

RESOLUTION NO. 101513-3

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT TO JIM KAUP FOR THE PURPOSE OF REVIEWING AND AMENDING THE ZONING AND SUBDIVISION REGULATIONS OF THE CITY OF ABILENE, KANSAS

WHEREAS, the City of Abilene desires to enter into a Professional Services Agreement with Jim Kaup of the Kaup Law Office for the purposes of reviewing and updating the City's zoning and subdivision regulations; and

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

Section 1. Professional Services Agreement. That a Professional Services Agreement between Jim Kaup of the Kaup Law Office and the City of Abilene, Kansas, is hereby adopted as attached hereto as **Exhibit A.**

Section 2. Implementation. The Mayor is hereby authorized to execute the aforementioned agreements with Jim Kaup, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

Section 3. 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 15th day of October, 2013.



ATTEST:

Penny Soukup, CMC

Penny Soukup, CMC
City Clerk

CITY OF ABILENE, KANSAS

By: *John F. Ray*
John F. Ray, Mayor

EXHIBIT A

Professional Services Agreement

Jim Kaup, Kaup Law Office

and

City of Abilene, Kansas

(Development Regulations Update)

October 15, 2013

Kaup Law Office

214 SW 6th Avenue
Suite 306
Topeka, Kansas 66603

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kaup@kauplawoffice.com

AGREEMENT TO PREPARE CITY OF ABILENE REVISED AND UPDATED LAND USE REGULATIONS AND ZONING MAP

**SEPTEMBER 10, 2013 WITH REVISIONS SUBMITTED ON
SEPTEMBER 30, 2013**

BACKGROUND:

James M. Kaup of the Kaup Law Office (the "Firm") is retained by the City of Abilene (the "City") to perform the following tasks to assist City staff, the Planning Commission and Governing Body in the development of revised **Zoning Regulations, Subdivision Regulations, and Zoning Map.**

PART A: SCOPE OF WORK: CONSULTATION ON REVISED AND UPDATED LAND DEVELOPMENT REGULATIONS RELATING TO ZONING AND ZONING MAP

STEP 1: ASSEMBLE BACKGROUND INFORMATION RELEVANT TO CITY'S LAND USE REGULATIONS

The Firm will prepare revised zoning regulations to update the regulations now in force. The City will assist the Firm in assembling background information necessary for modern, well-drafted zoning regulations. The Firm understands it is the desire of the City to have regulations which emphasize administrative flexibility to accommodate development opportunities and to eliminate regulations which do not promote a legitimate, identifiable, public interest.

The Firm will meet with City staff, City Commissioners, the Planning Commissioners, and other persons, entities, or organizations identified by the City for their input and concerns regarding existing land use regulatory policies

and procedures. We will solicit suggestions for changes both to the substance of these regulations and to the processes involved in securing City approval of land development. Throughout the project the Firm will meet with persons or entities to discuss relevant issues regarding the regulation of land use by zoning.

Time to Complete: 4 weeks

Product: Assemblage of zoning related information generated through meetings with City officials and staff, and other interested parties.

STEP 2: EVALUATION OF INFORMATION

The Firm will review the assembled information from Step 1 and identify policies to be implemented via new zoning regulations.

Time to Complete: 2 weeks

Product: Memorandum summarizing the findings of the review and outlining the scope and nature of necessary and suggested changes to existing zoning regulations. This includes an analysis of the need for new or amended regulations to comply with current State and Federal law.

STEP 3: DRAFT ZONING REGULATIONS

The Firm will draft revised zoning regulations which incorporate provisions from the City's current zoning regulations to the extent such is appropriate and desirable.

Time to Complete: 4 weeks

Product: Draft zoning regulations, to be denoted as the "Planning Commission Review Draft".

STEP 4: REVIEW AND REVISION

The Firm will meet with City staff and the City Planning Commission to present the draft regulations. The Firm will incorporate requested changes after making revisions necessary to comply with law and maintain format consistency.

STEP 5: CONSULTATION ON UPDATED ZONING MAP

The Firm will review aerial photographs, the location of existing or proposed subdivisions and other development, transportation and capital improvement plans to prepare recommendations for an updated zoning map. The Firm will meet with the Planning Commission and staff to discuss the zoning map. Production of the map is the responsibility of the City.

Time to Complete: 2 weeks

Product: A recommended zoning map, prepared by the City with consultation from the Firm.

STEP 6: PRESENTATION AT PUBLIC HEARING

The Firm will present the public hearing draft zoning regulations and the recommended zoning map at the public hearing on the zoning regulations. The Firm will prepare a memo summarizing key features of the proposed regulations and map, to assist the public in its review and consideration. At the direction of the Planning Commission the Firm will incorporate changes arising from the public hearing and make revisions necessary to comply with law and to maintain format consistency. The Firm will review revisions to the recommended zoning map for consistency with law and sound land use policy.

Time to Complete: 2 weeks

Product: Draft zoning regulations incorporating any changes resulting from the public hearing to be denoted as "Draft as Recommended by the Abilene Planning Commission", together with a computer disk of the regulations, formatted as directed by the City.

STEP 7: ADOPTION

The Firm will be present at up to two meetings of the City Commission for discussion and adoption of the recommended zoning regulations and zoning map.

Product: An ordinance enacting new zoning regulations for the City and providing for the lawful enactment of the revised zoning regulations and zoning map.

STEP 8: POST-ADOPTION CONSULTATION

Within the 12 months following the date of adoption of new regulations by the City, the Firm will provide up to 10 hours of consultation, without additional

charge, on matters pertaining to the interpretation and application of the new land development regulations.

**PART B:
SCOPE OF WORK – REGULATIONS RELATING TO SUBDIVISION
AND DEVELOPMENT OF LAND**

STEP 1: PROJECT START-UP AND PRELIMINARY ANALYSIS

Background

The Firm agrees to assist in developing and adopting revised City regulations relating to the subdivision and development of land.

Initial Meetings and Organization

The Firm will schedule and conduct meetings with City staff and the Planning Commission as directed by the City for the purpose of collecting relevant documents, data and information; identifying and prioritizing problems, goals and objectives; analyzing procedures; and reviewing the strengths and weaknesses of the current subdivision regulations.

Document Review

The Firm will review and analyze reports, documents, studies, ordinances, and plans relevant to growth and development.

Issues Identification

The Firm, in conjunction with City staff, will identify and analyze specific issues and determine how those issues may be resolved through subdivision regulation provisions.

We anticipate the listing of issues to include the following:

- Ensuring that the regulations do not impose requirements upon landowners or developers that do not promote a legitimate public interest, or create more severe requirements than are necessary.
- Promotion of efficient development by encouraging growth in areas where public facilities and services are already provided with adequate capacities.
- Identify means by which the cost of provision of public facilities and services resulting from new growth is fairly distributed between developers and City taxpayers.

Time to

Complete: 2 weeks

Product: Assemblage of subdivision regulation information generated through meetings with City officials and staff and other interested parties.

STEP 2: DRAFT SUBDIVISION REGULATIONS

Draft Subdivision Regulations and Regulatory Administrative Manual

The Firm will draft revised subdivision regulations and provide a memorandum explaining the nature and purpose of the proposed regulations and the effect of the proposed revisions. The Firm will prepare a regulatory administrative manual which will contain both a narrative explanation of such procedures as rezonings, conditional use permits and subdivision plats. The manual will be drafted as an aid to City staff, developers and the public.

Time to Complete: 2 weeks

Product: One copy of the draft subdivision regulations incorporating changes recommended by City staff and/or the Planning Commission, to be denoted as the "Public Hearing Draft". One copy of the Regulatory Administrative Manual, which will be updated, as needed, through the time of final adoption of the zoning and subdivision regulations. The Manual shall contain forms for zoning and subdivision procedures.

STEP 3: PRESENTATION AT PUBLIC HEARING

Public Meetings/Hearing and Adoption Process

The Firm will present the public hearing draft subdivision regulations at the public hearing on the subdivision regulations.

Revisions and Preparation of a Final Set of Regulations

Based on the input received at the public hearing, from staff and the Planning Commission, the Firm will make appropriate revisions to the proposed subdivision regulations provisions. Following such revisions, the Firm will finalize the subdivision regulations provisions in a form suitable for recommendation by the Planning Commission for adoption by the City Commission.

Product: Draft of the proposed subdivision regulations, to be denoted as "Draft as Recommended by the Abilene Planning Commission", together with a computer disk of the regulations formatted as directed by the City.

STEP 4: ADOPTION

The Firm will be present at meetings of the City Commission for discussion and adoption of the proposed subdivision regulations as recommended for adoption by the Planning Commission.

Product: An ordinance enacting new subdivision regulations for the City.

STEP 5: POST-ADOPTION CONSULTATION

As noted in Part A of this Agreement, the Firm will provide without additional charge up to 10 hours of consultation to the City on matters pertaining to the interpretation and application of the revised zoning and subdivision regulations.

TIMETABLE:

Work will commence on or before October 15, 2013. The following reflects a proposed four-month schedule for project completion.

Phase	Task	Month*			
		1	2	3	4
Consultation on New Zoning and Subdivision Regulations and Zoning Map and Regulatory Administrative Manual with Forms	Review & Analysis				
	Drafting & Adoption				

* From date of execution of signed contract

FEES AND EXPENSES:

	Work Tasks	Est. Hours	Budget
1	Preparation & Adoption of Revised Land Use Regulations	80-120	\$11,500
2	Assistance in Development of new Zoning Map, at City's Request	20	\$2,000
	Subtotal for Land use Regulations and Map	100-140	\$13,500
3	Regulatory Administrative Manual with Forms, at City's Request	10-15	\$1,500
	Subtotal Regulatory Administrative Manual	10-15	\$1,500
	TOTAL FEES		\$15,000

	EXPENSES		\$1,500
	MAXIMUM FEES/EXPENSES		\$16,500

SUMMARY FOR COMPREHENSIVE PLAN, CIP, ZONING MAP AND LAND USE REGULATIONS:

The fees for professional services shall not exceed \$15,000.00. Out-of-pocket expenses are capped at \$1,500.00. If more than seven (7) trips are requested by the City, compensation shall include \$500 per additional trip, except as noted below regarding consultation on extraterritorial regulations. Billings will be made monthly, indicating hours of work performed and compensation due, which shall be paid by the City within 15 days of receipt of the billing. Unless otherwise noted, we will provide the City with one copy of each work product. Any additional copies and mailing for distribution will be the responsibility of the City.

**PART C: SCOPE OF WORK
CONSULTATION ON EXTRATERRITORIAL LAND USE
REGULATION:**

Upon request, the Firm will consult with the City as to its ability and authority to regulate land use in extraterritorial areas of unincorporated Dickinson County. Among the services to be provided, at the City's request, are: (1) presentations and/or memoranda to the City's Planning Commission and/or Governing Body as to the options by which City zoning authority may be exercised extraterritorially, including by means of an Interlocal Agreement with Dickinson County; (2) meetings with and presentations to Dickinson County elected and appointed officials; (3) preparation of necessary agreements, ordinances and resolutions; and (4) participation at public hearings and/or action meetings of bodies of the City and/or County.

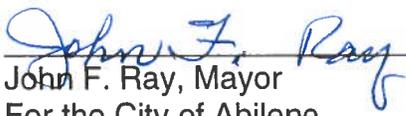
For all such services provided, the Firm will be compensated at the rate of \$150.00/hour, plus expenses. Such compensation is separate and apart from the compensation set out above in this Agreement for services provided pursuant to Part A and Part B.

The compensation for these services is agreed to by the Firm and City, at a rate significantly below the Firm's customary rate for municipal clients (\$225.00/hr.) because the parties agree that by successfully addressing extraterritorial regulatory questions the quality and usefulness of the Land Use Regulations will be enhanced.

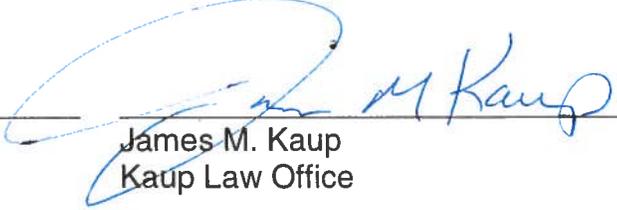
Billings for compensation for this consultation shall be made separately from other billings made for services rendered under this Agreement.

INITIAL PAYMENT:

An initial payment equal to 15% of the \$16,500 contract fee, \$2,475 will be paid by City upon execution of this Agreement.



John F. Ray, Mayor
For the City of Abilene



James M. Kaup
Kaup Law Office

October 15, 2013
Date

10/23/13
Date