

# AGENDA

Regular Meeting of the Bedford City Council  
Tuesday, October 13, 2015  
Bedford City Hall Building A  
2000 Forest Ridge Drive  
Bedford, Texas 76021

Council Chamber Work Session 6:00 p.m.  
Council Chamber Regular Session 6:30 p.m.

COMPLETE COUNCIL AGENDAS AND BACKGROUND INFORMATION ARE AVAILABLE FOR REVIEW  
ONLINE AT <http://www.bedfordtx.gov>

## COUNCIL CHAMBER WORK SESSION

- Review and discuss items on the regular agenda and consider placing items for approval by consent.

## EXECUTIVE SESSION

To convene in the conference room, if time permits, in compliance with Section 551.001 et. Seq. Texas Government Code, to discuss the following:

- a) Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to First State Addition.

## REGULAR SESSION

### CALL TO ORDER/GENERAL COMMENTS

INVOCATION (Pastor Ken Ehrke – Cathedral of Hope)

### PLEDGE OF ALLEGIANCE

### ANNOUNCEMENTS/UPCOMING EVENTS

### OPEN FORUM

*(The public is invited to address the Council on any topic that is posted on this agenda. Citizens desiring to speak on Public Hearing(s) must do so at the time the Public Hearing(s) are opened. In order to speak during Open Forum a person must first sign in with the City Secretary prior to the Regular Session being called to order. Speakers will be called upon in the order in which they sign in. Any person not signing in prior to the commencement of the Regular Session shall not be allowed to speak under Open Forum. Further, Open Forum is limited to a maximum of 30 minutes. Should speakers not use the entire 30 minutes Council will proceed with the agenda. At the majority vote of the Council the Mayor may extend the time allotted for Open Forum.)*

### CONSIDER APPROVAL OF ITEMS BY CONSENT

### COUNCIL RECOGNITION

1. Proclamation recognizing October 23 – 31, 2015 as Red Ribbon Week in the City of Bedford.
2. Presentation of the 6Stones Mayor's Cup Sporting Clays Event award. \*\*This item requested by Councilmember Fisher.

### APPROVAL OF THE MINUTES

3. Consider approval of the following City Council minutes:
  - a) September 22, 2015 regular session

## **NEW BUSINESS**

4. Consider a resolution authorizing the City Manager to enter into an agreement with Active Network, LLC for the implementation of ActiveNet at the Senior Center, Bedford Splash, and the Boys Ranch Activity Center in the amount of \$35,000.
5. Consider a resolution of the City Council of the City of Bedford, Texas approving an Economic Development Program Agreement, pursuant to Chapter 380 of the Texas Local Government Code and the City's Economic Development Incentive Policy and Program, with Cielo Property Group.
6. Consider a resolution authorizing the City Manager to purchase an Atlas Copco XAS air compressor with a 70-pound pneumatic jackhammer in the amount of \$24,950 through Kirby-Smith Machinery, Inc., utilizing the Buyboard Cooperative Purchasing Contract.
7. Consider a resolution authorizing the City Manager to purchase two 1/2 ton Ford F150 Supercab trucks in the amount of \$44,590 through Silsbee Ford utilizing the Texas Procurement and Support Services Contract.
8. Consider a resolution authorizing the City Manager to purchase a Vac-Hunter Mini-Combo Jetter Truck in the amount of \$245,990 through Freightliner Inc., utilizing the Houston Galveston Area Council Contract.
9. Consider a resolution authorizing the City Manager to purchase XC2 Backflow Prevention Software and Modules from XC2 Software, LLC in the amount of \$23,200.
10. Consider a resolution nominating one or more candidates for the Tarrant Appraisal District Board of Directors.
11. Report on most recent meeting of the following Boards and Commissions:
  - ✓ Animal Shelter Advisory Board - Councilmember Fisher
  - ✓ Beautification Commission - Councilmember Turner
  - ✓ Community Affairs Commission - Councilmember Farco
  - ✓ Cultural Commission - Councilmember Champney
  - ✓ Library Advisory Board - Councilmember Farco
  - ✓ Parks and Recreation Board - Councilmember Sartor
  - ✓ Teen Court Advisory Board - Councilmember Gebhart
  - ✓ Senior Citizen Liaison - Councilmember Turner

### **12. Council member Reports**

### **13. City Manager/Staff Reports**

## **EXECUTIVE SESSION**

To convene in the conference room, if time permits, in compliance with Section 551.001 et. Seq. Texas Government Code, to discuss the following:

- a) Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to First State Addition.

## **ADJOURNMENT**

### **CERTIFICATION**

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the outside window in a display cabinet at the City Hall of the City of Bedford, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted by the following date and time: Friday, October 9, 2015 at 5:00 p.m., and remained so posted at least 72 hours before said meeting convened.

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**Michael Wells, City Secretary**

(Auxiliary aids and services are available to a person when necessary to afford an equal opportunity to participate in City functions and activities. Auxiliary aids and services or accommodations must be requested in writing to the City Secretary's Office a minimum of seventy-two hours (72) hours prior to the scheduled starting time of the posted meeting. Requests can be delivered in person or mailed to the City Secretary's Office at 2000 Forest Ridge Drive, Bedford, TX 76021, or emailed to [mwells@bedfordtx.gov](mailto:mwells@bedfordtx.gov). Some requests may take longer due to the nature, extent and/or availability of such auxiliary aids, services or accommodations.)

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**Date Notice Removed**



# Council Agenda Background

**PRESENTER:** Jim Griffin, Mayor

**DATE:** 10/13/15

Council Recognition

**ITEM:**

Proclamation recognizing October 23 – 31, 2015 as Red Ribbon Week in the City of Bedford.

City Manager Review: \_\_\_\_\_

**DISCUSSION:**

The initial tradition of donning red ribbons began in 1985 and was established by Congress in 1988. The initiative started in California as a tribute to Drug Enforcement Administration Agent Enrique Camarena, who was brutally tortured and murdered by a Mexican drug cartel. Today, the nationwide celebration brings millions of people together to raise awareness of the dangers of alcohol, tobacco and other drugs, and to encourage prevention, early intervention, and treatment services. It is the largest, most visible prevention awareness campaign observed annually in the United States.

Police Chief Jeff Gibson and Sergeant Doug Crowell will be accepting this proclamation.

**ATTACHMENTS:**

Proclamation



CITY OF  
**BEDFORD**

# Proclamation

*WHEREAS, cities across America have been plagued by the numerous problems associated with alcohol, tobacco, and other drug use; and*

*WHEREAS, there is hope in winning the War on Drugs, and the hope lies in the hard work and determination of our communities to create a drug-free environment; and*

*WHEREAS, local leaders, in government and in the community, know that the support of the people in the neighborhoods is the most effective tool they can have in their efforts to reduce use of alcohol, tobacco, and other drugs by Texans; and*

*WHEREAS, success will not occur overnight, our patience and continued commitment to drug education and prevention are imperative; and*

*WHEREAS, the Red Ribbon Campaign was established by Congress in 1988 to promote this belief and encourage a drug-free lifestyle and involvement in drug prevention efforts.*

*NOW, THEREFORE, let it be known that I, Jim Griffin, Mayor of the City of Bedford, and the City Council do hereby proclaim October 23-31, 2015 as:*

## ***National Red Ribbon Week***

*in the City of Bedford and encourage all citizens, businesses, public and private agencies, media, religious and educational institutions to wear and display red ribbons and participate in drug-free activities throughout that week, joining the rest of the state in promoting the Red Ribbon Celebration and a drug-free America.*

*In witness whereof, I have hereunto set my hand and caused the seal of the City of Bedford to be affixed this  
13th day of October, 2015.*

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JIM GRIFFIN, MAYOR





# Council Agenda Background

**PRESENTER:** Roger Fisher, Councilmember

**DATE:** 10/13/15

**Council Request**

**ITEM:**

Presentation of the 6Stones Mayor's Cup Sporting Clays Event award. \*\*This item requested by Councilmember Fisher.

City Manager Review: \_\_\_\_\_

**DISCUSSION:**

Councilmember Fisher requested this item be placed on the agenda for discussion.

**ATTACHMENTS:**

Letter of Request

**From:** [Fisher, Roger](#)  
**To:** [Wells, Michael](#)  
**Cc:** [Jacobs, Amanda](#)  
**Subject:** Agenda item  
**Date:** Wednesday, October 07, 2015 10:19:31 AM

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Michael,

Please add the following to our next city council meeting agenda:

Presentation of 6stones mayors cup for the sporting clays event.

I would like to present the cup to the city of Bedford on behalf of 6stones.

All the best

Roger

Sent from my iPhone please excuse any typographical errors.



# Council Agenda Background

**PRESENTER:** Michael Wells, City Secretary

**DATE:** 10/13/15

**Minutes**

**ITEM:**

Consider approval of the following City Council minutes:

- a) September 22, 2015 regular session

City Manager Review: \_\_\_\_\_

**DISCUSSION:**

N/A

**ATTACHMENTS:**

September 22, 2015 regular session

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The City Council of the City of Bedford, Texas, met in Work Session at 6:00 p.m. and Regular Session at 6:30 p.m. in the Council Chambers of City Hall, 2000 Forest Ridge Drive, on the 22nd day of September, 2015 with the following members present:

Jim Griffin	Mayor
Ray Champney	Council Members
Steve Farco	
Roger Fisher	
Dave Gebhart	
Rusty Sartor	
Roy W. Turner	

constituting a quorum.

Staff present included:

Roger Gibson	City Manager
Kelli Agan	Assistant City Manager
Stan Lowry	City Attorney
Amanda Jacobs	Assistant City Secretary
Cliff Blackwell	Administrative Services Director
Natalie Foster	Public Information Officer
Jeff Gibson	Police Chief
Joey Lankford	Fire Marshal
Meg Jakubik	Strategic Services Manager
Emilio Sanchez	Planning Manager
James Tindell	Fire Chief

### **COUNCIL CHAMBER WORK SESSION**

Mayor Griffin called the Work Session to order at 6:00 p.m.

- **Review and discuss items on the regular agenda and consider placing items for approval by consent.**

Council discussed placing the following items on consent: 6, 9, 10, 11, 12, 13 and 14.

Fire Marshal Joey Lankford presented information on Item #9. Mr. Lankford stated that there was a cost savings of \$10,809 from last year and that over the five-year contract the City will save \$63,400.

Public Works Director Tom Hoover presented information on Item #11. Mr. Hoover stated that this item is for additional work at the Boys Ranch Park to make the berm along Harwood Road aesthetically pleasing with landscaping, irrigation and stone work. In answer to questions from the Council, Mr. Hoover stated that irrigation would only cover the berm at this time and that staff can design irrigation for the remainder of the area; that a metered tap would be installed; that staff is looking into having a well dug in order to expand the irrigated area; and that there will not be enough funds to install a concrete ledge around the whole pond.

Mr. Hoover presented information on Item #12. He stated that staff met with residents in the Brookwood Hills addition regarding erosion issues caused by construction associated with the round-a-

bout; that the City has a drainage easement that gives the legal right and ability to maintain conveyance of water through that area; that some areas were showing as being in a partial floodplain and residents were being asked to purchase flood insurance; that staff asked the engineers to do a study along the tributary to determine what is needed to make the erosion stop and what the elevation of the floodplain will be after work is done; that the City will have to work with the Corps of Engineers because it is "Waters of the United States and the length of the stream is longer than what staff can handle as a maintenance program; that this is the first step; and that funding is available from the 2011 Stormwater CO fund balances.

Mr. Hoover presented information on Item #14. He stated that back in January the City of Hurst approached staff to join in a multi-city study of a creek that runs on Bedford's western border. The City's part of the project is limited to \$2,000. Part of the study will provide Bedford with an updated model of the tributary.

- **Present report on the 2015 BluesFest.**

Special Events Manager Wendy Hartnett gave a presentation on the 2015 BluesFest. The goals and mission for the event remain the same from previous years. She displayed a list of sponsors and stated that the staff and VIP meals were donated. Advertising included a 4.5 minute segment on Good Morning Texas and a live spot on Channel 8. The Saturday night numbers exceeded the Sunday night numbers with Delbert McClinton as the headliner. She stated that 88 percent of the on-line ticket sales were from outside the HEB area. There were 46 marketplace vendors, 16 food vendors, an estimated attendance of 20,500, cash sponsorships of \$62,857 and in-kind sponsorships of \$72,000. In regard to the BBQ competition, there were 74 teams and the event continues to be the largest KCBS contest in Texas and the competition is an automatic qualifier to the World Food Competition and The Jack Competition. New this year was the addition of campers, which increases the revenue. She stated that 872 pounds of cooked BBQ was donated to 6Stones.

In regards to seating options, the party tent was sold out each night with revenue of \$19,000, reserved seating was sold out with revenue of \$24,000, 25 VIP seats were sold each night, with revenue of \$5,000 and General Admission brought in \$58,000. The cost recovery was 66.59 percent.

Challenges and changes included a Steak Cook-Off Association Competition, the Chrysler test drive event, a Craft Beer feature, food court adjustments and continued sponsor participation. Looking forward, staff will continue to find ways to increase attendance and sponsor participation, enhance the BBQ and music events, look at additional revenue streams and better coordinate the events.

Mayor Griffin adjourned the Work Session at 6:40 p.m.

### **REGULAR SESSION**

The Regular Session began at 6:40 p.m.

### **CALL TO ORDER/GENERAL COMMENTS**

Mayor Griffin called the meeting to order.

### **INVOCATION**

Dean Ryan Reed of St. Vincent's Cathedral gave the invocation.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the flags of the United States and Texas were given.

### **ANNOUNCEMENTS/UPCOMING EVENTS**

Public Information Officer Natalie Foster stated that the Bedford Fire Department Open House will be on Saturday, October 17 from 10:00 a.m. to 2:00 p.m. at the Central Fire Station; and that the Library is having their annual Big Bedford Bazaar Event from 9:00 a.m. to 3:00 p.m. on Saturday as well. She stated that on Saturday, October 24, the Boys Ranch Activity Center will have HalloweenFest from 6:00 p.m. to 9:00 p.m. and that ArtsFest 2016 will be held Saturday, April 2 from 10:00 a.m. to 8:00 p.m.

Ms. Foster presented an update on the Boys Ranch Master Plan. She stated that progress continues on Phase I of the Parks Master Plan. The lake is being reshaped, the concrete ledges and stone placement has been completed on the north side of the lake, and that crews continue to do the same on the east and west sides as well. The sidewalk has been completed on the north side of the park near the playground area. Most of the ducks and wildlife have found other water sources. Construction crews will begin working on the new pavilion on the east side of the water sometime in the next few weeks, barring any weather delays.

### **OPEN FORUM**

Nobody chose to speak during Open Forum.

### **CONSIDER APPROVAL OF ITEMS BY CONSENT**

Motioned by Councilmember Champney, seconded by Councilmember Turner, to approve the following items by consent: 6, 9, 10, 11, 12, 13 and 14

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

### **COUNCIL RECOGNITION**

#### **1. Employee Service Recognition**

The following employee received recognition for dedicated service and commitment to the City of Bedford:

Tommy Peterson, Fire Department – 35 years of service

#### **2. Proclamation declaring October 11, 2015 as National Day of Service Day in the City of Bedford.**

Mayor Griffin read a proclamation declaring October 11, 2015 as National Service Day in the City of Bedford. Sharon Katz, Chairman of the Celebration 125 Committee of the Daughters of the Revolution, accepted the proclamation.

#### **3. Proclamation recognizing October 6, 2015 as the official day for National Night Out in the City of Bedford.**

Mayor Griffin read a proclamation recognizing October 6, 2015 as the official day for National Night Out in the City of Bedford. Police Chief Jeff Gibson accepted the proclamation.

#### **4. Proclamation recognizing October 2015 as Crime Prevention Month in the City of Bedford.**

Mayor Griffin read a proclamation recognizing October 2015 as Crime Prevention Month in the City of Bedford. Sergeant Doug Crowell accepted the proclamation.

#### **5. Proclamation recognizing October 2015 as Fire Prevention Month in the City of Bedford.**

Mayor Griffin read a proclamation recognizing October 2015 as Fire Prevention Month in the City of Bedford. Fire Chief James Tindell accepted the proclamation.

### **APPROVAL OF THE MINUTES**

6. Consider approval of the following City Council minutes:
  - a) September 8, 2015 regular session
  - b) September 15, 2015 special session

This item was approved by consent.

### **NEW BUSINESS**

7. **Public hearing and consider an ordinance to rezone Lot 2, Block 1, Saint Vincents Addition, located at 1717 Schumac Lane, Bedford, Texas from (R75) Residential to (R75/SUP) Residential 7,500/Specific Use Permit, specific to Section 3.2.C(2)a, Churches, Temples and Synagogues (places of religious worship) and 3.2.C.(3)a, Primary and Secondary School of the City of Bedford Zoning Ordinance, allowing for Archangel Michael Church to operate a church and school. The subject property is generally located north of Schumac Lane and east of Forest Ridge Drive. (Z-280)**

Planning Manager Emilio Sanchez presented information regarding this item. He stated that St. Vincent's Church is selling their gymnasium to Archangel Michael Church and as a stipulation of the sale, St. Vincent's will be able to continue to hold classes for the 2015-2016 school year.

In answer to questions from Council, Mr. Sanchez stated that church services on Sunday are at approximately the same time; that St. Vincent's uses Forest Ridge Drive as an entrance and exit and Archangel Michael will use Schumac Lane; that there will be an additional 129 vehicles in the parking lot; that the church is a start-up church and will be growing its membership; and that 129 parking spaces will be added prior to obtaining a certificate of occupancy.

Mayor Griffin opened the public hearing at 7:11 p.m.

Sani Ebrahi, the broker for the dioceses spoke on this item, stating that they add value to every community they are in.

Mayor Griffin closed the public hearing at 7:12 p.m.

Motioned by Councilmember Champney, seconded by Councilmember Turner, to approve and ordinance to rezone Lot 2, Block 1, Saint Vincents Addition, located at 1717 Schumac Lane, Bedford, Texas from (R75) Residential to (R75/SUP) Residential 7,500/Specific Use Permit, specific to Section 3.2.C(2)a, Churches, Temples and Synagogues (places of religious worship) and 3.2.C.(3)a, Primary and Secondary School of the City of Bedford Zoning Ordinance, allowing for Archangel Michael Church to operate a church and school. The subject property is generally located north of Schumac Lane and east of Forest Ridge Drive. (Z-280)

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

8. **Consider an ordinance amending the City of Bedford Code of Ordinances Appendix A – Schedule of Fees, by updating fees imposed by the City; containing a savings clause; repealing all ordinances in conflict herewith; and providing for an effective date.**

Strategic Services Manager Meg Jakubik presented information regarding this item. Ms. Jakubik stated that there was some reorganization of the fees in the Building Department and to change the multi-family inspection fee to a multi-family license fee and increase the fee from \$1.50 per unit per month to \$5 per unit per month. The Fire Department added fees based on the systems the Fire Marshal

inspects. The Old Bedford School increased their rates for cost recovery purposes as staff found that the current rates were low. The recreation fees were increased due to implementation of a software upgrade. The Water Department made minor adjustments from a cost recovery standpoint. The Stormwater Division was notified by the Texas Commission on Environmental Quality that the City is required to do inspections on cross connections, back-flow devices and grease and grit traps. Fees were put in place for these items.

In answer to questions from the Council, Ms. Jakubik stated that regarding the multi-family fees, different cities take different approaches; that there are cities that do a per unit per month fee while some do a one annual fee; that the City has increased services to multi-family housing over the last year; that a second multi-family inspector will be added this year; and that the City did not adequately recover the cost of the Crime Free Multi-Family Officer position when the fee was raised last year. There was discussion on increasing the fee to \$10 per unit per month and to reevaluate the fee on an annual or bi-annual basis to ensure that the fee is on mark with what an average citizen would pay.

Motioned by Councilmember Farco, seconded by Councilmember Turner to approve an ordinance amending the City of Bedford Code of Ordinances Appendix A, with the exception of moving the multi-housing fee from \$5 to \$10 – Schedule of Fees, by updating fees imposed by the City; containing a saving clause; repealing all ordinances in conflict herewith; and providing for an effective date.

Motion approved 6-1-0. Mayor Griffin declared the motion carried.

Voting in favor of the motion: Mayor Griffin, Councilmember Sartor, Councilmember Champney, Councilmember Farco, Councilmember Turner and Councilmember Fisher

Voting in opposition to the motion: Councilmember Gebhart

- 9. Consider a resolution authorizing the City Manager to enter into a multi-year agreement between the City of Bedford, Texas and Motorola Solutions, Inc. in the amount of \$309,613.34 for support and maintenance of the trunk radio infrastructure and for the trunk radio system manager.**

This item was approved by consent.

- 10. Consider a resolution authorizing payment to the City of North Richland Hills, in the amount of \$31,701.96, to provide continuous maintenance for subscriber radios and auxiliary equipment.**

This item was approved by consent.

- 11. Consider a resolution authorizing the City Manager to enter into a contract with Kimley Horn & Associates, Inc. in the amount of \$20,000 for additional design work at the Boys Ranch Park.**

This item was approved by consent.

- 12. Consider a resolution authorizing the City Manager to enter into a contract with Baird Hampton & Brown Inc. in the amount of \$38,290 for the Brookwood Stream Study for future drainage system improvements in the Brookwood Hills Addition.**

This item was approved by consent.

- 13. Consider a resolution authorizing the City Manager to enter into contract with King Engineering Associates Inc. in the amount of \$28,000 for assistance with the Texas Water Development Board (TWDB) requirements for six water main improvement projects as related to the State Water Implementation Fund for Texas (SWIFT).**

This item was approved by consent.

**14. Consider authorizing the City Manager to enter into an Interlocal Agreement between City of Hurst, City of Ft. Worth, and the City of Bedford for flood protection planning grant assistance filed with the Texas Water Development Board by the City of Hurst.**

This item was approved by consent.

**15. Consider a resolution appointing members to Bedford's Citizen Boards and Commissions.**

Motioned by Council Member Champney, seconded by Councilmember Farco, to appoint the following members to the City's Board and Commissions:

Animal Shelter Advisory Board

Barbara Richardson, Place 4: Animal Welfare Organization  
Chairperson: Susan Read

Beautification Commission

June Gravley, Place 1  
F. Dewey Tennant, Place 2  
Patty Sinclair, Place 4  
Bonnie Cooper, Place 5  
Erin Blackman, Place 11  
Chairperson: Marty Geer

Building and Standards Commission

Tonya Martin, Place 1: Engineer  
Tom Bresnahan, Place 5: Licensed Architect  
Patricia Nolan, Place 6: Alternate

Community Affairs Commission

Doug White, Place 2: Business  
Roy Savage, Place 8: Resident  
Gary Morlock, Place 10: Resident  
Margaret Hall, Place 11: Resident  
Sal Caruso, Place 12: Resident  
Chairperson: Roy Savage

Cultural Commission

Debbi Savage, Place 1  
Barbara Speares, Place 3  
Roger Gallenstein, Alternate 2  
Chairperson: Thomas Jacobsen

Ethics Commission

John Chaloupka, Place 7

Library Advisory Board

Deborah Allbach, Place 1  
Margaret Aby Carroll, Place 2  
Lester Davis, Place 4  
Sarah Williams, Place 8  
Mishal Ali, Place 9  
Chairperson: Deborah Allbach

Parks and Recreation Board

Rene Hernandez, Place 1  
Jeremy Loy, Place 2  
Jeanette Cook, Place 3  
Douglas Allbach, Place 4  
Elvera Rose Henderson, Place 8  
Lisa Cassell, Place 10  
Chairperson: Jeanette Cook

Planning and Zoning Commission

Jason Sinisi, Place 2  
J. William "Bill" Reese, Place 3  
Todd Carlson, Place 4  
Mitchell Austin, Place 5  
Michael Davis, Place 8: Alternate  
Ben McLallen, Place 9: Alternate

Street Improvement Economic Development Corporation

Tina Penney, Public  
Marty Hathaway, Public

Teen Court Advisory Board

Janet Key, Place 1  
Jung Kim, Alternate 1

Zoning Board of Adjustment

Robert Welch, Place 1  
Dorothy McWhorter, Place 4  
Keith Quigley, Place 5

Motion approved 6-1-0. Mayor Griffin declared the motion carried.

Voting in favor of the motion: Mayor Griffin, Councilmember Sartor, Councilmember Champney, Councilmember Farco, Councilmember Turner and Councilmember Gebhart

Voting in opposition to the motion: Councilmember Fisher

**16. Report on most recent meeting of the following Boards and Commissions:**

✓ **Animal Shelter Advisory Board - Councilmember Fisher**

Councilmember Fisher had no report.

✓ **Beautification Commission - Councilmember Turner**

Councilmember Turner reminded everyone of the Paper Shred Event on October 10 at the Boys Ranch from 8:00 a.m. to 12:00 p.m. and that there is more information on the website. Beautification Awards recipients were selected. The CRUD Cruiser event was successful and 250 cars attended. There is a Beautification Workday scheduled for Saturday, October 17.

✓ **Community Affairs Commission - Councilmember Farco**

Councilmember Farco reported that the Commission held a HOA Roundtable with 90 people in attendance. There will be a Neighborhood Block Party on October 1 in the Rolling Wood Addition and the Shires.

✓ **Cultural Commission - Councilmember Champney**

Councilmember Champney reported that ArtsFest is scheduled for April 2016 and that the Commission is ready to apply to the Texas Commission on the Arts for the State designation. As part of that, a calendar of activities is being assembled to include art events around the State.

✓ **Library Advisory Board - Councilmember Farco**

Councilmember Farco reported that the Board will meet the following Wednesday. Community Services Supervisor Jeanne Green gave a presentation on the Summer Reading Program and how to involve the School District in next year's program. The Big Bedford Bazaar is scheduled for October 17.

✓ **Parks and Recreation Board - Councilmember Sartor**

Councilmember Sartor had no report.

✓ **Teen Court Advisory Board - Councilmember Gebhart**

Councilmember Gebhart presented a certificate of appreciate to the City of Bedford for support of the 2015 Teen Court Scholarship from the Teen Court Advisory Board.

✓ **Senior Citizen Liaison - Councilmember Turner**

Councilmember Turner reported that plans continue in improving activities at the Senior Center.

**17. Council member Reports**

Mayor Griffin stated that the City was involved in the 6Stones Clay Shooting event and that the City's team won a trophy.

**18. City Manager/Staff Reports**

Mr. Gibson stated that he was approached by members of the community and of the Police Department stating that Jeff Gibson would be a good candidate for Chief, that he has worked with Jeff for 20 years and that he was proud that Jeff is the Chief.

**ADJOURNMENT**

Mayor Griffin adjourned the meeting at 7:51 p.m.

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Jim Griffin, Mayor

ATTEST:

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Michael Wells, City Secretary



# Council Agenda Background

**PRESENTER:** Eric Valdez, Community Services Manager

**DATE:** 10/13/15

**Council Mission Area:** Be responsive to the needs of the community.

**ITEM:**

Consider a resolution authorizing the City Manager to enter into an agreement with Active Network, LLC for the implementation of ActiveNet at the Senior Center, Bedford Splash, and the Boys Ranch Activity Center in the amount of \$35,000.

**City Attorney Review:** Yes

**City Manager Review:** \_\_\_\_\_

**DISCUSSION:**

This item is for the CLASS recreation software currently used at the Boys Ranch Activity Center to be converted to ActiveNet. Active Network, LLC is phasing out technical support of the CLASS system software. This move by Active Network has led the staff to recommend upgrading the recreation software to ActiveNet. Active Network, LLC is offering a group buy in, which will greatly decrease the percentage taken from transaction fees. Council recently approved staff's recommendation to increase all recreational fees to offset the expense impact for the Bedford Splash and Boys Ranch Activity Center.

This item was approved in the FY 15/16 budet.

**RECOMMENDATION:**

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to enter into an agreement with Active Network, LLC for the implementation of ActiveNet at the Senior Center, Bedford Splash, and the Boys Ranch Activity Center in the amount of \$35,000.

**FISCAL IMPACT:**

Upgrade Fee:	\$18,000.00
Transaction Fee:	\$17,000.00

**ATTACHMENTS:**

Resolution Agreement

RESOLUTION NO. 15-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ACTIVE NETWORK, LLC FOR THE IMPLEMENTATION OF ACTIVENET AT THE SENIOR CENTER, BEDFORD SPLASH, AND THE BOYS RANCH ACTIVITY CENTER IN THE AMOUNT OF \$35,000.

WHEREAS, the City Council of Bedford, Texas determines the necessity to convert the recreation software with funds approved in the FY 2015/2016 Budget; and,

WHEREAS, the City Council of Bedford, Texas determines that in order to demonstrate excellent customer service in an efficient manner, the software must be converted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That the City Council does hereby authorize the City Manager to purchase a conversion to the current recreation software from the CLASS to ActiveNet through Active Network, LLC.

SECTION 3. That funding in the amount of \$35,000 will come from the FY 2015/2016 Recreation Budget and will be offset by approved increases in user fees.

PRESENTED AND PASSED on this 13th day of October 2015, by a vote of \_\_\_ ayes, \_\_\_ nays and \_\_\_ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

\_\_\_\_\_  
Jim Griffin, Mayor

ATTEST:

\_\_\_\_\_  
Michael Wells, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Stan Lowry, City Attorney

## Service Agreement Contract #[01440011]

This Service Agreement ("Agreement") is made effective as of [October 13, 2015] (the "Effective Date") and entered into between Active Network, LLC ("Active" or "we" or "us") and [The City of Bedford, Texas] ("you" or "your" or "Client"). The parties agree as follows:

1. Services. Active will provide services and support ("Services") related to events, camps, licenses, classes, tickets, contests, permits, facility/equipment use, transactions, sales, memberships, reservations, donations, and/or activities (together, "Events"), including without limitation access to its software as a solution product ("Software"). The features, services, options, and fees may be described more fully on web pages describing the Software and Services, and/or in an applicable schedule, quote, pricing form, order form, or similar document (each, a "Schedule"). From time to time, the parties may enter into new Schedules. Each Schedule will be generated by Active, reference this Agreement or the Contract Number above (if applicable), must be signed by Client, and will be governed by and incorporated into this Agreement. You agree to cooperate with us and to provide us with certain information relating to your organization as necessary for us to provide the Software and Services. Software provided under this Agreement is deemed delivered when access is made available to you.

2. License to Intellectual Property/Promotion. a) Active retains all right, title, and interest in and to its Software and Services and any underlying software subject to the limited license in this Agreement.

b) Active hereby grants to you a limited, non-exclusive, non-transferable, non-sublicensable license during the term of this Agreement (i) to use the Software and Services for the purposes of offering, promoting, managing, tracking, and collecting fees in connection with your Event(s) solely in accordance with the Schedule and this Agreement, and (ii) to display, reproduce, distribute, and transmit in digital form Active's name and logo solely for the purposes set forth in this Section 2. You hereby grant to Active a limited license to use information provided by you relating to your organization and Event, which may include content regarding the Event, your organization's name, trademarks, service marks, and logo, solely in connection with the promotion of your organization or Events and the Services that we provide. All rights not expressly granted herein are reserved.

c) You will make reasonable efforts to promote and encourage the use and availability of the Software in connection with the promotion of Events. You will include Active's name and logo in newsletters, printed registration forms or mailings provided by you to prospective participants (e.g., by inserting the following statement in any online or print media related to your Event: "Online Registration by Active.com"). During the term of this Agreement, Active will be the sole and exclusive provider of registration software and other services similar to the Software and Services provided to Client hereunder for all of Client's Events for which registration begins during the term of this Agreement. Client expressly understands and agrees that the exclusivity set forth in this Section is consideration in exchange for the pricing and other benefits being provided to Client hereunder. In the event that Client breaches its exclusivity obligations under this Section, Client agrees to pay the Liquidated Damage Amount (as defined below) related to the breach of exclusivity.

d) You agree to receive notifications regarding free product, promotional items, and giveaways at your Event(s) or facility(ies), but you may opt not to receive the items. Users who register for, sign up, or otherwise use the Services in connection with Events ("End Users") may opt-in to receive information, items, or promotions/deals from Active or other third parties, in which case, Active or such third party will be responsible for fulfillment and for providing customer service for any such offers.

e) Client shall: (i) not reverse engineer, disassemble, modify, incorporate into or with other software, or decompile any Software or prepare derivative works thereof; (ii) not copy, modify, transfer, display, or use any portion of the Software or Services except as expressly authorized in this Agreement or in the applicable documentation; (iii) not contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary or intellectual property rights, title, or interest of Active in and to any Software or Services; (iv) not use the Software to transmit, publish, or distribute any material or information: (1) for which Client does not have all necessary rights and licenses, including any material or information that infringes, violates, or misappropriates the intellectual property rights of any third party; (2) that contains a computer virus or other code, files, or programs designed to disrupt or interfere with the functioning of the Software; (3) that is inaccurate or misleading; or (4) that is or that may reasonably be perceived as being harmful, threatening, offensive, obscene, or otherwise objectionable; (v) not attempt to gain access to any systems or networks that connect thereto except for the express purpose of using the Software for their intended use; (vi) not rent, lease, sublicense, resell, or provide access to the Software on a time-share or service bureau basis; (vii) not engage in any activity that interferes with or disrupts the Software or Services; (viii) not obliterate, alter, or remove any proprietary or intellectual property notices from the Software or Services; (ix) use the Software and Services exclusively for authorized and legal purposes, consistent with all applicable laws, regulations, and the rights of others; (x) not take any steps to avoid or defeat the purpose of security measures associated with the Software and Service, such as sharing of login and password information, or attempt to circumvent any use restrictions.

f) The Software may include encryption software or other encryption technologies that may be controlled for import, export, or purposes under the laws and regulations of the countries and/or territories in which the Software and Services are used ("Applicable Law"). Client may not export, re-export, or assist or facilitate in any manner the export or re-export of, any portion of the Software, as determined by Applicable Law under which Client operates: (i) to any country on Canada's Area Control List; (ii) to any country subject to UN Security Council embargo or action; (iii) contrary to Canada's Export Control List Item 5505; (iv) to countries subject to U.S. economic sanctions and embargoes; and (v) to persons or entities prohibited from receiving U.S. exports or U.S.-origin items, including, to any person or entity appearing on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the Bureau of Industry and Security's Denied Persons List. Client hereby represents and covenants that: (a) to the best of Client's knowledge, Client is eligible to access the Software under Applicable Law; (b) Client will import, export, or re-export the Software to, or use or access the Software in, any country or territory only in accordance with Applicable Law; and (c) Client will ensure that End Users use the Software in accordance with the foregoing restrictions.

3. Information Collection. Active collects certain information from End Users. You may login to our data management system to access End User information relevant to an Event. You are responsible for the security of your login information and for the use or misuse of such information. You will immediately disable a user's access who is using the Software or Services on your behalf or notify Active in writing if any such user is no longer authorized or is using such information without your consent. Active may rely, without independent verification, on such notice, and Client, inclusive of Client's parent, subsidiary and affiliated entities, as applicable, and each of their respective officers, directors, managers, shareholders, owners, agents, employees, contractors, and representatives covenant not to sue and agree to defend, indemnify, and hold harmless Active from any claims arising from Active providing, denying, suspending, or modifying access to or use of the Software and Services of any individual as directed by Client or by someone who Active reasonably, under the circumstances, believes is authorized to act on behalf of Client. In the event of any dispute between two or more parties as to account ownership, you agree that Active will be the sole arbiter of such dispute in its sole discretion and that Active's decision (which may include termination or suspension of any account subject to dispute) will be final and binding on all parties. You agree not to use the Software or Services to collect or elicit (a) any special categories of data (as defined in the European Union Data Protection Directive, as may be amended from time to time), including, but not limited to, data revealing racial or ethnic origin, political opinions, or religious or other beliefs, trade-union membership, as well as personal data concerning health or sexual life or criminal convictions other than as expressly directed by Active, and in such event, only in pre-defined fields within the Software that are intended for that purpose; or (b) credit card information other than in pre-defined fields within the Software that are intended for that purpose. Both parties agree to use the collected information in compliance with (i) all applicable laws, rules and regulations, including, without limitation, those governing privacy (e.g., by including an appropriate CAN-SPAM opt out mechanism in email communications)

and the use of credit card data (e.g., using credit card information only for purposes authorized by the cardholder); (ii) applicable credit card network rules and Payment Card Industry Data Security Standards; and (iii) Active's privacy policy, as published on its website or otherwise provided by Active from time to time.

4. **Fees.** a) Client will pay the fees as more fully described in the applicable Schedule. Unless otherwise set forth on the applicable Schedule, Active will charge registration fees to individuals who register for the Events online, and will process and collect such fees as a merchant of record according to the card networks. On a bi-weekly basis, unless otherwise set forth in the applicable Schedule, Active will pay you sums due you based on the total fees collected, net of Active's service fees as set forth in the applicable Schedule and any other deductions provided herein. The applicable currency will be set forth on the Schedule.

b) Active may suspend its performance hereunder, including remitting payments, or terminate this Agreement in the event it reasonably believes that your use of the Software or Services is not in compliance with applicable law or this Agreement, is fraudulent, or is otherwise suspect, or if there is a dispute as to the legal authority of a Customer-associated party to perform hereunder. If Active reasonably believes that a transaction may be fraudulent or otherwise contrary to law, Active may issue an invoice or offset an equivalent amount from your account or any payment Active owes to you and return the value to the End User (as set forth below) and if sufficient funds are not available, you must reimburse Active on demand. Active will notify you of the reason for such offset provided that it is lawful to do so.

c) Any minimum volume commitment will be set forth in the applicable Schedule. The minimum volume calculation will begin on the date of the first live operational use of the Software for the Event(s) ("Go-Live Date"). If the Schedule indicates that you are paying on a subscription basis, you will be invoiced for the first year of subscription fees upon the Go-Live Date, with subsequent annual subscription fees being invoiced upon each anniversary of Go-Live Date.

d) If (i) you fail to meet an agreed upon minimum volume commitment as set forth in a Schedule; (ii) there are any overdue amounts owed by you; or (iii) there are returned charges or items, including those resulting from any error or complaint related to an Event, Active has the right to charge fees owed to Active by you by issuing an invoice, or by offsetting the deficiency from any account balance you maintain with Active or any payment Active owes you.

e) All amounts owed by you that are not directly collected by Active from End Users are due from you within thirty (30) days from either (i) the end of the remittance cycle during which the fees accrued (if related to registrations) or (ii) the date of the applicable invoice. These fees are displayed on your account statement. Past due fees shall accrue interest at the lesser of the annual rate of ten percent (10%) per annum or the maximum amount permitted by applicable law. In the event of delay in paying a fee, you agree to reimburse Active for any fees incurred in its collection efforts. Active may suspend or deactivate your account, including suspending its performance and obligation to remit payments hereunder, if your account is more than thirty (30) days past due.

f) Active may modify the fees once per calendar year, provided that any increase will not exceed twelve and a half percent (12.5%) over the then-current fees.

g) You are solely responsible for, and will pay, any and all use, excise, sales or privilege taxes, duties, value added taxes, fees, assessments, or similar liabilities, chargeable by a governmental authority (collectively, "Taxes") as a result of any Software or Service provided under this Agreement. Taxes on Active's net income are excluded. h) All fees described in the applicable Schedule are in consideration of the Software and Services that Active provides. Active and Client acknowledge that certain credit card network rules and laws prohibit imposing a surcharge that is based on the type of payment method used (e.g., having a different fee for the use of a credit card vs. debit card), and therefore, each agrees not to impose such a surcharge on any end user.

i) In the event you are entering into this Agreement and using the Services for the benefit of a third-party Event or organization ("Third Party Beneficiary"), you agree that we may remit amounts directly to the Third Party Beneficiary identified by you. In addition, you agree to include provisions in your agreement with such Third Party Beneficiary that are at least as protective of Active as Sections 5 and 6 herein. Should you fail to include such provisions in your contract with the Third Party Beneficiary and the failure results in costs or damages to Active, you agree to defend, indemnify, and hold Active harmless from any such costs and damages, including, without limitation, reasonable attorneys' fees. In addition, you agree to be responsible and liable for each Third Party Beneficiary's compliance with the terms and conditions of this Agreement.

j) It is your responsibility to notify End Users of your refund policy. You must ensure that your refund policies are consistent with this Agreement. You agree that all fees for a given Event are earned by you only following either the conclusion or delivery of the applicable Event (as applicable) and all amounts ultimately due to you will be net of all service fees, reversals, refunds, disputed charges, chargebacks and other deductions, whether due to customer complaints, allegations of fraud, discrepancies related to the applicable Event or otherwise. No payments shall be made to you with respect to any Event that is cancelled. If payments have already been made by Active to you for a cancelled Event or if Active reasonably determines that it is prudent or otherwise necessary to pay a refund to or honor a chargeback request from an End User, Active may issue an invoice or offset an equivalent amount from your account or payment owed by Active to you and return the value to the End User, and if sufficient funds are not available, you must reimburse Active on demand. Active will notify you of the reason for such offset provided that it is lawful to do so.

5. **Disclaimer of Warranty/Limitation of Liability.** ACTIVE EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE USE OF THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE SOFTWARE OR SERVICES WILL MEET YOUR REQUIREMENTS. SOFTWARE AND SERVICES ARE PROVIDED TO YOU ON AN "AS-IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ACTIVE SHALL NOT BE LIABLE FOR INDIRECT DAMAGES OR LOSSES (IN CONTRACT, TORT, OR OTHERWISE), INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST SAVINGS, COST OF REPLACEMENT SERVICES, LOST DATA, LOSS OF USE OF INFORMATION OR SERVICES, OR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES. ACTIVE'S TOTAL AGGREGATE LIABILITY FOR ALL MATTERS ARISING FROM OR RELATED TO THIS AGREEMENT IS LIMITED TO THE AMOUNT OF FEES ACTUALLY PAID BY YOU AS CONSIDERATION FOR THE SOFTWARE AND SERVICES GIVING RISE TO SUCH CLAIMS DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE FIRST CAUSE OF ACTION AROSE.

6. **Indemnification.** a) Active shall defend, settle, and pay damages (including reasonable attorneys' fees) ("Damages") relating to any third party claim, demand, cause of action or proceedings (whether threatened, asserted, or filed) ("Claims") against Client to the extent that such Claim is based upon Active's proprietary Software infringing a United States patent, registered copyright, or registered trademark provided that the Software is used in accordance with this Agreement.

b) To the extent not prohibited by Texas law, you shall defend, settle, and pay Damages relating to Claims to the extent based on (i) injury or death to a person or damage to property resulting from the participation in an Event operated by you in connection with the Software and/or Services; (ii) your provision of materials, products, or services as part of your obligations hereunder that infringe the intellectual property rights of any third party provided that such materials, products, or services are used by Active in accordance with this Agreement; (iii) your use of the Software and/or Services in violation of Section 2(e); (iv) any claims for refunds, reversals, or chargeback requests from End Users; and/or (v) brought by a Third Party Beneficiary or brought in connection with Active's payment to a Third Party Beneficiary of any fees due hereunder in accordance with this Agreement. For the purposes of Sections 5 and 6, reference to Active shall also include its suppliers and licensors.

7. **Term and Termination.** The term of this Agreement shall be for three (3) years from the Effective Date with automatic renewals for three (3) year terms thereafter, unless either party gives written notice to the other party to terminate this Agreement no less than twelve (12) months prior to the expiration of the then-current term. Either party may terminate this Agreement: (a) upon a material breach by the other party, if such breach is not cured within thirty (30) days following written notice to the breaching party; or (b) where the other party becomes unable to fulfill its payment obligations generally or is subject to a filed bankruptcy petition or formal insolvency proceeding that is not dismissed within thirty (30) days. Notwithstanding the termination or expiration of this Agreement under any circumstance other than in the event of Active's breach of the Agreement, the parties agree that Active will continue to be the exclusive provider of

## Services Agreement

registration software and other services similar to the Software and Services provided to Client hereunder for all of Client's Events for which registration begins during the term of this Agreement until the Event occurs or registration or similar services are no longer needed.

8. Assignment. a) Active may assign any of its rights or obligations under this Agreement. Client may not resell, assign, or transfer any of its rights or obligations hereunder except as expressly provided herein, and any attempt to resell, assign, or transfer such rights or obligations without Active's prior written approval will be null and void.

b) Except for Retained Assets (as defined below), Client shall cause each Schedule hereunder to be assigned to (i) the purchaser of all or substantially all of Client's assets or equity securities or (ii) to any successor by way of merger, consolidation, or other corporate reorganization of Client ((i) and (ii) together, a "Change of Control").

c) In addition, if Client seeks to sell, assign or otherwise transfer any Events which are the underlying subject matter of any Schedule (the "Subject Assets") regardless of whether such sale, assignment or transfer constitutes a Change of Control (any such transaction, a "Transfer"), Client shall cause the portion of the applicable Schedule relating to such Event(s) to be assigned to the purchaser or assignee of the Subject Assets (i.e. Client shall require the purchaser to assume Client's obligations under the applicable Schedule and this Agreement relating to such Event); provided however, in the event Client seeks to consummate a Transfer or enters into a Change of Control, but Client retains assets (i.e. Events) which are the underlying subject matter of a Schedule ("Retained Assets"), Client shall cause the applicable portion of the Schedule relating to the Subject Assets to be assigned to the purchaser or assignee of the Subject Assets, and Client shall retain its obligations under this Agreement and the Schedule(s) relating to the Retained Assets. Client shall be responsible for any and all costs incurred by it in connection with any such assignment. In the event that Client fails to cause an assignment as specified above, to the extent that there is a line item in the Schedule(s) entitled "Projected Contract Value," Client agrees to pay the amount of the Projected Contract Value related to such failed assignment as liquidated damages to Active, minus the amount of revenue already paid to Active net of all refunds, credit card chargebacks, and all other deducted amounts (the "Liquidated Damage Amount").

d) In the event that Client plans to enter into a Change of Control or otherwise consummate a Transfer, Client agrees to provide prior written notice to Active of the contemplated transaction. Within the thirty (30) day period following such transaction, Active shall have the right to immediately terminate each applicable Schedule if Active determines, in its reasonable good faith discretion that the purchaser or assignee of the Subject Assets is a competitor of Active or a party with whom Active does not want to do business. In the event of such termination by Active, Client will pay the Liquidated Damage Amount.

e) Client agrees (i) to require that the assignee (as outlined in this Section 8) agree, in writing, to be bound by the terms and conditions of the Agreement and each applicable Schedule; (ii) that Active may offset any Liquidated Damages Amount set forth in this Agreement from any account balance you maintain with Active or any payment Active owes you; (iii) all Liquidated Damage Amounts set forth in this Agreement will automatically reset during each renewal term; and (iv) because of the difficulty in making a precise determination of actual damages incurred by Active in the event that Client breaches its exclusivity obligations in Section 2(c), fails to cause an assignment pursuant to Section 8(c), or if Active terminates this Agreement pursuant to Section 8(d), the Liquidated Damage Amount will be assessed, not as a penalty, but as a reasonable approximation of costs incurred by Active and Active's loss of revenue; and (iv) that in any suit or other action or proceeding involving the assessment or recovery of liquidated damages, the reasonableness of the Liquidated Damage Amount shall be presumed and the liquidated damages assessed will be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under the Agreement.

9. Miscellaneous. a) Any notices required to be given under this Agreement shall be in writing sent to the address set forth below for Client or, in the case of Active, to the address set forth above to the attention of Chief Legal Officer. Notices will be deemed received the next day if sent via overnight mail or courier with confirmation of receipt, or three (3) days after deposited in the mail sent certified or registered.

b) This Agreement shall be governed by the laws of the State of Delaware, without giving effect to the conflict of laws provisions thereof. Neither the United Nations Convention of Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act shall apply to this Agreement. The parties irrevocably agree that any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Delaware.

c) This Agreement contains the entire understanding of the parties regarding the subject matter hereof and can only be modified or amended by a subsequent written agreement executed by both parties. This Agreement supersedes and replaces all oral or written RFPs, proposals, prior agreements, and other prior or contemporaneous communications between the parties concerning the subject matter of this Agreement, including without limitation that certain Products and Services Agreement dated as of March 22, 2013 between The Active Network, Inc. (predecessor-in-interest to Active) and Client. The Products and Services Agreement shall automatically terminate on the Effective Date hereof without further action by the parties.

d) Sections 2, 3, 5, 6, and 9 of this Agreement and any fees owed by you shall survive any termination or expiration of this Agreement.

e) If any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction for any reason whatsoever, (i) the validity, legality, and enforceability of the remaining provisions of this Agreement (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) shall not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the unenforceable provision shall be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement shall be deemed amended accordingly.

f) No waiver of any provision of this Agreement or any attachment shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

g) Neither party will be deemed to be in default hereunder, or will be liable to the other, for delay or failure to perform any of its obligations under this Agreement to the extent that such delay or failure results from any event or circumstance beyond that party's reasonable control, including without limitation, delays or failures of any Internet service provider, third-party payment processor or other third party.

h) Client has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an Active employee or agent in connection with this Agreement.

i) The Software is provided with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraphs (b)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable. The Manufacturer is Active Network, LLC or one of its affiliates or subsidiaries.

j) This Agreement may be executed in separate counterparts and delivered by facsimile or such other electronic means as are available to the parties. Such counterparts taken together shall constitute one and the same original document.

**SIGNATURE PAGE**

By signing this Agreement, each party represents and warrants that it has the necessary and full right, power, authority, and capability to enter into this Agreement and to perform its obligations hereunder.

Active Network, LLC	City of Bedford	Email: _____
By: _____ Signature (Authorized Representative Only)	By: _____ Signature (Authorized Representative Only)	Phone: _____
Name: _____	Name: Roger Gibson	Address: _____
Title: _____	Title: City Manager	_____
Date: _____	Date: _____	Event URL (site): _____



## Schedule

Company Address 717 North Harwood Street  
Suite #2500  
Dallas, Texas  
75201  
USA

Created Date 08/07/2015  
Quote Number 01440011  
Currency USD

Prepared By Taylor Thiel  
Email Taylor.Thiel@activenetwork.com

Contact Name Robert Valdez  
Phone 8179522322  
Email eric.valdez@bedfordtx.gov

Bill To Name City of Bedford  
Bill To Contact Robert Valdez  
Bill To Address Attn: Eric Valdez  
2000 Forest Ridge Drive  
Bedford  
76021-5713

Ship To Contact Robert Valdez  
Ship To Address 2000 Forest Ridge Drive  
Attn: Eric Valdez  
Bedford  
76021-5713  
United States



Product	Product Type	Description	Quantity	Sales Price	Fee %	Total Price
ACTIVE Net - Staff Interface - Technology Fee	SaaS	Migration Loyalty Rates for first term of contract for organizations under \$1,500,000 in annual revenue through ACTIVE Net.	1		2.00%	
ACTIVE Net - Public Interface - Online Transaction Fee	SaaS	Migration Loyalty Rates for first term of contract for organizations under \$1,500,000 in annual revenue through ACTIVE Net.	1		5.00%	
ACTIVE Net - Staff Interface - Payment Processing Fee - Credit Card	SaaS	Migration Loyalty Rates for first term of contract for organizations under \$1,500,000 in annual revenue through ACTIVE Net.	1		3.00%	
ACTIVE Net - Staff Interface - Payment Processing Fee - Electronic Cheque/Check Processing	SaaS		1		0.50%	
ACTIVE Net - (credit card refunds - flat fee)	SaaS		1	\$0.10		
ACTIVE Net - Functionality: Facility Reservation	SaaS		1			
ACTIVE Net - Functionality: POS	SaaS		1			
ACTIVE Net - Functionality: Activity Registration	SaaS		1			
ACTIVE Net - Functionality: Memberships	SaaS		1			
ACTIVE Net - Service Package Standard 4	Service	ACTIVE Net Service Package Standard 4 consists of the following Services: <ul style="list-style-type: none"> <li>• remote business process review</li> <li>• remote functionality review &amp; data collection preparation</li> <li>• remote data collection review</li> <li>• remote data entry (system inventory and policy controls)</li> <li>• remote user testing</li> <li>• remote train the trainer training</li> <li>• remote Go Live preparation</li> <li>• remote hardware configuration</li> </ul>	1	\$19,200.00		\$19,200.00



		<p>The scope of Services is contained to the 4 functionalities listed below.</p> <p>50% of total Service costs will be billed at Service initiation, payable within 30 days of the date of invoice.</p> <p>50% of total Service costs will be billed at Service completion, payable within 30 days of the date of invoice.</p>				
ACTIVE Net - Class Customer Loyalty - Professional Services Conversion to ACTIVE Net Credit	Service	<p>The Class Customer Loyalty – Professional Services Conversion to ACTIVE Net Credit (the "Credit") is conditioned upon Client fulfilling all of its obligations under the Agreement during the initial term of the Agreement or three years, whichever is longer. If Client fails to fulfill such obligations, Client must pay to Active the full amount of the Credit. The Credit is only to be used for professional services, but cannot be used for hardware or reimbursement of airfare/transportation cost. Client must be current on Class Maintenance until ACTIVE Go Live to be eligible for the Credit. Service Charges will increase to standard list rate after initial term of the Agreement.</p>	1	(\$5,827.50)		\$-5,827.50
ACTIVE Net - Technical Services: GIS Import	Service	<p>ACTIVE Net Technical Services: GIS Import consists of the following Services:</p> <ul style="list-style-type: none"> <li>remote configuration, testing &amp; training</li> </ul>	1	\$1,400.00		\$1,400.00

Service Total \$14,772.50

Total Price \$14,772.50

All fees described herein are in consideration of the Software and Services that Active provides. Active and Client acknowledge that certain credit card network rules and laws prohibit imposing a surcharge that is based on the type of payment method used (e.g., having a different fee for the use of a credit card vs. debit card), and therefore, each agree not to impose such a surcharge on any End User.

The payment options we offer may include MasterCard, Visa, American Express and Discover.

\*Sales Tax not included in total price. Sales tax, where applicable, will be added to your invoice.



**Quote Acceptance Information**

Signature: \_\_\_\_\_

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

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

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

PO# (if applicable): \_\_\_\_\_

### SUPPORT AND MAINTENANCE

The following supplies and services are included in Support and Maintenance:

- Unlimited technical support between 5:00am and 6:00pm Pacific Time, Monday through Friday via telephone (800.663.4991), email or web portal (<http://support.theactivenetwork.com>)
- Unlimited phone support for System Down issues on a **24 hours x 7 days a week** basis, provided that:
  - If self-hosted, the site must have remote access and Internet email capability for extended support hours
  - Support calls placed during extended support hours must be placed by an authorized contact person
  - The type of support call is an urgent issue that includes site down, revenue impacting, or customer facing issues that have no reasonable work-around
- Access to Active's secure customer care web portal, discussion forums, knowledgebase and online training materials
- Regular documentation and communication
- **Support also includes, if such assistance can be provided in 15 minutes or less:**
  - Assistance troubleshooting Third Party Products (e.g., Crystal Reports, Citrix client)
  - Assistance to isolate and/or troubleshoot difficulties resulting from sources other than Active Network products and services, such as:
    - General network/internet support (e.g., network access, printing, internet access)
    - PC hardware troubleshooting
    - PC setup, configuration and optimization
    - Network operating system configuration and functionality
    - Basic Microsoft Windows functionality (i.e. Windows Explorer or Internet Explorer)
    - Loss of supervisor or other password

### ANNUAL SUPPORT AND MAINTENANCE FOR NON-HOSTED CUSTOMERS

The following supplies and services are included in Support and Maintenance for non-hosted customers:

- New releases and version of the Software and free assistance in planning upgrades

<b>SUPPORT AND MAINTENANCE FOR HOSTED CUSTOMERS</b>
<p>The following supplies and services are included in Support and Maintenance:</p> <ul style="list-style-type: none"> <li>• Installation of new Software releases</li> <li>• Monitoring of connectivity and critical functionality at all times (24hr x 365 days/year) by skilled personnel using an extensive series of automated probes from multiple locations</li> <li>• Response to site-down/critical issues within one hour, with reasonable efforts to advise your organization of the current status and expected resolution time</li> <li>• Service agreements between Active and critical vendors essential to the continuing successful operation of the hosted environment</li> <li>• Scheduled maintenance to increase performance, fix defects or update applications, with reasonable efforts to notify your organization of scheduled maintenance times and potential impacts to service</li> <li>• Urgent maintenance (done to correct network, hardware or Software issues that are likely to cause significant service disruption and that require immediate action), which may temporarily degrade service or cause outages. Active may undertake urgent maintenance at any time deemed necessary and shall provide status updates to your organization as soon as possible.</li> </ul>

<b>SUPPORT ISSUE PRIORITIES AND TIMELINES</b>		
<b>TICKET RESOLUTION TARGETS</b>		
<ul style="list-style-type: none"> <li>• New support incidents are assigned one of the following levels, each with its respective standard ticket resolution target:</li> </ul>		
<b>Call Priority Level</b>	<b>Description</b>	<b>Standard Completion Target</b>
Priority 1 – System Outage	Fatal issues that result in the customer’s inability to fulfill critical business functions (i.e., those pertaining to core functionality such as processing registrations, memberships, rentals) and that have no reasonable work-around	1 business Day
Priority 2 – High Business Impact	Serious issues significantly impacting use of the system but do not prevent core functions from being fulfilled (i.e., Customer cannot perform critical business functions; Customer experiences severe site degradation)	2 business day
Priority 3 – Medium Business Impact	All other issues, except those classified as low; (e.g., how-to questions, reporting/reconciliation issues, general questions, work around options)	3 business days
Priority 4 – Low Business Impact	Issues that are not time-sensitive or may be undertaken as customer service initiatives outside the scope of this Agreement (i.e., feature requests or low priority questions)	None
Guaranteed Uptime	For clients licensing Hosted Software	99%

**SERVICES NOT INCLUDED**

The following supplies and services are excluded from Support and Maintenance:

- Services required to remedy problems that stem from changes to or defects in system configuration upon which the Software was originally installed
- Services required to remedy problems which do not stem from any defect in the Software
- Services required to remedy problems caused by lack of training of Client's personnel
- Improper treatment or use of the Software
- Onsite or remote training services
- Full report customization service
- Database-specific services or assistance

**RESTRICTIONS**

The following actions will void Active's obligations under this Support and Maintenance Handbook:

- The use of any other application that modifies data in the database, whether created by you or otherwise
- The use or creation of third party applications that work in connection with Active's application or application database without prior written notification and consent from Active

<b>HOLIDAY HOURS (US AND CANADA)</b>		
Holiday	Open with reduced staff	Closed
New Year's Day (January 1st)		✓
Martin Luther King Day (3rd Monday in January)	✓	
President's Day (3rd Monday in February)	✓	
Good Friday (Friday before Easter)	✓	
Victoria Day (3rd Monday in May)	✓	
Memorial Day (Last Monday in May)	✓	
Canada Day (July 1st)	✓	
Independence Day (July 4th)	✓	
Civic holiday (1st Monday in August)	✓	
Labor Day (1st Monday in September)		✓
Canadian Thanksgiving/Columbus Day (2nd Monday in October)	✓	
Remembrance Day/Veteran's Day (November 11th)	✓	
US Thanksgiving (4th Thursday in November)	✓	
Day after US Thanksgiving (4th Friday in November)	✓	
Christmas Day (Dec. 25th)		✓
Boxing Day (December 26th)	✓	
New Year's Eve (December 31st)	✓	

**THIRD PARTY PRODUCTS ADDENDUM  
TO SOFTWARE AS A SERVICE AGREEMENT**

This Addendum to the Software as a Service Agreement (“**Addendum**”) is entered into by and between the City of Bedford, Texas (“**Client**”) and Active Network, LLC (“**Active**”) as of October 13, 2015 (the “**Effective Date**”). Client and Active are also singularly referenced herein as a “**Party**” and collectively as the “**Parties.**”

- A. This Addendum is made part of that certain Software as a Service Agreement dated as of October 13, 2015 between Client and Active (the “**Agreement**”) that provides Software and Services.
- B. Client and Active now desire to supplement and amend certain terms and conditions of the Agreement, pursuant to the terms and conditions set forth in this Addendum.

**NOW, THEREFORE**, in consideration of the mutual covenants, recitals and promises contained in this Addendum and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by each Party, the Parties hereto hereby agree as follows:

1. **Changes to the Agreement.** The Appendix attached hereto is hereby incorporated by reference into the Agreement.

2. **Agreement Remains in Effect.** Except as expressly described herein, the Agreement remains in full effect according to its terms. The Agreement and this Addendum, as well as any exhibits attached to each respectively, shall be read in concert to the fullest extent possible and be considered collectively as a singular agreement. In the event any of the terms and conditions of the Agreement conflict with the terms and conditions of this Addendum, the terms and conditions of this Addendum shall prevail only as to the subject matter expressly stated herein.

3. **General.**

3.1 **Miscellaneous.** If any one or more of the provisions of this Addendum is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Addendum, and this Addendum shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The captions used in this Addendum are for convenience and reference only and will not be deemed to limit, characterize or in any way affect any other provision contained herein. All provisions of this Addendum will be enforced and construed as if no caption had been used. This Addendum will be assigned automatically and only upon the assignment of the Agreement according to its terms.

3.2 **Entire Agreement.** The Agreement, this Addendum and any exhibits attached to each respectively constitute the entire agreement between the Parties with respect to the subject matter thereof and supersede all previous negotiations, comments and writings by the Parties with respect to the subject matter referenced in each. The Agreement and this Addendum may be changed only by a written agreement signed by both Parties. No oral agreement or conversation with any officer, agent or employee of Client, either before or after the execution of the Agreement or this Addendum, shall affect, alter or modify the obligations hereunder.

3.3 **Counterparts and Facsimile:** This Addendum may be executed by the Parties in separate counterparts, which counterparts when combined are hereby deemed to constitute a single document, and the Parties may execute this Addendum by facsimile and such facsimile(s) will have the same effect as an originally executed document.

The Parties hereto have executed this Addendum effective as of the Effective Date.

**ACTIVE NETWORK, LLC:**  
by its authorized signatory

**The City of Bedford:**  
by its authorized signatory

Per: \_\_\_\_\_

Per: \_\_\_\_\_

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

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

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

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

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

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

## APPENDIX: TERMS APPLICABLE ONLY TO THIRD PARTY PRODUCTS AND SERVICES

### 1. PURCHASE AND SALE; DELIVERY

1.1 **Purchase Commitment and Price.** Active hereby agrees to sell to Client, and Client hereby agrees to purchase from Active, the Third Party Products listed in the applicable Schedule in the volumes and at the prices described therein. For purposes of this Addendum, "Third Party Products" means those hardware, firmware and/or software products, provided to Active by third parties, listed in the Pricing Form, together with all user manuals and other documents accompanying the delivery of the Third Party Products, provided that the Third Party Products shall not include software developed by Active.

1.2 **Delivery.** Active will ship all or any part of the Third Party Products to Client as soon as reasonably practicable (or, if the below-described purchase order documentation does not seek immediate shipping, at the time Active considers reasonable in order to meet the desired delivery date described) after receipt by Active of a purchase order from Client specifying the particular Third Party Products sought, the number of such Third Party Products sought, the price payable therefore, and the desired date and location of delivery thereof. Any such purchase order must, at a minimum, reference quantity, description and price.

1.3 **Changes by Client to Delivery Schedule.** Following delivery by Client of any purchase order documentation described in section 1.2, no changes by Client to the shipment schedule described therein will be permitted unless Active is notified thereof in writing at least ninety (90) days in advance of the delivery date sought in such purchase order documentation.

1.4 **Acceptance of Purchase Orders.** Purchase orders delivered by Client to Active in respect of Third Party Products are not binding upon Active until accepted by Active in writing. In any case, despite any indication to the contrary contained in any such purchase order documentation, no terms or conditions on purchase order documentation issued by Client, other than the information required by Active as set forth expressly in this Agreement, will be binding upon Active, nor will any such terms or conditions modify or supplement this Agreement in any way, notwithstanding the fact that Active may accept or otherwise approve such purchase orders. Active reserves the right to refuse any such purchase order for any reason not contrary to this Agreement, including without limitation pricing differences as described in section 2.2.

1.5 **Additional Third Party Products.** Client may purchase Third Party Products in addition to those listed in the Schedule by issuing additional purchase order documentation as described herein, provided that the supply (or non-supply) of such additional Third Party Products will be subject to this Agreement as though such additional Third Party Products had been included in the Schedule on the date of execution of Schedule subject to the following:

- (a) the price for such additional Third Party Products is subject to agreement between the parties each in their own absolute discretion, and
- (b) Active shall have the right to discontinue delivery of such additional Third Party Products upon at least ninety (90) days written notice to Client without any liability to Client whatsoever for such discontinuance.

### 2. CHARGES AND PAYMENTS

2.1 **Prices.** The pricing applicable to Third Party Products is as set out in the Schedule in the form finally agreed to by the Parties.

2.2 **Pricing Variability.** Client acknowledges that:

(a) the prices described in the Schedule are applicable for six (6) months after the date of execution hereof, and such prices are based upon Client taking delivery of the full number of any particular Third Party Product listed in the Schedule in a single shipment; and

(b) Client hereby agrees that after the expiry of such initial six-month period or, in case of Client seeking, in a particular shipment, delivery of less than all of the Third Party Products of a particular type listed the Schedule, the actual prices may be higher. Prior to shipment of any Third Party Products that would be subject to pricing that differs from that described in the Schedule, Active will notify Client of any such different pricing and Client will accept such different pricing, as mutually agreed between Client and Active, in writing.

### 3. SUPPORT FOR THIRD PARTY PRODUCTS

For the purpose of isolating support issues and responsibility in respect of Third Party Products and their interaction with any Products, Active will provide initial first-tier support, to a maximum of fifteen (15) minutes per support inquiry.

### 4. PROPRIETARY RIGHTS

4.1 **Third Party Proprietary Rights and Indemnity by Client.** Client acknowledges that any Third Party Products supplied by Active hereunder are supplied by Active as a reseller thereof and that the Third Party Products are subject to the intellectual property rights of the various third party developers and/or manufacturers thereof, as applicable, including without limitation copyright, trade secret, trademark, and patent rights. Client will maintain in confidence and not use or disclose any and all confidential business or technical information connected with any Third Party Product except as specifically permitted by a party having legal control of such rights, and Client will defend or settle any claim made or any suit or proceeding brought against Active insofar as such claim, suit, or proceeding is based on an allegation that any Third Party Product provided to Client hereunder has been installed, used, or otherwise treated by Client or any client or customer of Client in violation of the proprietary rights of any third party or on an allegation that Client or any client or customer of Client has disclosed or used any confidential business or technical information connected with any Third Party Product, provided that Active will notify Client in writing promptly after the claim, suit, or proceeding is known to Active and will give Client such information and assistance as is reasonable in the circumstances. Client will have sole authority to defend or settle any such claim at Client's expense. Client will indemnify and hold Active harmless from and against any and all such claims and will pay all damages and costs finally agreed to be paid in settlement of such claim, suit or proceeding.

4.2 **Third Party Products which are Software.** Client acknowledges that the possession, installation and use of all Third Party Products which are software shall be governed by the terms of the software license(s) of the persons other than Active who possess the rights to control such possession, installation and use.

## 5. WARRANTY

5.1 **Warranty.** Active warrants to Client that Active has the right to deliver the Third Party Products subject to any documentation accompanying such Third Party Products at the time of delivery and/or any licensing mechanisms, physical, electronic or otherwise, included in any Third Party Products that are software.

5.2 **Warranties Provided by Third Party Suppliers.** Third Party Products are warranted by the manufacturers, suppliers or licensors thereof in accordance with the warranty statements accompanying delivery of the Third Party Products, and Client agrees that Client will rely solely on such Third Party Product warranties. Client agrees not to make a claim against Active on account of any warranty, express or implied, which may apply to any Third Party Product. If Client notifies Active of a defect or nonconformity within thirty (30) days of the date of delivery of such Third Party Product, Active will assist Client in troubleshooting such Third Party Product in accordance with Section 3. If such defect or nonconformity cannot be remedied during such troubleshooting and such Third Party Product is still under the Third Party Product warranty, Active shall contact the applicable manufacturer, supplier or licensor of such Third Party Product to coordinate any returns or refunds. If a notice of a defect or nonconformity is received by Active from Client of the defect or nonconformity following the initial the 30-day period, Active's sole obligation and liability will be to provide support in accordance with Section 3. Returns and refunds are at the sole discretion of the applicable manufacturer, supplier or licensor.

**ITEM #5 IS TO BE DISCUSSED BY COUNCIL IN EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.087. THE MATERIALS FOR THESE ITEMS WILL BECOME PUBLIC INFORMATION UPON COUNCIL APPROVAL. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT 817.952.2104 IF YOU HAVE ANY QUESTIONS.**



# Council Agenda Background

**PRESENTER:** Thomas L. Hoover, P.E.,  
Public Works Director

**DATE:** 10/13/15

**Council Mission Area:** Be responsive to the needs of the community.

**ITEM:**

Consider a resolution authorizing the City Manager to purchase an Atlas Copco XAS air compressor with a 70-pound pneumatic jackhammer in the amount of \$24,950 through Kirby-Smith Machinery, Inc., utilizing the Buyboard Cooperative Purchasing Contract.

**City Attorney Review:** N/A

**City Manager Review:** \_\_\_\_\_

**DISCUSSION:**

On September 8, 2015, the Bedford City Council passed an ordinance adopting the FY 2015/16 Budget. Funds were allocated within the Street Improvement Economic Development Corporation Fund budget for the purchase of an Atlas Copco air compressor with a 70-pound pneumatic jackhammer.

Public Works currently utilizes an air compressor that is 24 years old. A new compressor will allow staff to better maneuver tight spaces, is lighter weight and enables staff to complete jobs, such as breaking up concrete, asphalt, large rocks, gutters and sidewalks, more efficiently.

**RECOMMENDATION:**

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to purchase an Atlas Copco XAS air compressor with a 70-pound pneumatic jackhammer in the amount of \$24,950 through Kirby-Smith Machinery, Inc., utilizing the Buyboard Cooperative Purchasing Contract.

**FISCAL IMPACT:**

Street Improvement Economical Development Corporation Budget:	\$25,000.00
Actual Amount:	\$24,950.00
Variance:	\$ 50.00

**ATTACHMENTS:**

Resolution  
Quote

RESOLUTION NO. 15-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE AN ATLAS COPCO XAS AIR COMPRESSOR WITH A 70-POUND PNEUMATIC JACKHAMMER IN THE AMOUNT OF \$24,950 THROUGH KIRBY-SMITH MACHINERY, INC., UTILIZING THE BUYBOARD COOPERATIVE PURCHASING CONTRACT.

WHEREAS, the City Council of Bedford, Texas determines the necessity to purchase an air compressor with a 70-pound pneumatic jackhammer with funds approved in the FY 2015/16 Budget; and,

WHEREAS, the City Council of Bedford, Texas determines that in order to be responsive to the needs of the community, the air compressor must be purchased; and,

WHEREAS, in order to obtain best pricing, the purchase of the air compressor should be through the Buyboard Cooperative Purchasing Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That the City Council does hereby authorize the City Manager to purchase an air compressor with a 70-pound pneumatic jackhammer in the amount of \$24,950 through Kirby-Smith Machinery, Inc., utilizing the Buyboard Cooperative Purchasing Contract.

SECTION 3. That funding in the amount of \$24,950 will come from the FY 2015/16 Street Improvement Economic Development Corporation Fund.

PRESENTED AND PASSED this 13th day of October, 2015, by a vote of \_\_\_ ayes, \_\_\_ nays, and \_\_\_ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

\_\_\_\_\_  
Jim Griffin, Mayor

ATTEST:

\_\_\_\_\_  
Michael Wells, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Stan Lowry, City Attorney



P.O. Box 270300  
Oklahoma City, OK 73137  
405.495.7820  
800.375.3339  
405.787.5973 fax

**Abitene**  
1629 Vision Drive  
Abitene, Texas 79602  
325.692.6334  
877.577.5729  
325.692.4035 fax

**Amarillo**  
3922 I-40 East  
Amarillo, Texas 79103  
806.373.2826  
800.283.1247  
806.373.4841 fax

**Dallas**  
8505 S. Central Expwy  
Dallas, Texas 75241  
214.371.7777  
800.753.1247  
214.375.7903 fax

**Ft. Worth**  
1450 NE Loop 820  
Ft. Worth, TX 76106  
817.378.0600  
877.851.9977  
817.378.0680 fax

**Kansas City**  
8320 Ruby Avenue  
Kansas City, KS 66111  
913.850.6300  
877.851.5729

**Lubbock**  
3201 Slaton Hwy. 84 East  
Lubbock, Texas 79404  
806.745.2112  
866.289.6087  
806.745.2102 fax

**Oklahoma City**  
6715 W. Reno  
Oklahoma City, OK 73127  
405.495.7820  
800.375.3339  
405.787.5973 fax

**St. Louis**  
12920 Gravois Rd.  
St. Louis, MO 63127  
314.729.0125  
866.279.1392  
314.729.1317 fax

**Tulsa**  
12321 E. Pine St.  
Tulsa OK 74116  
918.438.1700  
800.375.3733  
918.437.7065 fax

April 3, 2015

Mr. Jackie Hancock  
City Of Bedford  
2000 Forest Ridge Drive  
Bedford, TX 76021

Dear Jackie:

We are pleased to quote the following for your consideration:

(1) Atlas Copco XAS 185 part #08972 4261 56

The following factory and dealer options are included:

- \* All standard factory options,
- \* 185 CFM 100 PSI,
- \* TEX P90 Hammer,
- \* (1) Moil point, (1) 3" Chisel, (1) Narrow Chisel, (1) Asphalt cutter
- \* (2) 50' Rubber hose sections

To be purchased through Buyboard Cooperative. Contract # 424-13  
Contract price is \$32,227; less contract discount of 5% (-\$1,612.00);  
less JH discount of \$5,665.00; net selling price of \$24,950.00.

Price Complete, Delivered: \$24,950

We believe the equipment as quoted will exceed your expectations. On behalf of Kirby-Smith Machinery, Inc., thank you for the opportunity to quote quality machinery.

Sincerely,

James McDonnell  
Governmental Sale Representative





# Council Agenda Background

**PRESENTER:** Thomas L. Hoover, P.E.  
Public Works Director

**DATE:** 10/13/15

**Council Mission Area:** Be responsive to the needs of the community.

**ITEM:**

Consider a resolution authorizing the City Manager to purchase two 1/2 ton Ford F150 Supercab trucks in the amount of \$44,590 through Silsbee Ford utilizing the Texas Procurement and Support Services Contract.

**City Attorney Review:** N/A

**City Manager Review:** \_\_\_\_\_

**DISCUSSION:**

On September 8, 2015, the Bedford City Council passed an ordinance adopting the FY 2015/16 Budget. Funds were allocated within the Water and Sewer Fund and the Street Improvement Economic Development Corporation Fund budget for the purchase of two 1/2 ton gasoline powered Ford F150 Supercab trucks.

The requested vehicles will replace the current 11 year old 3/4 ton extended cab truck, with an odometer reading of 61,872 miles, which is utilized by the Engineering Department Project Inspector and the 14 year old 3/4 ton extended cab truck, with an odometer reading of 58,375 miles, which is currently in use by the Streets and Traffic Manager.

Additional items that need to be purchased to outfit the trucks are a headache rack, light bar, tool box, and the installation of a bed liner to protect the truck bed. These additional items have budget funds approved to cover the associated costs.

Both of the replaced units will be removed from service and submitted for auction.

**RECOMMENDATION:**

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to purchase two 1/2 ton Ford F150 Supercab trucks in the amount of \$44,590 through Silsbee Ford utilizing the Texas Procurement and Support Services Contract.

**FISCAL IMPACT:**

Water and Sewer Fund:	\$25,600.00
Street Improvement Economic Development Corporation Fund:	\$25,600.00
Total Budget Amount:	\$51,200.00
Actual Amount:	\$44,590.00
Variance:	\$ 6,610.00

**ATTACHMENTS:**

Resolution  
Quote

RESOLUTION NO. 15-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE TWO 1/2 TON FORD F150 SUPERCAB TRUCKS IN THE AMOUNT OF \$44,590 THROUGH SILSBEE FORD UTILIZING THE TEXAS PROCUREMENT AND SUPPORT SERVICES CONTRACT.

WHEREAS, the City Council of Bedford, Texas determines the necessity to replace one 1/2 and one 3/4 ton Ford F150 Supercab trucks with funds approved in the FY 2015/16 Budget; and,

WHEREAS, the City Council of Bedford, Texas determines that in order to be responsive to the needs of the community and reduce maintenance costs, the two existing older trucks must be replaced; and,

WHEREAS, in order to obtain best pricing, the purchase of the two 1/2 ton Ford F150 Supercab trucks should be through the Texas Procurement and Support Services Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That the City Council does hereby authorize the City Manager to purchase two 1/2 ton Ford F150 Supercab trucks in the amount of \$44,590 through Silsbee Ford.

SECTION 3. That funding in the amount of \$44,590 will come from the FY 2015/16 Water and Sewer Fund and the Street Improvement Economic Development Corporation Fund.

PRESENTED AND PASSED this 13th day of October, 2015, by a vote of \_\_\_ ayes, \_\_\_ nays, and \_\_\_ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

\_\_\_\_\_  
Jim Griffin, Mayor

ATTEST:

\_\_\_\_\_  
Michael Wells, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Stan Lowry, City Attorney

# SILSBEE FORD

## Government and Commercial Sales

1211 U.S. Highway 96 North Silsbee TX 77656 Phone: (409) 895-3800

**Date:** 09/21/2015

**Prepared by:** Richard Hyder  
direct phone: (409) 300-1385  
email: rhyder.cowboyfleet@gmail.com

**Prepared for:** City of Bedford  
Jackie Hancock  
phone: 817.952.2246  
fax:  
email: [jackie.hancock@bedfordtx.gov](mailto:jackie.hancock@bedfordtx.gov)

<b>Proposal:</b>	# of items	Description	Price	Extension
	2	2015 Ford F150 supercab 4x2 6.5' bed per TPASS contract 072-A1 Series 862C	\$ 22,295.00	\$ 44,590.00
	2	Addittional options:		
	2	vinyl seating 40/20/40	\$ -	\$ -
	2	5.0L V8 gas	\$ -	\$ -
	2	53A trailer towing package	\$ -	\$ -
	2	85A power equipment group	\$ -	\$ -
	2	50S cruise control	\$ -	\$ -
		IN STOCK		
	<b>ALL VEHICLES SUBJECT TO AVAILABILITY</b>		<b>TOTAL:</b>	<b>\$ 44,590.00</b>

**Notes:** Please call if you have any questions. Thank you



# Council Agenda Background

**PRESENTER:** Thomas L. Hoover, P.E.  
Public Works Director

**DATE:** 10/13/15

**Council Mission Area:** Demonstrate excellent customer service in an efficient manner.

**ITEM:**

Consider a resolution authorizing the City Manager to purchase a Vac-Hunter Mini-Combo Jetter Truck in the amount of \$245,990 through Freightliner Inc., utilizing the Houston Galveston Area Council Contract.

**City Attorney Review:** N/A

**City Manager Review:** \_\_\_\_\_

**DISCUSSION:**

On September 8, 2015, the Bedford City Council passed an ordinance adopting the FY 2015/16 Budget. Funds were allocated within the Water and Sewer Fund budget for the purchase of a Vac-Hunter Mini-Combo Jetter truck.

The requested vehicle will replace the current FMC Sewer Jet truck that is 20 years old. Replacement of the Sewer Jet truck will allow for increased productivity in ensuring City main lines, to include smaller collection lines, are cleaned and remain in compliance with the Sanitary Sewer Overflow Initiative (SSOI) and the Texas Commission on Environmental Quality (TCEQ) guidelines.

The FMC Sewer Jetter truck will be removed from service and submitted for auction.

**RECOMMENDATION:**

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to purchase a Vac-Hunter Mini-Combo Jetter Truck in the amount of \$245,990 through Freightliner Inc., utilizing the Houston Galveston Area Council Contract.

**FISCAL IMPACT:**

Water and Sewer Fund:	\$246,000.00
Actual Amount:	\$245,990.00
Variance:	\$ 10.00

**ATTACHMENTS:**

Resolution  
Quote

RESOLUTION NO. 15-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE A VAC-HUNTER MINI-COMBO JETTER TRUCK IN THE AMOUNT OF \$245,990 THROUGH FREIGHTLINER INC., UTILIZING THE HOUSTON GALVESTON AREA COUNCIL CONTRACT.

WHEREAS, the City Council of Bedford, Texas determines the necessity to replace a FMC Sewer Jet truck with funds approved in the FY 2015/16 Budget; and,

WHEREAS, the City Council of Bedford, Texas determines that in order to demonstrate excellent customer service in an efficient manner and reduce maintenance costs, the current 20 year old Sewer Jetter Truck must be replaced; and,

WHEREAS, in order to obtain best pricing, the purchase of the Vac-Hunter Mini-Combo Jetter Truck should be through the Houston Galveston Area Council Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That the City Council does hereby authorize the City Manager to purchase a Vac-Hunter Mini-Combo Jetter truck in the amount of \$245,990 through Freightliner Inc., utilizing the Houston Galveston Area Council Contract.

SECTION 3. That funding in the amount of \$245,990 will come from the FY 2015/16 Water and Sewer Fund.

PRESENTED AND PASSED this 13th day of October, 2015, by a vote of \_\_\_ ayes, \_\_\_ nays, and \_\_\_ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

---

Jim Griffin, Mayor

ATTEST:

---

Michael Wells, City Secretary

APPROVED AS TO FORM:

---

Stan Lowry, City Attorney



**CONTRACT PRICING WORKSHEET**  
For MOTOR VEHICLES Only

Contract No.: HT06-14

Date Prepared: 29-Sep

**This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.**

Buying Agency:	City of Bedford	Contractor:	Houston Freightliner, Inc
Contact Person:	Dan Mitchell	Prepared By:	Michael McCarthy
Phone:	817-952-2223	Phone:	713-580-8122
Fax:		Fax:	713-955-6282
Email:		Email:	Mike.McCarthy@STRHouston.com

Product Code:	D8	Description:	2016 Freightliner 108SD-70
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**A. Product Item Base Unit Price Per Contractor's H-GAC Contract:** 62695

**B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.**  
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
Cummins ISL 260 HP	6474		
Allison 3500 RDS Transmission	7146		
16,000 LB Front Axle	1400		
16,000LB Front Suspension	504		
Air Cab Mounts	118		
Air Conditioner	850		
Front FrameExtension	236		
		VacHunter Mini-Combo 2016 PTO Blower TM HD- 2800	167990
		<b>Subtotal From Additional Sheet(s):</b>	
		<b>Subtotal B:</b>	184718

**C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.**  
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		<b>Subtotal From Additional Sheet(s):</b>	0
		<b>Subtotal C:</b>	0

**Check:** Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 0%

**D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)**

Quantity Ordered:	1	X Subtotal of A + B + C:	247413	=	Subtotal D:	247413
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**E. H-GAC Order Processing Charge (Amount Per Current Policy)** Subtotal E: 1500

**F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges**

Description	Cost	Description	Cost
Discount	-2923		
		<b>Subtotal F:</b>	-2923

**Delivery Date:** **G. Total Purchase Price (D+E+F):** 245990



# Council Agenda Background

**PRESENTER:** Thomas L. Hoover, P.E.  
Public Works Director

**DATE:** 10/13/15

**Council Mission Area:** Provide a safe and friendly community environment.

**ITEM:**

Consider a resolution authorizing the City Manager to purchase XC2 Backflow Prevention Software and Modules from XC2 Software, LLC in the amount of \$23,200.

**City Attorney Review:** N/A

**City Manager Review:** \_\_\_\_\_

**DISCUSSION:**

On September 8, 2015, the Bedford City Council passed an ordinance adopting the FY 2015/16 Budget. Funds were allocated within the Stormwater Fund and Water and Sewer Fund budget for the purchase of XC2 Backflow Prevention Software and Modules to aide with data compilation and management related to Backflow tester registration, Backflow test reports, Grease Grit permits and fire hydrant maintenance records.

The requested software will enable staff to better maintain accurate, up-to-date documentation regarding Backflow and Grease Grit permits and will allow for improved response times to Open Records requests. This software purchase includes Backflow Prevention software, Fats, Oils and Grease (FOG) management modules, Hydrant Testing/Flushing/Maintenance Modules and On-Site user training. Currently, the Public Works Department does not have a software program to support FOG management as required by the Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ).

Staff received a quote from XC2 Software, LLC in the amount of \$23,200 which includes all software and training required to utilize this program.

**RECOMMENDATION:**

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to purchase XC2 Backflow Prevention Software and Modules from XC2 Software, LLC in the amount of \$23,200.

**FISCAL IMPACT:**

Stormwater Fund:	\$22,410.00
Water and Sewer Fund:	\$ 790.00
Total Budget Amount:	\$23,200.00
Actual Amount:	\$23,200.00
Variance:	\$ 0.00

**ATTACHMENTS:**

Resolution  
Quote

RESOLUTION NO. 15-

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE XC2 BACKFLOW PREVENTION SOFTWARE AND MODULES IN THE AMOUNT OF \$23,200 THROUGH XC2 SOFTWARE, LLC.**

**WHEREAS, the City Council of Bedford, Texas determines the necessity to purchase XC2 Backflow Prevention Software and Modules with funds approved in the FY 2015/16 Budget; and,**

**WHEREAS, the City Council of Bedford, Texas determines that in order to provide a safe and friendly community environment, the XC2 Backflow Prevention Software and Modules must be purchased.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:**

**SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.**

**SECTION 2. That the City Council does hereby authorize the City Manager to purchase XC2 Backflow Prevention Software and Modules in the amount of \$23,200 through XC2 Software, LLC.**

**SECTION 3. That funding in the amount of \$22,410 will come from the FY 2015/16 Storm Water Fund and \$790 will come from the FY 2015/16 Water and Sewer Fund.**

**PRESENTED AND PASSED this 13th day of October, 2015, by a vote of \_\_\_ ayes, \_\_\_ nays, and \_\_\_ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.**

\_\_\_\_\_  
**Jim Griffin, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Michael Wells, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Stan Lowry, City Attorney**



# XC2 Software, LLC

122 Taylor Drive  
Fairfax, CA 94930  
800.761.4999 - 415.456.9200  
FAX: 415.258.9561  
info@xc2software.com

## Proposal

Proposal Date:	Sep 14, 2015
Honored Through:	Oct 31, 2015
Terms:	NET 30
	New Customer

Quote For:

**City of Bedford , TX**

**XC2 Backflow Prevention Software Proposal**

**Bedford, TX  
Jerry Laverty**

Proposal ID: 0011011 (by: Randy Engle)

Code	Item	Price
------	------	-------

The prices listed on this proposal will be honored through Oct 31, 2015. Thereafter, pricing may change without notice. If you are not able to provide a purchase order by the above date, please contact us for a revised proposal in the event that new pricing is in place.

### Software Product Licenses:

<b>XC2-02-BFP-XXX</b>	<b>XC2® Backflow Prevention Software 2 Concurrent User</b>	<b>\$5,625.00</b>
-----------------------	--	-------------------

Client/Server-Backflow Prevention Management Software  
 IMPORTANT: Requires installation on a Server/Virtual Server  
 Be sure to coordinate with your IT Dept. that you have the necessary hardware and resources.  
 Server based program allows "Client" software to be installed on unlimited number of workstations.  
 Concurrent Users limited by license.  
 XC2 Server can be run as an application or as a Windows "Service"  
 Installation on laptop or tablet PC requires separate remote-sync license.

<b>XC2-XX-FOG-PRO-XXX</b>	<b>XC2® FOG PRO FOG Management Software Module/Add On</b>	<b>\$2,200.00</b>
	Add-on to above license	

<b>XC2-XX-HYD-XXXX</b>	<b>XC2® Hydrant Testing/Flushing/Maintenance Module</b>	<b>\$1,800.00</b>
	Add-on to above license	

<b>XC2-XX-VAL-XXXX</b>	<b>XC2® Valve Exercising /Maintenance Module</b>	<b>\$1,750.00</b>
	Add-on to above license	

Continue on Next Page

Above Software Licenses include 1 Year of support and software updates  
Thereafter, annual support and maintenance/updates are priced at 20% of software licenses purchased.  
Any additions to software licenses will incur additional support charges.

\*\*\*\***CONFIDENTIAL**\*\*\*

**PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY**

**DATA-CONV-TOKAY****Convert Existing Data  
Cost to Be Determined - Estimated Range****\$1,000.00 - \$2,500.00**

Data Conversion/Import From Your Existing System(s)

Quoted prices are for a "Single" data conversion.

We can provide to perform an initial data conversion for testing and a second (or more) data conversion for production.

If additional data conversions are required or requested, this will incur additional cost.

Cost Based Upon Structure of Your Existing Data and Which Items You Choose to Have Converted.  
See attached Document for Items to be converted

XC2 Will Need a Copy of Your Current Data in Its Entirety to Quote a Firm Price On Data Conversion.  
NOTE: Data Conversion will only convert the data as it is in your current system.

Data conversion does not include "data cleanup" unless it is specifically contracted for and stated in the proposal. Any data cleanup that is required will incur additional cost unless previous stated otherwise.

We will convert the data that we are given. If the data given is not accurate, incomplete or in any other way requires additional work due to the quality, accuracy, completeness, consistency or otherwise, this will incur additional charges.

**XC2-XX-UFB-01-STD****Update From Billing System  
Manually Initiated Version - STANDARD - Estimated****\$1,800.00**

Pricing is for a standard interface with XC2 and your billing system. See Standard Interface Guidelines  
Pricing is dependent upon amount of consultation, analysis and testing of the file generated by your billing system.

See "ADVANCED" Interface for expanded capabilities.

Someone from your organization or your utility billing software vendor will need to create the mechanism that creates this file on a regular basis.

Requires Linking Data Between Systems. (e.g. Location ID, Premise ID)

Above pricing assumes that a populated data field that is the "Unique Site Identifier" exists.

See attached: Update from Billing System Guidelines

See "ADVANCED" Interface for expanded capabilities.

Someone from your organization or your utility billing software vendor will need to create the mechanism that creates this file on a regular basis.

Requires Linking Data Between Systems. (e.g. Location ID, Premise ID)

Above pricing assumes that a populated data field that is the "Unique Site Identifier" exists.

See attached: Update from Billing System Guidelines

**ZSP-UFB-SETUP****UFB Setup and Configuration****\$1,000.00**

Setup, Configuration and Testing of Update from Billing Feature

Cost based upon accuracy and thoroughness of your existing data as well as the update file.

Cost influences may consist of: Analysis of existing data and the update file, specifications and/or customization of special functions for update process, special field handling, multiple revisions of update file, massage of existing data, populating Unique ID in existing data, multiple tests of update process, et al.

The more accurate, thorough and complete information that you provide will have a direct effect on the cost of setup/configuration/testing. If the guidelines provided by XC2 are followed completely the first time, the cost will be minimal.

**XC2-XX-UFB-SVR-XXX****Update From Billing System  
Automatically Scheduled - Add On****\$2,000.00**

Add-On Optional Module to XC2-XX-UFB. XC2 Update from Billing System

Provides Updates to be automatically scheduled, daily, weekly, monthly.

Adminstrator will be notified by email when process begins, completes and if there are any errors.

**\*\*\*\*PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY\*\*\*\***

**Additional Options:**

- |   |                   |
|---|-------------------|
| <b>1. On-Site User Training at your location</b><br>(See Next page for Training at XC2 Software Location) | <b>\$6,200.00</b> |
| <b>2. Email Notifications</b><br>Ability to send notices to customers via Email                           | <b>\$1,850.00</b> |
| <b>3. On-line Test Report Entry (By Testing Contractors)</b>  |                   |
| a. Hosted by your organization (on time License Fee)  | <b>\$8,500.00</b> |
| b. Hosted by XC2Live!<br>Pricing Varies depending upon options selected: \$5.00 - \$20.00/Test            |                   |

\*\*\*\*PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY\*\*\*\*

## Training Options and Considerations

Purchase of XC2 Software does not include formal training in the purchase price unless it is specifically stated as being included.

Formal Training of XC2 Software may or may not be required or recommended for your organization. Most of our customers have never received formal training and they do just fine using our excellent support service for their specific questions. Other of our customers have certainly benefitted from formal on-site training. You will need to decide for yourselves if formal training is needed.

There is no "standard" training for the use of XC2. All trainings are customized to fit your organization's specific needs and way of doing business. All organizations run their programs differently than others, sometime dramatically so. As such, there is no standard training agenda. In all cases, the first portion of a training is a "discovery" process to outline how you do business. The actual software training is then designed around that process.

In all cases, it is far more effective if the trainees have first familiarized themselves with the basic look and navigation of XC2. In this way, the time allotted for training can be used far more efficiently, rather than spending time showing the trainees the basics, if they've not seen them before. This of course is entirely up to you. You will be paying for the trainers time. It is best if it is used in the most efficient fashion. In no case can we guarantee the effectiveness of a training. It is entirely dependent upon any specific trainee's preparation, level of participation and ability to absorb the material.

Training can be arranged at any time. We have two types of training: On-site at your location, or here at our training facility in Northern California. Please note that web based training is available only with special considerations.

Remote Web-Based training is rarely effective as it is only done as one-on-one, requires the trainee to wear a headset (not a speakerphone) and is only available in limited one or two hour time slots. The trainee must come fully prepared with specific questions, forms, reports and intentions.

Customer Agrees to pay \$500 if training has been scheduled and confirmed (with airline tickets or other paid arrangements that have been made), and then cancelled by Customer.

<b>TRAIN-02-03-TX</b>	<b>Implementation/Configuration/Training - Two-Day (Texas)</b>	<b>\$6,200.00</b>
<b>TRAIN-XC2-01-01</b>	<b>User Training At XC2 Office - 1 Day - 1 Person</b>	<b>\$1,400.00</b>
<b>TRAIN-XC2-01-02</b>	<b>User Training At XC2 Office - 1 Day - 2 Persons</b>	<b>\$2,200.00</b>
<b>TRAIN-XC2-02-01</b>	<b>User Training At XC2 Office - 2 Days - 1 Person</b>	<b>\$2,200.00</b>
<b>TRAIN-XC2-02-02</b>	<b>User Training At XC2 Office - 2 Days - 2 Persons</b>	<b>\$2,800.00</b>

**All prices Quoted in United States Dollars - All Payments to be made in United States Dollars**  
**All Software Delivered via Electronic Download**

Reference: Exhibit A (License and Warranty - See Section 12)

**Excepting for Canada and State of Washington**, Customer is responsible for and agrees to pay any and all sales or use taxes or any penalties due to late or non-payment of those taxes imposed at any time whatsoever on this transaction. Reporting of taxes due and payment of taxes shall be made directly to the local taxing authority and is the responsibility of Customer. The exhibits and schedules referred to in this agreement are to be included and constitute an integral part of this agreement and are deemed to be included in any purchase order resulting from this proposal.

**Please note: Anything NOT specifically stated and documented as being included as a feature or function of XC2 Software, may not be included, or may be available at an additional cost or as a customization.**

Annual Maintenance and Support Costs are based on 20% of the cost of products purchased (excludes data conversion, training).

**NOTE: UPGRADES: Upgrades to existing software will increase your total maintenance/support renewal amount. Upgrades include a credit of 1 year of maintenance/support, however your renewal date for both existing and new software will be pro-rated to fall on the same date.**

**Note: All Pricing is based upon organization size or other factors, ie. service connections, # of tracked locations. Above Price Quote will be honored through: October 31, 2015. Thereafter, pricing may change without notice.**

**\*\*\*\*PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY\*\*\*\***

**EXHIBIT A**  
**SOFTWARE LICENSE AGREEMENT AND WARRANTY**

**THIS LICENSE AND WARRANTY IS A LEGAL AGREEMENT BETWEEN YOU ("LICENSEE", EITHER AS AN INDIVIDUAL OR ENTITY) AND XC2 SOFTWARE LLC ("LICENSOR"). BY USING THE PRODUCT SHIPPED WITH THIS LICENSE AND WARRANTY, YOU ACCEPT AND AGREE TO THE TERMS HEREOF. IF YOU ARE NOT WILLING TO BE BOUND BY THE TERMS OF THIS LICENSE AND WARRANTY, YOU SHOULD RETURN THE PRODUCT TO LICENSOR IN ITS ORIGINAL PACKAGING AND REMOVE ANY PORTION OF THE SOFTWARE INSTALLATION FROM ANY AND ALL DRIVES WITHIN FIFTEEN (15) DAYS OF PURCHASE, AND YOU WILL RECEIVE A REFUND OF YOUR MONEY.**

**1. Definition of Product and Software.** As used herein, "Software" means the XC2 software shipped with this License and Warranty.

**2. General.** UNDER THE TERMS OF THIS LICENSE AND WARRANTY, THE SOFTWARE IS LICENSED (AND NOT SOLD) TO YOU. LICENSOR IS WILLING TO LICENSE THE SOFTWARE TO YOU ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS LICENSE AND WARRANTY.

**3. License Grant.** Licensor hereby grants to you, and you hereby accept from Licensor, a non-exclusive, nontransferable license to install, execute, and use the Software either (i) if for a "single-user" system, on the single computer only for which Licensor has provided you a license, or (ii) on a Multi-User (Client/Server) system for which the Licensor has provided a multi-user license. Multi-User systems may install the XC2 Client Software on as many computer workstations as desired. Concurrent users are limited by the license provided, including "One Concurrent User systems". Concurrent Users is defined as users accessing the software at the same time. All rights in the Software shall remain the property of Licensor or its licensors, if any. You shall not make any modifications to the Software without Licensor's prior written consent. You shall not reproduce the Software except to the extent strictly necessary for proper use of the Product; provided, however, that you may make an archive copy of the Software. UNLESS REQUIRED OTHERWISE BY LAW, YOU SHALL KEEP THE SOFTWARE AND ANY OPERATING MANUALS OR USER DOCUMENTATION ASSOCIATED THEREWITH IN CONFIDENCE AND SHALL NOT DISCLOSE OR PROVIDE ANY ASPECTS, SCREEN SHOTS, VIEWS OR FUNCTIONS OF THE SOFTWARE, MANUALS OR DOCUMENTATION TO ANY OTHER PARTY WITHOUT SPECIFIC WRITTEN CONSENT BY LICENSOR . You may not cause, permit or suffer the Software to be reverse engineered, disassembled or decompiled, rented, or offered for sale or other means of transfer or disposition, nor shall you develop software that performs the functions of the Software in the identical manner as the Software. So long as you comply with all terms of this License and Warranty, the license granted hereunder shall be perpetual. The license shall, however, in all events automatically terminate upon the sale or other transfer of the Software and/or in the event of the permanent discontinuance of the use of the Software by you, and the use of the Software by any purchaser or other transferee from you will be conditioned upon the grant of a new license in respect thereof by Licensor.

**4. U.S. Government Restricted Rights.** The Software and related documentation are "restricted computer software" as defined in the Commercial Computer Software Restricted Rights clause at 48 CFR 52.227-19 provided with "Restricted Rights." Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraphs (c)(1) and (2) of that clause.

**\*\*\*\*PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY\*\*\*\***

**5. Licensor's Rights.** You acknowledge and agree that the Software is a proprietary product of Licensor protected under U.S. copyright law. You further acknowledge and agree that all right, title, and interest in and to the Software, including associated intellectual property rights, are and shall remain with Licensor. This License and Warranty does not convey to you an interest in or to the Software, but only a limited right of use revocable in accordance with the terms of this License and Warranty.

**6. Limited Warranty.** Licensor warrants that the Software will substantially conform to the applicable Licensor published specifications provided Customer has a current maintenance and support contract in place. This limited warranty extends only to Customer as the original licensee. LICENSOR AND ITS LICENSORS DO NOT BY VIRTUE OF THIS AGREEMENT, AND HEREBY EXPRESSLY DISCLAIM, ANY REPRESENTATION OR WARRANTY TO ANY END USER OR OTHER THIRD PARTY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER LICENSEE NOR ANY THIRD PARTY SHALL HAVE THE RIGHT TO MAKE OR PASS ON ANY SUCH WARRANTY OR REPRESENTATION ON BEHALF OF LICENSOR TO ANY END USER OR THIRD PARTY. In no event does Licensor warrant that the Software is error free, that Licensee will be able to operate the Software without problems or interruptions, or that it will be compatible with the Licensee's own equipment and software configuration. During the limited warranty period you will be entitled to receive software fixes and updates to the software that Licensor releases and makes commercially available and for which it does not charge separately, subject to the procedures for delivery to purchasers of Licensor's products generally. This warranty does not apply if the software (a) has been altered, except by Licensor, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Licensor, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident, or (d) is used in ultra-hazardous activities. Some jurisdictions do not allow the exclusion of implied warranties or limitations on how long an implied warranty may last, so the above limitations may not apply to you. This warranty gives You specific legal rights. You may have other rights which vary from state to state. The foregoing warranty shall not apply to defects resulting from improper or inadequate maintenance by you, or software supplied by you, or interfacing, or unauthorized modifications, or misuse, or any component comprising the Software, has been altered in any way from its original installation. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**7. Limitation of Liability.** END USER AGREES THAT LICENSOR AND/OR ITS LICENSORS SHALL NOT IN ANY EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS OR OTHER ECONOMIC LOSS ARISING IN CONNECTION WITH END USER'S USE OF OR INABILITY TO USE THE DERIVATIVE PRODUCTS. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE AND INDEPENDENT OF ANY FAILURE OF ESSENTIAL PURPOSE OF THE REMEDIES PROVIDED HEREUNDER. THIS DISCLAIMER SHALL APPLY WHETHER OR NOT LICENSOR OR ITS LICENSORS HAVE BEEN APPRISED OF THE POSSIBILITY OF SUCH DAMAGES.

**\*\*\*\*PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY\*\*\*\***

**8. Indemnification.** Licensor agrees to defend, indemnify and hold you harmless from and against any claim, suit, demand, or action alleging that the Software or any component thereof infringes a copyright, trade secret, or any other proprietary right of any third party recognized under the laws of the United States, and Licensor shall indemnify you against all costs, expenses, (including reasonable attorney's fees), and damages arising from any such claim, suit, demand, or action; provided, however, that: (i) you shall have given Licensor prompt written notice of such claim, suit, demand, or action; (ii) you shall cooperate with Licensor in the defense and settlement thereof; and, (iii) Licensor shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof. If a temporary or a final injunction is obtained against your use of the Software or any portion thereof by reason of an infringement of a U.S. copyright, trade secret, or other proprietary right, Licensor will, at its option and expense, either (i) procure for you the right to continue using the Software or (ii) replace or modify the Software or such infringing portion thereof so that it no longer is infringing, so long as the utility or performance of the Software is not adversely affected by such replacement or modification. Licensor shall have no liability to you for any infringement action or claim that is based upon or arises out of the use of the Software or any component thereof in combination with any other system, equipment, or software in the event that, but for such use, the claim of infringement would not lie.

**9. No Assignment.** This Agreement shall not be assigned in whole or in part by either party without the prior consent of the other, that shall not be reasonably withheld, and any attempt by either party to so assign this Agreement shall be invalid. However, either party may assign this entire Agreement to a parent, subsidiary or affiliated company of that party without the consent of the other party.

**10. Termination.** The term of this Agreement shall remain in force for the duration of the licensing period. This Agreement may be terminated with 30 days written notice by XC2 Software LLC if Customer breaches or fails to comply with any of the terms and conditions of this Agreement. Customer will have 30 days from receipt of written notice to cure any terms or conditions that are in breach of or out of compliance with this agreement. Upon termination, customer shall immediately remove and destroy all copies of the Software or any part thereof. Upon XC2 Software LLC request, Customer will certify to XC2 Software LLC that all complete and partial copies of the Software have been destroyed or returned to XC2 Software LLC. The provisions of this Agreement, other than the license grant contained in Section 3 ("License Grant") shall survive termination.

**11. Terms, Pricing, Payment.** All prices quoted are in United States Dollars. All payments to be in United States Dollars. For initial installations, Customer shall be invoiced upon delivery of software and services. For maintenance and support contracts, Customer shall be invoiced upon receipt of purchase order or contract for the entire period of the contract, including multi-year contracts that include discounts. Customer agrees to pay the entire amount of the invoiced contract at the beginning of the contract period. Customer agrees to pay all invoices according to the following terms: NET 30

**12. Cancellations.** If Customer chooses to cancel any portion of the purchase order they may do so according to the following conditions: 1) Cancellations of software products purchased must be made within 30 days of delivery. 2) Customer agrees to pay for any services performed for or on behalf of customer including but not limited to data conversion, consulting and analysis. 3) Customer agrees to pay for any purchases made by Licensor that were made in order to fulfill the contracted items on the purchase order, including but not limited to any hardware or 3<sup>rd</sup> party software, deposits for rental of facilities that were to be used to fulfill any portion of the contracted services, such as training. 4) Customer agrees to pay \$500 for cancellation of confirmed on-site training dates, where airline tickets have been purchased by Licensor.

**\*\*\*\*PROPOSAL AND PRICING DETAILS ARE CONFIDENTIAL AND NOT TO BE SHARED WITH ANY 3RD PARTY\*\*\*\***

**13. Tax Liability.** Unless Customer is specifically exempted and provides necessary documentation, Customer is responsible for paying any sales or use tax imposed at any time whatsoever on this transaction, including any penalties due for non-payment or late payment. Reporting of taxes due and tax payments shall be made directly to the taxing authority.

**NOTE: For Canadian and State of Washington customers ONLY: XC2 Software LLC is required to collect and remit sales tax.**

**14. Governing Law.** This Agreement shall be construed in accordance with the <State of California> without giving effect to <California's> conflict of law principles.

**15. General.** Any term of this Agreement may be waived in writing by the party entitled to the benefits thereof. No waiver of any condition or breach shall be deemed to be a further or continuing waiver of such condition or breach. Delay or failure to exercise any right or remedy shall not be deemed the waiver of that right or remedy. Any provision of this Agreement, which shall be determined by a court of competent jurisdiction to be invalid or unenforceable, shall be severed from this Agreement without invalidating the remaining provisions thereof. This Agreement represents the entire agreement between the parties with respect to the Software and supersedes any prior agreement between the parties. Any modifications of this Agreement shall be in writing and signed by the parties. No agent or employee of Licensor is authorized to make any representation binding on Licensor unless the representation is in writing and signed by an authorized officer.

**16. Inclusion of Support and Maintenance Agreement.** Unless otherwise specifically stated, signing of this agreement includes acknowledgment and acceptance of the current XC2 Maintenance and Support Agreement.

_____	_____	_____	_____
City of Bedford , TX	Date	XC2 Software LLC	Date
_____		_____	
Print Name:		Print Name	
_____		_____	
Title		Title	



# Council Agenda Background

**PRESENTER:** Kelli Agan, Assistant City Manager

**DATE:** 10/13/15

**Council Mission Area:** Encourage citizen involvement.

**ITEM:**

Consider a resolution nominating one or more candidates to serve on the Board of Directors for the Tarrant Appraisal District.

**City Attorney Review:** N/A

**City Manager Review:** \_\_\_\_\_

**DISCUSSION:**

The Tarrant Appraisal District notified the City that the terms of service for the five members of the Tarrant Appraisal District (TAD) Board of Directors will expire on December 31, 2015. Later this year, there will be an election to select the next Board of Directors. For this election, the City of Bedford has been allocated 23 of the 5,000 total votes.

The first step in electing a new board is the nomination of candidates. Each voting unit may nominate one candidate for each of the five positions to be filled. The nominations must be made in an open meeting of the City Council and submitted to the Chief Appraiser in the form of a resolution by October 15, 2015. The nominations provided to the Chief Appraiser should include each nominee's name, address, and a current resume or curriculum vitae if available.

In order to be eligible to serve as a director, the nominee must meet the following criteria.

- They must have resided in Tarrant County for at least two years prior to January 1, 2016.
- They may not have an employee of a taxing unit within the County unless they are also an elected official in the governing body. Elected officials are eligible to serve.
- They may not be an employee of the appraisal district.
- They may not be related to a person who is in the business of appraising property for property tax purposes or represents property owners for compensation in proceedings in the appraisal district.
- They may not be related to a person that appraises property for use in a proceeding in the appraisal district.
- They are ineligible to serve if they, or a business in which they have a substantial interest, enters into a contract with the appraisal district or a taxing unit in the district, if that contract relates to the performance of an activity governed by Title I of the Texas Property Tax Code (ex: appraising property for tax purposes or determining eligibility for exemptions). A substantial interest exists when the individual and their spouse have a combined ownership of at least 10% of the voting stock or shares of a business, or if either of them is a partner, limited partner, or officer.

Once the nomination process is complete, the City will receive a ballot listing the nominees by October 30, 2015. The City Council will then have until December 15, 2015 to cast its 23. The five nominees receiving the highest vote total will be elected and take office for a two year term beginning January 1, 2016.

**RECOMMENDATION:**

Staff recommends the following motion:

Approval of a resolution nominating one or more candidates to serve on the Board of Directors for the Tarrant Appraisal District.

**FISCAL IMPACT:**

N/A

**ATTACHMENTS:**

Resolution

RESOLUTION NO. 15-

A RESOLUTION NOMINATING ONE OR MORE CANDIDATES TO SERVE ON THE BOARD OF DIRECTORS FOR THE TARRANT APPRAISAL DISTRICT.

WHEREAS, the Tarrant Appraisal District has notified the City that the terms of service for the five members of the Board of Directors will expire on December 31, 2015; and,

WHEREAS, an election to select the new Board of Directors will be conducted October 30, 2015 through December 15, 2015; and,

WHEREAS, each taxing unit within the district may nominate one candidate for each of the five positions to be placed on the ballot for consideration during said election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That the City of Bedford City Council nominates the following candidate(s) for consideration on the ballot of the Tarrant Appraisal District Board of Directors election to be held October 30, 2015 through December 15, 2015.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

SECTION 3. That this resolution be forwarded to the Tarrant Appraisal District by December 15, 2015.

PRESENTED AND PASSED this 13th day of October 2015, by a vote of \_\_\_ ayes, \_\_\_ nays, and \_\_\_ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

\_\_\_\_\_  
Jim Griffin, Mayor

ATTEST:

\_\_\_\_\_  
Michael Wells, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Stan Lowry, City Attorney