUR. Termination.

- a. The City may terminate this Agreement upon 10 days written notice in the event the Applicant fails to make any payments when due.
- b. The Applicant may terminate this Agreement in the event it determines not to proceed further to complete the CID upon written notice to the City thereof.
- c. If either party terminates this Agreement, the City shall apply the balance of the Fund, if any, to outstanding Charges pursuant to this Agreement and any monies due and owing to the City pursuant to any other agreement and shall pay the remaining balance, if any, to the Applicant within 30 days of such termination. In the event the balance of the Fund is insufficient to pay the outstanding Charges payable hereunder, the Applicant shall pay such Charges within 30 days of receipt of a statement from the City of the balance required to pay such Charges.

SECTION FIVE. No Obligation to Proceed with the Community Improvement District.

The Applicant acknowledges that the City is not obligated by the execution of this Agreement to establish or approve a CID and is subject to the sole discretion of the Governing Body of the City and the requirements of the Act.

SECTION SIX. Notice.

Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if it is in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:
City Clerk
City Hall
PO Box 519
Abilene, KS 67410

To the Applicant:

Each party may specify that notice be addressed to any other person or address by giving to the other party ten days prior written notice thereof.

SECTION SEVEN. Scope of Agreement.

This Agreement pertains to financing requested by the Applicant pursuant to the CID Act and does not apply to any other financing which may be requested of the City by the Applicant.

SECTION EIGHT. Governing Law.

This Agreement shall be construed in accordance with the laws of the State of Kansas.

SECTION NINE. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have cause this Agreement to be executed by their duly authorized representatives the day and year first above written.

CITY OF ABILENE, KANSAS

[INSERT APPLICANT NAME]

By: _____
Dee Marshall, Mayor

By: _____

ATTEST:

Its:

By: _____
Penny Soukup, City Clerk

APPROVED AS TO FORM:

By: _____
Aaron O. Martin, City Attorney

STATE OF _____)
) SS.
COUNTY OF _____)

On this ____ day of _____ 20__, before me, a notary public, appeared _____ to me personally known, who being by me duly sworn, did say that he/she is the _____ of _____ and that said instrument was signed in behalf of said company and he/she acknowledged said instrument to be the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in my office the day and year last above written.

Notary Public

My Commission Expires: _____

STATE OF KANSAS)
) SS.
COUNTY OF DICKINSON)

On this ____ day of _____ 20__, before me, a notary public, appeared _____ to me personally known, who being by me duly sworn, did say that he/she is the _____ of _____ and that said instrument was signed in behalf of said company and he/she acknowledged said instrument to be the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in my office the day and year last above written.

Notary Public

My Commission Expires: _____