

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
OCTOBER 14, 2019**

Mayor Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:00 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, Russell Machann, Don Mueller and Steve Schneider.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr, City Attorney Paul Webb, Finance Director Joan Andel, City Secretary Paula Favors, TRMC, CPM, MMC, Assistant to the City Manager Brandi Jimenez, Public Works Director John Plaia, Police Chief Terry David Lynch, Airport Manager David Allen, Civic Center Manager Makyla Monroe and Community Development Director Gwyn Teves.

Visitors present were: Doris Huddleston, Mark Micheletti, Dr. Keith J. Ermis, Iola Johnson, Phillis Johnson, Cyndi Delgado, Duria Jackson, Landy Williams and Chad Odom, Executive Director, Wharton Economic Development Corporation.

Roll Call and Excused Absences. All Councilmembers were present.

Public Comments. No comments were given.

Wharton Moment. Councilmember Terry Freese congratulated the Wharton High School Varsity Football team on their victory over Booker T. Washington. City Manager Andres Garza, Jr. congratulated City Secretary Paula Favors on her certification of Master Municipal Clerk through the International Institute of Municipal Clerks (IIMC).

The first item on the agenda was to review and consider the reading of the minutes from the regular meetings held September 9, 2019 and September 23, 2019 and special meeting held September 30, 2019. Councilmember Don Mueller moved to approve the reading of the minutes from the regular meetings held September 9, 2019 and September 23, 2019 and special meeting held September 30, 2019. Councilmember Russell Machann seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request from First Baptist Church for assistance in road blocks for their annual Harvest Fest on October 31, 2019. City Manager Andres Garza, Jr. presented a request from First Baptist Church for assistance in road blocks for their annual

Harvest Fest on October 31, 2019. After some discussion, Councilmember Russell Machann moved to approve the request from First Baptist Church for the lending of road blocks for their annual Harvest Fest on October 31, 2019. Councilmember Don Mueller seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request from the Wharton Downtown Business Association for assistance for the Downtown Boo Bash for the following:

1. Close Fulton Street between Burleson Street and Milam Street & Houston Street between Burleson Street & the first entrance into Guffey Park from 4 p.m. until 9 p.m., Thursday October 31, 2019.
2. Provide 6 generator light plants for safety for the fair location and Guffey Park parking.

City Manager Andres Garza, Jr. presented a request from the Wharton Downtown Business Association for assistance for the Downtown Boo Bash. City Manager Garza stated the event would be on October 31, 2019 from 5p.m.-8p.m. and patrons would be able to shop the various businesses in the downtown community and Trick or Treat for candy while other activities included some food vendors, a pumpkin carving/decorating contest, a costume contest, crafts and games. After some discussion, Councilmember Don Mueller moved to approve the Wharton Downtown Business Association's afore mentioned requests for the Downtown Boo Bash. Councilmember Steve Schneider seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider an ordinance abandoning a Utility Easement on a 0.916 ac. tract of land, situated in the William Kincheloe League, Abstract No. 38, City of Wharton, Wharton County, Texas. City Manager Andres Garza, Jr. stated the City Staff received a request from Mr. Mark Micheletti on behalf of Berkeley Eye Center to release the easement at 1602 North Fulton Street, a 0.916 acre tract of land, situated in the William Kincheloe League, Abstract No. 41. Community Development Director Gwyn Teves stated Mr. Micheletti was requesting that the City release the easement that runs from Centennial Street to the northern property line. Mrs. Teves said the City of Wharton previously released an easement on the adjoining lot in December of 1999 and there currently were no utilities utilizing the easement. After some discussion, Councilmember Terry Freese moved to approve City of Wharton Ordinance No. 2019-28, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-28**

AN ORDINANCE ABANDONING A UTILITY EASEMENT ON A 0.916 AC. TRACT OF LAND, SITUATED IN THE WILLIAM KINCHELOE LEAGUE, ABSTRACT NO. 38, CITY OF WHARTON, WHARTON COUNTY, TEXAS.

WHEREAS, An easement has been designated for utility purposes on a 0.916 AC. Tract of land, situated in the William Kincheloe League, Abstract No. 38, as shown on the survey attached hereto, marked Exhibit A, and incorporated herein; and,

WHEREAS, The owner has requested the City of Wharton, Texas to abandon the above described easement; and,

WHEREAS, The above described easement is obsolete and is not being used for any utility services; and,

WHEREAS, It appears to the Mayor and City Council of Wharton, Texas that it is desirable and proper to close, abandon, and vacate the above described easement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that:

Section I. The City of Wharton closes, abandons, and vacates the above described utility easement.

Section II. The City Secretary is hereby directed to file with the County Clerk of Wharton, Texas, a certified copy of this ordinance.

Section III. This ordinance shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Russell Machann 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 approving a Memorandum of Understanding with Firehouse Subs for an all-terrain vehicle and authorizing the Chief of Police to execute all documents related to said submittal. City Manager Andres Garza, Jr. presented a memorandum to him from Chief Lynch regarding the submittal of a grant application to Firehouse Subs for an all-terrain vehicle. Chief Lynch stated the all-terrain vehicle would be for official police use and would be a four passenger atv. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-105, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-105**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A MEMORANDUM OF UNDERSTANDING WITH FIREHOUSE SUBS FOR AN ALL-TERRAIN VEHICLE AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMITTAL.

WHEREAS, The Wharton Police Department submitted a grant application to Firehouse Subs for an all-terrain vehicle; and,

WHEREAS, The Wharton Police Department was selected as a recipient for said all-terrain vehicle; and,

WHEREAS, To receive said vehicle a Police Department Representative must execute and Memorandum of Understanding with Firehouse Subs; and,

WHEREAS, The Wharton City Council wishes to authorize the Chief of Police of the City of Wharton to execute all documents relating to said Memorandum of Understanding.

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

SECTION I. The Wharton City Council hereby approves a Memorandum of Understanding between the City of Wharton and Firehouse Subs for an all-terrain vehicle.

SECTION II. The City designates the Chief of Police as the person authorized to sign all forms related to said Memorandum of Understanding.

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

PASSED, APPROVED, and ADOPTED this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Letter of Agreement between the City of Wharton and Mississippi State University Raspes Flight Research Laboratory and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. presented a memorandum to him from Airport Manager David Allen regarding a Letter of Agreement between the City of Wharton and Mississippi State University Raspes Flight Research Laboratory to conduct Unmanned Aircraft Systems for research, development, testing and evaluation for academic and scientific research projects. City Manager Garza said the Airport Board met on October 8, 2019 and voted to recommend the Letter of Agreement to the City Council for consideration. City Manager Garza presented a copy of the Letter of Agreement and the draft resolution. Airport Manager David Allen stated the agreement would allow the use of drones for NOAA research. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Resolution No. 2019-106, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-106**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A LETTER OF AGREEMENT BETWEEN THE CITY OF WHARTON AND MISSISSIPPI STATE UNIVERSITY RASPES FLIGHT RESEARCH LABORATORY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The Wharton City Council wishes to enter into a Letter of Agreement with Mississippi State University Raspes Flight Research Laboratory for the use of Unmanned Aircraft Systems for research, development, testing, evaluations and academic and scientific research projects; and,

WHEREAS, The City of Wharton and Mississippi State University Raspes Flight Research Laboratory wish to be bound by the conditions of said Letter of Agreement; and,

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

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a Letter of Agreement with Mississippi State University Raspes Flight Research Laboratory.

Section II. The City of Wharton and Mississippi State University Raspet Flight Research Laboratory are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 14th day of October 2019.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventh item on the agenda was to review and consider Flood Mitigation Assistance Grant (FMA) Program:

A. Resolution: A resolution of the Wharton City Council authorizing the request to apply for the upcoming Flood Mitigation Assistance Grant (FMA) Program and authorizing the Mayor of the City of Wharton to execute all documents related to said submission.

B. Resolution: A resolution of the Wharton City Council establishing a Consultant Selection Committee and developing evaluation criteria for the selection of a consulting firm for the upcoming Flood Mitigation Assistance Grant (FMA) Program for application and grant management.

C. Resolution: A resolution of the Wharton City Council establishing a Consultant Selection Committee and developing evaluation criteria for the selection of a consulting firm for the upcoming Flood Mitigation Assistance Grant (FMA) Program for engineering services.

City Manager Andres Garza, Jr. stated that on August 26, 2019, FEMA announced the Notice of Funding opportunity for the 2019 Flood Mitigation Assistance (FMA) Program. City Manager Garza said the application period was open through January 31, 2020 and the City Staff was requesting to submit an application. Community Development Director Gwyn Teves stated the Public Works Committee meet on October 14, 2019 and were recommending the City Council consider approving the request. After some discussion, Councilmember Russell Machann moved

to approve City of Wharton Resolution No. 2019-107, 2019-108 and 2019-109, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-107**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE REQUEST TO APPLY FOR THE UPCOMING FLOOD MITIGATION ASSISTANCE GRANT (FMA) PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The Federal Emergency Management Agency (FEMA) has published a notice of funding availability; and,

WHEREAS, The City of Wharton City Council wishes to submit applications to the upcoming Flood Mitigation Assistance Grant (FMA) Program for assistance; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said application.

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

SECTION I. The Wharton City Council hereby approves for The City of Wharton to apply to the upcoming Flood Mitigation Assistance Grant (FMA) Program.

SECTION II. The City designates the Mayor as the person authorized to sign all forms related to the preparation of the application.

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

PASSED, APPROVED, and ADOPTED this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-108**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A CONSULTANT SELECTION COMMITTEE AND DEVELOPING EVALUATION CRITERIA FOR THE SELECTION OF A CONSULTING FIRM FOR THE UPCOMING FLOOD MITIGATION ASSISTANCE GRANT (FMA) PROGRAM FOR APPLICATION AND GRANT MANAGEMENT.

WHEREAS, The Wharton City Council wishes to establish a Consultant Selection Committee for the upcoming Flood Mitigation Assistance Grant (FMA) Program and provide recommendations to the entire City Council; and,

WHEREAS, The Wharton City Council wishes the Consultant Selection Committee to consist of the City Council Public Works Committee along with the City Manager and Community Development Director; and,

WHEREAS, The Wharton City Council wishes for this Committee to exist until a recommendation is forwarded to the entire City Council; and,

WHEREAS, The Wharton City Council wishes to establish the criteria of selection of the consulting firm as per Attachment A.

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

Section I. That the Wharton City Council hereby establishes the City Council Consultant Selection Committee.

Section II. That the Wharton City Council Consultant Selection Committee will consist of the City Council Public Works Committee along with the City Manager and Community Development Director.

Section III. That the criteria as set forth in Attachment A is hereby approved.

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

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-109**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A CONSULTANT SELECTION COMMITTEE AND DEVELOPING EVALUATION CRITERIA FOR THE SELECTION OF A CONSULTING FIRM FOR THE UPCOMING FLOOD MITIGATION ASSISTANCE GRANT (FMA) PROGRAM FOR ENGINEERING SERVICES.

WHEREAS, The Wharton City Council wishes to establish a Consultant Selection Committee for the upcoming Flood Mitigation Assistance Grant (FMA) Program and provide recommendations to the entire City Council; and,

WHEREAS, The Wharton City Council wishes the Consultant Selection Committee to consist of the City Council Public Works Committee along with the City Manager and Public Works Director; and,

WHEREAS, The Wharton City Council wishes for this Committee to exist until a recommendation is forwarded to the entire City Council; and,

WHEREAS, The Wharton City Council wishes to establish the criteria of selection of the consulting firm as per Attachment A.

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

Section I. That the Wharton City Council hereby establishes the City Council Consultant Selection Committee.

Section II. That the Wharton City Council Consultant Selection Committee will consist of the City Council Public Works Committee along with the City Manager and Public Works Director.

Section III. That the criteria as set forth in Attachment A is hereby approved.

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

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
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 Pre-Disaster Mitigation Grant (PDM) Program:

A. Resolution: A resolution of the Wharton City Council authorizing the request to apply for the upcoming Pre-Disaster Mitigation Grant (PDM) Program and authorizing the Mayor of the City of Wharton to execute all documents related to said submission.

B. Resolution: A resolution of the Wharton City Council establishing a Consultant Selection Committee and developing evaluation criteria for the selection of a consulting firm for the upcoming Pre-Disaster Mitigation Grant (PDM) Program for application and grant management.

C. Resolution: A resolution of the Wharton City Council establishing a Consultant Selection Committee and developing evaluation criteria for the selection of a consulting firm for the Pre-Disaster Mitigation Grant (PDM) Program for engineering services.

City Manager Andres Garza, Jr. stated that on August 26, 2019, FEMA announced the Notice of Funding opportunity for the Pre-Disaster Mitigation (PDM) Program and the application period was open through January 31, 2020 and the City Staff was requesting to submit an application. Community Development Director Gwyn Teves stated the Public Works Committee meet on October 14, 2019 and were recommending the City Council consider approving the request. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-110, 2019-111 and 2019-112, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2019-110

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE REQUEST TO APPLY THE UPCOMING PRE-DISASTER MITIGATION GRANT (PDM) PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The Federal Emergency Management Agency (FEMA) has published a notice of funding availability; and,

WHEREAS, The City of Wharton City Council wishes to submit applications to the upcoming Pre-Disaster Mitigation Grant (PDM) Program for Pre-Disaster Mitigation assistance; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said application.

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

SECTION I. The Wharton City Council hereby approves for The City of Wharton to apply to the upcoming Pre-Disaster Mitigation Grant (PDM) Program.

SECTION II. The City designates the Mayor as the person authorized to sign all forms related to the preparation of the application.

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

PASSED, APPROVED, and ADOPTED this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-111**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A CONSULTANT SELECTION COMMITTEE AND DEVELOPING EVALUATION CRITERIA FOR THE SELECTION OF A CONSULTING FIRM FOR THE UPCOMING PRE-DISASTER MITIGATION GRANT (PDM) PROGRAM FOR APPLICATION AND GRANT MANAGEMENT.

WHEREAS, The Wharton City Council wishes to establish a Consultant Selection Committee for the upcoming Pre-Disaster Mitigation Grant (PDM) Program and provide recommendations to the entire City Council; and,

WHEREAS, The Wharton City Council wishes the Consultant Selection Committee to consist of the City Council Public Works Committee along with the City Manager and Community Development Director; and,

WHEREAS, The Wharton City Council wishes for this Committee to exist until a recommendation is forwarded to the entire City Council; and,

WHEREAS, The Wharton City Council wishes to establish the criteria of selection of the consulting firm as per Attachment A.

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

Section I. That the Wharton City Council hereby establishes the City Council Consultant Selection Committee.

Section II. That the Wharton City Council Consultant Selection Committee will consist of the City Council Public Works Committee along with the City Manager and Community Development Director.

Section III. That the criteria as set forth in Attachment A is hereby approved.

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

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-112**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A CONSULTANT SELECTION COMMITTEE AND DEVELOPING EVALUATION CRITERIA FOR THE SELECTION OF A CONSULTING FIRM FOR THE PRE-DISASTER MITIGATION GRANT (PDM) PROGRAM FOR ENGINEERING SERVICES.

WHEREAS, The Wharton City Council wishes to establish a Consultant Selection Committee for the Pre-Disaster Mitigation Grant (PDM) Program and provide recommendations to the entire City Council; and,

WHEREAS, The Wharton City Council wishes the Consultant Selection Committee to consist of the City Council Public Works Committee along with the City Manager and Public Works Director; and,

WHEREAS, The Wharton City Council wishes for this Committee to exist until a recommendation is forwarded to the entire City Council; and,

WHEREAS, The Wharton City Council wishes to establish the criteria of selection of the consulting firm as per Attachment A.

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

Section I. That the Wharton City Council hereby establishes the City Council Consultant Selection Committee.

Section II. That the Wharton City Council Consultant Selection Committee will consist of the City Council Public Works Committee along with the City Manager and Public Works Director.

Section III. That the criteria as set forth in Attachment A is hereby approved.

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

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

The ninth item on the agenda was to review and consider Repairs at the Wharton Civic Center:

A. Resolution: A resolution of the Wharton City Council awarding a contract for the replacement of flooring in the O'Quinn Room at the Civic Center and authorizing the City Manager of the City of Wharton to execute all documents relating to said contract.

B. Resolution: A resolution of the Wharton City Council awarding a contract for the painting in the O'Quinn Room at the Civic Center and authorizing the City Manager of the City of Wharton to execute all documents relating to said contract.

City Manager Andres Garza, Jr. stated the City Staff solicited quotes for the painting and flooring of the O'Quinn room of the Civic Center and the following quotes were received:

Flooring

A. Rosenberg Carpet \$23,195.00

- B. Mohawk \$25,398.81
- C. El Campo- Carpet One \$22,173.50

<u>Painting</u>	Damaged only	Entire room
A. Dream Maker Construction	\$2,450.00	\$20,950.00
B. Rosenberg Carpet	\$3,100.00	\$16,700.00
C. BLS	0.00	\$19,785.00
D. Integrity	No Response	

Civic Center Manager Makyla Monroe stated the recommendation was for the City Council to consider Rosenberg Carpet for both jobs so they could be completed in a timely manner since the room was booked and the work would need to be completed in a short time where the room was not booked. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2019-113 and 2019-114, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-113**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE REPLACEMENT OF FLOORING IN THE O’QUINN ROOM AT THE CIVIC CENTER AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, Proposals were received for the replacement of flooring in the O’Quinn room of the Civic Center and,

WHEREAS, Rosenberg Carpet was deemed the best lowest qualified bidder in the amount of \$23,195.00; and,

WHEREAS, The Wharton City Council wishes to award an agreement to Rosenberg Carpet for the replacement of flooring in the O’Quinn room of the Civic Center in the amount of \$23,195.00; and,

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

WHEREAS, The Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute the agreement.

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 City Manager of the City of Wharton, Texas, to execute a contract for the replacement of flooring in the O’Quinn room of the Civic Center; to Rosenberg Carpet in the amount of \$23,195.00.

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

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

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-114**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE PAINTING IN THE O’QUINN ROOM AT THE CIVIC CENTER AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, Proposals were received for the painting in the O’Quinn room of the Civic Center and,

WHEREAS, Rosenberg Carpet was deemed the best lowest qualified bidder in the amount of \$16,700.00; and,

WHEREAS, The Wharton City Council wishes to award an agreement to Rosenberg Carpet for the painting in the O’Quinn room of the Civic Center in the amount of \$16,700.00; and,

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

WHEREAS, The Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute the agreement.

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 City Manager of the City of Wharton, Texas, to execute a contract for the painting in the O’Quinn room of the Civic Center; to Rosenberg Carpet in the amount of \$16,700.00.
- Section II.** The City of Wharton and Rosenberg Carpet are hereby bound by the conditions as set forth in the agreement.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The tenth item on the agenda was to review and consider Cloud Street Water Well Repair Project:

A. Pay Request No. 6 and Final from Weisinger Incorporated.

City Manager Andres Garza, Jr. presented Pay Request No. 6 and Final from Weisinger Incorporated for the Cloud Street Water Well Repair Project. Public Works Director John Plaia stated Pay Request No. 6 and final from Weisinger Incorporated for the Cloud Street Water Well Repair Project was \$60,002.90. After some discussion, Councilmember Russell Machann moved to approve Pay Request No. 6 and Final from Weisinger Incorporated for the Cloud Street Water Well Repair Project. Councilmember Steve Schneider seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider appointments and resignations to the City of Wharton Boards, Commissions and Committees:

1. Appointments:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.

2. Resignations: None.

After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider appointment to the City of Wharton Boards, Commissions and Committees:

1. Wharton Economic Development Corporation.

City Manager Andres Garza, Jr. presented a list of the Wharton Economic Development Corporation Board whose terms had expired. City Manager Garza stated that the City Council Wharton Economic Development Corporation Board of Directors Selection Committee met on September 30, 2019 and voted to recommend the re-appointment of Councilmember Russell Machann, however, the Committee voted to extend the deadline to receive applications to October 11, 2019 for the other two appointments. City Manager Garza presented the applications received as of October 10, 2019 for the City Council review. After some discussion, Councilmember Clifford Jackson moved to appoint the following:

1. Wharton Economic Development Corporation.	Term Expiring:
Marshall Francis	September 30, 2021
Judd Perry	September 30, 2021

Councilmember Steve Schneider seconded the motion. Councilmembers Don Mueller, Terry Freese and Russell Machann voted for the motion. Councilmember Alice Heard-Roberts voted against the motion. The motion carried.

The thirteenth item on the agenda was to review and consider City Council Boards, Commissions and Committee Reports:

- A. Parks and Recreation Committee meeting held September 23, 2019.
- B. Wharton Economic Development Corporation Board of Directors Selection Committee meeting held September 23, 2019.
- C. Airport Board Meeting held October 8, 2019.
- D. Mayor's Committee on People with Disabilities meeting held October 9, 2019.

After some discussion, no action was taken.

The fourteenth item on the agenda was to review and consider an ordinance to disannex certain territory from the Corporate Limits of the City of Wharton, to wit: 98.71 acres in the James Tumlinson Survey, Abstract 63, Wharton County, Texas, and as described in the attached Exhibit "A"; finding that all required legal conditions have been satisfied; terminating the rights and privileges conferred on the property from the City of Wharton; providing for amending and correcting the official boundaries of the City of Wharton, Texas, as heretofore adopted; authorizing the City Manager to undertake certain actions relative to said disannexation; providing a severability clause; providing a repealer clause; and providing for said ordinance to take effect and be in force from and after its passage. City Manager Andres Garza, Jr. presented a copy of the

proposed ordinance to disannex 98.71 acres in the James Tumlinson Survey, Abstract 63, Wharton County, Texas. City Attorney Paul Webb stated it was his recommendation that the City Council consider disannexing the 98.71 acre tract. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Ordinance No. 2019-29, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-29**

AN ORDINANCE TO DISANNEX CERTAIN TERRITORY FROM THE CORPORATE LIMITS OF THE CITY OF WHARTON, TO WIT: 98.71 ACRES IN THE JAMES TUMLINSON SURVEY, ABSTRACT 63, WHARTON COUNTY, TEXAS, AND AS DESCRIBED IN THE ATTACHED EXHIBIT “A”; FINDING THAT ALL REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; TERMINATING THE RIGHTS AND PRIVILEGES CONFERRED ON THE PROPERTY FROM THE CITY OF WHARTON; PROVIDING FOR AMENDING AND CORRECTING THE OFFICIAL BOUNDARIES OF THE CITY OF WHARTON, TEXAS, AS HERETOFORE ADOPTED; AUTHORIZING THE CITY MANAGER TO UNDERTAKE CERTAIN ACTIONS RELATIVE TO SAID DISANNEXATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE.

WHEREAS, the City of Wharton, Texas (“City”) is a home-rule city possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the home Rule Charter for the City of Wharton, Texas; and

WHEREAS, effective October 14, 2019, the City and Colorado Bend II Power, LLC (“CBII”) entered into an Industrial District Agreement which contains the agreement of the City to disannex the 98.71 acre tract described by metes and bounds in the attached Exhibit “A”; and

WHEREAS, pursuant to the authority granted in Section 43.142 of the Texas Local Government Code, a municipality may disannex an area from the municipality “as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by [Chapter 43 of the Texas Local Government Code]”; and

WHEREAS, Article I, Section 9 of the City of Wharton Charter authorizes the City to fix or adjust its boundaries; and

WHEREAS, the City, pursuant to Chapter 43 of the Texas Local Government Code, as amended, has instituted proceedings to disannex the Property from the City; and

WHEREAS, all statutory notices pursuant to Chapter 43 of the Texas Local Government Code have been published, delivered, or otherwise accomplished; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that:

- Section I.** The facts and recitations in the preamble and recitals of this ordinance are found and declared to be true and correct and adopted as part of this ordinance for all purposes.
- Section II.** The property that is the subject of the agreement referenced above and that is described in Exhibit “A”, attached to this Ordinance and incorporated herein for all purposes is hereby disannexed from the corporate limits of the City of Wharton, Wharton County, Texas and the same is no longer a party of the City.
- Section III.** All rights, privileges, and responsibilities previously conferred on the property described in the attached Exhibit “A” and any citizens and inhabitants of that property are immediately terminated, and are of no force and effect, immediately upon the disannexation of the property from the City of Wharton.
- Section IV.** The official map and boundaries of the City heretofore adopted and amended are hereby amended to exclude the area described in Exhibit “A” so as to accurately reflect that said area no longer is a part of the City of Wharton, Wharton County, Texas.
- Section V.** The City Manager is directed and authorized to perform or cause to be performed all acts necessary to effectuate this Ordinance, including but not limited to any corrections to the official map of the City of Wharton so as to accurately reflect the City’s boundaries, and to delete the area hereby disannexed as required by law.
- Section VI.** The City Manager is directed and authorized to file a certified copy of this Ordinance with any and all necessary governmental agencies or entities so affected by the acts described herein, including the United States Department of Justice.
- Section VII.** It is the intent of the City Council to disannex from the corporate limits of the City of Wharton the entirety of the property described in Exhibit “A” attached hereto, and the City Council hereby finds and determines that the provisions of Chapter 43 of the Texas Local Government Code have been fully complied with in effecting this disannexation. It is not the intent of the City of Wharton to disannex any territory that it has no legal right to disannex; rather, it is the intent of the City Council and the City of Wharton to disannex only such territory as may be legally disannexed by the City within the limits of the described property.
- Section VIII.** It is hereby declared to be the intention of the City Council that if any word, phrase, clause, sentence, paragraph, or section of this Ordinance is declared to be illegal, invalid, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such adjudication shall not affect the application of any remaining word, phrase, clause, sentence, paragraph, or section of this Ordinance. Similarly, the City Council declares this if a court of competent jurisdiction determines that

any portion of said properties is incapable of being annexed by the City, the City Council would have adopted the valid portions and applications of this Ordinance and would have annexed the valid property without the invalid part and the invalid properties, and to this end the provisions of this Ordinance are declared to be severable.

Section IX. Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section X. This Ordinance shall take effect and be in full force immediately from and after its passage as the law in such case provides.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Don Mueller seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider an ordinance designating an area located within the Extraterritorial Jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 2. City Manager Andres Garza, Jr. presented a draft ordinance designating an area located within the extraterritorial jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 2. City Attorney Paul Webb stated it was his

recommendation that the City Council consider approving the ordinance designating an area located within the Extraterritorial Jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 2. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Ordinance No. 2019-30, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-30**

**AN ORDINANCE DESIGNATING AN AREA LOCATED WITHIN THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF WHARTON, TEXAS, AS
THE CITY OF WHARTON INDUSTRIAL DISTRICT NO. 2.**

WHEREAS, Section 42.044 of the Texas Local Government Code authorizes the Wharton City Council to designate any part of its extraterritorial jurisdiction as an industrial district and to treat that area designated in a manner considered by the Wharton City Council to be in the best interests of the City of Wharton, Texas; and,

WHEREAS, The property owned by Colorado Bend II Power, LLC, commonly known as the “Colorado Bend Energy Center,” described by metes and bounds attached hereto as Exhibit “A” is located within the extraterritorial jurisdiction of the City of Wharton, Texas; and procedures prescribed by the City Charter of the City of Wharton, Texas, and the laws of this state have been duly followed with respect to the territory described in the Exhibit “A” attached hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that:

Section I. The facts and recitations in the preamble and recitals of this ordinance are found and declared to be true and correct and adopted as part of this ordinance for all purposes.

Section II. The area described by metes and bounds attached hereto as Exhibit “A” and incorporated herein for all purposes is hereby designated as the City of Wharton Industrial District No. 2.

Section III. This ordinance shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Russell Machann seconded the motion. All voted in favor.

The sixteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.087 of the Local Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

Discussion:

A. An Industrial District Agreement with Colorado Bend II Power LLC.

Mayor Tim Barker moved the meeting into Executive Session at 7:33 p.m.

The seventeenth item on the agenda was Return to Open Session: Action on items discussed in Executive Session:

A. An Industrial District Agreement with Colorado Bend II Power LLC.

Mayor Tim Barker returned the meeting to Open Session at 7:49 p.m. Mayor Barker stated information only was received.

The eighteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Industrial District Agreement with Colorado Bend II Power, LLC; authorizing an Industrial District Payment to the City of Wharton; making various findings and provisions related to the subjects; and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated it was his recommendation that the City Council consider approving a proposed Industrial District Agreement with Colorado Bend II Power, LLC. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Resolution No. 2019-115, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019 - 115**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INDUSTRIAL DISTRICT AGREEMENT WITH COLORADO BEND II POWER, LLC; AUTHORIZING AN INDUSTRIAL DISTRICT PAYMENT TO THE CITY OF WHARTON; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECTS; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, Section 42.044 of the Texas Local Government Code enables cities and private entities to establish Industrial Districts; and,

WHEREAS, The Wharton City Council approved Ordinance No. 2019-30 creating the City of Wharton Industrial District No. 2 as described in the Exhibit “A” attached hereto; and,

WHEREAS, The property owned by Colorado Bend II Power, LLC, commonly known as the “Colorado Bend Energy Center,” described by metes and bounds attached hereto as Exhibit “B” is located within the City of Wharton Industrial District No. 2; and,

WHEREAS, The Wharton City Council has determined that it is in the best interest of the City and its citizens to enter into an Industrial District Agreement with Colorado Bend II Power, LLC, a copy of which is attached hereto as Exhibit “C” (the “Agreement”); and,

WHEREAS, The City of Wharton and Colorado Bend II Power, LLC, wishes to be bound by the conditions outlined in the Agreement; and,

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

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

Section I. That the facts and recitations in the preamble and recitals of this resolution and the referenced Agreement are found and declared to be true and correct and are hereby approved as part of this resolution.

Section II. That the Wharton City Council hereby approves the Industrial District Agreement between the City of Wharton and Colorado Bend II Power, LLC.

Section III. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the Agreement.

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

Passed, Approved, and Adopted this 14th day of October 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

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

The meeting adjourned at 7:50 p.m.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary