ABILENE
KANSAS

Notice of Study Session

ABILENE PUBLIC LIBRARY

209 NW FOURTH STREET

October 4, 2021 - 4:00 pm

VIEW THIS CITY COMMISSION STUDY SESSION VIRTUALLY AT

www.abilenecityhall.com/watchlive

Purpose

The City Commission's study sessions are for the purpose of providing the commission the opportunity to study items in more detail.

Open Forum

This is an opportunity to bring up items to be informally addressed. The Mayor may impose a time limit on open forum.

Study Items

1. Longevity Pay
2. Charter Ordinance – Rural Housing Incentive District
3. Police Department Remodel Change Order
4. Community Improvement District – Guffey Properties
5. Enterprise Fleet Management Synopsis
6. Discussion: Travel reimbursement for City Commissioners
7. Discussion: City Commission member of Library Board

ABILENE KANSAS

CITY OF ABILENE
Item for City Commission Agenda

Meeting Date: 10/04/21 CC SS
10/11/2021 CC

Originating Department	Prepared By:	Approved For Agenda By: (Office Use Only)
Administration	Shayla Mohr, City Clerk/Human Resources Director	

AGENDA ITEM HEADING:

Resolution 101121-1

BACKGROUND:

Per the Personnel Policy, The City Commission may grant discretionary longevity pay permitting funds are available. If the City Commission grants the longevity pay, classified full time employees will receive the pay provided they have completed at least five consecutive years of service with the City. The schedule of the benefit is as follows:

Years of Service:	
5 through 9	$200.00
10 through 14	$400.00
15 through 19	$600.00
20 through 24	$800.00
25 and over	$1,000.00

FISCAL NOTE:

Longevity pay of $21,000 was budgeted for the 2021 budget. The amount for eligible employees this year is $15,400.00

COMMISSION ACTION:

Approval of Resolution 101121-1, approving longevity pay for qualifying full time City Employees for 2021.

CITY OF ABILENE
Item for City Commission Agenda

Meeting Date: 10/04/21 10/11/21

Originating Department	Prepared By:	Approved For Agenda By: *(Office Use Only)*
Administration	Ron Marsh – City Manager	

AGENDA ITEM HEADING:

Consider Charter Ordinance exempting the city of Abilene from the provisions of K.S.A. 12-5249 and providing substitute and additional provisions on the same subject relating to rural housing incentive districts.

BACKGROUND:

RHID is a program designed to aid developers in building housing within rural communities by assisting in the financing of public improvements. RHID captures the incremental increase in real property taxes created by a housing development project for up to 25 years.

In order to take advantage of the incentive, property must be within a redevelopment district. Districts are defined by the City or County and must be based on the Housing Needs Analysis (completed).

RHID is authorized for any city in Kansas with a population less than 60,000 in a county with a population of less than 80,000 or for any county with a population of less than 40,000.

With this charter ordinance the City would be able to utilize tax increment generated by a rural housing incentive district (RHID) to pay or reimburse prior payment of past, present, and future special assessments levied against property within the RHID district pursuant to K.S.A. 12-6a01 *et seq*. or K.S.A. 12-6a26 *et seq*.

The charter procedure is as follows: (1) City Commission passes the charter ordinance by a 2/3 majority vote (including the mayor); (2) the charter ordinance is published once a week for 2 consecutive weeks; and (3) the charter ordinance shall take effect 60 days after final publication, unless a petition signed by a number of electors of the City equal to not less than 10% of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk in opposition to the charter ordinance. If no sufficient protest is filed, then the charter ordinance becomes the law for the City.

Dominic Eck with Gilmore & Bell (Bond Council) will be here to walk through the Charter Ordinance and Ross Vogel with Heartland Housing Partners will be here to introduce his plan.

FISCAL NOTE:

COMMISSION ACTION:

Gilmore & Bell, P.C.
09/28/2021

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF ABILENE, KANSAS
HELD ON OCTOBER 11, 2021**

The governing body met in regular session at the usual meeting place in the City at 4:00 P.M., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *
(Other Proceedings)

There was presented a Charter Ordinance entitled:

A CHARTER ORDINANCE EXEMPTING THE CITY OF ABILENE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-5249 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO RURAL HOUSING INCENTIVE DISTRICTS.

Commissioner ______________ moved that the Charter Ordinance be passed. The motion was seconded by Commissioner _________________. The Charter Ordinance was duly read and considered, and upon being put, the motion for the passage of the Charter Ordinance was carried by the vote of the governing body as follows:

Yea: ____.

Nay: ____.

The Mayor declared the Charter Ordinance duly passed with at least a 2/3 vote of the governing body, and the Charter Ordinance was then duly numbered Charter Ordinance No. ____, was signed by the Mayor and attested by the Clerk and was directed to be published once a week for two consecutive weeks in the official newspaper of the City.

* * * * * * * * * * * * * *
(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Abilene, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

____
Clerk

(Published in the ***Abilene Reflector-Chronicle*** on October 14, 2021 and October 21, 2021)

CHARTER ORDINANCE NO. [___]

A CHARTER ORDINANCE EXEMPTING THE CITY OF ABILENE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-5249 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO RURAL HOUSING INCENTIVE DISTRICTS.

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas (the "Act"), provides that cities may exercise certain home rule powers, including passing charter ordinances which exempt such cities from non-uniform enactments of the Kansas Legislature; and

WHEREAS, the City of Abilene, Kansas (the "City") is a city, as defined in the Act, duly created and organized, under the laws of the State of Kansas; and

WHEREAS, K.S.A. 12-5249 is part of an enactment of the Kansas Legislature (K.S.A. 12-5241 *et seq.*) relating to rural housing incentive districts, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State of Kansas; and

WHEREAS, the governing body of the City (the "Governing Body") desires, by charter ordinance, to exempt the City from the provisions of K.S.A. 12-5249, and to provide substitute and additional provisions therefor.

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

Section 1. Exemption. The City, by virtue of the powers vested in it by the Act, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-5249, and shall be governed by the following substitute and additional provisions contained herein.

Section 2. Rural Housing Incentive Districts; Bond Proceeds; Limitations on Use.

(a) The City may use the proceeds of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, or any uncommitted funds derived from those sources of revenue set forth in K.S.A. 12-5248(a)(1), and amendments thereto, to implement specific projects identified within the rural housing incentive district plan including, without limitation:

(1) Acquisition of property within the specific project area or areas, including as provided in K.S.A. 12-5247, and amendments thereto;

(2) payment of relocation assistance;

(3) site preparation;

(4) sanitary and storm sewers and lift stations;

(5) drainage conduits, channels and levees;

(6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;

(7) street lighting fixtures, connection and facilities;

(8) underground gas, water, heating, and electrical services and connections located within the public right-of-way;

(9) sidewalks;

(10) water mains and extensions;

(11) payment or reimbursement for prior payment of past, present, and future special assessments levied against property within the district pursuant to K.S.A. 12-6a01 *et seq*. or K.S.A. 12-6a26 *et seq*.; and

(12) renovation of buildings or other structures more than 25 years of age primarily for residential use located in a central business district as approved by the secretary of commerce. Certification of the age of the building or other structure shall be submitted to the secretary by the governing body of the city or county with the resolution as provided by K.S.A.12-5244, and amendments thereto. Eligible residential improvements shall include only improvements made to the second or higher floors of a building or other structure. Improvements for commercial purposes shall not be eligible.

(b) None of the proceeds from the sale of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, shall be used for the construction of buildings or other structures to be owned by or to be leased to any developer of a residential housing project within the district, except for buildings or other structures located in a central business district as approved by the secretary of commerce.

Section 3. Severability. If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 4. Effective Date. This Charter Ordinance shall be published once a week for two consecutive weeks in the official City newspaper, and shall take effect sixty (60) days after final publication, unless a petition signed by a number of electors of the City equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk demanding that this Charter Ordinance be submitted to a vote of the electors, in which event this Charter Ordinance shall take effect when approved by a majority of the electors voting at an election held for such purpose.

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PASSED with at least a two-thirds (2/3) vote of the entire governing body of the City of Abilene, Kansas, on October 11, 2021 and **SIGNED** by the Mayor.

(SEAL)

____
Mayor

ATTEST:

____
Clerk

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CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original Charter Ordinance No. ____; that was passed by the governing body on October 11, 2021; that the record of the final vote on its passage is found on page ____ of journal ____.

DATED: October 11, 2021.

____

Clerk

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CERTIFICATE OF NO PROTEST

STATE OF KANSAS)
) ss:
COUNTY OF DICKINSON)

The undersigned, Clerk of the City of Abilene, Kansas (the "City"), does hereby certify that the governing body of the City duly passed Charter Ordinance No. __ on October 11, 2021, that the Charter Ordinance was published once a week for two consecutive weeks (October 14, 2021, and October 21, 2021) in the ***Abilene Reflector-Chronicle***, the official City newspaper; that more than sixty (60) days have elapsed from the date of the last publication; and that there has been no sufficient written protest filed in my office against the Charter Ordinance, as provided in Article 12, Section 5 of the Kansas Constitution.

WITNESS my hand and official seal on October 21, 2021.

(Seal)

____
Clerk

CITY OF ABILENE
Item for City Commission Agenda

Meeting Date: 10/04/2021

Originating Department: Administration

Prepared By: Marcus Rothchild

Approved For Agenda By:
(Office Use Only)

AGENDA ITEM HEADING:

Police Department Remodel Change Order

BACKGROUND:

Since our last discussion staff has been working with Bruce McMillan Architects and the State Historical Preservation Office to ensure this project would qualify for the historic tax credits. After approval of the bids, the state required additional review and a few changes before we could proceed with the project. The SHPO requested that the drop ceilings be removed, and original ceilings repaired and painted. This change effected the type of ductwork and lighting that can be used as now they will be exposed. The significant portion of the increase was due to a 40% increase in construction materials over the time since the bid was approved where price of materials went up over $35,000. On the attached sheet you can see the cost breakdown of the changes. With all updates now approved by the State Historical Preservation Office construction would be scheduled to begin on October 18, 2021, with completion in January of 2022.

FISCAL NOTE:

New total cost of $465,263
New tax credit - $116,315
City Cost after credit: $348,948

COMMISSION ACTION:

Consider approval of additional changes to continue project and qualify for historic tax credits.

Your Company Name

Division Cost

1491 201048 - Abilene Police Dept

09/30/21

Description	Quantity	Unit	Unit Cost	Total Cost
02 Existing Conditions				
Demo Labor	-6.00	HR	105.52	-633.13
				-633.13
08 Openings				
Bullet Resistant Door	-1.00	LS	1,645.00	-1,645.00
Install of Bullet Resistant Doors	-2.00	EA	447.09	-894.18
Window Film for Historic Glass	1.00	LS	527.61	527.61
				-2,011.57
09 Finishes				
Remove Acoustical Tile Ceiling	-1.00	LS	5,000.00	-5,000.00
Carpeting Install	-1.00	LS	8,310.00	-8,310.00
Paint Existing Ceiling and all Duct Work	1.00	LS	3,600.00	3,600.00
				-9,710.00
12 Furnishings				
Mill Work Materials	1.00	LS	901.00	901.00
Mill Work Materials	1.00	LS	2,412.00	2,412.00
				3,313.00
23 Heating, Ventilating and Air Conditioning				
HVAC Subcontractor	1.00	LS	46,342.00	46,342.00
				46,342.00
26 Electrical				
Electrical Subcontractor	1.00	LS	13,242.00	13,242.00
				13,242.00
			Total Cost	$50,542.30
			Overhead	0.00
			Profit	0.00
			Bond	1,263.56
			Sales Tax	0.00
			Equipment Tax	0.00
			Labor Tax	0.00
			General Liability	0.00
			General Conditions	0.00
			Sub and Materials 5%	2,594.60
			Labor 15%	-202.46
			Total Price	$54,198.00

CITY OF ABILENE
Item for City Commission Agenda

Meeting Date: 10/04/21 10/11/21

Originating Department	Prepared By:	Approved For Agenda By: *(Office Use Only)*
Admin	Ron Marsh – City Manager	

AGENDA ITEM HEADING:

Conduct Public Hearing on creation of CID; Consider ordinance creating the CID and consider the development agreement with Guffey Properties, LLC.

BACKGROUND:

Guffey Properties, LLC (Family Dollar) has submitted a petition to establish a Community Improvement District for their property in the American Division, 1709 Buckeye Ave.

At the September 13, 2021, Commission meeting the Governing Body passed a resolution setting a public hearing date of October 11, 2021 on the creation of the CID.

After the hearing is closed, the Governing Body adopts an ordinance creating the CID, authorizing the approving the project, authorizing the CID sales tax and creating a specific CID sales tax fund with the city.

The Governing Body can also consider approving the development agreement for operation of the CID, as well as the funding agreement with the developer to cover administrative costs related to establishing the CID.

Included in your packet is a copy of the original petition and resolution, draft ordinance, developers' agreement, funding agreement and the timeline for the CID process. These documents are still subject to review and approval by the developer.

The public hearing notice has been published twice in the Abilene Reflector Chronicle and copy of the notice of hearing /resolution has been mailed to all property owners in the proposed CID.

City Attorney Aaron Martin will be available to answer any questions.

FISCAL NOTE:

N/A

COMMISSION ACTION:

Review and direct staff

CITY OF ABILENE, KANSAS
COMMUNITY DEVELOPMENT DISTRICT PROCEDURES
AMERICAN ADDITION COMMUNITY IMPROVEMENT DISTRICT
(GUFFEY PROPERTIES, LLC)

TENTATIVE CALENDAR OF EVENTS

Date	Description
09/07/21	City Commission study session to determine consensus to move forward with CID process and review proposed resolution regarding public hearing and proposed funding agreement
09/07/21 through completion	City begin drafting development agreement; negotiation of development agreement with Developer
09/13/21	City Commission adopts resolution to set public hearing date and give notice of the public hearing to consider CID petition (*published once a week for 2 consecutive weeks – 2nd publication at least 7 days before public hearing*); and Developer enters into Funding Agreement in form attached to City policy
09/14/21	Send resolution to paper for publication
09/17/21	First publication of resolution/notice of public hearing
09/17/21	Mail copy of resolution/notice of public hearing to all property owners in CID district – *Certified Mail at least 10 days before public hearing date*
09/24/21	Second publication of resolution/notice of hearing, *must be at least 7 days before public hearing*
10/11/21	City Commission conducts public hearing on creation of CID; City Commission adopts ordinance creating the CID, authorizing and approving the project, authorizing the CID sale tax and creating specific CID sales tax fund with City, and approving the development agreement

(Published in the ***Abilene Reflector-Chronicle*** on October ___, 2021)

ORDINANCE NO. 21-_______

AN ORDINANCE CREATING A COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF ABILENE, KANSAS; AUTHORIZING A CERTAIN PROJECT THEREIN; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT; CONTAINING THE LEGAL DESCRIPTION AND MAP OF THE BOUNDARIES OF THE DISTRICT; LEVYING A COMMUNITY IMPROVEMENT DISTRICT SALES TAX; AND APPROVING THE METHOD OF FINANCING THE PROJECT.

WHEREAS, the governing body of the City of Abilene, Kansas (the "City"), has heretofore received a Petition filed by Guffey Properties, LLC, a Kansas limited liability company ("Developer") pursuant to K.S.A. 12-6a26, *et seq.* (the "Act") and adopted Resolution No. 091321-1 of the City, containing the time and place of a public hearing on the advisability of creating a community improvement district (the "District"), the general nature of proposed improvement project within the District (the "Project"), the estimated costs of the Project, the proposed method of financing the Project, the proposed amount of a sales tax within the District, the proposed method of assessment, if any, and a map and legal description of the proposed District; and

WHEREAS, Resolution No. 091321-1 was published twice in the ***Abilene Reflector-Chronicle***, the official City newspaper, on September ___, 2021 and September ___, 2021; and

WHEREAS, the governing body has heretofore conducted a public hearing on the advisability of creating the District, following proper notice; and

WHEREAS, the governing body hereby finds and determines it to be advisable to adopt this Ordinance to create the District, authorize the Project therein, approve the estimated costs of such Project, describe the legal description and map of the boundaries of the District, levy a community improvement district sales tax and approve the method of financing the Project, all in accordance with the provisions of the Act.

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

SECTION 1. Creation of Community Improvement District; Legal Description and Map.

The governing body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the District. The legal description of the District is as follows:

Lot 1, AMERICAN ADDITION, a subdivision in the City of Abilene, Dickinson County, Kansas

A map of the property contained in the District is set forth on ***Schedule I*** attached hereto and incorporated by reference herein.

SECTION 2. Description of Community Improvement District Project.

The general description of the Project within the District is: the construction of a new 10,500 square foot retail facility and access roads, surface parking, sidewalks, landscaping, site development, surface remediation and reclamation and associated infrastructure in the District. The Developer has requested that revenues generated from a community improvement district sales tax be used to pay for or reimburse some or all of the Project costs. The general components of the Project include but are not limited to such items as site preparation and development; construction of buildings and tenant finish improvements, including FF&E; construction of infrastructure and surface parking; ongoing operation and maintenance costs and any other items or uses associated with the Project as authorized by the Act.

SECTION 3. **Authorization of Community Improvement District Project; Estimated Costs**.

The governing body hereby authorizes the Project within the District. The estimated total cost of the Project is $1,600,000.00.

SECTION 4. **Method of Financing**.

(a) The cost of the proposed Project is proposed to be financed by "Pay-as-you-go financing," as defined in the Act, and paid from the fund of the City identified in K.S.A. 12-6a34. That portion of the Project to be funded through the District shall not exceed $500,000.00.

(b) There will be no special assessments levied on property within the boundaries of the District.

SECTION 5. **Levy of Sales Tax.** In order to provide funds to finance the costs of the Project, the levy, in accordance with the provisions of the Act, of a community improvement district sales tax within the District, in an amount of 2% on the selling of tangible personal property at retail or rendering or furnishing services within the District (the "Sales Tax"), is authorized and directed. The imposition of the Sales Tax shall begin at such time as is specified in the Development Agreement and as soon as the levy of the Sales Tax is approved by the Kansas Department of Revenue, and shall expire 22 years from the date its collection begins, unless the Sales Tax is terminated prior to such date in accordance with the terms of the Development Agreement. The City Clerk, upon adoption of this Ordinance and request by the Developer, shall provide a certified copy of the same to the State Director of Taxation pursuant to K.S.A. 12-189. The City shall be entitled to receive an administrative fee equal to 2% of all Sales Tax revenue generated in the District to reimburse the City for its administrative costs.

SECTION 6. Development Agreement and Related Documents. The form of the Development Agreement dated as of October 11, 2021, between the City and the Developer is approved. The Mayor or member of the City's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Development Agreement on behalf of the City in substantially the form presented for review prior to passage of this Ordinance, with such corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Development Agreement. The City Clerk or the Deputy City Clerk of the City is hereby authorized and directed to attest the execution of the Development Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the City's corporate seal.

SECTION 7. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the City and publication in the official City newspaper.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 11th day of October, 2021.

____
Brandon Rein, Mayor

Attest:

____
Shayla L. Mohr, City Clerk

SCHEDULE I

MAP OF COMMUNITY IMPROVEMENT DISTRICT

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "**Agreement**"), is made and entered into as of October 11, 2021 (the "**Effective Date**"), by and between the **CITY OF ABILENE, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the "**City**") and **GUFFEY PROPERTIES, LLC,** a Missouri limited liability company (the "**Developer**") (the Developer and the City are collectively referred to as the "**Parties**" and each a "**Party**").

RECITALS

A. The Developer intends to develop a certain tract of land having a common address of 1709 N. Buckeye Avenue, Abilene, Kansas and more particularly described in ***Exhibit A*** attached hereto (the "**Property**"), including construction of a single tenant, 10,500 square foot retail facility and access roads, surface parking, sidewalks, landscaping, site development, surface remediation and reclamation and associated infrastructure on the Property.

B. The Developer submitted a petition to the City requesting the formation of a community improvement district and the imposition of a community improvement district sales tax of 2.0% within the district for purposes of financing certain costs related to the project.

C. On October 11, 2021, the City approved the creation of the community improvement district through the adoption of Ordinance No. 21-_____.

D. The parties wish to enter into this Agreement to establish their respective rights, duties, and obligations as they relate to the Developer's project, and to establish the terms and conditions relating to the City's reimbursement of the Developer for certain costs from the 2% community improvement district sales tax generated within the District.

NOW, **THEREFORE**, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions of Words and Terms. Capitalized words used in this Agreement have the meanings set forth in the Recitals to this Agreement or they have the following meanings:

"**Action**" means any suit, action, investigation, claim or proceeding.

"**Affiliate Entity**" means any entity wholly-owned or controlled by either the Developer or its Principals, or any entity which owns or controls Developer or its Principals, or any entity under common control of or by the Developer or its Principals, or under common control by the shareholders or principals of the same.

“**Certificate of Substantial Completion**” means a certificate in substantially the form attached as ***Exhibit B*** hereto furnished by the Developer and approved by the City pursuant to this Agreement upon completion of the Project.

“**Certification of CID Expenditures**” is the form attached as ***Exhibit D***.

“**CID Act**” means K.S.A. § 12-6a26 *et seq*.

“CID Cap” means $500,000.00.

“CID District” means a community improvement district encompassing the Property and formed in accordance with the CID Ordinance and the CID Act.

“**CID Eligible Costs**” means, collectively, (i) the actual costs of the CID Improvements not exceeding the CID Cap, and (ii) the CID Administrative Fee, all of which must be “costs” of a “project” as defined in the CID Act.

“**CID Improvements**” means that portion of the Project and other improvements within the CID District as described in the CID Petition executed by the Developer and filed with the City on August 30, 2021, certain costs of which will be reimbursed to the Developer or its successors and assigns from CID Sales Tax revenues as CID Eligible Costs.

“**CID Policy**” means the policy of the City governing the use of CID within the City, as most recently approved by the Governing Body on October 11, 2016, and as amended from time-to-time thereafter.

“**CID Ordinance**” means Ordinance No. 21-_______ passed by the Governing Body of the City creating the CID District.

“**CID Sales Tax**” means an additional 2.0% sales tax on all taxable sales within the CID District authorized by the CID Act and the CID Ordinance.

“**CID Sales Tax Fund**” means the separate fund to be established by the City for deposit of the CID Sales Tax revenues received from the State and collected within the CID District, and that is used to finance or reimburse the CID Eligible Costs pursuant to the CID Act.

“**CID Sales Tax Revenues**” means annual revenues generated from the CID Sales Tax.

“**CID Term**” means a term commencing on the date the Director of Taxation for the State of Kansas begins collecting the CID Sales Tax within the CID District and expiring on the earlier of (a) the 22nd anniversary of the date of commencement of CID Sales Tax collection; or (b) when all CID Eligible Costs have been paid; or (c) the expiration or earlier termination of this Agreement.

"**City**" means the City of Abilene, Kansas.

"**City Administrative Fee**" means an amount equal to two percent (2%) of the total annual CID Sales Tax Revenues received by the City.

"**City Building Code**" means the City building codes in effect in the City during construction of the Project.

"**City Indemnified Parties**" means City's Governing Body members, employees, agents and independent contractors and consultants.

"**City Manager**" means the City Manager of the City, or in the absence of the City Manager any duly appointed Deputy, Assistant or Acting City Manager.

"**City Representative**" means the City Manager or his or her designee as evidenced by a written certificate furnished to the Developer containing the specimen signature of such person or persons and signed by the City Manager.

"**Claimant**" shall mean any Party claiming a default in accordance with **Article VI** of this Agreement.

"**Construction Permits**" means all governmental permits and licenses required by applicable law to construct the Project.

"**Developer**" means Guffey Properties, LLC, a Missouri limited liability company.

"**Event of Default**" shall have the meaning set forth in **Article VI** of this Agreement.

"**Excusable Delays**" means any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty, earthquake, power failure, strike, shortage of materials, unavailability of labor, delays in construction of nearby public streets, roads, right-of-way, interstate or highway, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes, and any other events or conditions, which shall include but not be limited to any action or inaction of any Party to this Agreement or other governmental body (including any designees of the foregoing) and any litigation interfering with or delaying the construction of all or any portion of the Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder.

"**Governing Body**" means the City Commission of the City.

"**Governmental Approvals**" means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals required for the implementation of the Project.

"**Pay-As-You-Go CID Financing**" means a method of financing pursuant to K.S.A. 12-6a34, in which the CID Eligible Costs reimbursed from CID Sales Tax are financed without notes or bonds, and the costs are reimbursed as CID Sales Tax is deposited in the CID Sales Tax Fund.

"**Petition**" means the petition for establishment of the CID District submitted by the owners of not less than fifty-five (55%) of the land area contained within the CID District and not less than fifty-five percent (55%) by assessed value of the land area contained within the CID District in accordance with the CID Act and attached hereto as ***Exhibit C***.

"**Principals**" means any entities or persons having an ownership or equity position in the Developer or Affiliate Entity.

"**Project**" means the design, engineering, constructing, furnishing, and equipping of the approximately 10,500 square foot retail facility and access roads, surface parking, sidewalks, landscaping, site development, surface remediation and reclamation and associated infrastructure on the Property.

"**Project Approvals**" means all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to operate and maintain the Project.

"Property" means the real property described on ***Exhibit A*** hereto.

"**State**" means the State of Kansas.

"**Term**" means the term of this Agreement commencing on the Effective Date and, unless terminated earlier as provided in this Agreement, expiring on the expiration of the CID Term.

Section 1.02. Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement:

(a) The terms defined in this Article include the plural as well as the singular.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

(c) All references herein to "generally accepted accounting principles" refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed.

(e) The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(f) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations of the City. The City makes the following representations and warranties, which are true and correct on the date hereof, to the best of the City's knowledge:

(a) ***Due Authority***. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute, deliver and perform the terms and obligations of this Agreement, and this Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.

(b) ***No Defaults or Violation of Law***. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which the City is now a party, and do not and will not constitute a default under any of the foregoing.

(c) ***No Litigation***. There is no litigation, proceeding or investigation pending or, to the knowledge of the City, threatened against the City with respect to this Agreement. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the City, threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

(d) ***Governmental or Corporate Consents***. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

(e) ***No Default***. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an Event of Default in any material respect on the part of the City under this Agreement.

Section 2.02. Representations of the Developer. The Developer makes the following representations and warranties, which are true and correct on the date hereof, to the best of the Developer's knowledge:

(a) ***Due Authority***. The Developer has all necessary power and authority to execute, deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

(b) ***No Defaults or Violation of Law***. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which the Developer is now a party, and do not and will not constitute a default under any of the foregoing.

(c) ***No Litigation***. No litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Project, the Developer or any officer, director, member or shareholder of the Developer in connection with the Project. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, of the terms and provisions of this Agreement.

(d) ***No Material Change***. (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could materially adversely affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Developer to the City prior to the execution of this Agreement.

(e) ***Governmental or Corporate Consents***. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement.

(f) ***No Default***. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an Event of Default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which the Developer is or may be bound, in connection with the Project.

(g) ***Approvals***. The Developer has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it. The Developer has obtained, or reasonably believes it will obtain in due course, all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the Project; or reasonably believes that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will be obtained in due course.

(h) ***Construction Permits***. All governmental permits and licenses required by applicable law to construct, occupy and operate the Project have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the Project to be constructed.

(i) ***Compliance with Laws***. The Developer is in material compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

(j) ***Other Disclosures***. The information furnished to the City by the Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 2.03. Maintenance of Existence. During the term of this Agreement, the Developer will maintain its legal existence, will continue to be in good standing under the laws of its state of organization, will continue to be qualified to do business in the State of Kansas, and, except as permitted by **Section 7.02** hereof, will not dissolve, consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it.

ARTICLE III

DEVELOPMENT OF THE PROJECT

Section 3.01. Cost of the Project. The Developer shall be solely responsible for and will pay the costs of the Project, subject to the terms of this Agreement governing reimbursement for expenditures of CID Eligible Costs.

Section 3.02. Design of the Project. The Developer has designed the Project in accordance with all applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws).

Section 3.03. Construction of the Project. The Developer will cause or has caused the Project to be engineered and constructed in accordance with the Petition, the CID Ordinance, this Agreement and all applicable laws and building codes. The Developer will obtain all Governmental Approvals for the Project and the Project will conform to all approved plans for such improvements as provided in this Agreement, applicable building codes, City Ordinances, the CID Policy and all other applicable rules and regulations.

Section 3.04. Construction Permits and Approvals. Before commencement of construction or development of any buildings, structures or other work or improvements, the Developer shall secure, or has secured, any and all permits and approvals which may be required by the City and any other governmental agency having jurisdiction as to such construction, development or work. Such permits and approvals may be obtained by Developer in phases corresponding to particular stages of construction. The City shall cooperate with and provide all usual assistance to the Developer in securing these permits and approvals, and shall diligently process, review and consider all such permits and approvals as may be required by law; except provided that the City shall not be required to issue any such permits or approvals for any portion of the Project not in substantial conformance with this Agreement.

Section 3.05. No Waiver. Nothing in this Agreement shall constitute a waiver of the City's right to consider and approve or deny Governmental Approvals pursuant to the City's regulatory authority as provided by City Building Code and applicable State law. The Developer acknowledges that satisfaction of certain conditions contained in this Agreement require the reasonable exercise of the City's discretionary zoning authority by the City's Planning Commission and Governing Body in accordance with the City's zoning, the City Building Code and applicable State law.

Section 3.06. Certificate of Substantial Completion. After completion of the Project in accordance with the provisions of this Agreement, the Developer will submit a Certificate of Substantial Completion to the City. Substantial Completion means that the Developer or its successor, assigns, or tenant have been granted a Final Certificate of Occupancy by the City for the retail store component of the Project. The Certificate of Substantial Completion will be in substantially the form attached as ***Exhibit B***. The City will, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City unless, prior to the end of such 30-day period after delivery, the City furnishes the Developer with specific written objections, describing such objections and the measures required to correct such objections in reasonable detail. The City's execution of the Certificate of Substantial Completion will constitute evidence of the satisfaction of the Developer's agreements and covenants to construct the Project.

Section 3.07. Certification of CID Expenditures.

A. Certificate of Expenditures. After the date of the City's approval of the submitted Certificate of Substantial Completion, the Developer shall submit to the City a Certification of CID Expenditures, in the form attached as ***Exhibit D***, for purposes of (i) certifying the amount of Eligible CID Costs for which reimbursement is sought, and (ii) verifying that such costs were actually incurred by the Developer for purposes of completing the CID Improvements. The City reserves the right to require that the Certification of CID Expenditures be accompanied by such bills, contracts, invoices, lien waivers, and other documentation as the City shall reasonably require for purposes of reviewing and approving the Certificate of CID Expenditures, and also reserves the right to have its agents or employees inspect all work and records for which the Certificate of CID Expenditures is submitted.

B. Review and Approval. The City Manager shall have thirty (30) calendar days after receipt of the Certification of CID Expenditures and all supporting documentation to review and respond by written notice to the Developer. If the submitted Certification of CID Expenditures and supporting documentation demonstrates that: (1) the request relates to eligible "costs," as defined in the Act; (2) the work for which payment was made and reimbursement is sought has been completed in accordance with this Agreement; (3) the Developer is not in default under this Agreement; and (4) there is no fraud on the part of the Developer, then the City Manager shall approve the Certification of CID Expenditures and all CID Eligible Costs contained therein shall be eligible for reimbursement from the CID Sales Tax Fund, pursuant to this Agreement. If the City Manager determines that a portion of the expenditures listed within the submitted Certification of CID Expenditures and supporting documentation for said expenditures should not be approved, the City Manager may deny the Certification of CID Expenditures, in part, and shall notify the Developer of such determination in writing, setting forth in detail the basis for the denial for each such expenditure. In the event of a partial denial of the Certification of CID Expenditures, that portion of the submitted expenditures that the City Manager approves shall be immediately eligible for reimbursement from the CID Sales Tax Fund pursuant to the terms of this Agreement. As to that portion of the submitted expenditures the City Manager determines are not eligible for reimbursement, the Developer may appeal such denial to the Governing Body by filing a written request to be heard with the City Clerk within fourteen (14) business days of the receipt of the written denial. The Governing Body shall conduct a hearing within thirty (30) days of receipt of such request and render a decision immediately upon the conclusion of such hearing.

Section 3.08. Operation of Project. The Project shall comply with all applicable building and zoning, health, environmental and safety codes and laws and all other applicable laws, rules and regulations. The Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City and any other governmental agency having jurisdiction for the construction and operation of the Project, including but not limited to paying any necessary fees to obtain required permits and licenses.

Section 3.09. Payment of Taxes. The Developer represents and warrants to the City that the Developer or any Affiliate Entity will pay or cause to be paid, at the times prescribed by State law, all ad valorem property taxes properly levied against the Project and the Property owned by Developer or any Affiliate Entity. Nothing in this Section 3.09 shall in any way limit Developer's or an Affiliate Entity's right to protest property taxes levied against the Project or the Property and to delay payment of such taxes until the dispute reaches a resolution.

ARTICLE IV

CID SALES TAX

Section 4.01. Imposition of Sales Tax in District. The City agrees that the CID Eligible Costs shall be reimbursed to the Developer, pursuant to the terms and conditions of this Agreement, with revenues received from the imposition of a CID Sales Tax of two percent (2%) on the sale of tangible personal property at retail or rendering or furnishing services which are taxable pursuant to the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601, *et seq.*, as amended) within the CID District.

Section 4.02. Commencement of CID Collection Period. Within twenty (20) days of the City's receipt of a written request from the Developer to do so, the City shall notify the state director of taxation to commence the collection and reporting of the CID Sales Tax within the CID District at the same time and in the same manner as provided for the collection of the state retailers' sales tax. Funds collected from the CID Sales Tax prior to the approval of the Certificate of Expenditures shall be held by the City in the CID Sales Tax Fund until such funds are eligible for distribution pursuant to the terms of this Agreement.

Section 4.03. CID Sales Tax Fund. During the existence of the CID District, all CID Sales Taxes generated within the District shall be deposited into the CID Sales Tax Fund, which shall be established and administered by the City in compliance with the Act and this Agreement. Interest earnings shall remain in the CID Sales Tax Fund and shall be treated in the same manner as CID Sales Tax Revenues for purposes of this Agreement.

Section 4.04. Pay-As-You-Go CID Financing. The proceeds from the CID Sales Tax shall be disbursed by the City to the Developer on a monthly basis, and within thirty (30) days of the City's receipt of the CID Sales Tax Revenues from the state treasurer, to reimburse Developer for CID Eligible Costs, if and to the extent that: (i) the term of the CID Sales Tax collection period has not yet expired (except that CID Sales Tax Revenues produced prior to expiration of the term of the CID Sales Tax collection period shall be reimbursed to Developer regardless of whether such term has expired); (ii) there are CID Sales Tax Revenues in the CID Sales Tax Fund; and (iii) the Developer is not in default under this Agreement and/or this Agreement has not been terminated.

Section 4.05. No CID Bonds. The Developer understands and agrees that all reimbursements to the Developer hereunder shall be made only from Pay-As-You-Go CID Financing, and nothing in this Agreement shall in any way obligate the City to issue bonds or other obligations to reimburse the Developer for the CID Eligible Costs or any other costs of the Project.

Section 4.06. Payment and Priority of City's Administrative Fee. The City shall be entitled to withdraw and receive from the CID Sales Tax Fund the CID Administrative Fee. The CID Administrative Fee shall be used to cover the administration and other City costs during the Term. The CID Administrative Fee may be paid monthly from the CID Sales Tax Revenues deposited in the CID Sales Tax Fund and shall have first priority to available funds in the CID Sales Tax Fund.

ARTICLE V

INDEMNITY

Section 5.01. Indemnification of City.

(a) Developer agrees to indemnify and hold the City and the City Indemnified Parties harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys' fees (collectively, "Liabilities"), resulting from, arising out of, or in any way connected with the Developer's actions and undertaking in implementation of the Project or this Agreement.

It is understood that the duty of the Developer to indemnify or hold harmless as described in this Section 5.01 includes the duty to defend. This indemnification and hold harmless clause shall apply whether or not insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

This **Section 5.01** will not apply to: (i) Liabilities to the extent resulting from or arising out of the intentional acts or negligence of the City or its officers, agents, or employees or the City Indemnified Parties, or (ii) suits between the City (or any one or more of the City Indemnified Parties) and the Developer, or (iii) Liabilities arising out of occurrences in the public right of way, except to the extent that such Liabilities arise from the intentional acts or negligence of the Developer or its officers, agents, employees, or independent contractors. This **Section 5.01** includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"; 42 U.S.C. Section 9601, *et seq*.), (ii) the Resource Conservation and Recovery Act ("RCRA"; 42 U.S.C. Section 6901 *et seq*.) and (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, upon any real property Developer or an Affiliate Entity owns within the CID District. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify the City and the City Indemnified Parties from liability.

(b) In the event any Action is begun or made as a result of which the Developer may become obligated to one or more of the City Indemnified Parties hereunder, any one of the City Indemnified Parties will give prompt notice to the Developer of the occurrence of such event.

(c) The rights to indemnification set forth in this Agreement will survive the expiration or earlier termination of this Agreement with respect to liability that arose during the term of this Agreement.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.01. Defaults – General. Subject to the extensions of time set forth in **Section 6.07** below, failure or delay by any Party to perform any material term or provision of this Agreement, after receiving written notice thereof and failing to cure, as set forth in **Section 6.02** below, constitutes an **"Event of Default"** under this Agreement. The Claimant will give written notice of default to the defaulting Party, specifying the nature of the default.

Section 6.02. Default Proceedings. The Claimant will not institute proceedings against a defaulting Party, nor be entitled to damages if the defaulting Party within thirty (30) days from receipt of the written notice of default set forth in **Section 6.01**, commences with due diligence to cure, correct or remedy such failure or delay and completes such cure, correction or remedy within sixty (60) days from the date of receipt of such notice; or if such cure, correction or remedy by its nature cannot be effected within such sixty (60) day period, such cure, correction or remedy is diligently and continuously prosecuted until completion thereof.

Section 6.03. Remedies on Default.

(a) Whenever any Event of Default by the City occurs and is continuing, subject to applicable notice and cure periods, the only remedy that may be sought from the City is strictly limited to specific performance of this Agreement by the City.

(b) Whenever any Event of Default by the Developer occurs and is continuing, subject to applicable notice and cure periods, the City may (1) pursue any remedy at law and in equity, except as provided below, and except for specific performance of this Agreement and/or (2) retain CID Sales Tax to apply to monetary defaults, and/or (3) terminate the CID Sales Tax, and/or (4) terminate this Agreement.

(c) Notwithstanding any other provision of this Agreement to the contrary, in no event will the Developer or the City ever be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement, or otherwise. For the purposes of this ***Section 6.03(c)***, consequential damages include, but are not limited to, lost profits, lost tax revenue, or other similar losses which are not direct out-of-pocket costs incurred by any non-defaulting Party.

(d) If a Party has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Party seeking to enforce the right or remedy, then and in every case the Parties will, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Parties will continue as though no such proceeding had been instituted.

Section 6.04. Legal Actions.

(a) ***Institution of Legal Actions***. Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Dickinson County, Kansas or, if federal jurisdiction exists, in the Federal District Court in the District of Kansas.

(b) ***Applicable Law***. The laws of the State of Kansas govern the interpretation and enforcement of this Agreement.

(c) ***Acceptance of Service of Process***.

(i) In the event that any legal action is commenced by the Developer against the City, service of process on the City will be made by personal service upon the City Clerk or in such other manner as may be provided by law.

(ii) In the event that any legal action is commenced by the City against the Developer, service of process on the Developer will be made by personal service upon an officer or agent of the Developer and will be valid whether made within or without the State or in such other manner as may be provided by law. In the event the Developer no longer has an officer or registered agent to serve, the Secretary of State is hereby irrevocably appointed to accept service for the Developer.

Section 6.05. Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies will not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

Section 6.06. Inaction Not a Waiver of Default. Any failures or delays by a Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such Party of its right to institute and maintain any action or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. No waiver made by a Party will apply to obligations beyond those expressly waived.

Section 6.07. Enforced Delay; Extension of Times of Performance.

(a) In addition to specific provisions of this Agreement, performance by a Party hereunder will not be deemed to be in default, and all performance and other dates specified in this Agreement will be extended, where the Party seeking the extension has acted diligently and delays or defaults are due to default of the other Party or Excusable Delays.

(b) Times of performance under this Agreement may also be extended in writing by the mutual agreement of the City and the Developer.

ARTICLE VII

GENERAL PROVISIONS

Section 7.01. Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the Parties, and by the execution of said amendment by the Parties or their successors in interest. Except for amendments to extension of performance times and amendments to the scope and description of the Project, which may be approved and executed on behalf of the City by the City Representative, each amendment must be approved by resolution adopted by the Governing Body. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, the Parties will take such reasonable measures including, but not limited to, reasonable amendment of this Agreement to cure such invalidity where the invalidity contradicts the clear intent of the Parties in entering into this Agreement.

Section 7.02. Assignment. The Developer or an Affiliate Entity may at any time, with prior written notice to the City but without the need for approval from the City: (a) assign, transfer and convey all or substantially all of the Developer's rights and duties under this Agreement to an Affiliate Entity or the Developer; (b) make a collateral assignment of its rights under this Agreement to a single financial institution as security for a financing of the Project; and/or (c) sell, transfer and convey all or any portion of the Project, and the underlying real property, comprising the Project to an Affiliate Entity or the Developer. Prior to the delivery and acceptance by the City of a Certificate of Substantial Completion for the Project, the Developer may, with prior written notice to the City and written approval of the City Representative: (i) assign, transfer and convey all or substantially all of Developer's rights and duties under this Agreement with respect to the Project to a third party; and/or (ii) sell, transfer and convey all or any portion of the Project, and the underlying real property, comprising the Project. After the delivery and acceptance by the City of a Certificate of Substantial Completion for the Project, the Developer may, with prior written notice to the City but without the need for approval of the City: (x) assign, transfer and convey all or substantially all of Developer's rights and duties under this Agreement to a third party; and/or (y) sell, transfer and convey all or any portion of the Project, and the underlying real property. Any decision to consent or refuse consent to an assignment pursuant to this **Section 7.02** requiring City consent will be solely at the discretion of the City Representative or the Governing Body, as the case may be. Nothing herein will be construed to delegate rights or responsibilities of the City under this Agreement, including without limitation the determination of eligible project costs for reimbursement. Any assignment of the Developer's rights under this Agreement may include the right to reimbursement from CID Sales Tax Revenues. With respect to any assignments which occur after the delivery and acceptance by the City of a Certificate of Substantial Completion, the City hereby agrees to waive the requirements of the CID Policy that any assignment of the right to receive CID Sales Tax Revenues shall require the consent of the City. Notwithstanding the foregoing or anything in this Agreement to the contrary, there shall be no restriction on, and City approval shall not be required for: (1) the leasing of the Project (or any portion thereof) to tenants, or (2) the forming by Developer of additional development or ownership entities to replace or joint venture with Developer for the purpose of business and/or income tax planning.

Section 7.03. Right to Inspect. The Developer agrees that the City, with reasonable advance notice and during normal business hours, will have the right and authority to review, inspect, audit, and copy, from time to time, all of the Developer's books and records relating to the CID Eligible Costs as pertinent to the purposes of this Agreement.

Section 7.04. Right of Access. For the purposes of assuring compliance with this Agreement, the City Representative will have the right of access to the Project, without charges or fees, with reasonable advance notice and during normal business hours for purposes related to this Agreement, including, but not limited to, the inspection of the work being performed in constructing or reconstructing of the Project.

Section 7.05. No Other Agreement. The Parties agree that the Project will be implemented as agreed in this Agreement and as set forth in the CID Policy. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing or reconstructing the Project and the payment of CID Eligible Costs. Nothing in this Agreement will be deemed an amendment of the CID Policy unless specifically exempted herein or by subsequent action by the Governing Body. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

Section 7.06. Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid or unenforceable in whole or in part, this Agreement will be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. In no such event will the validity or enforceability of the remaining valid portions hereof be affected.

Section 7.07. Notice. All notices and requests required or desired to be given pursuant to this Agreement will be in writing and will be sent as follows:

To the Developer: Guffey Properties, LLC
Attn: Kevin Guffey, Manager
305 E. McCarty St., Suite 300
Jefferson City, MO 65559

To the City: City of Abilene
Attn: City Manager
419 N. Broadway
Abilene, Kansas 67410

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, national overnight courier service, or by certified or registered mail, postage prepaid, return receipt requested, with proof of delivery thereof. Mailed notices sent via certified or registered mail, postage prepaid, return receipt requested, with proof of delivery thereof, will be deemed effective on the third day after mailing; mailed notices sent via national overnight courier service will be deemed effective on the next business day after they are sent; all other notices will be effective when delivered.

Section 7.08. Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same agreement. Hand signatures transmitted via portable document format (PDF) or similar format are also permitted as binding signatures to this Agreement.

Section 7.09. Consent or Approval. Except as otherwise provided in this Agreement, whenever consent or approval of either Party is required, such consent or approval will not be unreasonably withheld.

Section 7.10. Survival of Indemnity. Notwithstanding the termination of this Agreement, the Developer's obligations set out in **Article V** will survive the expiration or earlier termination of this Agreement to the extent that any incident giving rise to a claim, suit, judgment or demand occurred during the Term hereof.

Section 7.11. Incorporation of Exhibits. The exhibits attached hereto and incorporated herein by reference are a part of this Agreement to the same extent as if fully set forth herein.

Section 7.12. Mutual Assistance. The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be reasonably necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to reasonably aid and assist each other in carrying out said terms, provisions and intent.

Section 7.13. No Partnership. Nothing contained herein will be construed as creating a partnership between the Parties.

Section 7.14. Time of Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 7.15. Conflicts of Interest.

(a) No member of the Governing Body or of any branch of the City's government that has any power of review or approval of any of the Developer's undertakings will participate in any decisions relating thereto which affect such person's personal interest or the interests of any corporation or partnership in which such person is directly or indirectly interested. Any person having such interest will immediately, upon knowledge of such possible conflict, disclose, in writing, to the City the nature of such interest and seek a determination with respect to such interest by the City and, in the meantime, will not participate in any actions or discussions relating to the activities herein proscribed.

(b) The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement. The Developer further represents that, to its best knowledge and belief, no officer, employee or agent of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 7.16. Required Disclosures. The Developer will immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 7.17. Tax Implications. The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or State income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

Section 7.18. Authorized Parties. Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the Parties are required, or the Parties are required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the City, unless otherwise provided herein, by the City Representative and for the Developer by any officer of Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken. The City Representative may seek the advice, consent or approval of the Governing Body before providing any supplemental agreement, request, demand, approval, notice or consent for the City pursuant to this **Section 7.18**.

Section 7.19. Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 7.20. Cash Basis and Budget Laws. The Parties acknowledge and agree that the ability of the City to enter into and perform certain financial obligations pursuant to this Agreement are subject to the K.S.A. 10-1101 *et seq*. and K.S.A. 79-2935 *et seq*.

[Balance of page intentionally left blank]

IN WITNESS WHEREOF, the City and the Developer has duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF ABILENE, KANSAS

By:___________________________________
Brandon Rein, Mayor

(SEAL)

ATTEST:

____
Shayla Mohr, City Clerk

STATE OF KANSAS)
) ss.
COUNTY OF DICKINSON)

On this ____ day of October, 2021, before me personally appeared Brandon Rein, personally known, who being by me duly sworn did say that he is the Mayor of the City of Abilene, Kansas, and that said instrument was signed and delivered on behalf of said municipal corporation and acknowledged to me that he executed the same as the free act and deed of said municipal corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

____
Notary Public

[SEAL]

GUFFEY PROPERTIES, LLC

By:________________________________
Name:______________________________
Title:_______________________________

STATE OF ________________)
) ss.
COUNTY OF ______________)

On this ____ day of October, 2021, before me personally appeared ________________, to me personally known, who being by me duly sworn did say that he/she is the ________________ of Guffey Properties, LLC, and that said instrument was signed and delivered on behalf of said corporation and acknowledged to me that he/she executed the same as the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

____
Notary Public

[SEAL]

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

LOT 1, AMERICAN ADDITION, a subdivision in the City of Abilene, Dickinson County, Kansas.

EXHIBIT B
CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, Guffey Properties, LLC (the "**Developer**"), pursuant to that certain Development Agreement dated as of October 11, 2021, between the City of Abilene, Kansas (the "**City**") and the Developer (the "**Agreement**"), hereby certifies to the City as follows:

1. That as of ____________, 20___, the construction, renovation, repairing, and equipping of the Project (as such term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. The Project has been completed in a good and workmanlike manner and contains all components of the Project required by or described in the Agreement.

3. This Certificate of Substantial Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer's satisfaction of all obligations and covenants with respect to the Project.

4. The City's acceptance (below) or the City's failure to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the City (which written objection, if any, must be delivered to the Developer prior to the end of such 30-day period) shall evidence the satisfaction of the Developer's agreements and covenants to construct the Project.

This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

Terms not otherwise defined herein shall have the meaning ascribed in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of ____________, _____.

GUFFEY PROPERTIES, LLC

By:____________________________________
Name:__________________________________
Title:___________________________________

ACCEPTED:

CITY OF ABILENE, KANSAS

By:________________________________
Name: _____________________________
Title: ______________________________

EXHIBIT C
CID PETITION

EXHIBIT D
CID CERTIFICATION OF EXPENDITURES

Date:____________________

Pursuant to the Development Agreement (the "**Agreement**") between the City of Abilene, Kansas and the undersigned (the "**Developer**"), the Developer requests reimbursement and hereby states and certifies as follows:

1. The Developer has incurred and paid "costs," as defined in the Act, in an amount of at least __________________________________ ($______________), in connection with the construction of the Project.

2. These costs and expenses are less than or equal to the CID Cap set forth in the Agreement.

3. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes an Event of Default under the Agreement.

4. All of the Developer's representations set forth in the Agreement remain true and correct as of the date of this Certificate.

5. The Developer will submit to the City upon request, such bills, contracts, invoices, lien waivers, and other documentation as the City shall reasonably require for purposes of reviewing and approving this Certificate of Expenditures and verifying that the costs and expenses have been paid and qualify as CID Eligible Costs.

6. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

GUFFEY PROPERTIES, LLC

By:________________________________
Name:______________________________
Title:_______________________________

ACCEPTED:

CITY OF ABILENE, KANSAS

By:________________________________
Name: _____________________________
Title: ______________________________

CITY OF ABILENE, KANSAS
CID FUNDING AGREEMENT
(American Addition CID Project)

This FUNDING AGREEMENT (the "Agreement") is entered into on September 13, 2021, between Guffey Properties, LLC, a Missouri limited liability company (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 the 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 limited liability company formed in the state of Missouri and registered to do business in the state of Kansas.

C. Applicant has submitted a petition requesting the City consider creating a community improvement district (CID), as defined in the Act, and, if approved, to implement and administer the CID through its completion.

D. To address Applicant's requests and create and administer the CID, the City must retain outside administrative and professional staff, outside counsel and consultants, and incur expenses, but requires a source of funds to pay such staff, counsel, consultants and expenses.

E. For the City to fully consider and evaluate the CID petition, the creation of the CID and related matters, the Applicant has agreed to deposit funds with the City to be used by the City to fund its out-of-pocket expenses necessary to perform a full evaluation of the CID petition and engage consultants as necessary for such evaluation and, if approved, creation of the CID.

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 and submission of a petition as required by the Act, 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, if required, give all notices, make all publications, hold all hearings as required by the Act, prepare the required resolution, ordinance, development agreement, and other necessary documents to establish and administer the CID;

b. If the Governing Body establishes the CID, negotiate and enter into a definitive agreement or agreements between the City and the Applicant for implementation of the CID ("Development Agreement"); and

c. If a Development Agreement is entered into, provide the necessary staff, legal, financial and planning assistance to administer the agreement and the CID until such agreement is terminated under its terms.

SECTION THREE. Payment by Applicant.

The Applicant shall pay the City for its fees and expenses; the time of its outside administrative and professional staff, attorneys and consultants, 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 ensure the prompt and timely payment of the Charges, the Applicant shall establish a fund in the amount of $7,500 (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 or reimburse 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, the Applicant will pay the City Administrative Fee as set forth in the City's Community Improvement District

Policy and as provided in the Development Agreement, which shall not exceed 2.0% of all CID sales tax revenue deposited into the City's CID sales tax fund.

c. All statements submitted to the City for Charges from its outside counsel or consultants shall be payable or reimbursable 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. This Agreement shall automatically terminate 60 days after publication of the City's ordinance creating the CID and levying the CID sales tax.

D. Upon termination of this Agreement, the City shall apply the balance of the Fund, if any, to outstanding Charges pursuant to this Agreement at the time of termination, 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. Applicant shall pay any additional 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 of Abilene
Attn: Shayla Mohr, City Clerk
P.O. Box 519
Abilene, Kansas 67410

To the Applicant:

Guffey Properties, LLC
Attn: Kevin Guffey, Manager
305 E. McCarty St., Suite 300
Jefferson City, MO 65559

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 the financing request 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 caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

CITY OF ABILENE, KANSAS

By________________________________
Brandon Rein, Mayor

ATTEST:

By________________________________
Shayla L. Mohr, City Clerk

GUFFEY PROPERTIES, LLC

By:________________________________
Kevin Guffey, Manager

ABILENE KANSAS

CITY OF ABILENE
Item for City Commission Agenda

Meeting Date: 10/04/2021

Originating Department: Administration

Prepared By: Marcus Rothchild

Approved For Agenda By: *(Office Use Only)*

AGENDA ITEM HEADING:

Enterprise Fleet Management Synopsis

BACKGROUND:

City staff met with Ken Olsen of Enterprise Fleet Management to learn about their fleet management program how it could benefit and improve our current fleet mix. After analyzing our fleet we've found the current fleet age is negatively impacting the overall budget and there may be a more efficient way of managing our vehicle mix in today's market. Although we have many specialized vehicles that will not apply, Enterprise has identified nearly 30 vehicles in our current fleet that could benefit from this program across all departments.

Enterprise Fleet Management provides a combination of online tools, technologies, and automated processes to help staff oversee their fleet while providing the City with a lower sustainable fleet cost. This program should also significantly reduce maintenance and increase employee safety by implementing newer vehicles into the fleet. Given the strong government acquisition power, low mileage patterns for City vehicles, and the Enterprise resale abilities, this program could allow the City to operate a newer/more efficient fleet and even lower our equipment budget with significant savings as this program develops in the upcoming years.

FISCAL NOTE:

-Enterprise Fleet Management estimates a savings of $497,192 to the City over the next 10 years.

COMMISSION ACTION:

Review and direct staff

PREPARED FOR:

City of Abilene, KS

Ken Olsen
FLEET CONSULTANT

314-825-2208
PHONE

Kenneth.P.Olsen@efleets.com
EMAIL

FLEET SYNOPSIS | City of Abilene

Executive Summary

Enterprise Fleet Management is a privately held, full-service fleet management business for government agencies and other organizations operating medium-sized fleets of 20 or more vehicles. Enterprise Fleet Management is an affiliate of Enterprise Holdings and owned by the Taylor family of St. Louis.

With more than 50 fully staffed offices in the U.S. and Canada, the local Enterprise Fleet Management teams of experts assemble customized fleet management programs that are just right for our clients. Our expertise covers the full spectrum of a vehicle's lifecycle, including acquisition, registration, maintenance, use reporting, fuel card programs, and remarketing, as well as fleet analysis and optimization. And with more than 630,000 fleet vehicles managed across North America, Enterprise supplies a vast variety of makes and models for all vehicle categories, from cars to light and medium-duty trucks, service vehicles, and emergency response police units.

The City of Abilene will have a dedicated, local account team to proactively manage and develop your fleet while delivering the highest level of customer service to facilitate your day-to-day needs. Your Account Team is located in Kansas so we can quickly arrive in-person to address any of your needs. Your Client Strategy Manager will meet with the City 4 times per year at a minimum to discuss strategy, budget preparation, and operational excellence.

Enterprise Fleet Management uses a combination of online tools, technologies, and automated processes to give our clients complete oversight of their fleet, lower overall costs, and provide convenience for drivers and administrators. These resources complement our local account management teams and allow us to supplement local support with self-service capabilities.

Enterprise is prepared to assist in all aspects of the City of Abilene's fleet management structure. We have already designed a financial model that will guide your Account Team from the start. Enterprise will work with department heads to ensure we have the vehicles built and spec'd exactly as needed, we will have all aftermarket equipment confirmed, and the timeframe that the vehicles are needed to be delivered. Logistically, the new vehicles will be delivered to a local dealership, then to an aftermarket vendor if necessary, for equipment upfit, after delivery Enterprise will then pick up the aged city units and sell them on the city's behalf.

Enterprise has built a financial model designed around Abilene's fleet. Given the strong government acquisition power, low mileage patterns, and the Enterprise resale abilities, this financial model will allow the City to operate a newer, more efficient fleet at a lower budget and overall cost of ownership. This will also reduce the operational fuel and maintenance expenses, along with lowering the carbon footprint.

THE SITUATION

Current fleet age is negatively impacting the overall budget and fleet operations

- **56%** of the light and medium duty fleet is currently 10 years or older
- **70%** of the light and medium duty fleet is currently 6 years or older
- **10 years** is the current average age of the fleet
- **Over 13 years** – time it would take to cycle the entire fleet at current acquisition rates
- Older vehicles have higher fuel costs, maintenance costs and tend to be unreliable, causing increased downtime and loss of productivity.

THE OBJECTIVES

Identify an effective vehicle life cycle that maximizes potential equity at time of resale creating a conservative savings of over $497,192 in 10 years

- Shorten the current vehicle life cycle from 13 years to 3 years
- Provide a lower sustainable fleet cost that is predictable year over year
- Free up more than $285,000 in capital from the salvage of 27 vehicles in the first five years
- Significantly reduce Maintenance to an average monthly cost of $39 vs. current $95
- Reduce the overall fuel spend through more fuel-efficient vehicles
- Leverage an open-ended lease to maximize cash flow opportunities and recognize equity.

Increase employee safety with newer vehicles

- Currently:
  - 6 vehicles predate Anti-Lock Brake standardization (2007)
  - 15 vehicles predate Electronic Stability Control standardization (2012)
    - *ESC is the most significant safety invention since the seatbelt*
  - 21 vehicles predate standardization of back up camera (2018)

THE RESULTS

By partnering with Enterprise Fleet Management, it is estimated that the City will reduce their fuel costs by over 20%. The City will also reduce maintenance cost by approximately 59%. Leveraging an open-end lease maximizes cash flow and recognizes equity from vehicles sold. Furthermore, the City will leverage Enterprises Fleet Management's ability to sell vehicles at an average of 112% above Commercial Value Index. By shifting from a reactively replacing inoperable vehicles to planning vehicle purchases, Abilene will be able replace 48 of its oldest vehicles within the first five years, turning 100% of their vehicles into newer, safer, more efficient models.

FLEET ANALYSIS | City of Abilene

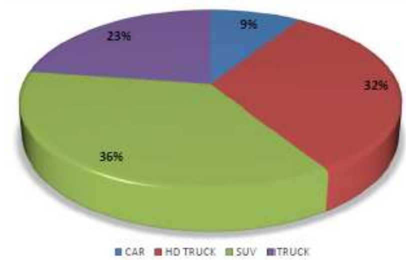
Fleet Profile / Fleet Replacement Schedule

Vehicle Type	# of Type	Average Age (years)	Average Annual Mileage	2022	2023	2024	2025	2026	Under-Utilized
Full-size Sedan	2	16.8	6,100	2	0	0	0	0	0
Mid Size SUV 4x4	7	9.3	6,100	3	3	0	0	1	0
Full Size SUV 4x4	1	9.8	7,900	1	0	0	0	0	0
1/2 Ton Pickup Reg 4x2	2	6.2	2,500	1	0	0	0	1	0
1/2 Ton Pickup Ext 4x2	1	19.8	5,500	1	0	0	0	0	0
1/2 Ton Pickup Ext 4x4	2	15.3	7,300	2	0	0	0	0	0
3/4 Ton Pickup Reg 4x2	4	12.9	6,100	3	0	0	0	1	0
1 Ton Pickup Reg 4x2	3	10.7	4,100	2	0	1	0	0	0
Mid Size SUV 4x4 ERV	5	3.7	9,100	0	0	1	3	1	0
Totals/Averages	27	10.1	6,300	15	3	2	3	4	0

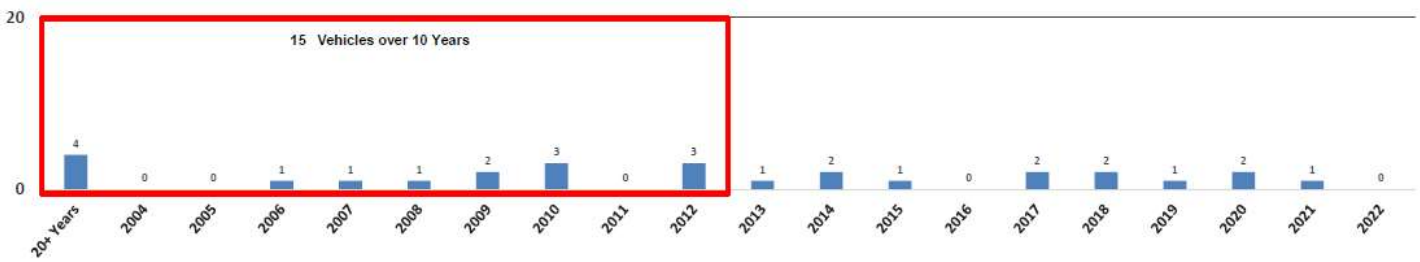
Replacement Criteria

* Fiscal Year 2022 = 10 years old and older, or odometer over 100,000
* Fiscal Year 2023 = 8 years old and older, or odometer over 80,000
* Fiscal Year 2024 = 6 years old and older, or odometer over 60,000
* Fiscal Year 2025 = 4 years old and older, or odometer over 40,000
* Fiscal Year 2026 = Remaining Vehicles
* Underutilized = Annual Mileage less than

Vehicle Types

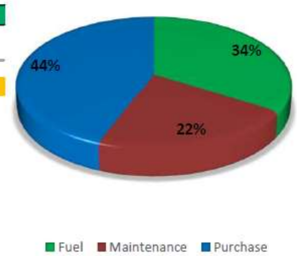


Model Year Analysis



Current Fleet	27	Fleet Growth	0.00%	Proposed Fleet	27
Current Cycle	13.50	Annual Miles	6,300	Proposed Cycle	2.63
Current Maint.	$94.50			Proposed Maint.	$39.28
Maint. Cents Per Mile	$0.18	Current MPG	10	Price/Gallon	$2.75

Fleet Costs Analysis



	Fleet Mix				Fleet Cost							Annual
Fiscal Year	Fleet Size	Annual Needs	Owned	Leased	Purchase	Lease*	Equity (Owned)	Equity (Leased)	Maintenance	Fuel	Fleet Budget	Net Cash
Average	27	2.0	27	0	61,076	0	-1,000		30,618	46,778	137,471	0
'22	27	15	12	15	0	94,051	-100,000	-46,198	20,679	41,580	10,112	127,359
'23	27	10	9	18	0	117,419	-44,100	-72,203	18,691	40,541	60,347	77,124
'24	27	12	7	20	0	141,172	-32,000	-105,089	17,365	39,848	61,296	76,174
'25	27	15	4	23	0	175,604	-36,050	-103,225	15,378	38,808	90,515	46,956
'26	27	17	0	27	0	185,121	-73,500	-66,789	12,727	37,422	94,981	42,490
'27	27	9	0	27	0	185,121		-146,418	12,727	37,422	88,851	48,620
'28	27	17	0	27	0	185,121		-100,886	12,727	37,422	134,383	3,088
'29	27	13	0	27	0	185,121		-121,473	12,727	37,422	113,797	23,674
'30	27	16	0	27	0	185,121		-118,415	12,727	37,422	116,855	20,616
'31	27	14	0	27	0	185,121		-128,890	12,727	37,422	106,380	31,091

10 Year Savings	$497,192	Avg. Sustainable Savings	$25,418

CASE STUDY | City of Abilene

CASE STUDY | CITY OF LENEXA

enterprise FLEET MANAGEMENT

The City of Lenexa see big savings with new fleet vehicles.

BACKGROUND

Location:	Lenexa, KS
Industry:	Government
Total vehicles:	72 vehicles

THE CHALLENGE

The City of Lexena was holding onto vehicles for 10 years and would only replace the vehicles if maintenance costs became too high or they were inoperable. As issues would arise, city managers would rush to get the vehicle fixed, find funds to cover the repair and make sure the employee was able to do his or her job. The process of maintaining an aged fleet with high and unpredictable maintenance costs became a grueling task for The City to manage.

THE SOLUTION

Enterprise Fleet Management presented the City of Lenexa with a proactive fleet management program. The solution would replace most of the light-duty vehicles within the first year of partnering with Enterprise, which would provide the city with a newer, more reliable fleet.

> **"We were skeptical at first because the numbers looked too good to be true. Once we made the choice to work with Enterprise Fleet Management, it was exciting to have a new fleet of vehicles for our employees. When we saw savings over 22% on fuel costs, just by switching to newer vehicles, that alone was worth the change."**

– Nick Arena, Asst. Municipal Services Director

By replacing 45 light-duty vehicles in the first year, The City realized immediate operational savings. Enterprise Fleet Management helped acquire vehicles with volume incentives to lower the initial order and reduce the total cost of ownership for the City of Lenexa.

THE RESULTS

The City now offers its employees vehicles that have up-to-date safety features and with overall improved reliability. This has helped improve the satisfaction of the workforce. The partnership has also helped The City standardize its fleet and utilize the best vehicles based on the equipment needed for the job. The program offers flexibility to replace units more frequently, in shorter cycles so it will continue to experience overall savings. With a newer fleet of vehicles, The City of Lenexa experienced a 22% decrease in fuel costs and a 70% decrease in unplanned maintenance expenses. Additionally, the new fleet strategy allows city employees to focus solely on their core responsibilities instead of vehicle maintenance issues.

To learn more, visit efleets.com or call 877-23-FLEET.

Key Results

22% SAVINGS IN FUEL COSTS

REDUCED MAINTENANCE SPEND BY **70%**

6% TOTAL SAVINGS WITH FLEET AGE LESS THAN 5 YEARS

PROGRAM RESOURCES | City of Abilene

SAFETY

- 56% of all vehicles are older than 10 years of age and do not contain the most up to date safety features, such as electronic stability control and airbag standardization and anti-lock brake control.

ACCOUNT MANAGEMENT

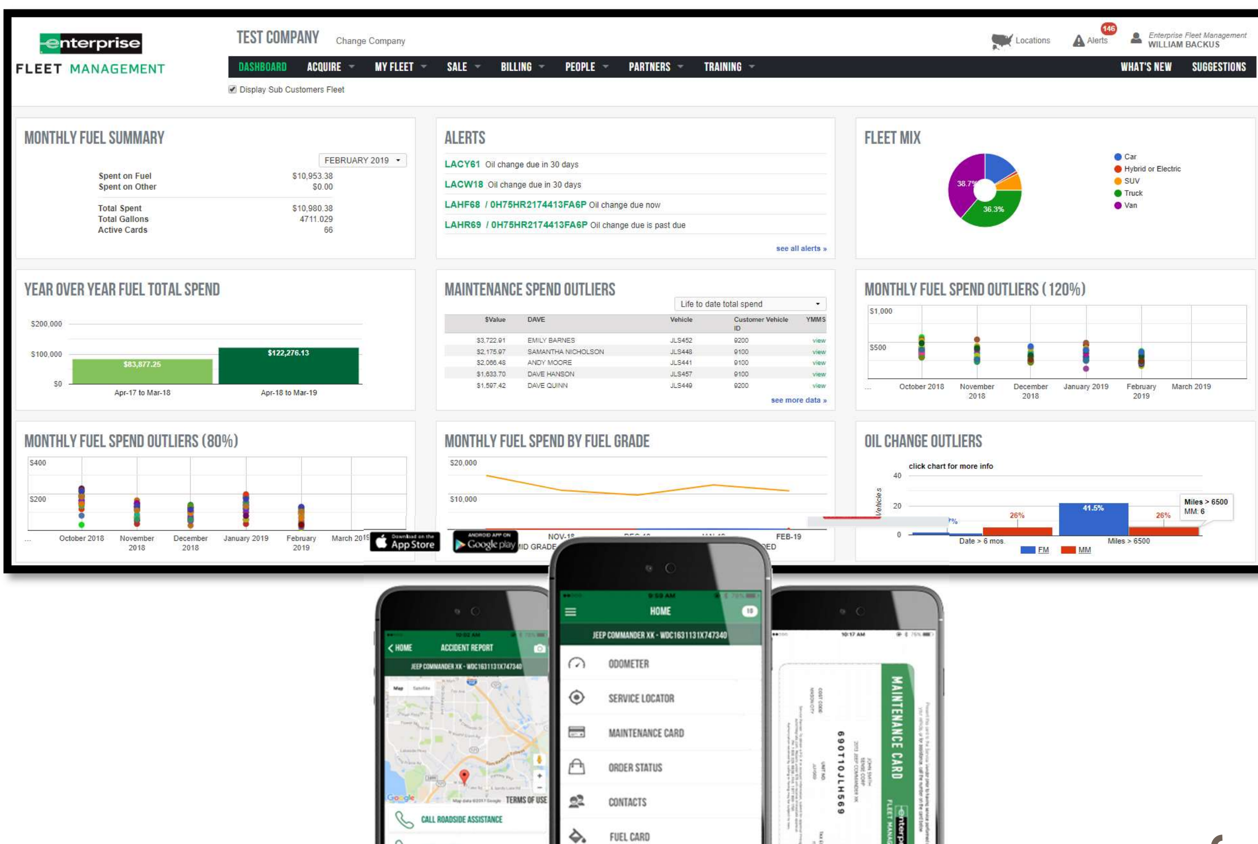
Abilene will have a dedicated, local account team to proactively manage and develop your fleet while delivering the highest level of customer service to facilitate your day-to-day needs.

- Your dedicated Account Manager meets with you 4 times at a minimum per year for both financial and strategic planning.
- Your Account Manager will provide on-going analysis – this will include most cost-effective vehicle makes/models, cents per mile, total cost of ownership, and fleet replacement analysis.

TECHNOLOGY

Enterprise Fleet Management's website provides vehicle tracking, reporting, and metrics. Our website can be customized to view a wide range of data so that you may have a comprehensive and detailed look at all aspects of your fleet and the services provided. Our Mobile App gives drivers all of the convenience and functionality they need.

- **Consolidated Invoices** - Includes lease, maintenance, and any additional ancillaries
- **Maintenance Utilization** - Review the life-to-date maintenance per vehicle
- **Recall Information** - See which units have open recalls
- **License & Registration** - See which plate renewals are being processed by Enterprise and view status
- **Alerts** - Set customizable alerts for oil changes, lease renewals, license renewals, and billing data
- **Lifecycle Analysis** - See data regarding all transactions for the lifecycle of the entire fleet, with drill-down capability to any specific lease or transaction



REFERENCES | City of Abilene

LOCAL CURRENT PARTNERS

- **Unified Government of Wyandotte County, KS**
- **Shawnee County, KS**
- **City of Lenexa, KS**
- **City of Salina, KS**
- **Geary County, KS**
- **City of Prairie Village, KS**
- **City of Overland Park, KS**
- **City of Independence, MO**
- **City of Arkansas City, KS**
- **City of Wellington, KS**
- **Goddard USD 265**
- **Haysville USD 261**
- **KCK USD 500**
- **Geary County USD 475**
- **City of Branson, MO**
- **City of Lake Ozark, MO**
- **State of Missouri**
- **Ellis County, KS**
- **City of Valley Center, KS**
- **City of Smithville, MO**

REFERENCES:

Below is a list of three client references including company name, contact person, and telephone number.

1. County: **Geary County, KS**

Business Phone #: (785) 238-4407

Contact Person: Travis Lilly, Appraiser

2. City: **Shawnee County, KS**

Business Phone #: (785) 424-0495

Contact Person: Brent Hulsether, Fleet Manager

3. City: **City of Lenexa, KS**

Business Phone #: (913) 477-7880

Contact Person: Nick Arena, Municipal Services Director

COOPERATIVES:

SOURCEWELL