

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
APRIL 25, 2022**

Mayor, Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:03 P.M. at City Hall 120 E. Caney Street Wharton, TX. Councilmember, Clifford Jackson, led the opening devotion and Mayor, Tim Barker led the pledge of allegiance.

Councilmember's present were: Mayor, Tim Barker, and Councilmembers, Terry Freese; Alice Heard-Roberts; Clifford Jackson; Steve Schneider; and Don Mueller.

Councilmember absent was: Russell Machann.

Staff members present were: City Manager, Joseph R. Pace; Assistant City Attorney, Amy Rod; Finance Director, Joan Anandel; City Secretary, Paula Favors, TRMC, CPM, MMC; Assistant to the City Manager, Brandi Jimenez; Director of Planning and Development, Gwyn Teves; Planning & Development Specialist, Krystal Hasselmeier; Civic Center Manager, Makyla Monroe; and Public Works Director, Anthony Arcidiacono.

Visitors present were: Terry Arceo, Dana Arceo; and Joe Southern with the Wharton Journal Spectator.

Roll Call and Excused Absences.

Councilmember, Clifford Jackson, moved to excuse Councilmember, Russell Machann. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

Public Comments.

Mayor, Tim Barker, called for Public Comments. No comments were given.

Wharton Moment.

City Manager, Joseph R. Pace, stated he received notification of earning his designation of ICMA-CM (ICMA Credentialed Manager) or the ICMA Credentialed Manager through the International City/County Manager Association (ICMA) Voluntary Credentialing Program.

Review and Consider:

The first item on the agenda was to review and consider City of Wharton Financial Report for March 2022. Finance Director, Joan Anandel, presented the City of Wharton Financial Report for March 2022. After some discussion, Councilmember, Terry Freese, moved to approve the City of Wharton Financial Report for March 2022. Councilmember, Alice Heard-Roberts, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider the City of Wharton Annual Budget Calendar for Fiscal Year 2022-2023. Finance Director, Joan Anandel, presented a copy of the proposed City of Wharton Budget Calendar for Fiscal Year 2022-2023. After some discussion, Councilmember, Clifford Jackson, moved to approve the City of Wharton Annual Budget Calendar for Fiscal Year 2022-2023. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request from the Monterey Square Business Association for the following:

- A. Close Fulton Street between Burleson Street and Milam Street and close Houston Street between Burleson Street and Milam Street from 8:00 a.m. until 8:00 p.m. on Saturday, May 14, 2022. Close Milam Street to Hawes Street from 1:00 p.m. to 8:00 p.m. on Saturday, May 14, 2022.
- B. Waive all local permit fees.
- C. Display signage of Farmer's Jam Fest advertisement on Highway 59 Billboard.
- D. Provide waste containers and trash bags.

City Manager, Joseph R. Pace, presented a copy of the request from the Monterey Square Business Association for City assistance. Mrs. Terry Areco, with the Monterey Square Business Association, stated they planned to hold the 1st Farmer's Jam Fest on May 14, 2022 from 3:00 p.m. to 7:00 p.m. Mrs. Areco said this event was created to highlight the talents of local craft vendors and in this event, patrons would be able to shop the various craft vendor booths, as well as, the businesses in the downtown community. She said other activities would include live music, food vendors and a contest for canning, baking, jams and crafts. After some discussion, Councilmember, Terry Freese, moved to approve the request from the Monterey Square Business Association for the afore mentioned items. Councilmember, Alice Heard-Roberts, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a resolution setting a date, time, and place for a Public Hearing on the Proposed Annexation of a Certain Property, owned by the City of Wharton, Texas, and directing the City Secretary to publish notice of such Public Hearing. City Manager, Joseph R. Pace, stated the City Council accepted and approved a request for voluntary annexation on April 11, 2022, for the following properties:

1. 17.31 acres or 753,916 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34 and the William Kincheloe League, Abstract No. 38, Wharton County, Texas

2. 2.931 acres or 127,671 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
3. 2.950 acres or 128,519 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
4. 0.9058 acres or 39,456 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
5. 0.2055 acres or 8,952 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
6. 5.495 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
7. 3.686 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
8. 3.852 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas

Assistant City Attorney, Amy Rod, stated that in accordance with State law, the City must hold a public hearing in order to annex the property. Mrs. Rod said the City Staff was recommending that the public hearing be held during the regular Wharton City Council meeting scheduled for May 9, 2022. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-38, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-38**

A RESOLUTION SETTING A DATE, TIME, AND PLACE FOR A PUBLIC HEARING ON THE PROPOSED ANNEXATION OF CERTAIN PROPERTY, OWNED BY THE CITY OF WHARTON, TEXAS, AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE OF SUCH PUBLIC HEARING.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:

SECTION 1. On the 9th day of May 2022, at 7:00 p.m. o'clock in the City Council Chambers of the City Hall of the City of Wharton, Texas, the City Council will hold a Public Hearing giving all interested persons the right to appear and be heard on the proposed annexation by the City of Wharton, Texas of the following described property, to-wit:

1. 17.31 acres or 753,916 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34 and the William Kincheloe League, Abstract No. 38, Wharton County, Texas
2. 2.931 acres or 127,671 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
3. 2.950 acres or 128,519 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas

4. 0.9058 acres or 39,456 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
5. 0.2055 acres or 8,952 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
6. 5.495 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
7. 3.686 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
8. 3.852 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas

SECTION 2. The City Secretary of the City of Wharton, is hereby authorized and directed to cause notice of such Public Hearing to be published once in a newspaper having general circulation in the city and in the above-described territory not more than twenty days nor less than ten days prior to the date of such Public Hearing, in accordance with the Municipal Annexation Act.

Passed, Approved, and Adopted this the 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract for the Wharton Civic Center Meeting Rooms A & B Renovations and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager, Joseph R. Pace, stated that on October 15, 2021, the City of Wharton was awarded the LCRA CDPP Grant in the amount of \$50,000.00 for the renovations to the Wharton Civic Center's Meeting Rooms A & B, with a minimum 20% City match requirement of \$10,000.00. Planning & Development Specialist, Krystal Hasselmeier, stated the City of Wharton Civic Center sent a request for proposals to six (6) local contractors (Dream Maker Construction, Rosenberg Carpet & Flooring, Parker Construction, Polasek Construction, Stockwell Construction, and BLS Construction), receiving the only bid from Rosenberg Carpet & Flooring in the amount of \$70,414.89. Ms. Hasselmeier said it was the City Staff's recommendation to move forward

accepting the bid by Rosenberg Carpet & Flooring in the amount of \$70,414.89. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-39, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-39**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE WHARTON CIVIC CENTER MEETING ROOMS A & B RENOVATIONS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, Proposals were requested for the LCRA Community Partnership Program (CDPP) Grant for the Wharton Civic Center Meeting Rooms A & B renovations on February 22, 2022; and,

WHEREAS, Rosenberg Carpet & Flooring was the sole bidder in the amount of \$70,414.89; and,

WHEREAS, The Wharton City Council wishes to award a contract to Rosenberg Carpet & Flooring for the base bid amount of \$70,414.89; and,

WHEREAS, The City of Wharton and Rosenberg Carpet & Flooring wish to be bound by the conditions as set forth in the agreement; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. The Wharton City Council hereby authorizes the Mayor to execute the Rosenberg Carpet & Flooring contract.

Section II. The City of Wharton and Rosenberg Carpet & Flooring are hereby bound by the conditions as set forth in the contract.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider Wharton Municipal Swimming Pool:

A. Approval of the 2022 Pool Schedule.

City Manager, Joseph R. Pace presented a copy of the memorandum dated April 19, 2022 from Civic Center Manager, Makyla Monroe, providing the 2022 Wharton Municipal Swimming Pool Applications, Fees and Schedule. After some discussion, Councilmember, Terry Freese, moved to approve the 2022 Wharton Municipal Swimming Pool schedule. Councilmember, Alice Heard-Roberts, seconded the motion. All voted in favor.

The seventh item on the agenda was to review a consider a resolution by the City of Wharton, Texas ("City") denying the Distribution Cost Recovery Factor Rate Request of CenterPoint Energy Houston Electric, LLC made on or about April 5, 2022; authorizing participation in a coalition of similarly situated cities; authorizing participation in related rate proceedings; requiring the reimbursement of municipal rate case expenses; authorizing the retention of special counsel; finding that the meeting complies with the Open Meetings Act; making other findings and provisions related to the subject; and declaring an effective date. City Manager, Joseph R. Pace, stated that on April 5, 2022, CenterPoint Energy Houston Electric, LLC ("CEHE") submitted an Application for Approval of a Distribution Cost Recovery Factor ("DCRF") to increase its annual revenues by approximately \$145.7 million. Assistant City Attorney, Amy Rod, stated the CEHE proposed to implement this increase on September 1, 2022 and the application affected all retail electric providers ("REPs") serving end-use retail electric customers in CEHE's service-area and would affect the retail electric customers of those REPS to the extent the REPs choose to pass along the charges to their customers, which we expect REPs to attempt to do. Mrs. Rod said a DCRF permitted CEHE to recover a profit on the incremental investment it made in its distribution assets during the period following the end of the test year in its last general rate case or DCRF proceeding, whichever was the most recent. She said the Commission's rules dictate, pursuant to State law, that September 1, 2022, absent good cause, was the effective date for new rates, which means, absent good cause, the case would be resolved in approximately 150 days. After some discussion, Councilmember, Clifford Jackson, moved to approve City of Wharton Resolution No. 2022-40, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2022-40

RESOLUTION BY THE CITY OF WHARTON, TEXAS (“CITY”) DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE REQUEST OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC MADE ON OR ABOUT APRIL 5, 2022; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on about April 5, 2022, CenterPoint Energy Houston Electric, LLC (“CEHE”) filed an application for approval to amend its Distribution Cost Recovery Factor (“DCRF”) with the City that will increase CEHE’s rates effective September 1, 2022; and,

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act (“PURA”) and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over CEHE’s rates, operations, and services within the municipality, and specifically over its requested amendment to its DCRF under Chapter 36, §36.210; and,

WHEREAS, CEHE seeks to include in rates a profit related to its incremental investment in distribution assets it has made from January 1, 2019 through December 31, 2021; and,

WHEREAS, the inclusion of CEHE’s profit on its investment in distribution assets in rates, has the effect of increasing CEHE’s revenue requirement by approximately \$145.7 million; and,

WHEREAS, the jurisdictional deadline for the City to act in this rate matter is 60 days from the application date, or June 4, 2022; and,

WHEREAS, the City will require the assistance of specialized legal counsel and rate experts to review the merits of CEHE’s application to increase rates; and,

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating CEHE’s rate request, it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and,

WHEREAS, the City, in matters regarding applications by CEHE to change rates, has in the past joined with other local regulatory authorities to form the Texas Coast Utilities Coalition of Cities (“TCUC”) and hereby continues its participation in TCUC; and,

WHEREAS, CEHE simultaneously filed an application for approval of a DCRF with the Public Utility Commission of Texas, and therefore the decision of the Public Utility Commission of Texas will have an impact on the rates paid by the City and its

citizens who are customers in CEHE's service territory, and in order for the City's participation to be meaningful, it is important that the City promptly intervene in such proceeding at the Public Utility Commission of Texas; and,

WHEREAS, CEHE failed to show that its proposed rate change in rates is reasonable and therefore the City has concluded that CEHE's proposed rate change is unreasonable.

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

- Section I.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.
- Section II.** The City **DENIES** the rate change CEHE requested on or about April 5, 2022.
- Section III.** The City authorizes intervention in proceedings related to CEHE's application for approval of its DCRF before the Public Utility Commission of Texas and related proceedings in courts of law as part of the coalition of cities known as the Texas Coast Utilities Coalition of Cities ("TCUC").
- Section IV.** The City hereby orders CEHE to reimburse the City's rate case expenses as provided in the Public Utility Regulatory Act and that CEHE shall do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities related to this rate review or to related proceedings involving CEHE before the City, the Public Utility Commission of Texas, or any court of law.
- Section V.** Subject to the right to terminate engagement at any time, the City retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving CEHE before the City, the Public Utility Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of CEHE's rate application subject to approval by the City.
- Section VI.** The City, through its participation in TCUC, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to CEHE for reimbursement.
- Section VII.** A copy of this resolution shall be sent to CenterPoint Energy Houston Electric, LLC, care of Ms. Denise Gaw, 1111 Louisiana Street, Houston, Texas 77002; and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4400 Medical Parkway, Austin, Texas 78756.

Section VIII. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section IX. This resolution supersedes any prior inconsistent or conflicting resolution or ordinance.

Section X. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 25th day of April, 2022.

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Terry Freese, seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the sale of certain City of Wharton Properties as surplus properties and authorizing the Mayor of the City of Wharton to execute all necessary documents associated with said sale of those certain properties. City Secretary, Paula Favors, stated the item would be pulled from the agenda.

The ninth item on the agenda was to review and consider the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) Allocation:

- A. Resolution: A resolution of the Wharton City Council authorizing the approval of the Wharton Recovery Plan associated with the implementation of the City’s American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) allocation and authorizing the Mayor of the City of Wharton to execute all necessary documents associated with said plan.
- B. Resolution: A resolution of the Wharton City Council adopting the attached policies in connection with the City of Wharton, Texas participation in federally funded projects associated with the American Rescue Plan Act – Coronavirus Local Fiscal Recovery Fund (ARPA – CLFRF) and adherence to the regulations described therein and authorizing the Mayor of the City of Wharton to execute all necessary documents associated with said adoption.
- C. Resolución: Una resolución del concejo municipal de Wharton que adopta las políticas adjuntas en relación con la participación de la Ciudad de Wharton, Texas en proyectos financiados con fondos federales asociados con la ley del Plan de Rescate Estadounidense – Rondo de Recuperación Fiscal Local de Coronavirus (ARPA-CLFRF) y el cumplimiento

de las regulaciones descritas en el mismo y autorizando al Alcalde de la Ciudad de Wharton a ejecutar todos los documentos necesarios asociados con dicha adopción.

- D. Resolution: A resolution of the Wharton City Council authorizing the acceptance of American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF); and authorizing the Mayor and City Manager to act as the City’s Executive Officers and authorized representatives in all matters pertaining to the City’s implementation of the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) Funds and authorizing the Mayor of the City of Wharton to execute all necessary documents associated with said designation.

City Manager, Joseph R. Pace, stated the City of Wharton received a direct allocation from the Federal Government in reference to the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) Allocation. City Manager Pace, said that as part of the requirements for that funding, the City was required to adopt a Recovery Plan to submit to the Treasury Department by April 30th. Director of Planning & Development, Gwyn Teves, stated the implementation of the funding also required that the following plans and policies be adopted specific to the ARPA Funds:

1. Citizen Participation Plan and Grievance Procedures; and,
2. Section 3 Policy; and,
3. Excessive Force Policy; and,
4. Section 504 Policy and Grievance Procedures; and,
5. Limited English Proficiency Plan; and,
6. Fair Housing Policy; and,
7. Code of Conduct Policy

Mrs. Teves said that there must also be designated signatories for the funds. After some discussion, Councilmember, Alice Heard-Roberts moved to approve City of Wharton Resolution No. 2022-41, 2022-42, 2022-42B and 2022-43, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-41**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE APPROVAL OF THE WHARTON RECOVERY PLAN ASSOCIATED WITH THE IMPLEMENTATION OF THE CITY’S AMERICAN RESCUE PLAN ACT (ARPA) – CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF) ALLOCATION AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL NECESSARY DOCUMENTS ASSOCIATED WITH SAID PLAN.

WHEREAS, The City of Wharton desires to develop a transparent and viable program to ensure funding and program identification are clearly discussed and presented that will allow the City to recover and respond to the COVID-19 Pandemic; and,

WHEREAS, Certain conditions exist which represent a threat to the public health and safety;
and,

WHEREAS, It is necessary and in the best interests of City of Wharton to approve the Recovery Plan to utilize and implement ARPA - CLFRF funding.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. Approves the Wharton Recovery Plan associated with the implementation of the City's American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Funds (CLFRF) allocation.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the afore-mentioned plan.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2022-42**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE ATTACHED POLICIES IN CONNECTION WITH THE CITY OF WHARTON, TEXAS PARTICIPATION IN FEDERALLY FUNDED PROJECTS ASSOCIATED WITH THE AMERICAN RESCUE PLAN ACT – CORONAVIRUS LOCAL FISCAL RECOVERY FUND (ARPA – CLFRF) AND ADHERENCE TO THE REGULATIONS DESCRIBED THEREIN AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL NECESSARY DOCUMENTS ASSOCIATED WITH SAID ADOPTION.

WHEREAS, The City of Wharton, Texas, (hereinafter referred to as “City”) has been awarded ARP - CLFRF funding through an ARP - CLFRF Grant from the United States Treasury Department (hereinafter referred to as “TREASURY”); and,

- WHEREAS,** The City, in accordance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CLFRF activity, on the basis of race, color, religion, sex, national origin, age, or disability; and,
- WHEREAS,** The City, in consideration for the receipt and acceptance of federal funding, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections; and,
- WHEREAS,** The City, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 135, is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the ARP - CLFRF project area; and,
- WHEREAS,** The City, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State's certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations; and,
- WHEREAS,** The City, in accordance with Executive Order 13166, must take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each ARP - CLFRF project; and,
- WHEREAS,** The City, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and,
- WHEREAS,** The City, in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5) that requires federal programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period of the ARP - CLFRF contract, to affirmatively further fair housing; and,
- WHEREAS,** The City, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. The Wharton City Council adopts the following:

1. Citizen Participation Plan and Grievance Procedures; and
2. Section 3 Policy; and
3. Excessive Force Policy; and
4. Section 504 Policy and Grievance Procedures; and
5. Limited English Proficiency Plan; and
6. Fair Housing Policy; and
7. Code of Conduct Policy.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the afore-mentioned adoption.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CIUDAD DE WHARTON
RESOLUCIÓN NO. 2022-42B**

UNA RESOLUCIÓN DEL CONCEJO MUNICIPAL DE WHARTON QUE ADOPTA LAS POLÍTICAS ADJUNTAS EN RELACIÓN CON LA PARTICIPACIÓN DE LA CIUDAD DE WHARTON, TEXAS EN PROYECTOS FINANCIADOS CON FONDOS FEDERALES ASOCIADOS CON LA LEY DEL PLAN DE RESCATE ESTADOUNIDENSE – FONDO DE RECUPERACIÓN FISCAL LOCAL DE CORONAVIRUS (ARPA – CLFRF) Y EL CUMPLIMIENTO DE LAS REGULACIONES DESCRITAS EN EL MISMO Y AUTORIZANDO AL ALCALDE DE LA CIUDAD DE WHARTON A EJECUTAR TODOS LOS DOCUMENTOS NECESARIOS ASOCIADOS CON DICHA ADOPCIÓN.

CONSIDERANDO QUE, La Ciudad de Wharton, Texas, (en lo sucesivo denominada "Ciudad") ha recibido fondos ARP - CLFRF a través de una subvención ARP - CLFRF del Departamento del Tesoro de los Estados Unidos (en lo sucesivo denominado "TESORO"); y,

CONSIDERANDO QUE, La Ciudad, de conformidad con la Sección 109 del Título I de la Ley

de Vivienda y Desarrollo Comunitario. (24 CFR 6); la Ley de Discriminación por Edad de 1975 (42 U.S.C. 6101-6107); y la Sección 504 de la Ley de Rehabilitación de 1973 (29 U.S.C. 794) y para contratos de construcción superiores a \$10,000, debe tomar medidas para garantizar que a ninguna persona o grupo se le nieguen beneficios como el empleo, capacitación, vivienda y contratos generados por la actividad de la CLFRF, por motivos de raza, color, religión, sexo, origen nacional, edad o discapacidad; y,

CONSIDERANDO QUE, La Ciudad, en consideración por la recepción y aceptación de fondos federales, acuerda cumplir con todas las reglas y regulaciones federales, incluidas las reglas y regulaciones que rigen la participación ciudadana y la protección de los derechos civiles; y,

CONSIDERANDO QUE, La Ciudad, de conformidad con la Sección 3 de la Ley de Vivienda y Desarrollo Urbano de 1968, según enmendada, y 24 CFR Parte 135, está obligada, en la mayor medida posible, a proporcionar oportunidades de capacitación y empleo a residentes de bajos ingresos y oportunidades de contrato a empresas en el área del proyecto ARP - CLFRF; y,

CONSIDERANDO QUE, La Ciudad, de conformidad con la Sección 104(1) de la Ley de Vivienda y Desarrollo Comunitario, según enmendada, y los requisitos de certificación del Estado en 24 CFR 91.325(b)(6), debe adoptar una política de fuerza excesiva que prohíba el uso de fuerza excesiva contra manifestaciones no violentas de derechos civiles; y,

CONSIDERANDO QUE, La Ciudad, de acuerdo con la Orden Ejecutiva 13166, debe tomar medidas razonables para garantizar un acceso significativo a los servicios en programas y actividades con asistencia federal por parte de personas con dominio limitado del inglés (LEP) y debe tener un plan LEP específico para la localidad y los beneficiarios para cada proyecto ARP - CLFRF; y,

CONSIDERANDO QUE, La Ciudad, de acuerdo con la Sección 504 de la Ley de Rehabilitación de 1973, no discrimina por motivos de discapacidad y acuerda garantizar que las personas calificadas con discapacidades tengan acceso a programas y actividades que reciben fondos federales; y,

CONSIDERANDO QUE, La Ciudad, de conformidad con la Sección 808 (e) (5) de la Ley de Vivienda Justa (42 USC 3608 (e) (5)) que requiere que los programas y actividades federales se administren de manera afirmativa para promover las políticas de la Ley de Vivienda Justa, acuerda realizar al menos una actividad durante el período del contrato ARP - CLFRF, promover afirmativamente una vivienda justa; y,

CONSIDERANDO QUE, La Ciudad, se compromete a mantener normas escritas de conducta que cubran los conflictos de intereses y rijan las acciones de sus empleados involucrados en la selección, adjudicación y administración de contratos.

AHORA, POR LO TANTO, SEA RESUELTO POR EL CONCEJO MUNICIPAL DE LA CIUDAD DE WHARTON, TEXAS de la siguiente manera:

Sección I. El Ayuntamiento de Wharton adopta lo siguiente:

1. Plan de Participación Ciudadana y Procedimientos de Quejas; y
2. Sección 3 Política; y
3. Política de Fuerza Excesiva; y
4. Sección 504 Política y Procedimientos de Quejas; y
5. Plan de dominio limitado del inglés; y
6. Política de Vivienda Justa; y
7. Política del Código de Conducta.

Sección II. Que el Alcalde de la Ciudad de Wharton está autorizado a firmar cualquier documento relacionado con la adopción antes mencionada.

Sección III. Que la presente resolución entrará en vigor inmediatamente después de su aprobación.

Aprobado, Aprobado y Adoptado este día 25 de abril de 2022.

CITY OF WHARTON, TEXAS

Por: _____
TIM BARKER
Mayor

ATESTIGUAR:

PAULA FAVOR
Secretario de la Ciudad

**CITY OF WHARTON
RESOLUTION NO. 2022-43**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE ACCEPTANCE OF AMERICAN RESCUE PLAN ACT (ARPA) – CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF); AND AUTHORIZING THE MAYOR AND CITY MANAGER TO ACT AS THE CITY’S EXECUTIVE OFFICERS AND AUTHORIZED REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE

CITY'S IMPLEMENTATION OF THE AMERICAN RESCUE PLAN ACT (ARPA) – CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF) FUNDS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL NECESSARY DOCUMENTS ASSOCIATED WITH SAID DESIGNATION.

WHEREAS, The City Council of Wharton desires to develop a viable community, including decent housing, suitable living environment, expanding economic opportunities, addressing health and safety needs, and improving critical infrastructure in response to the COVID-19 Pandemic; and,

WHEREAS, Certain conditions exist which represent a threat to the public health and safety; and,

WHEREAS, It is necessary and in the best interests of the City of Wharton to utilize and implement ARPA - CLFRF funding.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the ARPA-CLFRF is hereby authorized to be accepted on behalf of the City from the United States Treasury Department.

Section II. That the City's allocation be split into two (2) tranches in the amount of \$2,140,127.24 with Tranche No.1 being \$1,070,063.62 and Tranche No. 2 being \$1,070,063.62.

Section III. That the City will receive Supplemental Tranche Payments in the amount of \$2,114.79.

Section IV. That the City Council directs and designates the following to act in all matters in connection with the City's participation in the ARPA - CLFRF:

- The Mayor and City Manager shall serve as the City's Chief Executive Officers and Authorized Representatives to execute funding requests, authorizations, and any subsequent contractual documents; and,
- The City Manager is authorized to execute environmental review documents and to certify to environmental clearance matters associated with the ARPA – CLFRF Funds; and,
- The Mayor, City Manager, Finance Director, and Director of Planning & Development are authorized to execute payment documents and/or other forms required to reimburse project costs.

Section V. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements as directed by the United States Treasury

Department.

Section VI. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the afore-mentioned designation.

Section VII. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Clifford Jackson seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving Amendment No. 1 for the HDR Professional Service Agreement for the Right of Way Services for the City of Wharton’s U.S. Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery (“CDBG-DR”) Project, Contract No. 20-066-005-C034, administered by the Texas General Land Office (“GLO”) for damage sustained from Hurricane Harvey and authorizing the Mayor to execute all documents related to the amendment. City Manager, Joseph R. Pace, stated that on April 5, 2022, the City Staff received the Amendment No. 1 request from HDR for a 1-year extension to the Professional Service Agreement executed on June 14, 2021, for the Right of Way Services for the City of Wharton’s U.S. Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery (“CDBG-DR”) Project, Contract No. 20-066-005-C034, administered by the Texas General Land Office (“GLO”) for damage sustained from Hurricane Harvey. Director of Planning & Development, Gwyn Teves, stated the additional year was requested due to the numerous delays being experienced in the project in moving forward with the actual acquisition process. After some discussion, Councilmember, Alice Heard-Roberts, moved to approve City of Wharton Resolution No. 2022-44, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-44**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AMENDMENT NO. 1 FOR THE HDR PROFESSIONAL SERVICE AGREEMENT FOR THE RIGHT OF WAY SERVICES FOR THE CITY OF WHARTON’S U.S. DEPARTMENT OF HOUSING AND

URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (“CDBG-DR”) PROJECT, CONTRACT NO. 20-066-005-C034, ADMINISTERED BY THE TEXAS GENERAL LAND OFFICE (“GLO”) FOR DAMAGE SUSTAINED FROM HURRICANE HARVEY AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO THE AMENDMENT.

WHEREAS, The Wharton City Council wishes to approve Amendment No. 1 for the HDR Professional Service Agreement for the Right of Way Services for the City of Wharton’s U.S. Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery (“CDBG-DR”) Project, Contract No. 20-066-005-C034, administered by the Texas General Land Office (“GLO”) for damage sustained from Hurricane Harvey; and,

WHEREAS, The additional year is requested due to delays with the project acquisitions; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor to execute all documents related to the amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. The Wharton City Council hereby authorizes Amendment No. 1 for the HDR Professional Service Agreement for the Right of Way Services for the City of Wharton’s U.S. Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery (“CDBG-DR”) Project, Contract No. 20-066-005-C034, administered by the Texas General Land Office (“GLO”) for damage sustained from Hurricane Harvey.

Section II. The Wharton City Council hereby authorizes the Mayor to execute all documents related to the amendment.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submittal of a Letter of Support to Texas Department of Transportation for the request to classify the function code of FM 1301 as a Minor Arterial Roadway and authorize the Mayor to submit the letter of support. City Manager, Joseph R. Pace, stated the City Staff met with TxDOT Yoakum District Engineer, John Paul Clark, and was advised that the Commission would require that a Letter of Support from the City of Wharton would be required for the FM 1301 Extension prior to the letting of construction. Director of Planning & Development, Gwyn Teves, stated the current existing portion of FM 1301 were classified as a Minor Arterial. After some discussion, Councilmember, Clifford Jackson, moved to approve City of Wharton Resolution No. 2022-45, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-45**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMITTAL OF A LETTER OF SUPPORT TO TEXAS DEPARTMENT OF TRANSPORTATION FOR THE REQUEST TO CLASSIFY THE FUNCTION CODE OF FM 1301 AS A MINOR ARTERIAL ROADWAY AND AUTHORIZE THE MAYOR TO SUBMIT THE LETTER OF SUPPORT.

WHEREAS, TxDOT Yoakum District has contacted the City of Wharton and requested to classify the new FM 1301 Extension as a Minor Arterial Roadway and request a Letter of Support; and,

WHEREAS, The existing section of FM 1301 is currently classified as a Minor Arterial Roadway; and,

WHEREAS, The Wharton City Council wishes to authorize the Letter of Support to Texas Department of Transportation for the Functional Class Change of FM 1301 to the TxDOT Yoakum District.

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

Section I: The Wharton City Council hereby approves the submittal of the Letter of Support to Texas Department of Transportation for the Permit for the request to classify the function code of FM 1301 as a Minor Arterial Roadway.

Section II: The Wharton City Council hereby authorizes the Mayor of the City of Wharton to submit the Letter of Support.

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th day of April 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Terry Freese, seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider Change Order No. 1 from Aranda Industries for the Hughes Street Utility Relocates. City Manager, Joseph R. Pace, presented a copy of Change Order No. 1 from Aranda Industries for the Hughes Street Utility Relocates. Public Works Director, Anthony Arcidiacono, stated that on April 11, 2022, Change Order #1 was received by Aranda Industries to adjust the existing 54-inch storm sewer and brace existing power pole to allow for the installation of new gravity sewer. Mr. Arcidiacono said the configuration of the existing storm sewer and depth of proposed sanitary sewer required the storm be adjusted to install sanitary at a cost of \$8,000.00. After some discussion, Councilmember, Terry Freese, moved to approve consider Change Order No. 1 from Aranda Industries for the Hughes Street Utility Relocates in the amount of \$8,000. Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider an update of City of Wharton Grant Programs. City Manager, Joseph R. Pace, presented a copy of a memorandum from Director of Planning & Development, Gwyn Teves, providing an update on the City of Wharton Grant Programs. After some discussion, no action was taken.

The fourteenth item on the agenda was to review and consider an update of City of Wharton on-going Projects. City Manager, Joseph R. Pace, presented a copy of his memorandum dated April 12, 2022, which stated the following:

FLOOD REDUCTION (LEVEE) PROJECT:

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>. The Project Participation Agreement (PPA) has been executed. The City has hired HDR for Right-of-Way Acquisition and Jones & Carter for City and private company utility relocations. The City has acquired all but 1 property for Phase 1 and is

currently proceeding with Eminent Domain on the last property. Utility relocations for both City utilities and private utilities has started.

DRAINAGE:

1. Stavena Addition Drainage Project.

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil. The ideal disposal site should be close to the project site to reduce the cost of construction. The project is one of the construction projects to be funded with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program for partial assistance.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Department is currently working out the details. The ditch improvements were proposed under the Texas General Land Office (GLO) Infrastructure Grant Program. The staff is currently working with an appraiser for ROW acquisition. The project is also listed as one of the construction projects to be funded with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program for partial assistance.

3. On-going Drainage and Maintenance Program.

The Public Works Department has continued working on cleaning residential drainage ditches that have experienced poor drainage.

4. Pecan Acres (Mahan, Kinkaid, Delmas) Drainage Project.

Installation of the drainage pipes was completed. The City Public Works Department will be regrading ditches to improve the drainage in the area. The project is listed as one of the construction projects to be funded with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program for partial assistance.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

Water leaks and sewer failures are still being seen in the month of March.

2. Water Well and Water Plant Project – CR 222 (Halford).

Halff and Associates the City's engineering firm on the project has completed the construction plans. The City Council and USDA have approved the construction contracts and construction has begun with E-Contractors and Wiesinger, Inc. Monthly progress meetings are being held. Installation of the permanent casing has started, and the holding tank construction is almost complete. Plumbing and electrical work is being completed over the next couple months.

STREET IMPROVEMENTS:

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City has received the funding for the project under the State Infrastructure Bank (SIB) Program. All properties have been acquired and annexation is being completed of the ROW. ROW will be turned over to TxDOT for construction letting in August 2022.

2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT. TxDOT has informed the City that CivilCorp engineering has begun design and the City is involved in regular coordination meetings. City staff is coordinating with Jones & Carter Engineering on utility relocations of water and sewer lines along I-69 that will be impacted by the expansion.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa and JM Eagle on the exit design.

After some discussion, no action was taken.

The fifteenth item on the agenda was to review and consider appointments and resignations to the City of Wharton Boards, Commissions and Committees. After some discussion, no action was taken.

The sixteenth item on the agenda was to review and consider the City Manager's Reports:

- A. City Secretary/Personnel.
- B. Code Enforcement.
- C. Community Services Department/Civic Center.
- D. Emergency Management.
- E. E. M. S. Department.
- F. Facilities Maintenance Department/Wharton Municipal Pool.
- G. Fire Department.
- H. Fire Marshal.
- I. Legal Department.
- J. Municipal Court.
- K. Police Department.
- L. Public Works Department.
- M. Water/Sewer Department.
- N. Weedy Lots/Sign Ordinance.
- O. Wharton Regional Airport.

After some discussion, no action was taken.

There being no further discussion, Councilmember, Don Mueller, moved to adjourn. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The meeting adjourned at 7:29 p.m.

CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

