



**CITY OF WHARTON
CITY COUNCIL REGULAR MEETING**

**Monday, October 14, 2024
7:00 PM**

***CITY HALL 120 EAST CANEY STREET
WHARTON, TEXAS 77488***

**NOTICE OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING**

Notice is hereby given that a City Council Regular Meeting will be held on Monday, October 14, 2024, at 7:00 PM at the Wharton City Hall, 120 East Caney Street, Wharton, Texas, at which time the following subjects will be discussed to-wit:

SEE ATTACHED AGENDA

Dated this 10th day of October 2024.

By: 
Tim Barker, Mayor

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council Regular Meeting is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board at City Hall of said City or Town in Wharton, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on October 10, 2024, at 4:30 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

The Wharton City Hall is wheelchair accessible. Access to the building and special parking is available at the primary entrance. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at (979) 532-4811 Ext. 225 or by FAX (979) 532-0181 at least two (2) days prior to the meeting date. BRAILLE IS NOT AVAILABLE.

Dated this 10th day of October 2024.

CITY OF WHARTON

By: 
Paula Favors
City Secretary



A G E N D A
CITY OF WHARTON
City Council Regular Meeting
Monday, October 14, 2024
City Hall - 7:00 PM

Call to Order –Opening Devotion –Pledge of Allegiance.

Roll Call and Excused Absences.

Public Comments.

Wharton Moment.

Proclamation

1. Proclamation: Domestic Violence Awareness Month.

Review and Consider:

1. Reading of the minutes from the regular meetings held September 9, 2024, and September 23, 2024.
2. Request from the Daughters of the American Revolution Comfort Wood Chapter to hold a Scholarship 5K Run/Walk for the following:
 - A. Use of Guffey Park on October 26, 2024, from 7:00 a.m. to 10:00 a.m.
 - B. Wharton Police Department assistance at street crossings for the event.
3. Request from Edwards Ministerial Association, Inc., to hold a 5K Walk-Roll-Stroll event on October 19, 2024, for the following:
 - A. Waive all local fees for the event.
 - B. Provide six (6) blue barrel trash containers and extra liners.
 - C. Have EMS on standby for the event.
4. Request from Mr. Larry Sitka, for (1) a front setback variance on Fulton St. of 25' from the required 50', (2) a variance to allow more than 1 free-standing commercial sign on the same property, and (3) have a separation of less than 500 feet between off-premise signs on the same side of a public street.
5. Resolution: A resolution of the Wharton City Council authorizing the City Manager to approve concrete repairs at the Wharton Fire Station and authorizing the City Manager to execute all documents related to said repairs.
6. Resolution: A resolution of the Wharton City Council adopting the City of Wharton Policy for Social Media Use by City of Wharton Committees, Commissions, & Boards.
7. Resolution: A resolution of the Wharton City Council approving an agreement between the City of Wharton and the Texas Department of Transportation Aviation Division for the

Routine Airport Maintenance Program, TXDOT CSJ NO. M16M2513WHRT for the airport maintenance at the Wharton Regional Airport and authorizing the Mayor of the City of Wharton to execute all documents related to said contract.

- [8.](#) Resolution: A resolution of the Wharton City Council authorizing the purchase of a 2026 International HV607 4x2 with a 6–8-yard Dump Body Truck for the Public Works Department from Santex Truck Centers, LTD through the HGACBuy Cooperative Program and authorizing the City Manager to execute all documents related to said purchase.
- [9.](#) Resolution: A resolution of the Wharton City Council authorizing the purchase of a Netzsch Nemo Progressing Cavity Pump for the Public Works Department from Odessa Pumps & Equipment, Inc. through the Buyboard Cooperative Program and authorizing the City Manager to execute all documents related to said purchase.
- [10.](#) Resolution: A resolution of the Wharton City Council authorizing and ratifying the emergency rental and replacement of the submersible pump at the Milam Street Lift Station and authorizing the City Manager of the City of Wharton to execute all documents related to said repairs.
- [11.](#) Resolution: A resolution of the Wharton City Council approving a contract with Unifirst Corporation for Public Works Employee uniforms and other supplies through the Sourcewell Cooperative and authorizing the City Manager of the City of Wharton to execute all documents relating to said contract.
- [12.](#) Resolution: A resolution of the Wharton City Council approving an Interlocal Agreement for the Municipally Owned Building Energy Efficiency Retrofits Program with the State Energy Conservation Office (SECO) and authorizing the City Manager of the City of Wharton to execute all documents related to said agreement.
- [13.](#) Designating a representative to the Houston-Galveston Area Council Advisory (H-GAC) Committee-Regional Flood Management Council.
- [14.](#) Resolution: A resolution of the Wharton City Council designating a City of Wharton Representative and Alternate to the Houston-Galveston Area Council 2025 General Assembly.
- [15.](#) Resolution: A resolution of the Wharton City Council approving a Professional Engineering Services Agreement with Quiddity Engineering, LLC, to develop and maintain the City of Wharton GIS Field Verification and Utility Migration Network and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
- [16.](#) Pay Request No. 3 and Final from Capital Underground Utilities for the Titus Express Carwash Waterline Extension.
- [17.](#) Pay Request No. 4 from Reddico Construction Company for the U.S. 59 Water & Wastewater Utility Relocations and reduction of retainage to 5%.
- [18.](#) Reschedule the November 11, 2024, Regular City Council Meeting.

19. Appointments, Resignations, and Vacancies to the City of Wharton Boards, Commissions, and Committees:

- A. Resignations.
- B. Appointments.
- C. Vacancies.


20. City Council Boards, Commissions, and Committee Reports:

- A. Finance Committee Meeting held September 23, 2024.

Adjournment.

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Proclamation: Domestic Violence Awareness Month.
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			



CITY OF WHARTON OFFICE OF THE MAYOR PROCLAMATION

- WHEREAS,** Domestic violence remains a pervasive issue across Wharton, Wharton County, the United States, and the world with implications for personal and community health; and,
- WHEREAS,** Domestic violence does not discriminate and touches all communities regardless of age, race, disability, gender identity, or socioeconomic status; and,
- WHEREAS,** Domestic Violence Awareness Month is nationally recognized every October, and is an opportunity to help our community promote and protect the safety and freedom of all who seek refuge from this terrible crime; and,
- WHEREAS,** The Crisis Center of Matagorda and Wharton County is dedicated to helping victims of domestic violence by providing free and confidential services such as advocacy, education, shelter, and resources. In the past year, the Crisis Center has provided services to 438 clients of domestic violence and 6,938 nights of shelter to adults and children. Through these programs, individuals and families can feel a sense of hope, safety, and protection; and,
- WHEREAS,** Research shows incidents of domestic violence are reduced by creating communities where people are connected, supportive, and care for one another. The City of Wharton encourages members of the community to work together to increase domestic violence awareness; and,
- WHEREAS,** Research shows incidents of domestic violence are reduced by creating communities where people are connected, supportive, and care for one another. The City of Wharton encourages members of the community to work together to increase domestic violence awareness; and
- WHEREAS,** During October, the Crisis Center will promote public awareness of domestic violence. On October 17th, citizens can participate in “Go Purple Day,” a National Day of Action during Domestic Violence Awareness Month, by wearing purple to symbolize peace, courage, survival, honor, and personal dedication to domestic violence awareness. On October 24th, the Center will host “Walk a Mile in Their Shoes,” a one-mile walk from the Center on Fulton Street to the County Courthouse in support of victims and survivors.

NOW, THEREFORE, I, TIM BARKER, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the month of October 2024 as

“Domestic Violence Awareness Month”


in the City of Wharton in recognition of the important work done by survivors, domestic violence programs, and victim service providers, urge all citizens to actively participate in the scheduled activities and programs sponsored by “The Crisis Center of Matagorda and Wharton County” and other community organizations to work toward the elimination of domestic violence.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 14th day of October, in the year of our Lord two thousand twenty-four A.D.

Tim Barker
Mayor, City of Wharton

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Reading of the minutes from the regular meetings held September 9, 2024, and September 23, 2024.
<p>Attached you will find the draft minutes from the regular meetings held September 9, 2024, and September 23, 2024.</p>			
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
SEPTEMBER 9, 2024**

Mayor, Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:04 P.M. at City Hall 120 E. Caney Street Wharton, TX. Councilmember, Burnell Neal, led the opening devotion, and Mayor, Tim Barker led the pledge of allegiance.

Councilmembers present were: Mayor, Tim Barker, and Councilmembers, Terry Freese; Russell Machann; Burnell Neal; Larry Pittman; Steve Schneider, and David Voulgaris.

Councilmembers absent were: None.

Staff members present were: City Manager, Joseph R. Pace; Finance Director, Joan Andel; Assistant City Manager, Paula Favors, TRMC, CPM, MMC, IPMA-CP; Director of Planning and Development, Gwyn Teves; Police Chief, Terry David Lynch; Public Works Director, Roderick Semien, and Airport Manager, Dwayne Pospisil.

Visitors present were: Ryan Salazar; Walter Garrett; Kristi Kocian, and Colby Primeaux with the Wharton Journal Spectator.

Roll Call and Excused Absences.

All Councilmembers were present.

Public Comments.

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

Wharton Moment.

Mayor, Tim Barker, called for Wharton Moments.

City Manager, Joseph R. Pace, stated the Rotary Gala would be held on September 28th, 2024 and Diamond Rio would be performing.

Mayor, Tim Barker, stated City Attorney Paul Webb was doing well after a recent medical procedure and will be returning to the next City Council meeting.

Public Hearing.

1. Public Hearing: Proposed Budget for the City of Wharton, Texas Fiscal Year October 1, 2024, to September 30, 2025.

Mayor, Tim Barker, opened the Public Hearing at 7:04 p.m. No comments were given. Mayor, Tim Barker, closed the Public Hearing at 7:05 p.m.

Review and Consider:

The first item on the agenda was to review and consider the reading of the minutes from the regular meetings held on August 12, 2024, and August 26, 2024, and the special meeting held on August 5, 2024. After some discussion, Councilmember, Russell Machann, moved to approve the reading of the minutes from the regular meetings held August 12, 2024, and August 26, 2024, and special meeting held August 5, 2024. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request from the Monterey Square Business Association for the following for the Monterey Square Wine and Arts Fair on October 12, 2024:

- A. Close Fulton Street between Burleson Street and Milam Street, as well as close Houston Street between Burleson Street and Hawes Street from 11:30 a.m. until 10:00 p.m. on Saturday, October 12, 2024.
- B. Pick up and return six (6) generator lights for safety for the fair location and Guffey Park parking area.
- C. Allow open containers for alcohol on City property on the exterior sides of Monterey Square and approximately two adjoining blocks to include all participating businesses.
- D. Waive all local permits and fees.
- E. Provide trash containers and bags.

Ms. Kristi Kocian of Monterey Square Business Association, presented a copy of the letter dated August 12, 2024, from her providing her request for the aforementioned items. Ms. Kocian requested item B. be changed to eight (8) generator lights. After some discussion, Councilmember, Terry Freese, moved to approve the aforementioned items A. through E. with the update to eight (8) generator lights. Councilmember, Burnell Neal, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a resolution of the Wharton City Council ratifying and approving a contract with Branch Construction for Lead Service Line Inventory (LSLI) and authorizing the City Manager to execute all documents related to said ratification. Public Works Director, Roderick Semien, presented a copy of the proposal for Branch Construction to complete the field verification of the initial LSLI. Mr. Semien stated that on August 1, 2024, Quiddity Engineering LLC contacted the City Staff and said they received two quotes from agencies significantly higher than their original estimate of \$55,000.00. He said the quotes were to cover a quantity of 1,736 residential meters and 212 commercial meters to be inspected. Director Semien stated that after some discussion and the limited timeline to complete the inventory, the City had chosen to seek out a third option, Branch Construction, although still above the original estimate, but still the lowest bid. Mr. Semien said Branch Construction was a member of the TIPs cooperative and was hired to work on August 6, 2024. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-88, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-88**

A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING AND APPROVING A CONTRACT WITH BRANCH CONSTRUCTION FOR LEAD SERVICE LINE INVENTORY (LSLI) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID RATIFICATION.

WHEREAS, The Wharton City Council wishes to ratify and approve Branch Construction for the field verification of the initial Lead Service Line Inventory (LSLI); and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to said ratification.

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

Section I. The Wharton City Council hereby ratifies and approves a contract with Branch Construction for the field verification of the initial Lead Service Line Inventory (LSLI).

Section II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to said ratification.

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

Passed, Approved, and Adopted this 9th day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, David Voulgaris, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the City Manager to approve LED lighting installation at the Wharton Regional Airport

and authorizing the City Manager to execute all documents related to said installation. Airport Manager, Dwayne Pospisil, stated he solicited quotes for LED lighting installation at the Wharton Regional Airport and the quotes they were as follows:

Gulf Coast A/C & Electrical-\$9,591.00

Barbee Electric-\$9,675.00

Penner Electric-no response

Mr. Pospisil said it was the City Staff's recommendation for Gulf Coast A/C & Electrical to complete the installation. He said funds for the LED lighting would be through the Routine Airport Maintenance Plan (RAMP). After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-89, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-89**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO APPROVE LED LIGHTING INSTALLATION AT THE WHARTON REGIONAL AIRPORT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID INSTALLATION.

WHEREAS, The Wharton City Council has appropriated funds for the installation of LED lighting in the hangars and repair shop at the Wharton Regional Airport; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to approve the LED lighting installation at the Wharton Regional Airport from Gulf Coast A/C & Electrical in the amount of \$9,591.00; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to the installation of the lighting.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to approve the LED lighting installation at the Wharton Regional Airport from Gulf Coast A/C & Electrical in the amount of \$9,591.00.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the installation of the lighting.

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

PASSED AND APPROVED this 9th day of September 2024.

CITY OF WHARTON

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider an ordinance regarding the City of Wharton's Texas Municipal Retirement System benefits providing for (1) an increase to the employee contribution rate; and (2) adopting: (i) annually accruing updated service credits; and (ii) annually accruing annuity increases, also referred to as cost-of-living adjustments (COLA) for retirees and their beneficiaries.

As discussed with the City Council Finance Committee on July 22, 2024, the City Staff is requesting to move forward with changes to the City of Wharton's employee retirement plan through the Texas Municipal Retirement System (TMRS). City Secretary, Paula Favors, stated that by statute, when a City changes its employee contribution rate and the City currently offers Cost of Living Adjustments (COLA) on an annually repeating basis, the City must readopt this annually repeating provision. City Secretary Favors said this readoption was necessary because there was a new COLA cost associated with the new provision. She said that when the ordinance becomes effective, the City must begin deducting the new contribution rate from each employee's gross monthly compensation. Mrs. Favors stated that beginning October 1, 2024, the City Staff was requesting to begin withholding 6%, as compared to the current 5% from eligible employees' salaries to deposit into their retirement accounts. She said the 100% Updated Service Credit without Transfers and 70% Cost of Living Adjustment Increase to Annuitants, Both Annually Repeating, would take effect on January 1, 2025. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Ordinance No. 2024-13, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2024-13**

AN ORDINANCE REGARDING THE CITY OF WHARTON'S TEXAS MUNICIPAL RETIREMENT SYSTEM BENEFITS PROVIDING FOR (1) AN INCREASE TO THE EMPLOYEE CONTRIBUTION RATE; AND (2) ADOPTING: (i) ANNUALLY ACCRUING UPDATED SERVICE CREDITS; AND (ii) ANNUALLY ACCRUING ANNUITY INCREASES, ALSO REFERRED TO AS COST OF LIVING ADJUSTMENTS (COLAS) FOR RETIREES AND THEIR BENEFICIARIES.

Whereas, the City of Wharton, Texas (the “City”), elected to participate in the Texas Municipal Retirement System (the “System” or “TMRS”) pursuant to Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"); and

Whereas, the City Council finds that it is in the public interest to: (1) increase the employee contribution rate contributed to TMRS, (2) in accordance with TMRS Act §853.404 and §854.203(h), reauthorize annually accruing Updated Service Credits, although without new Transfer USC effective January 1, 2025, and (3) in accordance with TMRS Act §854.203 and §853.404, reauthorize annually accruing annuity increases, also referred to as cost of living adjustments (“COLAs”) for retirees and their beneficiaries, now:

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

Section 1. Increased Employee Contribution Rate.

- (a) The rate of member contributions to be made by the City to the System shall be **6%** of the compensation of City employees who are members of the System, in accordance with TMRS Act §855.401. The City shall submit a monthly payroll report and deposit the amounts deducted from employees’ compensation to the System in accordance with TMRS Act §855.402.
- (b) The increased employee contribution rate under this Section shall be effective on the first day of the month of October, 2024.

Section 2. Authorization of Annually Accruing Updated Service Credits.

- (a) As authorized by TMRS Act §854.203(h) and §853.404, and on the terms and conditions set out in TMRS Act §§853.401 through 853.404, the City authorizes each member of the System who on the first day of January of the calendar year immediately preceding the January 1 on which the Updated Service Credits will take effect (i) has current service credit or prior service credit in the System by reason of service to the City, (ii) has at least 36 months of credited service with the System, and (iii) is a TMRS-contributing employee of the City, to receive “Updated Service Credit,” as that term is defined and calculated in accordance with TMRS Act §853.402.
- (b) The Updated Service Credit authorized and provided under this Ordinance shall be **100%** of the "base Updated Service Credit" of the TMRS member calculated as provided in TMRS Act §853.402.
- (c) If the City previously adopted an ordinance authorizing Updated Service Credit for unforfeited prior service credit and/or current service credit with another System participating municipality (also known as “Transfer USC”), the calculations and adjustments set forth in TMRS Act §853.601 apply to any such prior Transfer USC.
- (d) Each Updated Service Credit authorized and provided by this Ordinance shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial Updated Service Credit authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the Board of Trustees (“Board”) of the System. Pursuant to TMRS Act §853.404, the authorization and grant of Updated Service Credits in this Section shall be effective on January 1 of each subsequent year, using the same percentage of the “base Updated Service Credit” stated in Subsection (b) in computing Updated Service Credits for each future year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

Section 3. Authorization of Annual Increases in Retirement Annuities, or COLAs.

(a) On the terms and conditions set out in TMRS Act §854.203 and §853.404, the City authorizes and provides for payment of the increases described by this Section to the annuities paid to retired City employees and beneficiaries of deceased City retirees (such increases also called COLAs). An annuity increased under this Section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this Section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by **70%** of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation under this Section does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed under this Section.

(e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the City and of its account in the benefit accumulation fund of the System.

(f) The initial increase in annuities authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the System’s Board. Pursuant to TMRS Act §853.404, an increase in retirement annuities shall be made on January 1 of each subsequent year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

Severability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 9th day of September 2024.

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 sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Facilities Extension Agreement with CenterPoint Energy for Removal of Utility Service and Release of Easement at 500 S. Caney Dr. as part of the CDBG-DR Hurricane Harvey Buyout Contract #20-066-005-C034 and authorizing the Mayor of the City of Wharton to execute all documents related to the agreements. Director of Planning & Development, Gwyn Teves, stated the City Staff had been working with CenterPoint Energy to terminate service to 500 S. Caney Dr., a property purchased through the CDBG-DR Hurricane Harvey Buyout Contract #20-066-005-C034. Mrs. Teves said the removal of these facilities, per CenterPoint Energy's estimate, would be \$2,640.00 and the cost covers the removal of services to the property per the Facilities Extension Agreement and overhead work as required. She said it would also be required to release the utility easement to have the work finalized. Mrs. Teves stated the property was required to

remain a greenspace and was not allowed to be developed in the future, so these utilities would not be needed. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-90, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-90**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A FACILITIES EXTENSION AGREEMENT WITH CENTERPOINT ENERGY FOR REMOVAL OF UTILITY SERVICE & RELEASE OF EASEMENT AT 500 S. CANEY DR. AS PART OF THE CDBG-DR HURRICANE HARVEY BUYOUT CONTRACT #20-066-005-C034 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENTS.

WHEREAS, The Wharton City Council wishes to approve and authorize CenterPoint Energy to remove electrical utilities & release the utility easement at 500 S. Caney Dr.; and,

WHEREAS, The Wharton City Council and CenterPoint Energy wishes to be bound by the terms and conditions as outlined in the agreement; and,

WHEREAS, The Wharton City Council wishes to ratify and approve the City Staff to remit payment to CenterPoint Energy in the amount of \$2,640.00 for the cost to remove the services; and,

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

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 approves the Facilities Extension Agreement between the City of Wharton and CenterPoint Energy for the removal of electrical utilities & release of utility easement at 500 S. Caney Dr. as part of the CDBG-DR Hurricane Harvey Buyout Contract #20-066-005-C034.

Section II. The Wharton City Council hereby approves the City Staff to remit payment in the amount of \$2,640.00 to CenterPoint Energy to remove the service.

Section III. That the City of Wharton and CenterPoint Energy are hereby bound by the terms and conditions as set forth in the agreement.

Section IV. The Wharton City Council hereby authorizes the Mayor to execute all documents related to the agreement.

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

Passed, Approved, and Adopted this 9th day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract for Demolition, Hazardous Material Testing, and Abatement Services for Contract #20-066-005-C034 GLO CDBG DR Hurricane Harvey - Buyouts and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Director of Planning & Development, Gwyn Teves, stated the City Staff solicited Scopes of Qualifications (SOQ) for demolition services for the City of Wharton CDBG-DR Buyout Program. Mrs. Teves said the City received seven (7) SOQs and identified the two most qualified to request bids for the above services. She said that DSW & James W. Turner Construction both met with the City staff for a site walk and inspection on July 29, 2024 and submitted bids for review on August 6, 2024. Mrs. Teves stated the Staff recommended that after reviewing the submittals, the contract for the demolition, testing, and abatement services be awarded to James W. Turner Construction. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-91, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-91**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR DEMOLITION, HAZARDOUS MATERIAL TESTING & ABATEMENT SERVICES FOR CONTRACT #20-066-005-C034 GLO CDBG DR HURRICANE HARVEY - BUYOUTS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, Bids were received for demolition, hazardous material testing & abatement services at 400 S. Caney St.; and,

WHEREAS, James W. Turner Construction was deemed the best lowest qualified bidder in the amount of \$106,600.00; and,

WHEREAS, The Wharton City Council wishes to award a contract to James W. Turner Construction for demolition, hazardous material testing & abatement services in the amount of \$106,600.00; and,

WHEREAS, The City of Wharton and James W. Turner Construction 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 all documents related to said 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 a contract for demolition, hazardous material testing & abatement services at 400 S. Caney St. to James W. Turner Construction in the amount of \$106,600.00.

Section II. The City of Wharton and James W. Turner Construction 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 9th day of September 2024.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER

Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The eighth item on the agenda was to review and consider Pay Request No. 2 from Capital Underground Utilities for the Titus Express Carwash Waterline Extension. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 2 from Capital Underground Utilities for the Titus Express Carwash Waterline Extension in the amount of \$42,935.39. After some discussion, Councilmember, Russell Machann, moved to approve Pay Request No. 2 from Capital Underground Utilities for the Titus Express Carwash Waterline Extension in the amount of \$42,935.39. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

After some discussion, no action was taken.

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

The meeting adjourned at 7:22 p.m.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
SEPTEMBER 23, 2024**

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, Burnell Neal, led the opening devotion, and Mayor, Tim Barker, led the pledge of allegiance.

Councilmembers present were: Mayor, Tim Barker and Councilmembers, Terry Freese; Russell Machann; Burnell Neal; Steve Schneider; Larry Pittman, and David Voulgaris.

Councilmember absent was: None.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; Finance Director, Joan Andel; City Secretary, Paula Favors, TRMC, CPM, MMC; Director of Planning and Development, Gwyn Teves, CPM; Assistant to the City Manager, Brandi Jimenez; Building Official, Claudia Velasquez; Assistant to the Building Official, Shelby Robertson; Police Chief, Terry David Lynch; Public Works Director, Roderick Semien; EMS Director, Christy Gonzales, and Finance Accountant, London Davis.

Visitors present were: Wharton Chamber of Commerce Executive Director, Karen Smith; Sarah Shanks; Billy Bryant; Eugene Gardner; Shannon Longoria with the Texas General Land Office; Ryan Salazar; and Colby Primeaux with the Wharton Journal Spectator.

Roll Call and Excused Absences.

All Councilmembers were present.

Public Comments.

Mayor, Tim Barker, called for Public Comments.

Mr. Eugene Gardner informed the City Council of an issue with a neighbor who parks an 18-wheeler that he drives that contains chicken manure on the roadway. Mr. Gardner says that it has a horrible smell and he is not able to sit outside or invite people over to his home. He requested the City do something to help the situation.

Wharton Moment.

Mayor, Tim Barker, stated it was good to have City Attorney, Paul Webb, back after being out for several weeks with a medical issue.

City Manager, Joseph R. Pace, stated the Rotary Gala would be held September 28th, 2024 at the Wharton Civic Center with a live performance from Diamond Rio.

Public Hearing

1. Public Hearing: A Public Hearing on the proposed tax rate for the 2024 tax year.

Mayor, Tim Barker, opened the Public Hearing at 7:09 p.m.

No comments were given.

Mayor, Tim Barker, closed the Public Hearing at 7:10 p.m.

Review and Consider:

The first item on the agenda was to review and consider the City of Wharton Financial Report for August 2024. Finance Director, Joan Andel presented the City of Wharton Financial Report for August 2024. After some discussion, Councilmember, Russell Machann, moved to approve the City of Wharton Finance Report for August 2024. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider an ordinance adopting the Fiscal Year 2024-2025 Annual Budget for the City of Wharton, Texas; appropriating the sums established therein; and directing the City Secretary to file copies as required by law. Finance Director, Joan Andel, stated that during the Regular City Council meeting held on August 28, 2024, she presented under separate cover a copy of the proposed budget for the City of Wharton, Texas, Fiscal Year October 1, 2024, to September 30, 2025. Mrs. Andel said that during the Regular City Council meeting held on September 9, 2024, the City Council held a Public Hearing to receive public input regarding the City of Wharton's Annual Budget for Fiscal Year 2024-2025. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Ordinance No. 2024-14, which read as follows:

CITY OF WHARTON, TEXAS ORDINANCE NO. 2024-14

AN ORDINANCE ADOPTING THE FISCAL YEAR 2024-2025 ANNUAL BUDGET FOR THE CITY OF WHARTON, TEXAS; APPROPRIATING THE SUMS ESTABLISHED THEREIN; AND DIRECTING THE CITY SECRETARY TO FILE COPIES AS REQUIRED BY LAW.

WHEREAS, the City's Budget for the Fiscal Year ending September 30, 2025, which is attached hereto, was duly submitted to the City Council more than thirty (30) days prior to September 30, 2024; and,

WHEREAS, a Public Hearing was duly called and held on said Budget not less than seven days nor more than fourteen days after the date of publication giving notice of such meeting and prior to the time the City Council of the City of Wharton levied taxes for such current Fiscal Year; and,

WHEREAS, all parties desiring to participate and be heard at said Public Hearing having been heard until no more evidence was offered, and such hearing having been concluded, and the City Council of said City having made such changes in such Budget as in its judgment the law warrants and the best interest of the taxpayers of the City of Wharton, Texas, demand, said Budget with such changes being attached hereto, as aforesaid.

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

Section 1. **THAT** the findings set out in the preamble of this ordinance are true and correct.

Section 2. **THAT** the Budget of the City of Wharton, Texas, for the Fiscal Year ending September 30, 2025, be and the same is hereby, in all respects, finally approved and adopted, including any changes approved by the City Council; and the same shall be and is hereby filed with the City Secretary of the City.

Section 3. **THAT** the General Fund is hereby established to account for resources associated with traditional government activities, which are not required legally or by sound financial management to be accounted for in another fund. The General Fund is hereby approved with \$6,843,674 estimated revenues and \$8,362,734 in appropriations, with transfers-in approved at \$1,548,463 and transfers-out approved at \$29,403. The amounts are specified for departmental purposes named in said Budget and they are hereby appropriated to and for such purposes at the departmental level.

Section 4. **THAT** the PEG (Public, Educational, Government television access) Fund is created to account for all funds received from the 1% franchise fee provided through the local cable provider. The PEG Fund is hereby approved with \$2,500 in estimated revenues and \$2,500 in appropriations.

Section 5. **THAT** the Hotel Motel Fund is created to account for the occupancy tax levied on hotel rooms within the City as adopted by City Ordinance and consistently with Chapter 351 of the Texas Tax Code. The Hotel Motel Fund is hereby approved with \$300,100 in estimated revenues, which includes \$300,100 in appropriations, including transfers-out approved at \$241,952 with a beginning fund balance of approximately \$65,228.

Section 6. **THAT** the Narcotics Seizure Fund is created to account for the resources and uses of assets seized in illegal narcotics activities. The uses are limited to law enforcement activities. The Narcotics Seizure Fund is hereby approved with \$4,700 estimated revenues and \$4,700 appropriations with a beginning fund balance of approximately \$25,977.

Section 7. **THAT** the Debt Service Fund is hereby created to account for the accumulation of resources collected for Interest and Sinking requirements and for the disbursement of those resources for debt requirements. The Debt Service Fund is hereby

approved with \$2,684,587 in estimated revenues and \$2,684,587 in appropriations. The estimated beginning fund balance is \$301,032.

Section 8. **THAT** the Capital Improvement Fund is created to account for infrastructure improvements authorized by the City Council. The Capital Improvement Fund is approved with \$100,000 in estimated revenues and expenses. The estimated beginning fund balance is \$313,583.

Section 9. **THAT** the Water and Sewer Fund is created to account for the resources and uses associated with the delivery of utility services to citizens of Wharton as an enterprise fund. The Water & Sewer Fund is hereby approved with \$6,244,724 in estimated revenues. Water and sewer is approved with \$6,244,724 in appropriations, which includes a franchise fee of 8% of water and sewer sales are approximately \$487,738, and transfers-out approved at \$1,250,051.

Section 10. **THAT** the Solid Waste Fund is created to account for the financial activities of the City's solid waste collection contract and delivery to citizens of Wharton as an enterprise fund. The Solid Waste Fund is approved with \$1,793,195 in estimated revenues and \$1,793,195 in appropriations which includes a franchise fee of 6% of solid waste revenues or approximately \$101,123.

Section 11. **THAT** the Emergency Medical Services Fund is created to account for the financial activities of the emergency medical services provided to the city and surrounding areas as an enterprise fund. The Emergency Medical Services Fund is approved with \$2,832,344 in estimated revenues and \$2,832,344 in appropriations, which includes transfers out of \$98,412.

Section 12. **THAT** the Civic Center Fund is created to account for the financial activities of the Civic Center as an enterprise fund. The Civic Center is approved with \$331,781 in estimated revenues and \$331,781 in appropriations. Transfers-in are approved at \$258,355.

Section 13. **THAT** the Airport Fund was created to account for the financial activities of the Wharton Regional Airport as an enterprise fund. The Airport Fund is approved with \$374,969 in estimated revenues and \$374,969 in appropriations.

Section 14. **THAT** the City Secretary shall file copies of this Ordinance and of such Budget with the County Clerk of Wharton County, Texas.

PASSED AND APPROVED by a favorable majority of the members of the City Council of the City of Wharton, Texas, in Council Meeting, this 23rd day of September 2024, duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

Tim Barker, Mayor

Yes

Burnell Neal, Councilmember District 1

Yes

Steven Schneider, Councilmember District 2	Yes
Terry Freese, Councilmember District 3	Yes
Michael Voulgaris, Councilmember District 4	Yes
Russell Machann, Councilmember at Large Place 5	Yes
Larry Pittman, Councilmember at Large Place 6	Yes

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

CITY OF WHARTON

By: _____

Tim Barker, Mayor

ATTEST:

APPROVED FOR ADMINISTRATION:

Paula Favors, City Secretary

Joseph R. Pace, City Manager

APPROVED AS TO FORM:

APPROVED FOR FUNDING:

Paul Webb, City Attorney

Joan Andel, Finance Director

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

The third item on the agenda was to review and consider an ordinance levying a tax rate for the City of Wharton, Texas, for the Tax Year 2024; directing the Tax Assessor-Collector to assess,

account for, and distribute the taxes as herein levied; and providing repealing and severability clauses. Finance Director, Joan Andel, presented a copy of a draft ordinance levying a tax rate for the City of Wharton, Texas, for the Tax Year 2024; directing the Tax Assessor-Collector to assess, account for, and distribute the taxes as herein levied; and providing repealing and severability clauses. After some discussion, Councilmember, Burnell Neal, moved to approve City of Wharton Ordinance No. 2024-15, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2024-15**

AN ORDINANCE LEVYING A TAX RATE FOR THE CITY OF WHARTON, TEXAS, FOR THE TAX YEAR 2024; DIRECTING THE TAX ASSESSOR-COLLECTOR TO ASSESS, ACCOUNT FOR, AND DISTRIBUTE THE TAXES AS HEREIN LEVIED; AND PROVIDING REPEALING AND SEVERABILITY CLAUSES.

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

Section 1. **THAT** there be and is hereby levied for the year 2024 on all real and personal property within and all real and personal property and mineral royalties owned within the city limits of the City of Wharton, Texas for the year 2024, except so much thereof as may be exempt by the constitution and of the State of Texas and of the United States, the following:

Maintenance and Operations	.09523/\$100 valuation
For Debt Service Requirements	.34140/\$100 valuation
Total Tax Rate	.43663/\$100 valuation

THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE

and

THE TAX RATE WILL EFFECTIVELY BE RAISED BY 4.1 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$0.92.

Section2. **THAT** the Tax Assessor-Collector and/or Finance Director is hereby directed to assess, extend, and enter upon the certified tax rolls of the City of Wharton, Texas, for the current taxable year, as provided by the Wharton County Appraisal District, the amounts and rates as herein levied, to keep the correct amount of same, and when collected, to be distributed in accordance with this ordinance.

Passage and Approval

PASSED AND APPROVED by a favorable majority of the members of the City Council of the City of Wharton, Texas, in a Council Meeting, this 23rd day of September 2024, duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

Tim Barker, Mayor	Yes
Burnell Neal, Councilmember District 1	Yes
Steven Schneider, Councilmember District 2	Yes
Terry Freese, Councilmember District 3	Yes
Michael Voulgaris, Councilmember District 4	Yes
Russell Machann, Councilmember at Large Place 5	Yes
Larry Pittman, Councilmember at Large Place 6	Yes

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

CITY OF WHARTON

By: _____

Tim Barker, Mayor

ATTEST:

APPROVED FOR ADMINISTRATION:

Paula Favors, City Secretary

Joseph R. Pace, City Manager

APPROVED AS TO FORM:

APPROVED FOR FUNDING:

Paul Webb, City Attorney

Joan Anel, Finance Director

Councilmember, David Voulgaris, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a resolution of the Wharton City Council adopting the City of Wharton Investment Policy after the Annual Review of the City of Wharton Investment Policy and setting an effective date. Finance Director, Joan Andel, stated that the City of Wharton Investment Policy must be reviewed and adopted annually. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-92, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-92**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE CITY OF WHARTON INVESTMENT POLICY AFTER THE ANNUAL REVIEW OF THE CITY OF WHARTON INVESTMENT POLICY, SETTING AN EFFECTIVE DATE.

WHEREAS, The Public Funds Investment Act requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and,

WHEREAS, The City of Wharton designates the City Manager and the Finance Director as investment officers; and,

WHEREAS, The City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and,

WHEREAS, The attached investment policy complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act, and the Investment Policy attached hereto as “Exhibit A” is hereby adopted as the Investment Policy of the City of Wharton, effective September 23, 2024.

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

Passed, Approved, and Adopted this 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, 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 authorizing the Mayor of the City of Wharton, Wharton County, Texas, to execute an agreement with the Wharton Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services for October 1, 2024, to September 30, 2025, Fiscal Year. Finance Director, Joan Andel, presented a draft agreement between the City of Wharton and the Chamber of Commerce & Agriculture for Visitor and Convention Bureau Services for October 1, 2024, to September 30, 2025, Fiscal Year. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-93, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-93**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, TO EXECUTE AN AGREEMENT WITH THE WHARTON CHAMBER OF COMMERCE AND AGRICULTURE FOR VISITOR AND CONVENTION BUREAU SERVICES FOR OCTOBER 1, 2024, TO SEPTEMBER 30, 2025, FISCAL YEAR.

WHEREAS, The Wharton City Council hereby authorizes Mayor Tim Barker to execute an agreement with the Wharton Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services; and,

WHEREAS, The City of Wharton and the Wharton Chamber of Commerce and Agriculture hereby agree to be bound by the conditions as set forth in the agreement.

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 authorizes Tim Barker, Mayor of the City of Wharton, to execute an agreement with the Wharton Chamber of Commerce and

Agriculture for Visitor and Convention Bureau Services for the October 1, 2024, to September 30, 2025, Fiscal Year.

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

Passed, Approved, and Adopted this 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a request by Mr. Jeff Rainer, Wharton Chamber of Commerce & Agriculture 2024 Holiday Parade Chairman, for the Wharton Holiday Parade for the following:

- A. Ordinance: An ordinance approving the 2024 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Wharton Police Department to redirect traffic.
- B. The closure of State Highway 60 (Burleson Street and Milam Street) from its intersection at Alabama Road and Polk Street and the 100 Block of South Fulton Street and South Houston Street from 5:00 p.m. to 9:00 p.m. and declare it as a “No Parking Zone”.
- C. City of Wharton to transport, set up, and return five (5) portable lights for use during the parade.

Ms. Karen Smith, Executive Director of the Wharton Chamber of Commerce, presented the request from Mr. Jeff Rainer, Wharton Chamber of Commerce & Agriculture 2024 Holiday Parade Chairman, for the Wharton Holiday Parade. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Ordinance No. 2024-16, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2024-16**

AN ORDINANCE APPROVING THE 2024 CHAMBER OF COMMERCE & AGRICULTURE HOLIDAY PARADE PERMIT AND AUTHORIZING THE POLICE DEPARTMENT TO REDIRECT TRAFFIC.

WHEREAS, The Wharton Chamber of Commerce and Agriculture has filed an application for a parade permit with the City of Wharton Police Department as required under the City of Wharton Code of Ordinances, Chapter 82, Article III, Sec. 82-91; and,

WHEREAS, The requested parade route requires the City of Wharton to close State Highway 60 (Burleson Street and Milam Street) from its intersection with Alabama Road and Polk Street and the 100 Block of South Fulton Street and South Houston Street from 5:00 p.m. to 9:00 p.m. and declare a “no parking zone” for such; and,

WHEREAS, The closure of State Highway 60 will be for a time of less than four (4) hours; and,

WHEREAS, The closure will require the detouring of all traffic according to the map (Attachment A) attached to this ordinance; and,

WHEREAS, The routing of all traffic will include truck traffic to Alabama Road, which is prohibited by ordinance; and,

WHEREAS, The City Council wishes to suspend for the duration of the parade the enforcement of said ordinance of trucks traveling on Alabama Road; and,

WHEREAS, If there are any other ordinances that would be violated because of the re-routing of all traffic, their suspension is hereby authorized.

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

Section I. The parade permit for the Wharton Chamber of Commerce and Agriculture is hereby approved.

Section II. The parade route is hereby approved as detailed in the attached map (Attachment A), which is hereby made part of this ordinance.

Section III. The closure of all streets as indicated in said map identified in Section II is hereby authorized.

Section IV. The traffic detour plan, as identified in Section III above, is hereby approved.

Section V. The Chief of Police and City Staff are hereby authorized to make the necessary expenditures needed to ensure the safety of the public.

Section VI. This ordinance shall become effective on the 26th day of November 2024 and remain in effect until such time that the parade concludes.

Passed, Approved, and Adopted this 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a request from Ms. Sarah Shanks for the following for the Wharton Harvest Day 2024, being held on October 26, 2024:

- 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 3:00 p.m. on Saturday, October 26, 2024.
- B. To provide barricades for street closures.
- C. Waive all local fees for the event.
- D. Waive local permit fees for food trucks and food vendors.
- E. To allow for the setup of a DJ on Houston Street.
- F. Provide six (6) trash containers and extra liners.

Ms. Shanks presented her request regarding Wharton Harvest Day 2024, to be held on October 26, 2024. After some discussion, Councilmember, Terry Freese, moved to approve the aforementioned items A. through F. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a request from Mr. and Mrs. Lockley of Ace Hardware for the City Council's consideration of issuing a permanent certificate of occupancy. City Manager, Joseph R. Pace, stated the item would be pulled from the agenda.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the purchase of equipment for the Public Works Department from Mustang CAT

through the Sourcewell Cooperative Program and authorizing the City Manager to execute all documents related to said purchase. Public Works Director, Roderick Semien, stated he received quotes for the purchase of the following:

1. Caterpillar 920 Wheeled Roller in the amount of \$190,765.90.
2. Caterpillar 308 Mini Excavator in the amount of \$140,469.23.

Mr. Semien said that both of the quotes were obtained from Mustang Machinery Company, LLC. D/B/A Mustang Cat which was part of the Sourcewell Cooperative Program. He said the funds to pay for the equipment purchases had been allocated through the FEMA Alternate project funds. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-94, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-94**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF EQUIPMENT FOR THE PUBLIC WORKS DEPARTMENT FROM MUSTANG CAT THROUGH THE SOURCEWELL COOPERATIVE PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, Quotes were received for the purchase of equipment for the Public Works Department; and,

WHEREAS, The City of Wharton is a member of and participates in the Sourcewell Cooperative Purchasing Program; and,

WHEREAS, Mustang Cat submitted quotes in the amount of \$330,935.13; and,

WHEREAS, The Wharton City Council wishes to approve Mustang Cat for the purchase of a Caterpillar 920 Front End Loader in the amount of \$190,765.90 and a Caterpillar 308 Mini Excavator in the amount of \$140,469.23 for the Public Works Department; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute all documents related to said purchase.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to purchase equipment for the Public Works Department from Mustang Cat through the Sourcewell Cooperative Purchasing Program in the amount of \$330,935.13.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the purchase of the equipment.

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

PASSED AND APPROVED this 23rd day of September 2024.

CITY OF WHARTON

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, 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 rescinding the City of Wharton Resolution No. 2024-85 and approving the purchase of a vehicle from Wharton County. EMS Director, Christy Gonzales, stated that on August 26, 2024, the City Council approved Resolution No. 2024-85 for the purchase of a vehicle for the EMS Department from Lavaca County for \$10,000.00. EMS Director Gonzales said that since then, it had been determined that Lavaca County could not sell to a city outside their county but Lavaca County could sell to another county. She said that the City must purchase the vehicle through Wharton County. On Monday, September 23, 2024, Wharton County presented a request before the Commissioners Court to purchase the vehicle from Lavaca County for \$10,000.00 and sell it to the City of Wharton, which was approved. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-95, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-95**

A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING THE CITY OF WHARTON RESOLUTION NO. 2024-85 AND APPROVING THE PURCHASE OF A VEHICLE FROM WHARTON COUNTY.

WHEREAS, The City Council of the City of Wharton approved the purchase of a vehicle from Lavaca County with Resolution No. 2024-85; and,

WHEREAS, The City wishes to purchase the vehicle from Wharton County; and,

WHEREAS, The City Council of the City of Wharton wishes to authorize the Emergency Medical Services Director to purchase the vehicle from Wharton County.

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

- Section I.** The City Council of the City of Wharton hereby authorizes the purchase of the vehicle from Wharton County.
- Section II.** The City Council of the City of Wharton hereby authorizes the Emergency Medical Services Director to purchase the vehicle from Wharton County.
- Section III.** That Resolution No. 2024-85 shall become null and void on September 23, 2024.
- Section IV.** That this resolution shall become effective on September 23, 2024.

Passed, Approved, and Adopted this 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, 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 City Manager to purchase two (2) vehicles for the City of Wharton Code Enforcement Department from Caldwell Country Chevrolet through the Buyboard Co-operative and authorizing the City Manager to execute all documents related to said purchase. Building Official, Claudia Velasquez stated she received a quote for the purchase of two (2) 2025 Chevrolet Trax vehicles for the Code Enforcement Department. Building Official Velasquez said the quote was received from Caldwell Country Chevrolet which was a member of the BuyBoard Co-operative and was in the amount of \$43,790.00 for the two vehicles. She said the funds to pay for the vehicles had been allocated through the FEMA Alternate project funds. After some discussion, Councilmember, Larry Pittman, moved to approve City of Wharton Resolution No. 2024-96, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-96**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PURCHASE TWO (2) VEHICLES FOR THE CITY OF WHARTON CODE ENFORCEMENT DEPARTMENT FROM CALDWELL COUNTRY CHEVROLET THROUGH THE BUYBOARD CO-OPERATIVE AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, The Wharton City Council has appropriated funds for the purchase of vehicles for the Code Enforcement Department; and,

WHEREAS, The City of Wharton is a member of and participates in the BuyBoard Co-operative Purchasing Program; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to purchase two (2) vehicles for the Code Enforcement Department from Caldwell Country Chevrolet through the Buyboard Co-operative in the amount of \$43,790.00; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to the purchase of the vehicles.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to purchase two (2) vehicles for the Code Enforcement Department from Caldwell Country Chevrolet through the Buyboard Co-operative in the amount of \$43,790.00.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the purchase of the vehicles.

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

PASSED AND APPROVED this 23rd day of September 2024.

CITY OF WHARTON

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 a resolution of the Wharton City Council accepting the H-GAC -Victim's Assistance Officer Grant for the Wharton Police Department for one (1) year and authorizing the Mayor of the City of Wharton to execute all documents related to said grant. Police Chief, Terry David Lynch, presented a memorandum regarding the H-GAC Victim's Assistance Office Grant for the Wharton Police Department. Police Chief Lynch stated the Wharton Police Department had reapplied for the H-GAC Victim's Assistance Officer Grant through the H-GAC Governor's Victim's Assistance Grant Program. He said the grant term was for one (1) year (FY2025), and the grant renewal request was approved by H-GAC in the amount of \$89,382.00 with a match of \$17,937.00 in FY2025. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-97, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-97**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE H-GAC-VICTIM'S ASSISTANCE OFFICER GRANT FOR THE WHARTON POLICE DEPARTMENT FOR ONE (1) YEAR AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID GRANT.

WHEREAS, The City of Wharton finds it in the best interest of the citizens of the City of Wharton, that the Victim Assistance Officer be operated for the 2025 Fiscal Year; and,

WHEREAS, The Wharton City Council agrees that in the event of loss or misuse of the Office of the Governor funds, the Wharton City Council assures that the funds will be returned to the Office of the Governor in full; and,

WHEREAS, The Wharton City Council designates Mayor Tim Barker as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

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 authorizes the Mayor of the City of Wharton to execute, on behalf of the City of Wharton, all documents related to said grant.

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

Passed, Approved, and Adopted this 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the purchase of a BDA RF (Bi-Directional Amplifier Radio Frequency) Component for the Radio Communications System at the Wharton Police Department from Texas Communications through Buyboard Cooperative and authorizing the City Manager to execute all documents related to the said purchase. Police Chief, Terry David Lynch, stated the Wharton Police Department needed to purchase a BDA RF (Bi-Directional Amplifier Radio Frequency) Component due to the loss of a component for the Radio Communications System. Police Chief Lynch said the purchase would be made from Texas Communications, the regular radio repair company, in the amount of \$14,093.46. He said Texas Communications was a member of the BuyBoard Cooperative and the funds would be paid through the Chapter 59 Seizure Account, resulting in no cost to taxpayers or the City Budget. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-98, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-98**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF A BDA RF (BI-DIRECTIONAL AMPLIFIER RADIO FREQUENCY) COMPONENT FOR THE RADIO COMMUNICATIONS SYSTEM AT THE WHARTON POLICE DEPARTMENT FROM TEXAS COMMUNICATIONS THROUGH BUYBOARD COOPERATIVE AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, The Wharton Police Department is requesting that the City Council approve the purchase of a BDA RF Component for the Radio Communications Systems from Texas Communications through BuyBoard Cooperative; and,

WHEREAS, The total amount of said purchase is \$14,093.46; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to purchase a BDA RF Component for the Radio Communications Systems from Texas Communications through BuyBoard Cooperative

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

SECTION I. The Wharton City Council hereby authorizes the purchase of a BDA RF Component for the Radio Communications Systems from Texas Communications through BuyBoard Cooperative in the amount of \$14,093.46.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute the purchase of a BDA RF Component for the Radio Communications Systems from Texas Communications through BuyBoard Cooperative.

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

PASSED AND APPROVED this 23rd day of September 2024.

CITY OF WHARTON

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Burnell Neal, seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider the Wharton County Emergency Services District No. 3:

A. Resolution: A resolution of the Wharton City Council approving an Interlocal Agreement for Emergency Medical Services between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3 and authorizing the Mayor of the City of Wharton to execute the agreement.

B. Resolution: A resolution of the Wharton City Council approving an Interlocal Agreement for Administrative Services between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3 and authorizing the Mayor of the City of Wharton to execute the agreement.

City Secretary, Paula Favors, presented a copy of the memorandum from her requesting the Wharton County Emergency Services District (ESD) No. 3's recommendation that both Items A & B above be considered for approval by the City Council. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-99 and 2024-100, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-99**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT FOR EMERGENCY MEDICAL SERVICES BETWEEN THE WHARTON COUNTY EMERGENCY SERVICES DISTRICT (ESD) NO. 3 AND THE CITY OF WHARTON EMERGENCY MEDICAL SERVICES DEPARTMENT.

WHEREAS, The Wharton County Emergency Services District (ESD) No. 3 Board has hereby authorized the ESD No. 3 President to execute an agreement with the City of Wharton for emergency medical services; and,

WHEREAS, The City of Wharton hereby wishes to enter into an Interlocal Agreement with the Wharton County Emergency Services District (ESD) No. 3 to provide Emergency Medical Services (EMS); and,

WHEREAS, The ESD No. 3 and the City of Wharton wishes to 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 agreement.

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 authorizes the Mayor of the City of Wharton to execute an Interlocal Agreement between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3 for emergency medical services.

Section II. That the City of Wharton and the ESD No. 3 shall hereby be 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 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2024-100**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT FOR ADMINISTRATIVE SERVICES BETWEEN THE WHARTON COUNTY EMERGENCY SERVICES DISTRICT (ESD) NO. 3 AND THE CITY OF WHARTON AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton County Emergency Services District (ESD) No. 3 Board has hereby authorized the ESD No. 3 President to execute an agreement with the City of Wharton for administrative services; and,

WHEREAS, The ESD No. 3 and the City of Wharton wishes 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 agreement.

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

Section I. That Wharton City Council hereby approves an Interlocal Agreement between the City of Wharton and the Wharton County Emergency Services District No. 3 for administrative services.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

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

Passed, Approved, and Adopted this 23rd day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fifteenth item on the agenda was to review and consider the direction from the City Council on how to proceed with the American Legion Building. City Manager Pace stated the City Staff had toured the building and found it to be in disrepair. He said the American Legion had previously terminated their lease agreement with the City because they were unable to repair the building. After some discussion, the City Council discussed the City Staff exploring tearing the building down.

The sixteenth item on the agenda was to review and consider an update of the City of Wharton Grant Programs. Planning and Development Director Gwyn Teves presented an update. After some discussion, no action was taken.

The seventeenth item on the agenda was to review and consider an update on the City of Wharton's ongoing projects. City Manager Joseph R. Pace presented an update on the City of Wharton's ongoing Projects. After some discussion, no action was taken.

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

- A. Resignations.
- B. Appointments.
- C. Vacancies.

After some discussion, no action was taken.

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

- A. Wharton Economic Development Corporation Board of Directors Selection Committee meeting held September 9, 2024.

After some discussion, no action was taken.

The twentieth item on the agenda was to review and consider the Department Head Reports:

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

After some discussion, no action was taken.

There being no further discussion, Councilmember, David Voulgaris, moved to adjourn. All voted in favor.

The meeting adjourned at 7:48 p.m.

CITY OF WHARTON, TEXAS


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Request from the Daughters of the American Revolution Comfort Wood Chapter to hold a Scholarship 5K Run/Walk for the following: A. Use of Guffey Park on October 26, 2024, from 7:00 a.m. to 10:00 a.m. B. Wharton Police Department assistance at street crossings for the event.
<p>Attached is the request from the Daughters of the American Revolution Comfort Wood Chapter to hold a 5K Run/Walk to raise money to give scholarships to Wharton County graduating Seniors. The Event is on October 26, 2024, with sign-in beginning at 7:30 a.m. and the race starting at 8:30 a.m. No road closures are needed, and volunteers will help along the route.</p> <p>Lt. Ben Guanajuato has reviewed and approved the event.</p> <p>Ms. Sarah Hudgins will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



September 25, 2024

Mr. Joseph R. Pace
City of Wharton
120 E. Caney Street
Wharton, Texas 77488

Dear Mr. Pace:

The Daughters of the American Revolution Comfort Wood Chapter plan to hold a Scholarship 5K Run/Walk to raise money to give Scholarships to Wharton County graduating Seniors.

I have 28 Seniors from Wharton, East Bernard, Boling and El Campo who applied to receive scholarships through their participation in obtaining sponsorships and 5K participates.

Date of the Event: Saturday Oct 26, 2024. Sign in to begin at 7:30 AM and Race at 8:30 AM.


Request: 1. The use of Guffey Park Oct 26, 2024, from 7:00 AM to 10:00 AM
2. Police assistance at some street crossings deemed necessary by the City of Wharton Police Department.

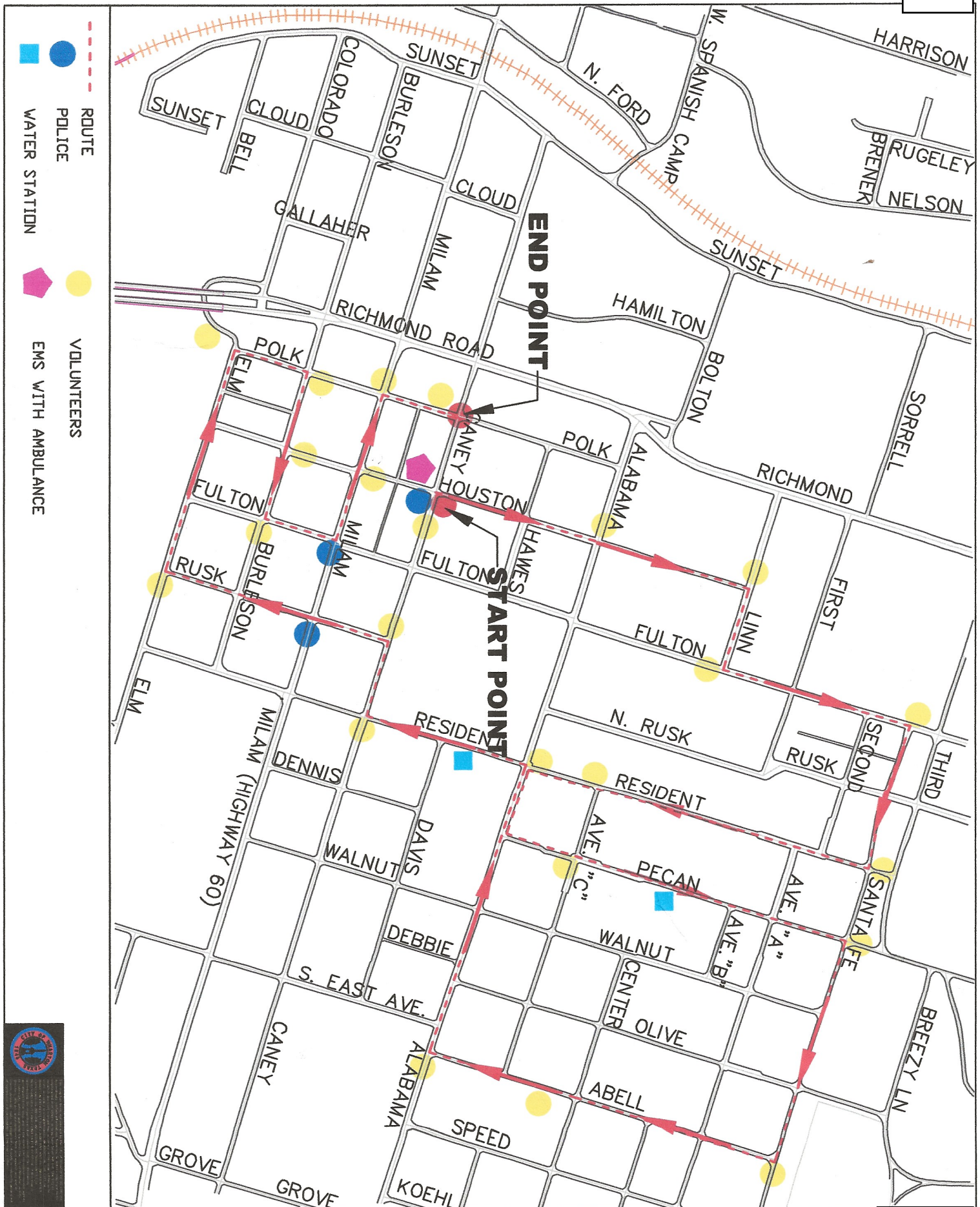
No road closures needed, and we have volunteers to help along the route.

I met with Lt Ben Guanajuato and went over the route, which is attached.

We respectfully request this be placed on the next City Council Meeting Agenda to obtain approval by the City Council.


In DAR Friendship and Service


Sarah Hudgins
Regent



City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Request from Edwards Ministerial Association, Inc., to hold a 5K Walk-Roll-Stroll event on October 19, 2024, for the following: A. Waive all local fees for the event. B. Provide six (6) blue barrel trash containers and extra liners. C. Have EMS on standby for the event.
<p>Attached is the request from Edwards Ministerial Association, Inc., to hold a 5K Walk-Roll-Stroll event on October 19, 2024, at Guffey Park.</p> <p>Lt. Guanajuato has reviewed the request and approves.</p> <p>A representative from the Edwards Ministerial Association will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



Edwards Ministerial Association, Incorporated

Post Office Box 151768
Austin, TX 78715-1768

October 3, 2024

Mr. Joseph R. Pace
City of Wharton
120 E. Caney Street
Wharton, TX 77488

RE: Permission – EMA 5K Walk-Roll-Stroll Event

Dear Mr. Pace:

The Edwards Ministerial Association, Inc. (EMA) organization plans to hold its 1st annual 5K Walk-Roll-Stroll event on Saturday, October 19, 2024. It will begin and end at the Guffey Park starting at 8:00 AM.

We respectfully request from the city:

1. Waive all local fees for the event.
2. Provide 6 blue barrel trash containers and extra trash bags.
3. Have EMS on standby.

An EMA advisory board member has reached out to Lt. Guanajuato regarding traffic control to make the event as safe as possible for all participants.

The Executive Board and advisory members of EMA thank you for your time and consideration.

Respectfully,


A handwritten signature in black ink, reading "Dr. Charles W. Edwards, Jr." followed by a stylized flourish.

Dr. Charles W. Edwards, Jr., EMA CEO/Founder
Chaplain (Brigadier General) TXARNG Retired



City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Request from Mr. Larry Sitka, for (1) a front setback variance on Fulton St. of 25' from the required 50', (2) a variance to allow more than 1 free-standing commercial sign on the same property, and (3) have a separation of less than 500 feet between off-premise signs on the same side of a public street.
<p>Attached is the request from Mr. Larry Sitka, for (1) a front setback variance on Fulton St. of 25' from the required 50', (2) a variance to allow more than 1 free-standing commercial sign on the same property, and (3) have a separation of less than 500 feet between off-premise signs on the same side of a public street.</p> <p>The Planning Commission met and discussed the request and Mr. Sitka was present to provide information. Commissioner Gary Nunez motioned to recommend that the Council not approve the request from Mr. Sitka, however, the item did not have a second.</p> <p>Mr. Sitka will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: October 9, 2024
FROM: Mike Wootton, Planning Commission Chairperson
TO: Honorable Mayor and City Council
SUBJECT: Regular Called Planning Commission Meeting held Monday, October 7, 2024

The following item was discussed during the Monday, October 7, 2024, meeting:

1. Request from Mr. Larry Sitka, for: (1) a front setback variance on Fulton St. of 25' from the required 50', (2) a variance to allow more than 1 free standing commercial sign on the same property and (3) have a separation of less than 500 feet between off-premise signs on the same side of a public street.

The Planning Commission met and discussed the item and Mr. Sitka was present to provide information. Commissioner Gary Nunez motioned to recommend the Council not approve the request from Mr. Sitka, however, the item did not have a second.

The variance request is now before the Council for a final decision.

If you should have any questions, please contact me. Thank You.

**CITY OF WHARTON
PLANNING COMMISSION
APPLICATION FOR VARIANCE**

Item-4.

NOTE: If variance request is approved by the Planning Commission, the request will then be presented at the next City Council meeting for City Council consideration. Attendance by the applicant requesting the variance is mandatory during the City Council meeting. If applicant fails to attend the meeting, the variance request will not be considered by the City Council at that time. The expiration date for approved variance application will be six months from the date of approval of the variance. If construction has not commenced within that six month period, the applicant must re-apply for the variance.

LARRY S ITHA
Name (Printed)

9-11-24
Date

Physical Address

Mailing Address

Phone

Describe the variance request and the reason for requesting variance:

To place a sign

ATTACH A SITE PLAN WITH DIMENSIONS TO PROPERTY LINES:

SIGNATURE OF APPLICANT:

Larry Itha
Signature
Date 9-11-24
Planning Commission Meeting: 10-7-24 430p
City Council Meeting: 10-14-24 7pm

Building line setbacks Only

Residential \$100.00

Non-Residential \$150.00 ☒

Non-Refundable fee

Effective November 3, 2006

ADJACENT PROPERTY OWNER (S):

LARRY SNAKE RANCH
Name

Legal Address

BARBARA MORRIS
Name

PO Box 686 WHARTON
Legal Address

Name

Legal Address

Physical Address

Phone

Physical Address

Phone

Physical Address

Gregory J. Jones
Planning Department

9-18-2024
Date

Chairman of the Planning Commission

Date

Mayor

Date

Larry Sitka

Wharton, Texas 77488

Fulton Street

Hwy 1301

SIGN

8' x 8'

DOUBLE FACE SIGN

TWO DIFFERENT STREETS



10ft - 12ft

N.G.



Chapter 66 SIGNS AND ADVERTISING¹

ARTICLE I. IN GENERAL

Sec. 66-1. Purpose.

- (a) The purpose of this chapter is to establish clear and unambiguous regulations pertaining to signs in the City of Wharton and to promote thereby an attractive community, foster traffic safety, preserve and protect the quality of life and real estate values forming the city's tax base, and enhance the effective communication and exchange of ideas and commercial information. The City Council of the City of Wharton hereby finds the following legislative facts:
- (1) The proliferation of signs creates commercial confusion and makes it difficult for travelers and motorists to locate the goods and services they seek.
 - (2) The increasing height of signs within the city is an endless battle for higher and more visible signs, and a reasonable limitation on the height of signs is necessary to prevent potential visual pollution, windstorm damage, injury or death.
 - (3) Excessive height in signs creates visual clutter and the establishment of a reasonable maximum height for signs will allow effective communication, pedestrian and vehicular safety, and prevent altitude competition.
 - (4) Reasonable provisions pertaining to size, scale, location, design, lighting, permanency, and maintenance are necessary to avoid visual clutter, preserve and improve the appearance and character of the community, to avoid traffic line-of-sight problems caused by signs or structures in close proximity to streets, which compete with traffic signs and signals for the attention of motorists, and to prevent deterioration, disregard, and abandonment of signs or structures.
- (b) The council recognizes that signs are necessary for visual communication for public convenience, and that businesses and other activities have the right to identify themselves by using signs which are incidental to the use on the premises where the signs are located. The city council herein seeks to provide a reasonable balance between the right of a person to identify his or her business or activity, and the public interest of protecting against visual discord confusion and resulting safety hazards to pedestrians and motoring public that result from the unrestricted proliferation, location and construction of signs. This chapter will insure that signs are compatible with adjacent land uses and with a positive total visual environment in the community.

¹Editor's note(s)—Ord. No. 2017-03, adopted Feb. 13, 2017, amended ch. 66 in its entirety to read as herein set out. Former ch. 66, §§ 66-1—66-112, pertained to similar subject matter, and derived from: Ord. No. 1991-09, 7-23-91; Ord. No. 1991-24, adopted Nov. 12, 1991; Ord. No. 1999-06, §§ 2—4, adopted Apr. 12, 1999; Ord. No. 2000-15, § 2(Exh. A), adopted Aug. 28, 2000; Ord. No. 2008-07, adopted June 9, 2008; Ord. No. 2012-01, adopted Jan. 9, 2012; and Ord. No. 2013-25, adopted Oct. 14, 2013.

Cross reference(s)—Alcoholic beverages, ch. 10; buildings and construction, ch. 18.

State law reference(s)—Regulation of signs by municipalities, V.T.C.A., Local Government Code § 216.001 et seq.

- (c) The city council finds that the rights of residents of this city to fully exercise their rights of free speech by the use of signs containing noncommercial messages are subject to minimum regulation regarding structural safety and setbacks for purposes of traffic and pedestrian protection. The council seeks herein to provide for the reasonably prompt removal and disposal of such signs after they have served their purpose and yet to avoid any significant interference with First Amendment freedoms.
- (d) The council finds that instances may occur in the application of this chapter where strict enforcement would deprive a person of the reasonable use of a sign, or the reasonable utilization of a sign in connection with other related property rights, and herein provides for such persons to have the right to seek variances from the requirements of this chapter for good cause. The council finds that it is imperative that any city representative, agent or official who is responsible for enforcing the ordinance from which this article derives, do so as it is written, in the interest of equality and fair and impartial application to all persons, and that the use of the variance procedure shall remain the sole administrative means to obtain any exception to the terms hereof.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-2. Definitions.

Apartment/condominium/mobile home park identification sign: An attached sign or a freestanding sign with permanent foundation or moorings, designed for identification of a multifamily residential project or a mobile home park project.

Area identification sign: A freestanding or wall sign with permanent foundation or moorings, designed for identification of subdivisions of ten to 50 acres, or identification of a distinct area within a subdivision.

Attached sign: A sign attached to or applied on and totally supported by a part of a building.

Banner: A graphic composed primarily of cloth, paper, fabric or other similar means, not including decorative streamers with no lettering thereon.

Building: A structure that has a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals or property.

Building official: The City of Wharton Building Official as prescribed by chapter 18 Buildings and Construction, article II, Building Official, sections 18-36—18-40 of the City of Wharton Code of Ordinances.

Changeable electronic variable message signs (CEVMS): Means a sign which permits lights to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including a light emitting diode (LED) or digital sign, and which varies in color or intensity. A CEVMS sign does not include a sign located within the right-of-way which functions as a traffic control device and which is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD), approved by the federal highway administrator as the national standard.

Church directional sign: An off-premises sign that furnishes directions to a church.

Commercial sign: A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered or existing.

Construction sign: An attached or freestanding sign erected upon a lot or parcel of land for the purpose of advertising the furnishing of labor, materials, or the practice of crafts for a subdivision or building project.

Corporate signs/flags: A piece of fabric of distinctive design meant to draw attention to the main entrance of an apartment complex, hotel, church, nursing home, home for the aged, business or school.

Development sign: A sign announcing a proposed subdivision or a proposed building project.

Directional traffic control sign: A sign utilized as a traffic control device in off-street parking or access areas.

Finance sign: An attached or freestanding sign erected upon a lot or parcel of land for the purpose of advertising by a bank or other lending institution, the furnishing of interim or permanent financing for a subdivision or proposed building project.

Freestanding commercial sign: A sign supported by one or more columns, poles or bars extended from the ground or from an object on the ground, or that is erected on the ground; the term includes all signs which are not substantially supported by a building or part thereof, or which are substantially supported by a building or part thereof, when the sole significant purpose of the building or part thereof, is to support or constitute the sign.

Fuel price sign: A sign used to advertise the current price of fuel at locations where fuel is sold.

Garage/yard sale sign: A sign used to advertise the sale of personal property at a person's residence.

Home occupation sign: A sign used to identify the name and occupation of a person with a legal home commercial enterprise.

Low profile sign: A sign with a permanent foundation which is not attached to a building, but is a stand-alone sign and which does not exceed 60 square feet in area and four feet in height.

Noncommercial sign: A sign containing a work of art or message which is political, religious or pertaining to a point of view, expression, opinion or idea that contains no reference to the endorsement, advertising of or promotion of patronage, of a business, commodity, service, entertainment, or attraction that is sold, offered or existing.

Off-premises commercial sign: A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than upon the premises where such sign is displayed.

On-premises commercial sign: A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered or existing upon the premises where such sign is displayed. This definition does not include noncommercial signs.

Pennants/festoons: A piece(s) of fabric or other pliable material used for decoration (contains no copy or logo) or for identification (contains copy and/or logo).

Political sign: Any sign which promotes a candidate for any public office or which advocates a position on any social issue as its primary purpose. Political signs shall be considered in the category of noncommercial signs except where there are regulations pertaining to their removal after an election.

Portable sign: An on-premises sign which is not permanently affixed or attached to real property by poles, stakes or other members which are placed into the ground or upon some other type of permanent foundation; including trailer signs, any sign with wheels or skids, and any sign which is constructed so as to sit upon the surface of the ground, without subsurface attachment or extension.

Premises: An area of land planned and designed as a single comprehensive project, considered from the time the plan is first submitted to the planning department either at plat stage or site plan stage.

Real estate sign: An attached or freestanding sign erected upon a lot or parcel of land for the purpose of advertising same for sale or lease.

Roof sign: An outdoor advertising display sign erected, constructed, or maintained on the roof of a building or which is wholly dependent upon a building for support, and which projects above the point of a building with a flat roof six feet above the eave line of a building with a shed, gambrel, gable or hip roof, or the deck line of a building with a mansard roof.

Sign: Means any written or graphic representation, decoration, form, emblem, trademark, flag, banner, or other feature or device of similar character which is used for the communication of commercial information, or communication of ideas or subjects of political significance, and which:

- (1) Is a structure or any part thereof, including the roof or wall of a building, or a freestanding wall or fence.
- (2) Is written, printed, projected, painted, constructed or otherwise placed or displayed upon or designed into a building, board, plate canopy, awning, or vehicle, or upon any material, object or device whatsoever.
- (3) By reason of its form, color, wording, symbol design, illumination or motion attracts or is designed to attract attention to the subject thereof, or is used as a means of identification, advertisement or announcement.
- (4) A sign shall be considered to be a single display surface, a double-faced display surface, or display device-containing elements clearly organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign; provided, however, that the display of actual physical merchandise through glass windows in any store where such merchandise may be sold in the ordinary course of business shall not constitute a sign or signs.

Spinners: Any sign display or attention-seeking device (that is not a flag) which spins or flutters when contacted by air currents or is propelled by a mechanical fan.

Subdivision identification sign: A freestanding or wall sign with permanent concrete foundation or moorings, designed for permanent identification of a subdivision of greater than 50 acres.

Voting period: The period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-3. Applicability.

- (a) Any reference to the masculine gender, including but not limited to, him and his in this chapter also includes the feminine gender.
- (b) This chapter shall apply to all signs within the corporate limits of the city.
- (c) This chapter supersedes any conflicting ordinance unless this chapter expressly provides otherwise.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-4. Prohibited acts.

Within the corporate limits of the city, it shall be unlawful for any person to do any of the following acts:

- (1) Post, paint or otherwise exhibit any type of sign or sign support on any property not owned or controlled by him, without the written permission of the person owning or controlling the property.
- (2) Tear down, remove or otherwise interfere with any type of sign or sign support erected by another, unless the sign or sign support was placed or maintained on the property of the person removing the sign or sign support without written permission.

- (3) Erect, maintain or paint any type of sign upon a tree, rock or other natural feature.
- (4) Erect any type of off-premises sign or sign support without having obtained from the city a permit therefore, except as specifically exempted by this chapter.
- (5) Remove, without the building official's authorization, any official tag that was placed on a sign in accordance with this chapter.
- (6) Erect or allow any type of off-premises sign or sign support to remain upon any property if the off-premises sign or sign support is in violation of this chapter.
- (7) Place or cause to be placed anywhere in the city any type of sign, poster, placard, handbill or other advertising material on any motor vehicle or in any location in such a manner that the sign or advertising material may reasonably be expected to move to the ground by the blowing of the wind or any other act of nature. For purposes of this section, it shall be presumed that any sign, poster, placard, handbill or other advertising material placed under the windshield wipers of any motor vehicle shall reasonably be expected to move to the ground.
- (8) Erect, place or maintain any type of sign, poster, placard, handbill or other advertising material in any public right-of-way or on any public utility poles.
- (9) Erect or cause to be erected or maintained any sign using any combination of forms, words, colors or lights that imitate standard public traffic regulatory, emergency signs or signals.
- (10) Erect or cause to be erected or maintained any sign that creates a traffic or safety hazard by virtue of significant distraction, reflection, unusual or excessive lighting or blockage of line-of-sight.
- (11) Erect or cause to be erected or maintained any sign that contains vulgar, lewd or pornographic figures, pictures, paintings, drawings, words, characters or symbols.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-5. Permits.

(a) *Erection permits:* A permit shall be required for the following types of signs:

(1) All types of off-premises signs, whether commercial or noncommercial.

a. The building official, upon filing of an application for a permit to erect a sign, shall examine applicant's sign plans and specifications and other data and the premises upon which the applicant proposes to erect the sign. If it shall appear that the proposed sign is in compliance with this chapter and all other laws and ordinances of the city, the building official shall then issue the erection permit. If the work authorized under a sign erection permit has not been completed within six months after the date of issuance, the permit shall become null and void and the applicant shall be required to remove any portion of the sign that has been erected.

b. The fee for such erection permits shall be established by resolution of the city council and may be changed from time to time.

(b) No permit shall be required for the following signs:

- (1) Real estate signs, finance signs and construction signs.
- (2) Directional traffic control signs.
- (3) Home occupation signs.
- (4) Political signs.

(5) Home numbering signs.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-6. Permit number.

Every sign registered, shall display its permit number in a conspicuous place on the sign so that the permit number is visible from the ground to the building official and is readable without artificial visual aids while standing at a distance of 30 feet.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-7. Maintenance.

The owner of a sign shall maintain the sign and any leased or owned real estate immediately surrounding the sign in a clean, sanitary and inoffensive condition and free and clear of all obnoxious substances, rubbish and weeds.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-8. Construction standards.

All signs erected or maintained in accordance with this chapter shall be erected and maintained in compliance with all applicable state laws and with the city building code, electrical code and other applicable ordinances of the city. If a conflict exists between this chapter and any other laws, the most restrictive standard applies.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-9. Lighting.

- (a) All lighting of signs shall be so shielded as not to produce intensive or excessive light or glare to the traveling public and adjacent property.
- (b) No sign shall be placed so as to obstruct the public lighting of any street, alley or public property.
- (c) No sign shall be located in such a manner as to obscure or interfere with the effectiveness of official traffic signs, signals or devices or in such a manner as to obstruct or interfere with the view by a pedestrian or a driver of a motor vehicle or any other type vehicle or approaching, merging or intersecting traffic.
- (d) Signs that are lighted and that are visible from any public street must be so designed and so maintained that the lights are effectively shielded to prevent beam rays of light from being directed at any portion of the traveled ways and the lights shall not be of such intensity or brilliance to cause glare or to impair the vision of a pedestrian or the driver of a motor vehicle or any other type of vehicle.
- (e) No sign may be so illuminated that it interferes with the effectiveness of identifying, or obscures an official traffic sign, signal or device.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-10. Subdivision and area identification signs.

(Supp. No. 55)

Created: 2024-08-02 08:44:25 [EST]

Sec. 66-11. Apartment/condominium/mobile home park identification sign.

Sec. 66-12. Development signs.

Sec. 66-13. Directional traffic control signs.

Sec. 66-14. Portable signs.

Sec. 66-15. Real estate signs.

Sec. 66-16. Finance/construction signs.

Sec. 66-17. Noncommercial signs—Political signs.

Sec. 66-18. Home occupation signs.

Sec. 66-19. Roof signs.

Sec. 66-20. Freestanding commercial signs.

Sec. 66-21. Attached signs.

Sec. 66-22. Changeable electronic variable message signs (CEVMS).

Sec. 66-23. Corporate flags.

Sec. 66-24. Church directional signs.

Sec. 66-25. Sports signs.**Sec. 66-26. Home/business address numbering.****Sec. 66-27. Garage/yard sale signs.****Sec. 66-28. Off-premises signs; commercial and noncommercial.**

Any commercial or noncommercial off-premises sign erected in accordance with this chapter shall meet the following requirements:

- (1) Be a minimum of 80 feet from any residential property line.
- (2) Have a total area not greater than 150 square feet.
- (3) Five hundred feet of space shall separate all off-premises signs on the same side of a public street.
- (4) Have a front setback from the property line of not less than 50 feet.
- (5) Shall be no greater than 25 feet in height from the ground.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-29. City-sponsored signs.**Sec. 66-30. Prohibited signs.**

- (a) The following signs shall be prohibited within the corporate limits of the city:
- (1) Signs painted on roof tops.
 - (2) Except as permitted in section 66-23, corporate banners, flags, pennants, festoons or spinners are prohibited. However, if a business holds a grand opening or special event flags, pennants, festoons or spinners may be displayed for a cumulative total of 30 days per calendar year per location. A no-fee permit is required. The flags of any country, state, city, church, or school are not prohibited.
 - (3) Signs and displays with flashing, blinking or traveling lights, or erratic or other moving parts, either internal or external to the premises, and oriented and visible to vehicular traffic, provided that time and temperature signs are permissible if the maximum area and setback requirements of this chapter are met and if the commercial information or content of such sign is restricted to no more than eight square feet.
 - (4) Any signs which are intended to or designed to resemble traffic signals and bear such words as "stop," "slow," "caution," "warning," or other words, and which are erected for purposes other than actual traffic control or warning to the public.
 - (5) Any sign which emits sound, odor or visible matter.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-31. Exempt signs.**Sec. 66-32. Fuel price signs.****Sec. 66-33. Structural requirements.**

For the erection of any sign, a building permit shall be required in addition to the erection permit required under this chapter, in accordance with the provisions of the city building code. If a conflict exists between this chapter and the building code, the most restrictive standard applies.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-34. Abandoned, damaged or unsafe signs.**Sec. 66-35. Removal of signs.****Sec. 66-36. Miscellaneous regulations.**

- (a) No sign shall be placed in or across a city drainage, street or utility easement or a city right-of-way. Any damage to or relocation of signs illegally located in public easements shall be the responsibility of the owner of the sign. Any resulting damages to the traveling public shall be borne by the sign owner. The city, when possible, shall give the sign owner prior notice of the location and use of the public easement or right-of-way which will affect the sign. This is also applicable to all exempt signs.
- (b) Signs may be internally or externally lighted as long as the light is so designed as to be shielded away from adjoining residential premises and does not impair visibility on adjoining public rights-of-way.

(Ord. No. 2017-03, 2-13-17)

ARTICLE II. REMOVAL, RELOCATION AND RECONSTRUCTION

Sec. 66-37. Illegal nonconforming signs.**Sec. 66-38. Legal nonconforming signs—Notice of nonconformity.****Sec. 66-39. Eligibility for characterization as legal nonconforming.****Sec. 66-40. Loss of designation.**

(Supp. No. 55)

Created: 2024-08-02 08:44:26 [EST]

Sec. 66-41. Amortization and abatement of non-conforming signs.

Sec. 66-42. Applicability; compensation to owner.

Sec. 66-43. Sign control board.

Sec. 66-44. Determination of amount of compensation.

Sec. 66-45. Compensation for a relocated sign.

Sec. 66-46. Compensation for reconstructed sign.

Sec. 66-47. Compensation for removal of off-premises sign.

Sec. 66-48. Compensation for removal of on-premises sign.

Sec. 66-49. Method of compensation.

Sec. 66-50. Tax appraisal of property with nonconforming sign.

Sec. 66-51. Exceptions.

Sec. 66-52. Appeal.

Secs. 66-53—66-75. Reserved.

ARTICLE III. VARIANCES

Sec. 66-76. Variances.

- (a) Variations of this chapter will be considered by the planning commission when in its judgment special or particular factors and conditions warrant such variation and they do not affect the general application or spirit of this chapter. An application for a variance shall be obtained through the code enforcement department and submitted to the planning commission at the next regularly scheduled meeting for consideration. Advice and cooperation is to be offered and will always be fully given by the members of the city staff and planning commission. For the granting of a variance, a favorable vote of no less than a majority of members of a quorum of the planning commission shall be necessary.
- (b) Before any initial decision of the planning commission regarding a variance shall become final, such initial decision shall be subject to review by the city council, if within ten days from the date of the planning commission's initial decision, any member of council requests review of such initial decision at the next regularly scheduled council meeting. If the initial decision of the planning commission is not reviewed by the council at its next regularly scheduled council meeting it is deemed a final decision. The council may approve or deny the initial decision of the planning commission.
- (c) If an the application is denied by the planning commission, an applicant may appeal the final decision to the city council within ten days from the date of the final decision, if the city council also denies the application, the applicant may appeal the final decision to the appropriate local court.
- (d) If an application is denied, an applicant may not seek another substantially similar variance for a period of 12 months from the date the original variance was denied by the planning commission or city council.
- (e) The applicant pays a variance fee as established by the City Council of the City of Wharton under separate resolution.

(Ord. No. 2017-03, 2-13-17)

Secs. 66-77—66-110. Reserved.***ARTICLE IV. PENALTIES; EFFECTIVE DATE*****Sec. 66-111. Penalties.**

Any person violating any of the terms or provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to punishment as provided in section 1-5, City of Wharton Code of Ordinance, General Provisions for each offense. If the terms or provisions of this chapter are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

(Ord. No. 2017-03, 2-13-17)

Sec. 66-112. Effective date.

This chapter shall become effective on September 8, 2000 at 12:01 a.m.

(Ord. No. 2017-03, 2-13-17)

TABLE I
Allowable Areas For Freestanding Signs

(Supp. No. 55)

Created: 2024-08-02 08:44:26 [EST]

Frontage (Feet)	Maximum Area (Square Feet)
0—50	25
51—100	50
101—150	75
151—200	100
201—250	125
251—300	150
301—350	175
351—400	200
401—450	225
451—500	250
501—550	275
551—600+	300

Notes:

Frontage: The number of feet fronting on a public street to which a sign is oriented.

Area: The area in square feet of a single-face sign, or one sign of a double-face sign, or half the sides of a multi-face sign.

The area of a freestanding sign is the area enclosed by the minimum imaginary rectangle of vertical and horizontal lines which fully contain all extremities, exclusive of supports, or a horizontal view of the sign.

The maximum area of any freestanding sign may not exceed either that allowed by the chart above.

On corner lots, the frontage street shall be the greater street as classified on the thoroughfare plan. Where two streets are the same, the applicant may choose the frontage street.

Allowable Heights For Freestanding Signs (Distance From Property Line In Feet)		
At Least	Less Than	Height
10		50

Notes:

1. *Height:* Height of the sign measured from the elevation of the ground to the top of the sign.
2. On corner lots only, the frontage street can be used to determine height and area.
3. Commercial and Industrial tracts with a minimum of 100 feet of frontage on Highway 59 may have a sign up to a maximum of 50 feet in height. The sign shall not be closer than 200 feet to any residential property.

(Ord. No. 2017-03, 2-13-17)

**TABLE II
SUMMARY OF SIGN REGULATIONS**

Sign Classification	Maximum Area	Maximum Height	Setback	Number Allowed	Permit Required
Subdivision	150 sq. ft.	15'	10' from property line	sec. 66-10	yes
Area I.D.	16 sq. ft.	4'	10' from Property Line	sec. 66-10	yes
Apt./condo/mobile home	100 sq. ft.	10'		1/Project	yes
Development (project)	35 sq. ft. on 50' ROW 60 sq. ft. on 50' ROW 150 sq. ft. on 70' ROW 250 sq. ft. on >70' ROW	15'	10' from property line	1	yes
Development (Subdivision)	35 sq. ft. on 50' ROW 60 sq. ft. on 50' ROW 150 sq. ft. on 70' ROW 250 sq. ft. on '70' ROW	15'	10' from property line	1	yes
Traffic control	3 sq. ft.	4'	4' from curb	1/curbcut	no
Real estate	<150' frontage— 16 sq. ft. >150' frontage— 32 sq. ft.	8'	10' from property line		no
Finance/construction	<150' frontage— 16 sq. ft. >150' frontage— 32 sq. ft.	8'	10' from property line	2 construction 1 finance	no
Political	See Table I		10' from property line if area >2 sq. ft.	N/A	no
Roof	Shall be treated as commercial freestanding sign				

Created: 2024-08-02 08:44:26 [EST]

(Supp. No. 55)

Freestanding	100 sq. ft.	10'	10' from property line	1/premises if >1 acre	yes
Freestanding	see Table I			sec. 66-20	yes
Low profile	60 sq. ft.	4'	10' from property line	1	yes
Attached	section 66-21				yes
Exempt	section 66-30				
Prohibited	section 66-29				


(Ord. No. 2017-03, 2-13-17)

Secs. 66-113—66-130. Reserved.



City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council authorizing the City Manager to approve concrete repairs at the Wharton Fire Station and authorizing the City Manager to execute all documents related to said repairs.
<p>Attached is a memo from Fire Chief Hector Hernandez regarding concrete repairs at the Wharton Fire Station. The City Staff solicited quotes for the concrete work; three (3) quotes were received.</p> <p>They are as follows:</p> <ul style="list-style-type: none">1. JJ Construction-\$17,500.002. Total Outdoor Solutions-\$14,858.003. Cuevas Renovations and Construction-\$17,800.00 <p>Funds to pay for the concrete repairs have been included in the FY25 Fire Department Budget.</p> <p>The Finance Committee will meet on October 14, 2024, and will formulate a recommendation for City Council consideration.</p> <p>Chief Hernandez will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton
120 E. Caney Street ° Wharton, TX
77488
Phone (979) 532-2491° Fax (979) 532-
0181

MEMORANDUM

To: Joseph R. Pace, City Manager

From: Hector Hernandez Fire Chief Wharton Fire Department

Date: October 7, 2024

Re: Construction Repair to Apparatus Apron

I received the following quotes for the concrete work needed on the apparatus apron and water fill site at the Fire Station.

Quotes were solicited from:

JJ Construction	\$17,500.00
Total Outdoor Solutions	\$14,858.00
Cuevas Renovations and Construction	\$17,800.00

It is recommended that Total Outdoor Solutions be approved for this project. Funds to pay for the concrete work and project have been included in the FY25 Fire Department Budget.

Please include this item on the October 14, 2024, Finance Committee agenda, and if approved, please place this item on the City Council Meeting on the same evening.

Please contact the undersigned for any questions.

Hector Hernandez
Fire Chief

ESTIMATE

Cuevas Renovations and
Construction
1819 Elm Hollow Way
Rosenberg, Texas 77471

victor.cuevas04@yahoo.com
+1 (979) 253-2211



Wharton Fire Department

Bill to

Wharton Fire Department

Ship to

Wharton Fire Department

Estimate details

Estimate no.: 1008

Estimate date: 05/13/2024

#	Date	Product or service	Description	Qty	Rate	Amount
1.		Concrete	11'x88'x8" thick	1	\$17,800.00	\$17,800.00
			-pull city permit			
			-break out concrete with rebar and haul off will use manual jack hammer around areas where existing electrical and water lines are present			
			-Grade area for 8" of concrete			
			-5/8" rebar 12" OCEW			
			-Install heavy duty yellow plastic chairs to raise rebar			
			-pour and finish 3500 psi concrete			
Total						\$17,800.00

**BID**

June 7, 2024

Total Outdoor Solutions, LLC
 Mark Mata
 1825 Foote St.
 Wharton, TX. 77488
 979-559-6027

Wharton Volunteer Fire Department
 319 N Fulton St
 Wharton, TX 77488
 979-532-4811
 firechief@cityofwharton.com

*Break out and dispose of 11x88 concrete	\$3,775.00
*Grade 11x88	
*5/8" rebar, 16" on center	
*Dial into existing	
*Pour concrete – 3500 PSI – 8"	
Labor and Materials	\$11,083.00

This estimate is for completing the job described above based on our evaluation. It does not include unforeseen price increases or additional labor and materials which may be required should problems arise.
50% of balance due before work begins. Remaining balance due upon completion.



CONSTRUCTION

806 Rice St • El Campo, Texas 77437

979.320.7128 • 979.332.9395

Invoice

0324

DATE 5-17-24

Name Fire Department Heriberto Hernandez

ADDRESS 219 N Fenton Wharfum Ex 11458

PHONE _____

Job Description	Amount
• Demolition of existing driveway	
concrete 10x90	
• Pour concrete pad for driveway	
10x90 8" thick	
• Install 1/2 Rebar every 12" center	
• Install 3" Rebar Chair's on Rebar	
• Install 3,500 P.S.I Concrete	
• Install Spacer Joints every 20ft	
Job after disposal	
	17,500
TOTAL	17,500
DEPOSIT	
Balance Due	

Signature _____

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO APPROVE CONCRETE REPAIRS AT THE WHARTON FIRE STATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID REPAIRS.

WHEREAS, The Wharton City Council has appropriated funds for the repair of the concrete at the Wharton Fire Department; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to approve the concrete repairs at the Wharton Fire Department from _____ in the amount of \$ _____; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to the said concrete repairs.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to approve the concrete repairs at the Wharton Fire Department from _____ in the amount of \$ _____.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the concrete repair.

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

PASSED AND APPROVED this 14th day of October 2024.

CITY OF WHARTON


TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council adopting the City of Wharton Policy for Social Media Use by City of Wharton Committees, Commissions, & Boards.
<p>The Code Enforcement Department requests that the City Council consider adopting the proposed Social Media Policy for the City of Wharton Committees, Commissions, & Boards. This policy will provide clear guidelines for the responsible and ethical use of social media while ensuring that the City communicates effectively with the public.</p> <p>Attached is a draft copy of the policy for your review.</p> <p>Building Official Claudia Velasquez will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: October 2, 2024

FROM: Shelby Robertson, Building Official Assistant

TO: Honorable Mayor and City Councilmembers
City Attorney Paul Webb

SUBJECT: Adoption of Social Media Policy for City of Wharton Committees, Commissions and Boards.

Attached, please find a draft copy of the policy for Social Media use by City of Wharton Committees, Commissions, and Boards for your review.

The Code Enforcement Department asks that the City Council consider adopting the proposed Social Media Policy for the City of Wharton Committees, Commissions, and Boards. This policy will provide clear guidelines for the responsible and ethical use of social media while ensuring that the City communicates effectively with the public.

If you should have any questions, please contact me at City Hall at 979-532-2491. Thank You.



POLICY FOR SOCIAL MEDIA USE BY CITY OF WHARTON COMMITTEES, COMMISSIONS & BOARDS.

GENERAL GOVERNANCE OF CITY SOCIAL MEDIA SITES:

All City Social Media Sites shall be approved by the City Liaison and/or City Manager in advance of creating a site. Those wishing to launch a new City Social Media Site or new pages on a City Social Media Site shall present a business case to the City Liaison and/or City Manager explaining how the new site or page will further the goals set out in this Policy.

All City Social Media Site login and password information shall be kept in a secure location with the City Liaison and individually distributed to those authorized to use specific sites and pages.

No City Social Media Site will be approved without the designation of the specific City Liaison responsible for the maintenance of the resource. Furthermore, members creating or posting information on a City Social Media Site must always conduct themselves as representatives of the City and in accordance with the City Social Media Policy.

ACCEPTABLE USES:

- Applicable state, federal, and local laws, regulations, ordinances, and Committee's/ Commission's resolutions.
- The Texas Public Information Act and other applicable state records-retention laws and City schedules for retention.

PERSONAL RESPONSIBILITY:

All members must be cognizant and will be held responsible for how they present themselves on all social media applications, both private or City social media pages in regards to City business.

In all applications, the following shall apply:

Confidentiality: Members shall not post or use proprietary, confidential, sensitive, or individually identifiable information or divulge City intellectual property (trademarks, copyrights, or patents) in any social media application.

Ethical Obligations: City ethical rules shall be followed at all times. Members are advised that the City's ethical rules also apply to content posted in their personal capacities.

Professional Responsibility: All city-related communications made through social media applications shall remain professional. Members are expected to use good judgment and take personal and professional responsibility for any content they make public via social media.

Communication Quality: Members shall use good judgment and accuracy in all City Social Media Content. Please note: Errors and omissions that reflect poorly on the City of Wharton may result in liability for the City. In addition to the Professional Responsibilities listed above, authorized City staff shall refrain from any social media activity that is inconsistent with, or that reasonably could be expected to negatively impact the City's reputation or standing in the community. Members are cautioned to be respectful and professional to everyone, including but limited to fellow personnel, organizations, residents, and businesses.

SECURITY:

A. Members will exercise every precaution to prevent fraud or unauthorized access to City Social Media Sites.

B. Security related to social media is fundamentally a behavioral issue, not typically a technology issue. In general, members providing confidential information to third parties pose a risk to the City network. Thus, members need to be aware of current and emerging threats that they may face using City Social Media Sites and how to avoid falling prey to them.

C. Additionally, social media login information shall be kept in a secure location, with password information only shared with members accessing specific accounts. Passwords shall be updated when the members in charge of those accounts leave the organization or fear that the password information may be compromised. Two-factor authentication shall also be put in place to help limit risk where available.

PUBLIC COMMENTS AND INTERACTIVE FEATURES:

A Committee/Commission/Board that creates a City Social Media Site allowing interactivity, and public comments should provide a disclaimer on the site that posted comments do not necessarily reflect the views or position of the City. Editing of public comments posted on an "open forum" site by the Committee/Commission that maintains the site is permitted if the comments:

1. Clearly violate the Social Media Site provider's terms of service;
2. Contain information about City business or operations that is confidential;
3. Would reasonably be considered pornographic, obscene, or defamatory in nature;
4. Directly promotes or advocates violence or the threat of violence;
5. Promotes or advocates discrimination based on race, creed, color, age, religion, gender, marital status, national origin, physical or mental disability, or sexual orientation;
6. Are solicitations of commerce or promotion of private business enterprises;
7. Contains information or a link to inappropriate sexual content;
8. Encourages or promotes illegal activity; or
9. Appears to violate the legal ownership interest of any other party.

In addition to the above, in a “limited forum” site, comments may be edited if they are clearly off-subject, based on the posted scope and topic.

If photos and/or videos, or other media are solicited through a site, all must be accepted and posted unless they fail to meet the guidelines stated above.

All public comments and posted media files, inclusive of any edited content, must be archived and stored in accordance with requirements of Texas and federal laws and City Records Retention Policies.

USE OF SOCIAL MEDIA BY COMMITTEES, COMMISSIONS AND BOARDS:

The City of Wharton recognizes the value that social media may offer to Committees/Commissions and has developed these guidelines for the use of these tools in the conduct of their work to support their advisory role to the City Council.

- A.** Individual members of a Committees/Commissions/Boards shall use caution when participating in discussion threads on social media sites and posts related to matters pending before the Committee/Commissions/Boards or matters likely to come before the Committee/Commission. Due to Open Meetings Act, if one member of the Committee/Commission/Boards has already posted, other members of the Committee/Commission/Boards shall not post additional comments on that discussion thread.
- B.** Use of City Social Media Sites shall not serve as a replacement for formal postings and legally required notifications that are required to be posted to the City Secretary and/or City of Wharton Website(s).
- C.** Committees/Commissions/Boards may utilize City Social Media Sites for gathering of additional public input and fostering further public discussion related to the Committee’s/Commission’s advisory role, provided that the use conforms to the policies described above, and meets the following additional conditions:
 - 1. The request for input or posting of discussion items related to pending matters is approved in a formal action of the Committee/Commission/Board at a posted meeting.
 - 2. Once posted on social media, Committee/Board members shall not engage further with the post, including responding to comments. The social media post is for promotional purposes or for gathering of additional feedback, and may be discussed at a properly called meeting of the Committee/Commission/Board.
- D.** Regular Business of the Committee/Commission/Board may be posted to approved City Social Media Sites by the appropriate City Liaison without formal action of the

Committee/Commission/Board, provided that posted documents are also available on the City's main website. A posting on a City Social Media Site may provide a link back to information and documents posted on the City website. For purposes of this condition, "Regular Business" is defined as the standard and routine activity of any Committee/Commission/Board and generally includes agendas, minutes, presentations, documents, and backup items created during the course of regular meeting proceedings. This may also include responses or clarifications of items of fact related to the Committee/Commission/Board. (dates, times, published data, etc.).

- E. Under no circumstance shall a Committee/Commission/Board member, elected official, or other staff member direct staff to post statements of personal opinion held by individual members.

CITY OF WHARTON: USAGE OF SOCIAL MEDIA:

This acknowledges that I have read and received a copy of the City of Wharton Usage of the Social Media Policy. I understand that if I have further questions concerning this policy, I may direct them to the City Liaison.

Member Printed Name

Member Signature

Committee/Commission

Date

PASSED, APPROVED AND ADOPTED by CITY COUNCIL this 7th day of October 2024.

Joseph R. Pace, *City Manager*

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE CITY OF WHARTON POLICY FOR SOCIAL MEDIA USE BY CITY OF WHARTON COMMITTEES, COMMISSIONS, & BOARDS.

WHEREAS, The City of Wharton wishes to adopt The City of Wharton Policy for Social Media Use by City of Wharton Committees, Commissions, & Boards to provide clear guidelines for the responsible and ethical use of social media; and,

WHEREAS, The City Council will review and adopt, by this resolution, The City of Wharton Policy for Social Media Use by the City of Wharton Committees, Commissions, & Boards; and,

WHEREAS, The Wharton City Council wishes to adopt said policy and authorize the City Manager to sign said policy.

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

Section I. The City of Wharton City Council hereby approves The City of Wharton Policy for Social Media Use by City of Wharton Committees, Commissions, & Boards.

Section II. The Wharton City Council hereby authorizes the City Manager to sign said policy.

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

Passed, Approved, and Adopted this 14th day of October 2024.

CITY OF WHARTON, TEXAS


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council approving an agreement between the City of Wharton and the Texas Department of Transportation Aviation Division for the Routine Airport Maintenance Program, TXDOT CSJ NO. M16M2513WHRT for the airport maintenance at the Wharton Regional Airport and authorizing the Mayor of the City of Wharton to execute all documents related to said contract.
<p>Attached is the Texas Department of Transportation Routine Airport Maintenance Program (RAMP) form for FY2024 – Project ID: M16M2513WHRT. This program allows the airport to be reimbursed for ninety percent (90%) of the eligible project costs for this project or \$100,000, whichever is less, per fiscal year and subject to availability of state appropriations. The airport has participated in this grant program for many years.</p> <p>Airport Manager Dwayne Pospisil will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney Street ° Wharton, TX
77488

Phone (979) 532-2491° Fax (979) 532-
0181

MEMORANDUM

To: Mr. Joseph R. Pace
City Manager

From: Joan Andel

Date: October 09, 2024

Re: Routine Airport Maintenance 2025

Attached is the Texas Department of Transportation Routine Airport Maintenance Program (RAMP) form for FY2024 – Project ID: M16M2513WHRT.

This program allows the airport to be reimbursed for ninety percent (90%) of the eligible project costs for this project or \$100,000, whichever is less, per fiscal year and subject to availability of state appropriations. The airport has participated in this grant program for many years.

Please place this on the City Council agenda for October 14, 2024, to meet the submission deadline.

Should you have any questions, please contact Dwayne Pospisil or myself.

Thank you.

Airport

WHARTON - WHARTON RGNL

Project ID

M16M2513WHRT

Sponsor(s)

City of Wharton

Attachment A - Scope of Services

Eligible Scope Item	Estimated Costs Amount A	State Share Amount B	Sponsor Share Amount C
General Maintenance	\$111,111.11	\$100,000.00	\$11,111.11
TOTAL	\$111,111.11	\$100,000.00	\$11,111.11

Scope of Services for Special Projects

Acceptance of the Subgrantee*Option 1:***Sponsor 1**

- ☐ By checking this box, I agree to use electronic signatures to sign all signature blocks of the grant agreement. I confirm that I have signature authority to execute this document and the electronic representation of my signature is legally binding for this grant agreement.

Name

Title

Date

Sponsor 2

- ☐ By checking this box, I agree to use electronic signatures to sign all signature blocks of the grant agreement. I confirm that I have signature authority to execute this document and the electronic representation of my signature is legally binding for this grant agreement.

Name

Title

Date

OR*Option 2:*

- ☐ I prefer to download the grant and obtain ink signatures. After all sections of the document have been signed I will upload the document to the appropriate section of this form.

Acceptance of the State

[] Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and /or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

Name	Title	Date
------	-------	------

Agreement

Sponsor Signed Copy

Executed Agreement

Date of Executed
Agreement

Miscellaneous Documentation

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION, FOR THE ROUTINE AIRPORT MAINTENANCE PROGRAM, TXDOT CSJ NO. M16M2513WHRT FOR THE AIRPORT MAINTENANCE AT THE WHARTON REGIONAL AIRPORT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The Wharton City Council wishes to conduct maintenance to the Wharton Regional Airport under the 2025 Routine Airport Maintenance Program; and,

WHEREAS, The Texas Department of Transportation Aviation Division and the City of Wharton wishes to enter into an agreement under the 2025 Routine Airport Maintenance Program for airport maintenance at the Wharton Regional Airport; and,

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

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 approves a contract with the Texas Department of Transportation Aviation Division for the 2025 Routine Airport Maintenance Program.

Section. II. That the Texas Department of Transportation Aviation Division and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

Section III. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.

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

Passed, Approved, and Adopted this 14th day of October 2024.

CITY OF WHARTON


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council authorizing the purchase of a 2026 International HV607 4x2 with a 6–8-yard Dump Body Truck for the Public Works Department from Santex Truck Centers, LTD through the HGACBuy Cooperative Program and authorizing the City Manager to execute all documents related to said purchase.
<p>The City Staff received a quote for the purchase of a 2026 International HV607 4x2 with a 6-8-yard dump body truck for the Public Works Department from Santex Truck Centers, LTD, in the amount of \$123,870.00. The City is a member of and participates in the HGACBuy Cooperative Purchasing Program.</p> <p>The Finance Committee will meet on Monday, October 14, 2024, and will formulate a recommendation for City Council consideration.</p> <p>Public Works Director Roderick Semien will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton
Public Works Department
1005 E. Milam Street ° Wharton, TX
77488
Phone (979) 532-2491 ext. 801 ° Fax
(979) 531-1744

MEMORANDUM

Date: October 9th 2024

To: Mr. Joseph R. Pace, City Manager

From: Roderick Semien, Public Works Director

Re: Authorization to purchase a 2026 International HV607 4x2 with 6–8-yard Dump Body.

Attached please find the quote for a Non CDL 6-8yard dump truck from Santex Truck Centers LTD. The vendor is a member of the HGAC Buy Cooperative and the vehicle will be purchased through the FEMA alternate river project funds. The total price of the vehicle is listed below.

2026 International HV607 4x2 with 6–8-yard Dump body: \$123,870

I would like this placed on the City Council agenda for October 14th, 2024

Should you have any questions, please contact me. (979) 523-2491 Ext. 800

Thank you.



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract
No.:

HT06-20

Date
Prepared:

Item-8.
9/26/2024

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

Buying Agency:	CITY OF WHARTON	Contractor:	SANTEX TRUCK CENTERS, LTD
Contact Person:	RODERICK SEMIEN	Prepared By:	CARLOS WEEBER
Phone:	979-532-4811	Phone:	713-674-3444
Fax:		Fax:	
Email:	rsemien@cityofwharton.com	Email:	cweeber@kyrishtrucks.com

Product Code:	F5	Description:	2026 INTERNATIONAL HV607 4x2 WITH 6-8 YARD DUMP BODY
---------------	----	--------------	--

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 74751

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.

(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
01CBU FRAME RAILS HEAT TREATED 120K PSI	118	08XHN HORN AIR, SINGLE	94
4619 TRAILER CONNECTIONS 4-WHEEL HAND CTRL	542	08XPK POWER SOURCE ADDL USB-A, USB-C	109
04EBS AIR DRYER BENDIX AD-9 W/HEATER	450	10WCY SAFETY TRIANGLES	47
5708 STEERING COLUMN TILT	125	10XAN FIRE EXTINGUISHER 5 LB	154
07SCP ENGINE EXH BRAKE CUMMINS ISB	184	12EXT ENGINE, DIESEL CUMMINS B6.7 240 HP	1776
07WCW TAIL PIPE HORIZ 90 DEGREE RIGHT SIDE	120	12WVG EPA COMPLIANCE DECAL	97
08HAB BODY BUILDER WIRING LIGHTS CONNECT	100	13BBK TRANS, AUTO ALLISON 2500 RDS 6-SPEED	479
08HAH ELECTRIC TRAILER BRAKE ACCOM PACKAGE	363	13WLN TRANS SYNTH OIL	151
08RMH BATTERY DISCONNECT SWITCH	176	14VAG SUSP, REAR 20K SPRING, 4500LB AUX SPRING	134
08RPS RADIO AM/FM/WB/CLOCK BLUETOOTH	483	15SGJ FUEL TANK 50 GAL ALUMIN	100
08THB BACK UP ALARM	120	Subtotal From Additional Sheet(s):	35087
08TKK TRAILER AUX FEED CIRCUIT	123	Subtotal B:	41132

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.

(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
UNPUBLISHED DUMP TRUCK FEATURES	3887		
		Subtotal From Additional Sheet(s):	
		Subtotal C:	3887

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).	For this transaction the percentage is:	3%
--	---	----

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

Quantity Ordered:	1	X Subtotal of A + B + C:	119770	=	Subtotal D:	119770
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E. H-GAC Order Processing Charge (Amount Per Current Policy)	Subtotal E:	1000
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F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Description	Cost	Description	Cost
FREIGHT	3100		
		Subtotal F:	3100

Delivery Date:	G. Total Purchase Price (D+E+F):	123870
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CONTRACT PRICING WORKSHEET

For MOTOR VEHICLES Only

**Contract
No.:**

HT06-20

Date
Prepared:

9/26/2024

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

Buying Agency:	CITY OF WHARTON	Contractor:	SANTEX TRUCK CENTERS, LTD
Contact Person:	RODERICK SEMIEN	Prepared By:	CARLOS WEEBER
Phone:	979-532-4811	Phone:	713-674-3444
Fax:		Fax:	
Email:	rsemien@cityofwharton.com	Email:	cweeber@kyrishtrucks.com

Product Code:	F5	Description:	2026 INTERNATIONAL HV607 4x2 WITH 6-8 YARD DUMP BODY
---------------	----	--------------	--

A. Product Item Base Unit Price Per Contractor's H-GAC Contract:

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.

(Note: Published Options are options which were submitted and priced in Contractor's bid.)

[illegible]

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.

(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		Subtotal From Additional Sheet(s):	
		Subtotal C:	0

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).

For this transaction the percentage is:

0%

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

Quantity Ordered:	1	X Subtotal of A + B + C:	35087	=	Subtotal D:	35087
-------------------	---	--------------------------	-------	---	-------------	-------

E. H-GAC Order Processing Charge (Amount Per Current Policy)	
1. H-GAC Order Processing Charge (Amount Per Current Policy)	

Subtotal E:

F. Trade-Ins / Special Discounts / Other Allowances	\$ _____
Freight	\$ _____
Installation	\$ _____
Miscellaneous Charges	\$ _____
Total Price	\$ _____

[illegible]**Delivery Date:**

G. Total Purchase Price (D+E+F):

35087

Curry Quote



Quote #: Q-03355-1
 Date: 9/24/2024, 8:32 AM
 Expires On: 11/23/2024

Curry Supply

Your Jobs. Our Trucks.
[VISIT OUR WEBSITE!!](#)

1425 11th Ave
 Altoona, Pennsylvania 16601
 USA
 Phone: 814-793-2829
 Fax: 814-793-4877
 Email: sales@currysupply.com

Salesperson: Marshall Hale
 Phone: (281) 428-6539
 Email: ehale@currysupply.com

PRODUCT CODE	TERMS	STOCK LOCATION (FOB)
	Net 30	Hockley, TX

Bill To

Kyrish Truck Centers
 8900 N. Loop E.
 Houston, TX 77029
 USA

Ship To

Carlos Weeber
 Kyrish Truck Centers
 8900 N. Loop E.
 Houston, TX 77029
 USA
 (713) 674-3444
 cweeber@kyrishtrucks.com

0. OTHER OPTIONS

QTY	PART #
1.00	6YD-HY-FLO
Chassis Requirements: CA/CT Required (Inches): 84", AF Required (Inches): 39.5" BOC to EOF Required (Inches): 123.5", Minimum Front Axle Rating: 10,000 Minimum Rear Axle Rating: 19,000, Minimum GVWR: 25,999 Minimum Engine HP: 200 HP, PTO Prevision Required: No TI00675812 Curry Supply 6 Yard Dump Body - Hy Flo PC-SL316-84-120-40/26/32-5020-QINST Body ID: 84, Body OD: .96, Body Length: 10 FT Hoist Model:5020, W/SUBFRAME QUICK MOUNT * Frame Style: .TRAPEZOIDAL, Crossmember Spacing: NO CROSSMEMBERS Floor Style:.45 DEG 8" BEVEL, Front Style: STRAIGHT Rear Style.: STRAIGHT, Tailgate Style: DOUBLE ACTING Front Height: 40, Side Height Front:.26, Side Height Rear:26, Rear Height:32 Front Material, Side Material, Rear Material; SHEET-10GA A1011 45K MIN Floor Material:PLATE-3/16 A572 GR50 Longmember Material:PLATE-3/16 A572 GR50 Rear Cornerpost and Rear Apron Material: HI-TEN **Side Bracing: .NO SIDE, BRACING-FRONT POST ONLY** Rear Cornerpost Width: 10 Tailgate Release Style: MANUAL	

QTY	PART #	Item-8.
<p>Upper Tailgate Hardware: 3/4 THICK HINGE PLATE Tailgate Bracing Style: 1 HORIZONTAL / 2 VERTICALS Coal Chute: YES * Coal Chute Style: PULL DOWN W/OFFSET HANDLE * Coal Chute Location.: .CENTER *</p> <p>Rear Cornerpost Light Cutouts: 1 OVAL + MARKERS * 3/4" MARKER LIGHTS AT FRONT* * BOLT ON CABSHIELD FOR F650/750* * MUD FLAP BRACKETS TO REAR OF BODY* * TARP MOUNTING BASKETS FOR FRONT BULKHEAD TO FIT TARP #1644323* * TARP ROPE HOOKS* * BLAST & PAINT BLACK* * ADD CONSPICUITY TAPE TO LOWER SIDE RUBRAIL & LOWER TG BRACE* * * SIDES - 1 3/4" FROM BOTTOM EDGE TO THE TAPE, 2" IN FROM EACH END OF BODY** * TAPE TO HAVE CURRY LOGO* ** TAILGATE - CENTERED ON LOWER BRACE, 6" FROM EACH SIDE**</p> <p>QUICK INSTALL HY-FLO EDA HYDS *RAISE HYD TANK UP BETWEEN SUBFRAME* ASSY CABSHIELD BOLTON2 24" 10GA W&P BLK, TARP SPRING TYPE ASPHALT 10' X 96 ASSY HITCHPLATE CURRY PNT, BODY RAISED IND. KIT FOR SERVICE</p> <p>KIT CURRY PARTS 6YD - Includes: - PINTLE HOOK, 20 TON (ATTACH) - 7 WAY RV BLADE, FEMALE WAYTEK 37676 - 7 WAY SOCKET BOOT FASTENAL 10270-11074 - BRAKE CONTROLLER, ELECTRONIC - BREAKER, 20 AMP, 12V - LAMP, LIC CHROME HOUSING - FUSE HOLDER, ANL300 BUSS (qty. 2), - FUSE, 300 AMP, BUSS (75270) (qty. 2) - BACKUP ALARM, - CABLE, EXTENSION - 7' DA (4-WIRE) A15 (1) 9030 (89749)BRAKE CONTROLLER, VOYAGER ELEC, (1) 1008934 BACK UP ALARM (2) B36LC-1 MUDFLAP, 36" SINGLE (SRI2436A1WR.12700) (1) RS-73B-720NCS Curry Supply Back Up Camera Standard 6 yard Hy-Flo dump install, Install by Curry Supply</p> <p>Safety Add Ons 1 Roadside Safety Kit, 5LB Fire Extingusiher (PN:01797877) - 10 Person ANSI First Aid (PN:30143), Roadside Emergency Warning Triangle</p>		
Total:		\$26,899.00

TOTAL DEPOSIT REQUIRED: \$4,673**Terms & Conditions**

All quotes may be subject to an imposed chassis and/or supplier surcharge prior to shipment of the completed unit. Chassis availability and pricing are subject to prior sale.

Any invoice not paid within thirty- (30) days of billing is subject to a 1.5% monthly interest charge.

If customer terminates or cancels this sale prior to full delivery and payment, customer shall be liable for a cancellation fee per Curry Supply standard cancellation policy. Customer agrees to pay any Cancellation Fee within ten (10) days of the cancellation notice to Curry Supply.

ALL QUOTES VALID FOR 30 DAYS - ALL IN STOCK UNITS SUBJECT TO PRIOR SALE - PRICES BASED UPON TOTAL PURCHASE - ALL DELIVERY, TRAINING OR CONSULTING SERVICES TO BE BILLED AT PUBLISHED RATES FOR EACH ACTIVITY INVOLVED - WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF BUSINESS, NOR FOR INCIDENTAL OR CONSEQUENTIAL MERCHANTABILITY OR FITNESS OF PURPOSE, DAMAGES RELATED TO THIS AGREEMENT.

Signature:

Effective Date:

Name (Print):

#:

PURCHASE ORDER

Please sign and email to Marshall Hale at ehale@currysupply.com.

If you have any further questions please call me at (281) 428-6539

THANK YOU FOR YOUR BUSINESS!

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF A 2026 INTERNATIONAL HV607 4X2 WITH A 6-8-YARD DUMP BODY TRUCK FOR THE PUBLIC WORKS DEPARTMENT FROM SANTEX TRUCK CENTERS, LTD THROUGH THE HGACBUY COOPERATIVE PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, A quote was received for the purchase of a 2026 International HV607 4x2 with 6-8 Yard dump body truck for the Public Works Department; and,

WHEREAS, The City of Wharton is a member of and participates in the HGACBuy Cooperative Purchasing Program; and,

WHEREAS, Santex Truck Centers, LTD submitted a quote in the amount of \$123,870.00; and,

WHEREAS, The Wharton City Council wishes to approve Santex Truck Centers, LTD for the purchase of a 2026 International HV607 4x2 with 6-8 yard dump body in the amount of \$123,870.00 for the Public Works Department; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute all documents related to said purchase.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to purchase a 2026 International HV607 4x2 with 6-8 yard dump body truck for the Public Works Department from Santex Truck Centers, LTD through the HGACBuy Cooperative Purchasing Program in the amount of \$123,870.00

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the purchase of the equipment.

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

PASSED AND APPROVED this 14th day of October 2024.

CITY OF WHARTON


TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council authorizing the purchase of a Netzsch Nemo Progressing Cavity Pump for the Public Works Department from Odessa Pumps & Equipment, Inc. through the Buyboard Cooperative Program and authorizing the City Manager to execute all documents related to said purchase.
<p>The City Staff received a quote for the purchase of a Netzsch Nemo Progressing Cavity Pump for the Public Works Department in the amount of \$25,986.00. The City is a member and participates in the BuyBoard Cooperative Purchasing Program.</p> <p>The Finance Committee will meet on Monday, October 14, 2024, and will formulate a recommendation for City Council consideration.</p> <p>Public Works Director Roderick Semien will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton
Public Works Department
1005 E. Milam Street ° Wharton, TX
77488
Phone (979) 532-2491 ext. 801 ° Fax
(979) 531-1744

MEMORANDUM

Date: October 9, 2024
To: Mr. Joseph R. Pace, City Manager
From: Roderick Semien, Public Works Director
Re: Authorization to purchase a Progressing Cavity Pump (Sludge Pump)

Attached please find a quote from Odessa Pumps for the purchase of a sludge pump at Waste Water Treatment Plant #2. Odessa Pumps is a member of Buy Board Cooperative and will be purchased through the FEMA Alternate River Project Funds. The total price of the pump is listed below.

Odessa pump Sludge pumps: \$25,986.00

I would like this placed on the City Council agenda for October 14, 2024.

Should you have any questions, please contact me. (979) 523-2491 Ext. 800.

Thank you.

9/25/2024 2:36:51 PM

ODESSA PUMPS & EQUIPMENT, INC
www.odessapumps.com
ODESSA TX 79766
UNITED STATES

1-432-333-2817

Customer: A003839

CITY OF WHARTON
120 E CANEY ST
WHARTON TX 77488-5006
UNITED STATES

Phone:

Fax:

Estimate	Terms	Quote Date	Expiration Date	Salesperson	Customer	Currency
EO-0034631	NET 30 DAYS	9/25/2024	10/25/2024	OP307	USD	US Dollar
	Quantity	Item		Unit Price		Extended Price
	1.000	QUOTED ITEM		23,986.00000		23,986.00
	EA					
		NE60-Progressing Cavity Pump bare shaft				
NETZSCH NEMO Progressing Cavity Pump Model NE60A bare shaft (no drive and no baseplate)						
	1.000	FREIGHT - ESTIMATED		2,000.00000		2,000.00
	EA					
		EST. FREIGHT				

LEAD TIME 2-3 WEEKS
FREIGHT IS ESTIMATED IN PRICING
ESTIMATE VALID FOR 30 DAYS
BEST REGARDS, DEVIN RICHARD

CONTACT LOCATION:

ODESSA PUMPS
5654 KINGPIN DR.
CORPUS CHRISTI, TX 78405
(361) 289-6602

**** BUY BOARD 672-22 ****

9/25/2024 2:36:51 PM

ODESSA PUMPS & EQUIPMENT, INC
www.odessapumps.com
ODESSA TX 79766
UNITED STATES

1-432-333-2817

Customer: A003839

CITY OF WHARTON
120 E CANEY ST
WHARTON TX 77488-5006
UNITED STATES

Phone:

Fax:

Estimate	Terms	Quote Date	Expiration Date	Salesperson	Customer Currency	
EO-0034631	NET 30 DAYS	9/25/2024	10/25/2024	OP307	USD	US Dollar
Sale Amount:						25,986.00
Order Disc(0.0000%):						0.00
Surcharge:						N/A
Sales Tax:						0.00
Misc Charges:						0.00
Total Amount:						25,986.00

REMIT TO: ODESSA PUMPS & EQUIPMENT INC P.O. BOX 207614 DALLAS, TX 75320-7614

Terms and
Conditions



[DNOW Terms and Conditions](#)

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF A NETZSCH NEMO PROGRESSING CAVITY PUMP FOR THE PUBLIC WORKS DEPARTMENT FROM ODESSA PUMPS & EQUIPMENT, INC. THROUGH THE BUYBOARD COOPERATIVE PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, A quote was received for the purchase of a Netzsch Nemo Progressing Cavity Pump for the Public Works Department; and,

WHEREAS, The City of Wharton is a member of and participates in the BuyBoard Cooperative Purchasing Program; and,

WHEREAS, Odessa Pumps & Equipment, Inc. submitted a quote in the amount of \$25,986.00; and,

WHEREAS, The Wharton City Council wishes to approve Odessa Pumps & Equipment, Inc. for the purchase of a Netzsch Nemo Progressing Cavity Pump in the amount of \$25,986.00 for the Public Works Department; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute all documents related to said purchase.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to purchase a Netzsch Nemo Progressing Cavity Pump for the Public Works Department from Odessa Pumps & Equipment, Inc., through the BuyBoard Cooperative Purchasing Program in the amount of \$25,986.00.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the purchase of the equipment.

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

PASSED AND APPROVED this 14th day of October 2024.

CITY OF WHARTON


TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council authorizing and ratifying the emergency rental and replacement of the submersible pump at the Milam Street Lift Station and authorizing the City Manager of the City of Wharton to execute all documents related to said repairs.
<p>On September 26, 2024, during a routine Water Department inspection, it was discovered that the wet well of the Milam Street Lift Station was at a high level of wastewater. Further investigation revealed that one of the submersible pumps was broken beyond repair. It was decided to contact Greens Pump and Supply to remove the broken pump and install a rental pump. The cost of the new pump was in the amount of \$14,134.85. Greens Pump and Supply did waive rental fees for the temporary pump since the replacement was purchased through them.</p> <p>Public Works Director Roderick Semien will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton
Public Works Department
1005 E. Milam Street ° Wharton, TX
77488
Phone (979) 532-2491 ext. 801 ° Fax
(979) 531-1744

MEMORANDUM

Date: October 9, 2024

To: Mr. Joseph R. Pace, City Manager

From: Roderick Semien, Public Works Director

Re: Authorization and ratification of rental and replacement of the Submersible Pump at Milam St Lift Station, 1125 W. Milam St.

On September 26th, during a routine Water Department inspection, it was discovered that the wet well of the Milam St Lift Station was at a high level of wastewater. Further investigation revealed that one of the submersible pumps was broken beyond repair. It was decided to reach out to Greens Pump and Supply to remove the broken pump and install a rental pump. Below is the cost of a new pump. Greens Pump and Supply did waive rental fees for the temporary pump.

Greens Pump and Supply Homa Pump: \$14,134.85

I would like this to be placed on the City Council agenda for October 14, 2024.

Should you have any questions, please contact me at (979) 523-2491, Ext. 800.

Thank you.

Green Pump & Supply
PO BOX 1487
Willis, TX 77378
+1 9364949231
jr@greenpumpsupply.com

Estimate

ADDRESS
Theresa Wittig City of Wharton, Texas 120 E CANEY ST WHARTON, TX 77488

SHIP TO
Theresa Wittig City of Wharton, Texas 120 E CANEY ST WHARTON, TX 77488

ESTIMATE #	DATE	EXPIRATION DATE
1903	10/02/2024	10/31/2024

ACTIVITY	QTY	RATE	AMOUNT
This estimate is for one Homa OC4x2-150/13T/C pump with freight			
Homa Pumps OC 4x2-150/13T/C with freight	1	12,259.85	12,259.85
misc. charge Installation and start up	1	1,875.00	1,875.00

SUBTOTAL
TAX
TOTAL

\$14,134.85

Accepted By

Accepted Date

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING AND RATIFYING THE EMERGENCY RENTAL AND REPLACEMENT OF THE SUBMERSIBLE PUMP AT THE MILAM STREET LIFT STATION AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID REPAIRS.

WHEREAS, Emergency removal and replacement was needed on the submersible pump at the Milam Street Lift Station; and,

WHEREAS, Said pump was broken beyond repair and a rental pump was installed while the replacement was on order; and,

WHEREAS, The City of Wharton engaged the services of Greens Pump and Supply to remove and install said pump; and,

WHEREAS, The total cost of the removal and replacement pump was in the amount of \$14,134.85; and,

WHEREAS, The Wharton City Council ratifies the removal and installation of the submersible pump at the Milam Street Lift Station and wishes to authorize the City Manager of the City of Wharton to execute all documents.

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 to execute all documents related to the removal and replacement of the submersible pump at the Milam Street Lift Station.

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

Passed, Approved, and Adopted this 14th day of October 2024.

CITY OF WHARTON, TEXAS


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council approving a contract with Unifirst Corporation for Public Works Employee uniforms and other supplies through the Sourcewell Cooperative and authorizing the City Manager of the City of Wharton to execute all documents relating to said contract.
<p>The Public Works Department is currently receiving services from Cintas Corporation for the Public Work Employee uniforms. Upon the expiration of the current Cintas uniform contract in February 2025, the City Staff requests to terminate services with Cintas Corporation and engage the services of Unifirst Corporation for uniform services. Unifirst Corporation is available through the SourceWell Cooperative.</p> <p>Director of Public Works Roderick Semien will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton
Public Works Department
1005 E. Milam Street ° Wharton, TX
77488
Phone (979) 532-2491 ext. 801 ° Fax
(979) 531-1744

MEMORANDUM

Date: September 24, 2024
To: Mr. Joseph R. Pace, City Manager
From: Roderick Semien, Public Works Director
Re: City of Wharton Unifirst Uniform Agreement

Upon the expiration of the current Cintas Corps uniform contract, the Department of Public Works requests to terminate services with Cintas Corps and transition to utilizing Unifirst for uniform services. Unifirst is available through SourceWell Cooperative. Enclosed is a document containing a price comparison and the contract agreement for your review.

I would like this to be placed on the City Council agenda for October 14, 2024.

If you have any questions, please contact me at 979-532-2491 Ext. 800.

Thank you.

CUSTOMER SERVICE AGREEMENT

COMPANY NAME (Customer)

City of Wharton

LOC. NO.

815

ADDRESS

1005 E. Milam St.

ROUTE NO.

Wharton, Texas 77488

DATE

10/03/2024

PHONE

(979) 532-2491

SIC/NAICS

The undersigned (the "CUSTOMER") orders from UniFirst Corporation and/or UniFirst Holdings, Inc. d.b.a. UniFirst and/or UniFirst Canada LTD. ("UNIFIRST") the rental service(s) at the prices and upon the conditions outlined:

MERCHANDISE SERVICED								
ITEM DESCRIPTION	LOST/ DAMAGED REPLACEMENT CHARGE	SERVICE FREQUENCY	NO. OF PERSONS/ ISSUE PER PERSON	TOTAL NO. OF CHANGES/ PIECES	PRICE PER CHANGE/ PIECE	STANDARD/ NON- STANDARD ¹	TOTAL FULL SERVICE	TOTAL VAL-U-LEASE ²
103C- SpotlightLX En-Vis shirt		1		11	.34	S	3.74	
1002- SofTwill Uniform pant		1		11	.22	S	2.42	
1091-UniFirst Classic Jeans		1		11	.26	S	2.86	
07AG- Spotlight LX En-Vis 100% Cotton sh		1		11	.44	S	4.84	
8950- Laundry Lockup		1		1	2.50	S	2.50	
Minimum weekly charge applies, equal to 75% of the initial weekly install value.								

OTHER CHARGES	AMOUNT	OTHER CHARGES	AMOUNT
Garment preparation per piece	.83	Non-stock sizes per piece	
Name emblem per piece	.50	Special cuts per piece	
Company emblem per piece	1.67	Restock/Exchange per piece	
Direct Embroidery: Wearer name per piece		Automatic Wiper Replacement	
Company name per piece		Automatic Linen Replacement	
		DEFE (See description on reverse side)	3.89
		Energy Charge	

PAYMENT TERMS: C.O.D. E.F.T. Approved Charge³

COMMENTS
Sourcewell Pricing. Contract term is for 60 months. Garment prep waived at install.

Approved charge: CUSTOMER agrees to make payments within 30 days of invoice receipt. A late charge of 1½% per month (18% per year) for any amount in arrears may be applied.⁴

The undersigned agrees to the attached Customer Service Agreement Terms and attests to have the authority to execute for the named CUSTOMER, and to approve use of any personalization – including logos or brand identities – that has been requested.

SALES REP:

Jessica Ramos

10/03/2024

SALES REP (Print Name)

DATE

ACCEPTED⁵:

LOCATION MANAGER (Signature)

DATE

Jason Koehler

LOCATION MANAGER (Print Name and Title)

ACCEPTED:

CUSTOMER (Signature)

DATE

CUSTOMER (Print Name and Title)

EMAIL

¹ Out-sizes of otherwise Standard Merchandise are deemed to be Non-Standard Merchandise.

² Merchandise which is Val-U-Leased is not cleaned by UniFirst.

³ Charge status contingent upon continuing credit worthiness and may be revoked at UniFirst’s discretion.

⁴ All returned checks and declined credit/debit cards subject to \$35 processing fee.

⁵ This Agreement is effective only upon acceptance by UniFirst Location Manager.

REQUIREMENTS SUPPLIED. Customer orders from UniFirst Corp. ("UniFirst") the rental garments and/or other items of the type specified in this Agreement ("Merchandise") and related pickup/delivery and maintenance services (collectively with Merchandise, "Services") for all of Customer's requirements therefor, at the prices and upon the terms and conditions set forth herein. Additional Services requested by Customer, verbally or in writing, will also be covered by this Agreement. All rental Merchandise supplied to Customer remains the property of UniFirst. Customer warrants that it is not subject to, and that this Agreement does not interfere or conflict with, any existing agreement for the supply of the Merchandise or Services covered.

PERFORMANCE GUARANTEE. UNIFIRST GUARANTEES TO DELIVER HIGH-QUALITY SERVICE AT ALL TIMES. All items of Merchandise cleaned, finished, inspected, repaired, and delivered by UniFirst will meet or exceed industry standards, or non-conforming items will be replaced by the next scheduled delivery day at no cost to Customer. Items of rental Merchandise requiring replacement due to normal wear and tear will be replaced at no cost to Customer, save for any applicable personalization and setup charges.

Customer expressly waives the right to terminate this Agreement during the initial term or any extension thereof for deficiencies in the quality of Services unless: (1) complaints are first made in writing to UniFirst which set forth the precise nature of any deficiencies; (2) UniFirst is afforded at least 60 days to correct any deficiencies complained of; and (3) UniFirst fails to correct those deficiencies complained of within 60 days. In the event Customer complies with the foregoing and UniFirst fails to correct such deficiencies, Customer may terminate this Agreement by written notice to UniFirst, providing that all previous balances due to UniFirst have been paid in full and that all other conditions to terminate have been satisfied. Any delay or interruption of the Services provided for in this Agreement by reason of acts of God, fires, explosions, strikes or other industrial disturbances, or any other cause not within the control of UniFirst, shall not be deemed a breach or violation of this Agreement.

TERM AND RENEWAL. This Agreement is effective when signed by both the Customer and UniFirst Location Manager and continues in effect for 60 months after installation of Merchandise (for new customers) or any renewal date. This Agreement will be renewed automatically and continuously for multiple successive 60-month periods unless Customer or UniFirst gives written notice of non-renewal to the other at least 90 days prior to the next expiration date.

PRICES AND PAYMENTS. Prices are based on 52 weeks of service per year. Any increase(s) to Service Frequency could result in additional charges. On an annual basis, the prices then in effect will be increased by the greater of the annual percent increase in the Consumer Price Index - All Urban Consumers, Series ID: CUUROOOOSAG, other goods and services, or by 5%. Additional price increases and other charges may be imposed by separate written notice or by notation on Customer's invoice. Customer may, however, decline such additional increases or charges by notifying UniFirst in writing within 10 days after receipt of such notice or notation. If Customer declines said additional price increases, UniFirst may terminate this Agreement. Customer also agrees to pay the other charges and minimum weekly charge herein specified. Charges relating to a wearer leaving Customer's employ can be terminated by (1) giving notice thereof to UniFirst and (2) returning or paying for any missing Merchandise issued to that individual. Any Merchandise payments required pursuant to this Agreement will be at the replacement price(s) then in effect hereunder. If an authorized Customer representative is not available to receive and acknowledge delivery of Merchandise, Customer authorizes UniFirst to make delivery and assumes responsibility for related charges/invoices.

If Customer fails to make timely payment, UniFirst may, at any time and in its sole discretion, terminate this Agreement by giving written notice to Customer, whether or not UniFirst has previously strictly enforced Customer's obligation to make timely payments. Customer agrees to pay, and will pay, all applicable sales, use, personal property, and other taxes and assessments arising out of this Agreement.

DEFE CHARGE. Customer's invoices may also include a DEFE charge to cover all or portions of certain expenses including:

D = DELIVERY, or expenses associated with the actual delivery of Services and Merchandise to Customer's place of business, primarily Route Sales Representative commissions, management salaries, vehicle depreciation, equipment maintenance, insurance, road use charges and local access fees.

E = ENVIRONMENTAL, or expenses (past, present, and future) UniFirst absorbs related to wastewater testing, purification, effluent control, solids disposal, supplies and equipment for pollution controls and energy conservation, and overall regulatory compliance.

F = FUEL, or the gas, diesel fuel, oil, and lubricant expenses associated with keeping UniFirst's fleet vehicles on the road and servicing its customers.

E = ENERGY, primarily the natural gas UniFirst uses to run boilers and gas dryers, plus other local utility charges.

MERCHANDISE. Customer acknowledges and agrees to notify all employees that Merchandise supplied is for general occupational use and, except as expressly specified below, affords no special user protections. Customer further acknowledges that: (1) Customer has unilaterally and independently determined and selected the nature, style, performance characteristics, number of changes and scope of all Merchandise to be used and the appropriateness of such Merchandise for Customer's specific needs or intended uses; (2) UniFirst does not have any obligation to advise, and has not advised, Customer concerning the fitness or suitability of the Merchandise for Customer's intended use; (3) UniFirst makes no representation, warranty, or covenant regarding the performance of the Merchandise (including without limitation Flame Resistant and Visibility Merchandise); and (4) UniFirst shall in no way be responsible or liable for any injury or harm suffered by any Customer employees while wearing or using any Merchandise. Customer agrees to indemnify and hold harmless UniFirst and its employees and agents from and against all claims, injuries, or damages to any person or property resulting from Customer's or Customer's employee use of the Merchandise, whether or not such claims, injuries or damages arise from any alleged defects in the Merchandise.

Flame Resistant ("FR") Merchandise supplied hereunder is intended only to prevent the ignition and burning of fabric away from the point of high heat impingement and to be self-extinguishing upon removal of the ignition source. FR items will not provide significant protection from burns in the immediate area of high heat contact due to thermal transfer through the fabric and/or destruction of the fabric in the area of such exposure. FR items are designed for continuous wear as only a secondary level of protection. Primary protection is still required for work activities where direct or significant exposure to heat or open flame is likely to occur.

Visibility Merchandise is intended to provide improved conspicuity of the wearer under daylight conditions and when illuminated by a light source of sufficient candlepower at night. It is Customer's responsibility to determine the level of conspicuity needed by wearers under specific work conditions. Further, Customer agrees that Visibility Merchandise alone does not ensure conspicuity of the wearer and that additional safety precautions may be necessary. The Visibility Merchandise supplied satisfied particular ANSI/ISEA standards only when they were new and unused and only if so labeled. Customer acknowledges that usage and laundering of Visibility Merchandise may adversely affect its conspicuity.

Healthcare/Food-Related Customer acknowledges that: (1) UniFirst does not guarantee or warrant that the Merchandise selected by Customer or that processed garments delivered by UniFirst will be appropriate or sufficient to provide a hygienic level adequate for individual Customer's needs; and (2) optional poly-bagging* is recommended to reduce the risk of cross-contamination of Merchandise, and the failure to utilize such service may adversely affect the efficacy of UniFirst's hygienic cleaning process.

(* Poly-bag services incur additional charges.)

If any Merchandise supplied hereunder is Merchandise that: (1) UniFirst does not stock for whatever reason (including due to style, color, size or brand); (2) consists of non-UniFirst manufactured or customized FR Merchandise; or (3) consists of Merchandise that has been permanently personalized (in all cases known as "Non-Standard Merchandise"), then, upon the discontinuance of any Service hereunder at any time for any reason, including expiration, termination, or cancellation of this Agreement, with or without cause, deletion of any Non-Standard Merchandise from Customer's Service Program, or due to employee reductions (in each case a "Discontinuance of Service"), Customer will purchase at the time of such Discontinuance of Service all affected Non-Standard Merchandise items then in UniFirst's inventory (in-service, shelf, as well as any manufacturer's supplies ordered for Customer's use), paying for same the replacement charges then in effect.

Customer agrees not to contaminate any Merchandise with asbestos, heavy metals, solvents, inks, or other hazardous or toxic substances ("contaminants"). Customer agrees to pay UniFirst for all Merchandise that is lost, stolen, damaged or abused beyond repair. As a condition to the termination of this Agreement, for whatever reason, Customer will return to UniFirst all standard Merchandise in good and usable condition or pay for same at the replacement charges then in effect.

OBLIGATIONS AND REMEDIES. If Customer breaches or terminates this Agreement before the expiration date for any reason (other than for UniFirst's failure under the performance guarantee described above), Customer will pay UniFirst, as liquidated damages and not as a penalty (the parties acknowledging that actual damages would be difficult to calculate with reasonable certainty) an amount equal to 50 percent of the average weekly amounts invoiced in the preceding 26 weeks, multiplied by the number of weeks remaining in the current term. These damages will be in addition to all other obligations or amounts owed by Customer to UniFirst, including the return of Standard Merchandise or payment of replacement charges, and the purchase of any Non-Standard Merchandise items as set forth herein.

This Agreement shall be governed by Massachusetts law (exclusive of choice of law). If a dispute arises from or relates in any way to this Agreement or any alleged breach thereof at any time, the parties will first attempt to resolve the claim or dispute by negotiation at agreed time(s) and location(s). All negotiations are confidential and will be treated as settlement negotiations. Any matter not resolved through direct negotiations within 30 days shall be resolved exclusively by final and binding arbitration, conducted in the capital city of the state where Customer has its principal place of business (or some other location mutually agreed), pursuant to the Expedited Rules of the Commercial Arbitration Rules of the American Arbitration Association, and governed by the Federal Arbitration Act, to the exclusion of state law inconsistent therewith. The parties will agree upon one (1) Arbitrator to settle the controversy or claim. The successful or substantially prevailing party in any proceeding, including any appeals thereof (as determined by the Arbitrator/court) shall recover all of its costs and expenses including, without limitation, reasonable attorney fees, witness fees, and discovery costs, all of which shall be included in and as a part of the judgment or award rendered hereunder. This provision for Arbitration is specifically enforceable by the parties; the Arbitrator shall have no power to vary or ignore the provisions hereof; and, the decision of the Arbitrator in accordance herewith, may be entered in any court having jurisdiction thereof. Customer acknowledges that, with respect to all such disputes, it has voluntarily and knowingly waived any right it may have to a jury trial or to participate in a class action or class litigation as a representative of any other persons or as a member of any class of persons, or to consolidate its claims with those of any other persons or class of persons. If this prohibition against class litigation is ruled to be unenforceable for any reason in any proceeding, then the prohibition against class litigation shall be void and of no force and effect in that proceeding.

MISCELLANEOUS. The parties agree that this Agreement represents the entire agreement between them. In the event Customer issues a purchase order to UniFirst at any time, none of the standard pre-printed terms and conditions therein shall have any application to this Agreement or any transactions occurring pursuant hereto or thereto. UniFirst may, in its sole discretion, assign this Agreement. Customer may not assign this Agreement without the prior written consent of UniFirst. Customer agrees that in the event it sells or transfers its business, it will require the purchaser or transferee to assume all obligations and responsibilities under this Agreement, provided that such assumption shall not relieve Customer of its liabilities hereunder and provided further that any failure by a purchaser or transferee to assume this Agreement shall constitute a breach and early termination of this Agreement resulting in the obligation to pay all amounts on account thereof as set forth in this Agreement. Neither party will be liable for any incidental, consequential, special, or punitive damages. In no event shall UniFirst's aggregate liability to Customer for any and all claims exceed the sum of all amounts actually paid by Customer to UniFirst. In the event any portion of this Agreement is held by a court of competent jurisdiction or by a duly appointed arbitrator to be unenforceable, the balance will remain in effect. All written notices provided to UniFirst must be sent by certified mail to the attention of the Location Manager. In Texas and certain other states, UniFirst's business is conducted by, and the term "UniFirst" as used herein means, UniFirst Holdings, Inc. d.b.a. UniFirst.

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT WITH UNIFIRST CORPORATION FOR PUBLIC WORKS EMPLOYEE UNIFORMS AND OTHER SUPPLIES THROUGH SOURCEWELL COOPERATIVE AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, The City of Wharton is currently receiving services from Cintas Corporation for Public Works employee uniforms and other supplies; and,

WHEREAS, With the expiration of the Cintas Contract in February 2025, the City Staff wishes to engage the services of Unifirst Corporation for the employee uniforms; and,

WHEREAS, Unifirst Corporation is a vendor through the SourceWell Cooperative; and,

WHEREAS, The City Council of the City of Wharton has determined that is in the best interest to enter into an agreement with Unifirst Corporation for Public Works employee uniforms and other supplies.

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

Section I. That Unifirst Corporation is a vendor through the Sourcewell Cooperative.

Section II. That the City of Wharton hereby approves a contract with Unifirst Corporation to provide uniform services and other supplies for the Public Works Department.

Section III. That the City Manager is hereby authorized to sign any documents relating to the aforementioned contract.

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

PASSED, APPROVED, and ADOPTED this 14th day of October 2024.

CITY OF WHARTON, TEXAS


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council approving an Interlocal Agreement for the Municipally Owned Building Energy Efficiency Retrofits Program with the State Energy Conservation Office (SECO) and authorizing the City Manager of the City of Wharton to execute all documents related to said agreement.
<p>On July 26, 2024, the City Staff submitted an application to the State Energy Conservation Office (SECO) for new energy efficiency retrofit equipment for the Wharton Civic Center in the amount of \$250,000.00. The improvements included six (6) air conditioning units, replacement of fourteen (14) windows, and weatherstripping on approximately six (6) doors.</p> <p>On August 28, 2024, the Staff was notified that the application had been approved for funding.</p> <p>Attached is the Interlocal Agreement for the Municipally Owned Building Energy Efficiency Retrofits Program.</p> <p>The Finance Committee will meet on Monday, October 14, 2024, and will formulate a recommendation for City Council consideration.</p> <p>Finance Director Joan Andel will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney Street ° Wharton, TX
77488

Phone (979) 532-2491° Fax (979) 532-
0181

MEMORANDUM

To: Mr. Joseph R. Pace
City Manager

From: Joan Andel

Date: October 8, 2024

Re: State Energy Conservation Office Award

On July 26, 2024, I submitted an application to the State Energy Conservation Office (SECO) for new energy efficiency retrofit equipment for the Wharton Civic Center in the amount of \$250,000. The improvements included six (6) air conditioning units, replacement of fourteen (14) windows, and weatherstripping on approximately six (6) doors.

On August 28, 2024, we were notified that we had been approved for the funding. Attached is the Interlocal Agreement for the Municipally Owned Building Energy Efficiency Retrofits Program. Please place this on the Finance Committee agenda on October 14, 2024, for approval to accept the agreement and to recommend to the City Council for approval on the same evening.

Should you have any questions, please contact me.

Thank you.

STATE OF TEXAS

STATE ENERGY CONSERVATION OFFICE

COUNTY OF TRAVIS

AGREEMENT

CM24103

**INTERLOCAL AGREEMENT
FOR THE MUNICIPALLY OWNED BUILDING ENERGY EFFICIENCY RETROFITS PROGRAM**

This interlocal agreement ("Agreement") is entered into by and between the Texas Comptroller of Public Accounts ("Comptroller"), State Energy Conservation Office ("SECO") and City of Wharton ("Contractor") located at 120 E. Caney, Wharton, Texas 77488.

I. Recitals

Whereas, on June 28, 2024, Comptroller issued a Request for Applications No. EECBG-IIJA1-2024 ("RFA") for the Municipally Owned Building Energy Efficiency Retrofits Program to convert to energy efficiency retrofits;

Whereas, City of Wharton submitted an application on or before August 16, 2024, in response to Comptroller's RFA ("Application");

Whereas, City of Wharton was selected as a Successful Applicant;

Whereas, under this Agreement, City of Wharton shall fully comply with all terms, conditions, requirements and other provisions of this Contract, including those set forth in the Attachments attached hereto and incorporated herein for all purposes; and

Whereas, in consideration of City of Wharton's compliance with all requirements of this Contract, Comptroller awards this Contract to the City of Wharton.

Now, therefore, the parties hereby agree as follows:

II. Authority

This Agreement is entered into pursuant to authority granted in Chapter 403, Section 403.11, Texas Government Code; Chapter 447, Texas Government Code; the Oil Overcharge Restitutionary Act, Chapter 2305, Texas Government Code; the Interlocal Cooperation Act, Chapter 791, Texas Government Code; and the State of Texas Oil Overcharge Funds Disbursement Plan. Funding for this program is provided by federal funds approved by the United States Department of Energy ("DOE").

III. Services

City of Wharton shall provide to Comptroller all of the services and deliverables described in and in the manner required by this Agreement all of the following documents ("Services") as attached hereto and incorporated as part of this Agreement for all purposes. All terms and conditions of Comptroller's RFA shall apply.

<u>Attachment A:</u>	Deliverables Statement;
<u>Attachment B:</u>	Budget;
<u>Attachment C-1:</u>	Assurance of Compliance, Nondiscrimination in State Assisted Programs;
<u>Attachment C-2:</u>	Assurance of Compliance, Nondiscrimination in State Assisted Programs;
<u>Attachment D:</u>	Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions;
<u>Attachment E:</u>	Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements;

<u>Attachment F:</u>	Disclosure of Lobbying Activities;
<u>Attachment G:</u>	Assurances – Non-Construction Programs;
<u>Attachment H:</u>	Intellectual Property Provisions;
<u>Attachment I:</u>	Subcontracting Provisions; Mandatory Flowdown Provision;
<u>Attachment J:</u>	Execution of Application;
<u>Attachment K:</u>	Nondisclosure Agreement;
<u>Attachment L:</u>	Comptroller's RFA;
<u>Attachment M:</u>	City of Wharton's Application;
<u>Attachment N:</u>	Build America, Buy America
<u>Attachment O:</u>	Davis-Bacon Act
<u>Attachment P:</u>	LCPTTracker Flow Chart
<u>Attachment Q:</u>	LCPTTracker Training Schedule

In the event of a conflict, the documents shall control in the following order of precedence:

1. This Agreement, excluding Attachments;
2. Attachments A and B;
3. Attachments C-1 through H;
4. Attachment I;
5. Attachment O;
6. Attachment P;
7. Attachment N;
8. Attachment J;
9. Attachment K;
10. Attachment L;
11. Attachment M;

City of Wharton represents and warrants that it completed and provided the following Attachments to Comptroller prior to executing this Agreement: C-1, D, E, F, G, H, I, J, K, N, and O. In addition, City of Wharton represents and warrants that each of its subcontractors will complete and provide an Attachment C-2 to City of Wharton and Comptroller prior to City of Wharton executing this Agreement.

City of Wharton shall retain full control over the personnel, equipment, supplies, and other items City of Wharton selects as necessary to provide all of the services described in this Agreement.

City of Wharton shall submit such records, information, and reports in such form and at such times as may be required by Comptroller; these reports shall include, but are not limited to, the reports specified in Attachment A.

City of Wharton's performance under this Agreement is limited to the requirements set forth in this Agreement, including services reasonably related to satisfying those requirements.

City of Wharton represents and warrants that it has the requisite qualifications, experience, personnel and other resources to provide all of the required Services to Comptroller in the manner required by this Agreement. Comptroller shall look solely to City of Wharton for performance of this Agreement. City of Wharton shall provide the services under the direction of Comptroller. City of Wharton shall be the sole point of Contract responsibility. City of Wharton shall be liable, both individually and severally, for the performance of all obligations under this Contract, and shall not be relieved of the non-performance of any subcontractor.

IV. Payments

Total payments to City of Wharton under this Agreement shall not exceed **TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00)**. City of Wharton's payments under this Agreement are limited to reimbursements of actual authorized costs incurred pursuant to the budget provided in Attachment B. No other

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amounts shall be paid. Each month, City of Wharton shall submit to Comptroller each request for payment by submitting a detailed invoice to Comptroller, listing expenses by budget categories. City of Wharton shall submit invoices that are fully supported by receipts and such other documentation. Comptroller reserves the right, in its sole discretion, to withhold payment of invoices for which City of Wharton does not submit documentation acceptable to Comptroller. City of Wharton shall submit monthly invoices for equipment purchased, services performed and costs incurred in the prior month.

Comptroller reserves the right, in its sole discretion, to authorize revisions to budgeted amounts to provide for flexibility within budget categories. Comptroller must give prior approval of all such revisions through its execution of a written amendment to this Agreement. City of Wharton may submit a request for reimbursement after contract termination provided the eligible expenses were incurred during the term of the Agreement.

V. Term

The term of this Agreement shall begin on the date executed by Comptroller, after having first been signed by City of Wharton, and shall be effective until August 31, 2025 ("Termination Date") unless terminated earlier in accordance with other provisions of this Agreement. Notwithstanding the termination or expiration of this Agreement, the provisions of this Agreement regarding confidentiality, indemnification, payments, records, and dispute resolution shall survive the termination or expiration dates of this Contract.

VI. Termination

Comptroller reserves the right, in its sole discretion, to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to City of Wharton.

Upon receipt of notice of termination from Comptroller, City of Wharton shall immediately cease to submit monthly statements or requests for reimbursement and shall cancel, withdraw or otherwise terminate any outstanding orders or commitments under this Agreement as of the effective date of such termination and shall otherwise cease to incur any costs. City of Wharton cannot incur new costs after termination but can seek reimbursement for eligible costs incurred during the Agreement term. Comptroller shall have no liability whatsoever for any costs incurred after such termination date. Upon termination for a breach of this Agreement or failure to comply with the terms of this Agreement, City of Wharton may be required to return any or all grant funds to Comptroller.

VII. Records Retention, Right to Audit, and Monitoring

A. Retention of Records. City of Wharton shall maintain and retain fiscal records and supporting documentation for all expenditures related to this Agreement at its principal office adequate to ensure that claims for grant funds are in accordance with applicable Comptroller and State of Texas requirements. City of Wharton shall maintain all such documents and other records relating to this Agreement for a period of seven (7) years after the date of submission of the final invoice or until a resolution of all billing questions, whichever is later.

B. Access to Records. City of Wharton shall give DOE, the Inspector General, the General Accounting Office, the Auditor of the State of Texas, Comptroller, or any of their duly-authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by City of Wharton pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by City of Wharton. City of Wharton shall cooperate with auditors and other authorized representatives of Comptroller and the State of Texas and shall provide them with prompt access to all such property as requested by Comptroller or the State of Texas. By example and not as exclusion to other breaches or failures, the City of Wharton's failure to comply with this Section shall constitute a material breach of this Agreement and shall authorize Comptroller to immediately terminate this Agreement. City of Wharton agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552 of the Texas Government Code.

C. Right to Audit. Comptroller may require, at City of Wharton's sole cost and expense, independent audits by a qualified certified public accounting firm of City of Wharton's books and records or the State's property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to City of Wharton. Comptroller retains the right to issue a request for applications for the services of an independent certified public accounting firm under this Agreement. In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of City of Wharton or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by City of Wharton or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, City of Wharton or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Agreement may be amended unilaterally by Comptroller to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code. City of Wharton shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors or sub-contractors through the City of Wharton and the requirement to cooperate is included in any subcontract it awards. The state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the City of Wharton relating to this Agreement.

D. Monitoring. Comptroller may also carry out monitoring and evaluation activities to ensure City of Wharton's compliance with the programs that are the subject of this Agreement and to make available copies of all financial audits and related management letters of City of Wharton and any subcontractors as required under any applicable federal or state law or guidelines.

VIII. Indemnification

TO THE EXTENT PERMITTED BY THE CONSTITUTION AND THE LAWS OF THE STATE OF TEXAS, CITY OF WHARTON SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND COMPTROLLER, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF City of Wharton OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY City of Wharton WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND City of Wharton MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. City of Wharton AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

IX. Subcontracting

City of Wharton may subcontract or sub-grant for the purposes of this Agreement as specifically authorized by Comptroller pursuant to the terms and subject to compliance with the flow down provisions of Attachment I of this Agreement.

X. Amendments

This Agreement may only be amended upon the written agreement of the parties by executing an amendment to this Agreement; however, Comptroller may unilaterally amend this Agreement as provided in Section XVIII.

XI. Notice

Any notice relating to this Agreement, which is required or permitted to be given under this Agreement by one party to the other party shall be in writing and shall be addressed to the receiving party at the address specified below. The notice shall be deemed to have been given immediately if delivered in person to the recipient's address specified below. It shall be deemed to have been given on the date of certified receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address specified below. Registered or certified mail with return receipt is not required for copies.

Comptroller: Texas Comptroller of Public Accounts
State Energy Conservation Office
111 E. 17th Street
Austin, Texas 78774

City of Wharton: City of Wharton
120 E. Caney
Wharton, Texas 77488

XII. Funding

Comptroller's performance of its obligations under this Agreement is contingent upon and subject to availability of and actual receipt by Comptroller of sufficient and adequate funds from the sources contemplated by this Agreement. This Agreement is subject to immediate cancellation or termination, without penalty to Comptroller, subject to the availability and receipt of these funds. In addition, Comptroller's authority and appropriations are subject to the actions of the Texas Legislature. If Comptroller becomes subject to a legislative change, revocation of statutory authority or lack of funds that would render the services to be provided under this Agreement impossible or unnecessary, Comptroller may terminate this Agreement without penalty to Comptroller or the State of Texas. In the event of a termination or cancellation under this Section, Comptroller shall not be required to give notice and not be liable for damages or losses caused or associated with such termination or cancellation.

XIII. Insurance

City of Wharton has and will maintain in force during the term of this Agreement insurance coverage or an adequate program of self-insurance to cover its indemnification obligations under this Agreement. As a political subdivision of the State of Texas, City of Wharton will address issues of general liability in accordance with the Texas Civil Practice and Remedies Code, Chapter 101 (the Texas Tort Claims Act) and Chapter 102 (Tort Claims Payments by Local Governments). City of Wharton will maintain Workers' Compensation insurance in the amounts required by state and federal law.

XIV. Assignment

City of Wharton shall not transfer or assign any rights or duties under or any interest in this Agreement. City of Wharton shall not delegate its responsibilities or duties under the terms of this Agreement.

XV. Property Rights

For the purposes of this Agreement, the term "Work" is defined as all reports, work papers, work products, materials, approaches, designs, specification, systems, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under this Agreement. City of Wharton owns and will continue to own all right, title and interest and all proprietary rights in and to the Work and any and all documentation or other products and results of the services rendered by City of Wharton, including all trade secret, copyright, patent, trademark, and other proprietary rights.

City of Wharton hereby grants Comptroller a perpetual, royalty-free, nonexclusive, irrevocable, transferable, worldwide license for governmental purposes to use, reproduce, distribute, display, and perform the Work and to prepare derivative works based thereon. Additionally, upon delivery of the Work to Comptroller, and upon full payment to City of Wharton hereunder by Comptroller for such Work, Comptroller shall be deemed to have paid all non-commercial license, support, maintenance, subscription, and other fees of any kind, and City of Wharton understands and agrees to this provision.

In the event that either party intends to use, reproduce, display, or perform such Work for commercial purposes, the parties agree in good faith to negotiate the applicable license.

No later than the first calendar day after the termination or expiration of this Agreement or at Comptroller's request, City of Wharton shall deliver to Comptroller all completed, or partially completed, Work and any and all documentation or other products and results of these services. Failure to timely deliver such Work and any and all documentation or other products and results of services shall be considered a material breach of this Agreement.

In the event of any conflicting provisions between this Section and Attachment H, Attachment H shall control.

Title to and control over equipment or license of any software so purchased for City of Wharton's performance under this Agreement shall remain with City of Wharton so long as it is being used for the purpose for which it was intended under the terms of this Agreement.

XVI. Severability Clause

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining provisions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

XVII. Dispute Resolution Process

Chapter 2260 of the Texas Government Code ("Chapter 2260") prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. As required by Chapter 2260, Comptroller has adopted rules under Chapter 2260, codified at 34 Texas Administrative Code §§1.360 – 1.387, and may adopt revisions to these rules throughout the term of this Agreement, including any extensions. City of Wharton shall comply with such rules.

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Comptroller and City of Wharton to attempt to resolve any claim for breach of contract made by City of Wharton under this Agreement:

- (A) City of Wharton's claim for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, City of Wharton shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of Comptroller and City of Wharton otherwise entitled to notice under this Agreement. Compliance by City of Wharton with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- (B) The contested case process provided in Chapter 2260 is City of Wharton's sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller if the parties are unable to resolve their disputes under subparagraph (A) of this Section.
- (C) Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practice and Remedies Code.

Neither the execution of this Agreement by Comptroller nor any other conduct of any representative of Comptroller relating to this Agreement shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Agreement, the following shall apply:

Should a dispute arise out of this Agreement, Comptroller and City of Wharton shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by Comptroller and City of Wharton within fifteen (15) days after written notice by one of them demanding mediation under this Section. City of Wharton and Comptroller shall pay all costs of the mediation equally. By mutual agreement, Comptroller and City of Wharton may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that Comptroller and City of Wharton shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Comptroller's participation in or the results of any mediation or another non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by Comptroller of: (1) any rights, privileges, defenses, remedies or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller; (2) Comptroller's termination rights; or (3) other termination provisions or expiration dates of this Agreement.

XVIII. Applicable Law and Conforming Amendments

City of Wharton shall comply with all state and federal laws, regulations, requirements and guidelines applicable to a City of Wharton providing services to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Agreement. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Agreement prior to award and throughout the term of this Agreement to incorporate any modifications necessary for Comptroller's or City of Wharton's compliance with all applicable state and federal laws, regulations, requirements and guidelines. Other than this provision, this Agreement may only be amended by the written agreement of the parties.

XIX. Additional Provisions

19.1 Time Limits

Time is of the essence in the performance of this Agreement and accordingly all time limits shall be strictly construed and rigidly enforced.

19.2 No Waiver

This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Comptroller or otherwise available to Comptroller or City of Wharton. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Comptroller or City of Wharton under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Comptroller or City of Wharton do not waive any privileges, rights, defenses, or immunities available to them by entering into this Agreement or by their conduct prior to or subsequent to entering into this Agreement. **The modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller or City of Wharton must be in writing, must reference this Section, and must be signed by Comptroller and City of Wharton to be effective, and such modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller shall not constitute waiver of any subsequent privileges, rights, defenses, remedies, or immunities under this Agreement or under applicable law.**

19.3 No Liability upon Termination

If this Agreement is terminated for any reason, Comptroller and the State of Texas shall not be liable for any damages, claims, losses, expenses, costs or any other amounts arising from or related to any such termination.

19.4 Limitation on Authority; No Other Obligations

City of Wharton shall have no authority to act for or on behalf of Comptroller or the State of Texas except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. City of Wharton may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Comptroller.

19.5 No Other Benefits

City of Wharton shall have no exclusive rights or benefits other than those set forth herein.

19.6 Force Majeure

Except as otherwise provided, neither City of Wharton nor Comptroller shall be liable to the other for any delay in, or failure of performance, of any requirement contained in this Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, terrorist attacks, fires, explosions, earthquakes, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.

19.7 Debts or Delinquencies to State

City of Wharton acknowledges and agrees that, to the extent City of Wharton owes any debt or delinquent taxes to the State of Texas, any payments or other amounts City of Wharton is otherwise owed under or related to this Agreement may be applied by the Comptroller of Public Accounts toward any debt or delinquent taxes City of Wharton owes the State of Texas until the debt or delinquent taxes are paid in full. These provisions are effective at any time City of Wharton owes any such debt or delinquency. City of Wharton shall comply with rules adopted by the Comptroller under Sections 403.055, 403.0551, and 2252.903 of the Texas Government Code, and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

Furthermore, City of Wharton acknowledges and agrees that any obligation to refund or return grant funds based on termination or breach of this Agreement entered into by City of Wharton and Comptroller creates "a debt to the state" for purposes of Section 403.055 of the Texas Government Code. City of Wharton further acknowledges and agrees that the terms of this Agreement are sufficient to create a debt by agreement between the City of Wharton and Comptroller. Comptroller agrees that it shall provide City of Wharton the opportunity to contest the amount due or the existence of a breach through an internal administrative review process which shall be determined by Comptroller. Applicant's failure to return any amount owed upon conclusion of Comptroller's administrative review process shall allow Comptroller to use the warrant-hold process under Section 403.055 of the Texas Government Code as a means of enforcing City of Wharton's compliance with the terms of the Grant Agreement or to recover grant funds required to be returned by City of Wharton under the terms of this Agreement.

If City of Wharton is a "local government entity" as defined under Section 271.151 of the Texas Local Government Code, City of Wharton acknowledges and agrees that this Agreement is a written contract stating the essential terms for providing services to City of Wharton, and therefore, this Agreement is subject to Chapter 271, Subchapter I, of the Local Government Code which waives sovereign immunity for certain breach of contract claims.

19.8 No Conflicts

City of Wharton represents and warrants that City of Wharton has no actual or potential conflicts of interest in providing services to Comptroller under the Contract and that City of Wharton's provision of services under the Contract would not reasonably create an appearance of impropriety. Without limitation on the foregoing, other disclosures required under this Contract, and other prohibited work provisions of this Contract, City of Wharton shall, throughout the term of this Contract, comply with and provide all of the following: provide to Comptroller, upon request, a copy of City of Wharton's most recent audit, if any, together with a full disclosure of any and all internal control weaknesses, if any; disclose and describe in detail City of Wharton's most recent peer review, if any, stating the date of the review and irregularities, if any, and concluding comments; disclose and describe in detail any emerging irregularities, if any, that could materially affect Comptroller's interests; and disclose and describe in detail how City of Wharton examines whether City of Wharton's outside auditors provide consulting or other services to City of Wharton or City of Wharton's clients or to Comptroller.

19.9 Comptroller's Anti-Fraud Policy

City of Wharton represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy located on Comptroller's website at <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of this Agreement.

19.10 Texas Public Information Act; Confidential Information

Each party is responsible for complying with the provisions of Chapter 552, Texas Government Code (Texas Public Information Act) and the Attorney General Opinions issued under that statute. Comptroller and City of Wharton expect that all information exchanged between them will be public information. In the event confidential information is exchanged, Comptroller and City of Wharton shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security of information. Responses to requests for confidential information shall be handled in accordance with the provisions of the Texas Public Information Act.

19.11 Patent, Trademark, Copyright and Other Infringement Claims

City of Wharton shall defend and indemnify Comptroller and the State of Texas against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from Comptroller's or City of Wharton's use of or acquisition of any services or other items provided to Comptroller by City of Wharton or otherwise to which Comptroller has access as a result of City of Wharton's performance under this Agreement, provided that Comptroller shall notify City of Wharton of any such claim within a reasonable time of Comptroller's receiving notice of any such claim. If City of Wharton is notified of any claim subject to this Section, City of Wharton shall notify Comptroller of such claim within five (5) working days of such notice. If Comptroller determines that a conflict exists between its interests and those of City of Wharton or if Comptroller is required by applicable law to select separate counsel, Comptroller shall be permitted to select separate counsel and the reasonable costs of such Comptroller's counsel shall be paid by City of Wharton. City of Wharton shall make no settlement of any such claim without Comptroller's prior written approval. City of Wharton shall reimburse Comptroller and the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. City of Wharton represents that it has determined what licenses, patents and permits are required under this Agreement and has acquired or will acquire all such licenses, patents and permits prior to commencement of services under this Agreement.

19.12 DTPA; Unfair Business Practices

City of Wharton represents and warrants that it has not been the subject of a Deceptive Trade Practices Act (DTPA) or any unfair business practice administrative hearing or court suit and that City of Wharton has not been found to be guilty of such practices in such proceedings. City of Wharton certifies that it has no officers who have served as officers of other entities who have been the subject of a DTPA claim or any unfair business administrative hearing or

court suit and that such officers have not been found to be guilty of such practices in such proceedings.

19.13 Immigration

City of Wharton represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Reform and Immigrant Responsibility Act of 1996 regarding employment verification and retention of verification forms for any individuals hired, who will perform any labor or services under this Agreement. City of Wharton also represents and warrants that it shall comply with the requirements of the Immigration Act of 1990 enacted on November 29, 1990, regarding creation of the lottery system for granting visas, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 enacted on September 30, 1996 which created three year, ten year and permanent bars to entrance into the United States.

19.14 Antitrust

Pursuant to 15 U.S.C. Sec. 1, et seq. and Tex. Bus. & Comm. Code Sec. 15.01, et seq., City of Wharton represents and warrants that neither City of Wharton nor any firm, corporation, partnership, or institution represented by City of Wharton, nor anyone acting for such firm, corporation or institution has violated Texas antitrust laws or federal antitrust laws, nor communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business.

19.15 Texas Family Code

Under Section 231.006, Texas Family Code (relating to child support), City of Wharton certifies that the individual or business entity named in this Agreement is eligible to receive payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

19.16 Criminal Conviction Certification

City of Wharton certifies that neither City of Wharton or any of its employees, agents, or representative, including any subcontractors and employees, agents, or representative of such subcontractors, to be assigned to the services hereunder, has been convicted of a felony criminal offense, or that if such a conviction has occurred or occurs during the term of this Agreement, City of Wharton will immediately fully advise Comptroller as to the facts and circumstances.

19.17 Financial Interests; Gifts

City of Wharton represents and warrants that neither City of Wharton nor any person or entity which will participate financially in this Agreement has received compensation from Comptroller for participation in preparation of specifications for this Agreement. In addition, under Section 2155.004, Texas Government Code, City of Wharton certifies that it is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate. City of Wharton represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with this Agreement. City of Wharton certifies that it is in compliance with Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency.

19.18 Buy Texas

City of Wharton represents and warrants that, in accordance with Section 2155.4441, Texas Government Code, it shall purchase products and materials produced in Texas when they are available at a comparable price and in a comparable period of time.

19.19 False Statements; Breach of Representations

By signature to this Agreement, City of Wharton makes all the representations, warranties, covenants, and certifications included in this Agreement. Notwithstanding any provision of this Agreement to the contrary, if City of Wharton signs this Agreement with a false statement or it is subsequently determined that City of Wharton has violated any of the representations, warranties, covenants or certifications included in this Agreement, City of Wharton shall be in default under this Agreement and Comptroller may terminate or void this Agreement for cause and pursue other remedies available to Comptroller under this Agreement and applicable law.

19.20 Prohibited Use of Appropriated or Other Funds Under Control of State Agency; Lobbying

City of Wharton represents and warrants that Comptroller's payment to City of Wharton and City of Wharton's receipt of appropriated or other funds under this Agreement are not prohibited by Sections 556.005, 556.0055, or 556.008, Texas Government Code.

19.21 Certification Concerning Hurricane Relief

Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, City of Wharton certifies that the individual or business entity named in this Agreement is not ineligible to receive the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certifications inaccurate.

19.22 Debarred Vendors List

City of Wharton represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that City of Wharton is in compliance with the State of Texas statutes and rules relating to procurement and that City of Wharton is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

19.23 Drug Free Workplace

City of Wharton represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 and maintain a drug-free work environment.

19.24 No Boycott-State of Israel

Pursuant to Section 2270.002 of the Texas Government Code, City of Wharton does not boycott Israel and will not boycott Israel during the term of the Contract.

19.25 Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, City of Wharton certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

19.26 Foreign Terrorist Organizations

City of Wharton represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

19.27 Energy Company Boycotts

City of Wharton represents and warrants that: (1) it does not, and will not for the duration of this Agreement, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the term this Agreement, City of Wharton shall promptly notify CPA.

19.28 Firearm Entities and Trade Associations Discrimination

City of Wharton verifies that: (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the term of this Agreement, City of Wharton shall promptly notify CPA.

19.29 COVID-19 Vaccine Passport Prohibition

Under Section 161.0085 of the Texas Health and Safety Code, City of Wharton certifies that the individual or business entity named in this Agreement is not ineligible to receive this Agreement.

XX. Merger

This Agreement, and its accompanying attachments, contain the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent writing, signed by both parties.

XXI. Signatories

The undersigned signatories represent and warrant that they have full authority to enter into this Agreement on behalf of the respective parties. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

Texas Comptroller of Public Accounts

City of Wharton

By: _____

By: _____

Lisa Craven
Deputy Comptroller

Joseph R. Pace
City Manager

Date: _____

Date: _____

ATTACHMENT A

DELIVERABLES STATEMENT

A. Deliverables

Prior to the commencement of any activities or procurements, the City of Wharton shall request from SECO an ASHRAE Level II audit of the proposed energy efficiency retrofits described in Section 2: Project Description of the RFA No. EECBG-IJA1-2024 approved application. The City of Wharton shall provide to the energy auditor 12 months of utility bills prior to audit commencement. The audit purpose is to determine projected energy and demand savings for the proposed retrofits and to validate Build America Buy America material compliance.

Upon completion of the ASHRAE Level II audit, the City of Wharton shall submit Build America Buy America material compliance certifications to SECO for approval prior to procuring equipment and materials. When the SECO Contract Manager approves the compliance certifications, the City of Wharton may proceed with energy efficiency retrofit activities.

City of Wharton shall provide labor and materials to install the energy efficiency retrofits described in Section 2: Project Description of the RFA No. EECBG-IJA1-2024 application and otherwise required by this Agreement. The labor and materials shall include, but are not limited to, the furnishing of all personnel and the procurement of all equipment, supplies, and other items necessary to install the energy efficiency retrofits in compliance with this Agreement. City of Wharton shall review and implement Comptroller recommendations, as Comptroller adopts them from time to time, so that the deliverables may be expeditiously and satisfactorily completed. City of Wharton shall meet with Comptroller at such times as Comptroller may reasonably request to discuss the progress of deliverables and any other matters that may arise in regard to this Agreement.

B. Standards of Performance

1. Furnish itemized list of all proposed equipment (type and quantity) with detailed cut sheets/specifications, and efficiencies for each piece of equipment and system prior to ordering equipment. The itemized list must demonstrate compliance with Build America Buy America (BABA) requirements and the Contract Manager must approve the BABA equipment before it is ordered.
1. Standard Warranty: All labor and materials for one (1) year from date of substantial completion. All new fixtures shall have a five-year warranty.
2. The specification/requirements for construction and installation of the retrofits replacement systems must meet or exceed equipment and system efficiency standards established in the 2018 IECC or later versions as may be adopted by any local authority having jurisdiction over the project.
3. The proposed retrofits and any impacts on existing building systems must comply with applicable building codes such as the National Electrical Code ("NEC"), and the National Fire Protection Association (NFPA).
4. Light levels: City of Wharton must conduct pre-retrofit surveys of existing fixture light levels, wattage, and reflector distribution. Post retrofit foot-candles (FC) must meet or exceed existing FC levels and be in compliance with IES standards for the application. Installation shall comply with City's outdoor lighting ordinance(s). Proposed retrofits shall comply with dark-sky ordinance(s) as applicable.
5. During the retrofit, the function and operation of all other existing control systems (timeclock, Building Automation System (BAS), and/or photocell) shall be preserved.
6. New energy efficiency retrofits equipment shall be programmed and tested with the current operating schedules.
7. All energy efficiency retrofits equipment proposed shall be new, manufactured, rated, and certified for the use proposed by the installer. Installations or combinations of equipment proposed under this contract shall at no time violate, invalidate, or disallow any rating or certification such as Underwriter's Laboratories (UL), etc.

8. Commissioning of energy efficiency retrofits, and the associated retrofit controls/systems shall be required.
9. A licensed trade specialist licensed by the Texas Department of Licensing and Regulation must:
 - Provide individual name and license number for each trade specialist who supervised the work; and
 - Certify that energy efficiency retrofits and fixtures were installed in accordance with manufacturer's recommendations, and that the energy efficiency retrofits and fixtures meet applicable codes for the application.
10. Applicant must certify the following:
 - a. Proper installation in accordance with manufacturer's recommendations;
 - b. Provide a letter stating proper disposal of existing equipment and any hazardous material waste pursuant to Texas Administrative Code, Chapter 335; and
 - c. No conflicts of interest exist with the Applicant.

C. Davis Bacon Training

Prior to commencement of retrofit activities, the City of Wharton and its vendor, if applicable, shall attend LCPtracker contractor training sessions as set forth in Attachment Q and obtain access to LCPtracker for weekly certified payroll reporting for all contractors and subcontractors.

D. Reimbursement Requests and Reporting

1. Reimbursement Requests. City of Wharton shall submit a minimum of two reimbursement requests with required support documentation. Reimbursement requests shall be through the SECO contract portal.
 - Monthly invoices should itemize the total labor, materials, and equipment of the installation project including electrical control equipment. All installations must comply with the current codes and original manufacturers product specifications.
 - Submit with each reimbursement request, a:
 - Texas Master/ Journeyman Electrician Name and License number who supervised the work;
 - Texas Master/ Journeyman Electrician certification that the replaced LED lighting systems and control equipment was installed in accordance with current codes and manufacturer's recommendations.
 - Final inspection reports and close out warranty information, spec sheets, and ongoing maintenance procedures for all LED equipment installed.
2. Monthly Reports. The report shall include, at a minimum and as applicable, the following information: Building(s)/areas retrofitted, retrofit activities; and total square footage of retrofitted areas. Issues or concerns should also be included in the Monthly Report. Report submission shall be through the SECO contract portal each month no later than the 10th day of the following month.
3. Quarterly Reports. Due every 3 months (based on the state fiscal year) no later than the 10th day of the month following the end of the quarter. The report shall include, at a minimum a recap of the monthly report activities. Reports shall be submitted electronically as a Microsoft Word document through the SECO contract portal in addition to completing the online report.
4. Final Report. Due 30 days after the completion of the project. At project completion, provide building name, areas, and physical address and location(s) of all new replaced equipment and controls and include the completed follow up inspection reporting required by SECO. The report shall also include, at a minimum and as applicable, a summary of all monthly reporting. The report shall be submitted electronically as a Microsoft Word document through the SECO contract portal in addition to completing the online report.

ATTACHMENT B**BUDGET**

The following Budget includes all costs for performing the Municipally Owned Building Energy Efficiency Retrofits as described in the contract. Comptroller will not prepay any amounts. All costs in this Attachment B are not-to-exceed total costs.

Personnel¹	\$ 0.00
Subcontract	\$ 250,000.00
Equipment	\$ 0.00
Supplies and Materials	\$ 0.00
TOTAL	\$ 250,000.00

¹ PROJECT MANAGER NAME, shall be Project Director for this project and shall be responsible for the overall supervision and conduct of the project on behalf of City of Wharton. Any Change of Project Director shall be subject to the prior written approval of Comptroller.

ATTACHMENT C-1

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

OMB Control No.
1910-0400

U.S. DEPARTMENT OF ENERGY
Assurance of Compliance
Nondiscrimination in State Assisted Programs
OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

City of Wharton (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10 Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, age or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related

information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal assistance funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, the successors, transferees, and assignees, as well as the person(s) whose signature appears below and who are authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

Designated Responsible Employee

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

City of Wharton

979-532-2491

Name of Organization

Telephone Number

120 E. Caney, Wharton, Texas 77488

Address

Authorized Official:

Joseph R. Pace, City Manager

979-532-2491

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

ATTACHMENT C-2

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

OMB Control No.
1910-0400

**U.S. DEPARTMENT OF ENERGY
Assurance of Compliance
Nondiscrimination in State Assisted Programs**

OMB Burden Disclosure Statement

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(Enter name of Recipient's Subcontractor) _____ (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10, Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color,

national origin, sex, age and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, age, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal assistance funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, the successors, transferees, and assignees, as well as the person(s) whose signatures appear below and who are authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

Designated Responsible Employee of Subcontractor

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

Subcontractor:

Name of Organization

Telephone Number

Address

Authorized Official of Subcontractor:

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

ATTACHMENT D
Certification Regarding Debarment, Suspension, Ineligibility,
and Voluntary Exclusion-Lower Tier Covered Transactions

Instructions for Certification

1. The prospective lower tier participant is required to sign the attached certification.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this application is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principle," "application," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this application is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this application that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
 - (1) The prospective lower tier participant certifies, by submission of this application, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

City of Wharton
 Organization Name

Joseph R. Pace, City Manager
 Name and Title of Authorized Representative

 Signature

 Date

ATTACHMENT E

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Energy determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31,

U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period receding this application/proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this

certification, such prospective participant shall attach an explanation to this application/proposal.

3. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

ALTERNATE 1 (SUB-RECIPIENTS OTHER THAN INDIVIDUALS)

(1) The Sub-recipient certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Sub-recipient's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing, of his or her conviction for a violation of criminal drug statute occurring in the work-place

not later than five calendar days after such conviction;

- (e) Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to energy grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate actions against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act 9f 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
- (2) The Sub-recipient may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance:

(Street address, city, county, state, zip code)

- ☐ Check if there are workplaces on file that are not identified here.

ALTERNATE II (SUB-RECIPIENTS WHO ARE INDIVIDUALS)

- (1) The Sub-recipient certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substances in conducting any activity with the grant.
- (2) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

The undersigned certifies, to the best of his or her knowledge and belief, that: it IS NOT an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986; OR that it IS an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986, which, after December 31, 1995, HAS NOT engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

4. LOBBYING DISCLOSURE ACT OF 1995, SIMPSON-CRAIG AMENDMENT

Applicant organization which are described in section 501 (c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated persons or person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

As set forth in the Lobbying Disclosure Act of 1995 (Public Law 104-65, December 19, 1995), as amended ["Simpson-Craig Amendment," see Section 129 of The Balanced Budget Down payment Act, I (Public Law 104-99, January 26, 1996)], lobbying activities is defined broadly. (See section 3 of the Act.)

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

City of Wharton
Name of Applicant

City of Wharton EECBG Retrofits
Pre/Award Number and/or Project Name

Joseph R. Pace, City Manager
Printed Name and Title of Authorized Representative

Signature

Date

ATTACHMENT F

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: _____ a. bid/offer/application b. initial award c. post award	3. Report Type: _____ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: Name Address _____ Prime _____ Subawardee Tier, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
6. Federal Department/Agency:	7. Federal Program Name/Description CFDA Number, if applicable:	
8. Federal Action Number, If known:	9. Award Amount, if known:	
10.a. Name and Address of Lobbying Entity: (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)	10.b. Individual Performing Services (including address if different from No. 10A) (last name, first name, MI):	
11. Amount of Payment (check all that apply): \$ _____ actual _____ Planned	12. Form of Payment (check all that apply): a. cash b. in-kind; specify: nature _____ value _____	
13. Type of Payment (check all that apply): _____ a. retainer _____ c. commission _____ e. deferred _____ b. one-time fee _____ d. contingent fee _____ f. other; specify _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:		
15. Continuation Sheet(s) SF-LLL-A attached: _____ Yes _____ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annual and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure		
Authorized Representative: <u>Joseph R. Pace</u> Title: <u>City Manager</u> Signature: _____ Telephone: <u>979-532-2491</u> Date: _____		

ATTACHMENT G

ASSURANCES – NON-CONSTRUCTION PROGRAMS OMB Approval No. 0348-0040

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, Comptroller, the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93- 234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 a-1 et seq.)
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. SAM Registration. City of Wharton and their first-tier Subrecipients must register and maintain "active registration" status in the System for Award Management (<https://sam.gov/content/home>) database at all times during which they have active SECO awards. The registration process includes obtaining a Unique Entity Identifier (UEI). While the UEI does not expire, registrations must be updated annually and remain in "active registration" status for the award duration. Recipients must ensure that all potential subrecipients do not enter into a contractual relationship with the recipient unless the subrecipient is in "active registration" status and has an UEI number in the legally prescribed manner."
19. Compliance with Davis-Bacon Act- City of Wharton must ensure bids, contracts, and subcontracts contain the applicable wage determination and the Davis-Bacon labor standards clauses found in 29 CFR § 5.5 (Code of Federal Regulations), titled Contract Provisions and Related Matters. The labor standards describe contractor responsibilities and provide remedies for noncompliance. A wage determination (WD) is a set of wages, fringe benefits, and work rules that the United States Department of Labor has ruled to be prevailing for a given labor category in a given locality. Note that if federal and state wage rates apply, contracts must contain both wage decisions/contract standards and employers must pay the higher of the two rates. At the project kick-off meeting, the City of Wharton must provide the prevailing WD information (www.sam.gov) of the project location to SECO. During the project

construction period, City of Wharton must provide certified payrolls for all labor on the site. The certified payrolls and all data shall be created using form WH-347 or equivalent. No submitted hand-written forms will be accepted.

20. Will comply with the requirements of the Buy America, Build America Act.
21. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

City Manager

Title

City of Wharton

Applicant Organization

Date Submitted

ATTACHMENT H Intellectual Property Provisions

AUTHORIZATION AND CONSENT – ALTERNATE I (48 CFR 52.227-1)

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. the entire liability to the Government for infringement of a United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, does not affect this authorization and consent.

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (48 CFR 52.227-2)

The provisions of this clause shall be applicable only if the amount of this grant exceeds \$250.

- (a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this grant of which the Contractor has knowledge.
- (b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this grant or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.
- (c) This clause shall be included in all contracts and subgrants under this grant.

REPORTING OF ROYALTIES (48 CFR 52.227-6)

If this grant is in an amount which exceeds \$250 and if any royalty payments are directly involved in the grant or are reflected in the grant price to the Government, the Contractor agrees to report in writing to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) during the performance of this grant and prior to its completion of final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this grant together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties are to be paid. The approval of DOE of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

RIGHTS IN TECHNICAL - GENERAL – ALTERNATE IV (48 CFR 52.227-14)

(a) Definitions. As used in this clause -

Computer database or database means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software - (1) Means (i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Form, fit, and function data means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

Limited rights means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

Limited rights data means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

Restricted computer software means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

Restricted rights, as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

Technical data, means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases. (See 41 U.S.C. 116).

Unlimited rights means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in -

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to -

- (i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;
- (ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;
- (iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and
- (iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright -

(1) Data first produced in the performance of the contract. Except as otherwise specifically provided in this contract, the Contractor may assert copyright in any data first produced in the performance of this contract. When asserting copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number), to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public), by or on behalf of the Government.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor -

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) Removal of copyright notices. The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) Release, publication, and use of data. The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except -

(1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (g)(4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 4703, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor -

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may -

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall -

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) [Reserved]

(h) Subcontracting. The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting

Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) Relationship to patents or other rights. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

RIGHTS TO PROPOSAL DATA (TECHNICAL) (48 CFR 52.227-23)

It is agreed that as a condition of award of this grant or modification and notwithstanding the conditions of any notice appearing on the proposal(s), the Government shall have the right to use, duplicate, and disclose and have others to do so for any purpose whatsoever, the technical data contained in the proposal(s) upon which the grant or modification is based.

City of Wharton
Organization Name

Joseph R. Pace, City Manager
Name and Title of Authorized Representative

Signature

Date

ATTACHMENT I

SUBCONTRACTING PROVISIONS; MANDATORY FLOWDOWN PROVISION

City of Wharton, if subcontracting any of its performance hereunder, shall legally bind subcontractors to perform and make such Subcontractors subject to all the duties, requirements, and obligations of City of Wharton under this Agreement. City of Wharton shall be jointly and severally liable for all performances under this Agreement, including, but not limited to, the performance of its Subcontractors to the extent permitted under the Constitution and laws of the State of Texas.

City of Wharton represents and warrants that it has obtained all necessary permits, licenses, easements, waivers and permissions of whatsoever kind required for its performance and the performance of its Subcontractors under this Agreement. In no event shall any provision of this Attachment I, including, but not limited to, the requirement that City of Wharton obtain the prior approval of Comptroller on City of Wharton's proposed subcontracts, be construed as relieving City of Wharton of the responsibility for ensuring that all services rendered under any subcontracts comply with all the terms and provisions of this Agreement as if they were rendered by City of Wharton. City of Wharton shall, upon request, furnish Comptroller with copies of all proposed subcontracts and all proposed amendments, assignments, cancellations or terminations of said subcontracts no later than thirty (30) days prior to the proposed effective date of such contracts, amendments, assignments, cancellations or terminations; provided, however, that this thirty (30) day period may be shortened by written agreement of the parties. Upon request from Comptroller, City of Wharton shall provide any and all documentation deemed necessary by Comptroller to evidence Subcontractors compliance with all terms, conditions and performance pertaining to the Agreement and all applicable law.

As the duly authorized representative of the City of Wharton, I hereby certify that City of Wharton and subcontractor will comply with the above requirements.

City of Wharton:

By: _____

Name: Joseph R. Pace, City Manager

Date: _____

ATTACHMENT J EXECUTION OF APPLICATION

1. By signature hereon, Applicant represents and warrants that the provisions in this Execution of Application apply to Applicant and all of Applicant's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this RFA or any contract resulting from it.
2. By signature hereon, Applicant represents and warrants its intent to purchase the subject items at the prices quoted in its Application.
3. By signature hereon, Applicant represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy, located on Comptroller's website at <https://comptroller.texas.gov/about/policies/ethics.php> as such Policy currently reads and as it is amended throughout the term of any resulting contract.
4. By signature hereon, Applicant represents and warrants that its prices include all costs of Applicant in providing the requested items that meet all specifications of this RFA and that its prices will remain firm for acceptance for a minimum of one hundred twenty (120) days from deadline for submission of Application.
5. By signature hereon, Applicant represents and warrants that each employee, including "replacement employees", will possess the qualifications, education, training, experience and certifications necessary to perform the services in the manner required by this RFA.
6. By signature hereon, Applicant represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to Comptroller under the RFA and any resulting contract, if any, and that Applicant's provision of the requested items under the RFA and any resulting contract, if any, would not reasonably create an appearance of impropriety.
7. By signature hereon, pursuant to Section 2155.003 of the Texas Government Code, Applicant represents and warrants that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Application.
8. By signature hereon, Applicant represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
9. By signature hereon, Applicant hereby represents and warrants that, pursuant to 15 U.S.C. Sec. 1, *et seq.* and Tex. Bus. & Comm. Code Sec. 15.01, *et seq.*, neither Applicant nor the firm, corporation, partnership, or institution represented by Applicant, nor anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws or communicated directly or indirectly the Application made to any competitor or any other person engaged in such line of business.
10. By signature hereon, Applicant represents and warrants that all statements and information prepared and submitted in response to this RFA are current, complete, and accurate.
11. By signature hereon, Applicant represents and warrants that the individual signing this document and the documents made part of this RFA and Application is authorized to sign such documents on behalf

of the company and to bind the company under any contract which may result from the submission of this Application.

12. By signature hereon, Applicant represents and warrants that if a Texas address is shown as the address of Applicant, Applicant qualifies as a Texas Bidder as defined by 34 Texas Administrative Code §20.32(68).
13. Check below if preference claimed under 34 Texas Administrative Code §20.38:
- ☐ Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - ☐ Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - ☐ Agricultural products grown in Texas
 - ☐ Agricultural products offered by a Texas bidder
 - ☐ Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - ☐ Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
 - ☐ Texas Vegetation Native to the Region
 - ☐ USA produced supplies, materials or equipment
 - ☐ Products of persons with mental or physical disabilities
 - ☐ Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - ☐ Energy Efficient Products
 - ☐ Rubberized asphalt paving material
 - ☐ Recycled motor oil and lubricants
 - ☐ Products produced at facilities located on formerly contaminated property
 - ☐ Products and services from economically depressed or blighted areas
 - ☐ Vendors that meet or exceed air quality standards
 - ☐ Recycled or Reused Computer Equipment of Other Manufacturers
 - ☐ Foods of Higher Nutritional Value
 - ☐ Commercial production company or advertising agency located in Texas
14. By signature hereon, under Section 231.006, Texas Family Code, regarding child support, Applicant certifies that the individual or business named in the Application is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Applicant subject to Section 231.006 of the Texas Family Code must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the Application. This information must be provided prior to award. Enter the Name and Social Security Number for each person below:

Name: _____
 Name: _____
 Name: _____

SSN: _____
 SSN: _____
 SSN: _____

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

15. By signature hereon, Applicant represents and warrants that no relationship, whether by relative, business associate, capital funding contract or by any other such kinship exists between Applicant and an employee of any Comptroller component, and Applicant has not been an employee of any

Comptroller component within the immediate twelve (12) months prior to Applicant's Application. By signature hereon, Applicant certifies that it is in compliance with Section 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency. Enter the name of any current or former executive head of a Texas State Agency that is currently employed by Applicant below:

Name of Former Executive: _____
 Name of State Agency: _____
 Date of Separation from State Agency: _____
 Position with Applicant: _____
 Date of Employment with Applicant: _____

All such disclosures will be subject to administrative review and approval prior to Comptroller entering into any contract with Applicant. Applicant acknowledges that any contract resulting from this RFA may be terminated at any time, and payments withheld, if this information is false.

16. By signature hereon, pursuant to Section 2155.004(a) of the Texas Government Code, Applicant represents and warrants that neither it nor any person or entity which will participate financially in any contract resulting from this RFA has received compensation for participation in the preparation of specifications for this RFA. Further, under Section 2155.005(b) of the Texas Government Code, Applicant certifies that the individual or business entity named in this Application or any contract resulting from this RFA is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
17. By signature hereon, Applicant represents and warrants that all articles and services quoted in response to this RFA meet or exceed the safety standards established and promulgated under the *Federal Occupational Safety and Health Law* and its regulations in effect or proposed as of the date of this solicitation.
18. By signature hereon, Applicant represents and warrants its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
19. By signature hereon, Applicant represents and warrants its compliance with the requirements of the Americans With Disabilities Act (ADA). Applicant further represents and warrants that it will comply with all applicable Texas Accessibility requirements.
20. By signature hereon, in accordance with Section 2155.4441 of the Texas Government Code, Applicant agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
21. By signature hereon, Applicant represents and warrants that Comptroller's payments to Applicant and Applicant's receipt of appropriated or other funds under any contract resulting from this RFA are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.
22. By signature hereon, Applicant represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that Applicant is in compliance with the State of Texas statutes and rules relating to procurement and that Applicant is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

23. Sections 2155.006(b) and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five (5) years has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. By signature hereon, the Applicant represents and warrants, in accordance with Section 2155.006 of the Texas Government Code, that the individual or business entity named in its Application is not ineligible to receive the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.
24. By signature hereon, Applicant represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Applicant or any of the individuals or entities included in Part 1 of this document within the five (5) calendar years immediately preceding the submission of Applicant's Application in response to this RFA that would or could impair Applicant's performance under any agreement resulting from this RFA, relate to the solicited or similar goods or services, or otherwise be relevant to the agency's consideration of Applicant's Application. If Applicant is unable to make the preceding representation and warranty, then Applicant instead represents and warrants that it has included as a detailed attachment in its Application a complete disclosure of any such court or governmental agency actions, proceedings, or investigations, etc. that would or could impair Applicant's performance under any agreement resulting from this RFA, relate to the solicited or similar goods or services, or otherwise be relevant to Comptroller's consideration of Applicant's Application. In addition, Applicant represents and warrants that it shall notify Comptroller in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update Comptroller shall constitute breach of contract and may result in immediate termination of the Agreement.
25. By signature hereon, Applicant represents and warrants that it has read and agrees to all terms and conditions of this RFA.

Authorized signatory on behalf of Applicant must complete and sign the following:

_____ Authorized Signature	_____ Date Signed
_____ Joseph R. Pace, City Manager Printed Name and Title of Authorized Signatory	_____ 979-532-2491 Phone Number
_____ City of Wharton Applicant Name	_____ Fax Number
_____ 74-6002557 Federal Employer Identification Number	_____ jpace@cityofwharton.com E-Mail Address
_____ 120 E. Caney Physical Street Address	_____ Wharton, Texas 77488 City, State, Zip Code
_____ Mailing Address, if different	_____ City, State, Zip Code
_____ 070137716 DUNS	

ATTACHMENT K

NONDISCLOSURE AGREEMENT

In consideration of the Texas Comptroller of Public Accounts ("Comptroller"), considering an application/proposal from or meeting with City of Wharton ("Contractor") regarding proposed services and because of the sensitivity of certain information which may be provided to Contractor, both parties agree that all information regarding Comptroller, or gathered, produced, collected or derived from or related to these services or provided to Contractor as a result of these services ("Confidential Information") must remain confidential subject to release only upon prior written approval of Comptroller, and more specifically agree as follows:

1. The Confidential Information may be used by Contractor only to assist Contractor in connection with its engagement with Comptroller.
2. Contractor shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as contractor to Comptroller.
3. Contractor agrees to maintain the confidentiality of any and all Confidential Information related to the Agreement in the same manner that it protects the confidentiality of its own proprietary information of like kind.
4. The Confidential Information may not be copied, reproduced, disclosed or distributed without Comptroller's prior written consent.
5. All Confidential Information made available to Contractor, including copies thereof, must be returned to Comptroller upon the first to occur of: (a) termination or expiration of the Agreement or (b) request by Comptroller.
6. The foregoing must not prohibit or limit Contractor's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, (b) independently developed by it, (c) acquired by it from a third party, or (d) which is or becomes part of the public domain through no breach by Contractor of this agreement.
7. This Nondisclosure Agreement shall become effective as of the date Confidential Information is first made available to Contractor and shall survive any contract resulting from the RFA and be a continuing requirement.
8. The breach of this Nondisclosure Agreement by Contractor shall entitle Comptroller to immediately terminate this Agreement upon written notice to Contractor for such breach. The parties acknowledge that the measure of damages in the event of a breach of this Nondisclosure Agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether Comptroller elects to terminate the Agreement upon the breach hereof, Comptroller may require Contractor to pay to Comptroller the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to Comptroller in the event of a breach hereof by Contractor of this Nondisclosure Agreement. Comptroller does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this Nondisclosure Agreement.

City of Wharton
Contractor Name

Joseph R. Pace, City Manager
Name and Title of Authorized Representative

Signature

Date

ATTACHMENT L**Comptroller's RFA**

Comptroller's RFA No. EECBG-IIJA1-2024, issued June 28, 2024, and Comptroller's Official Responses to Questions from Potential Applicants issued July 12, 2024 (collectively "RFA"), are incorporated by reference for all purposes into this Agreement as Attachment A of this Agreement. In the event of a conflict between Comptroller's RFA and a RFA Addendum, the RFA Addendum shall control.

ATTACHMENT M

City of Wharton's Application

City of Wharton's Application dated July 25, 2024, is incorporated by reference for all purposes into this Agreement as Attachment M of this Agreement.

ATTACHMENT N- BUILD AMERICA, BUY AMERICA CERTIFICATION

Project Number: CM24103

Project Title: City of Wharton EECBG Retrofits

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure (see definition below) may be obligated for a project (see definition below) unless all of the iron, steel, manufactured products, and construction materials (see definition below) used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States —this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Build America, Buy America (BABA) preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project. Applicants must provide itemized list of products used in project to SECO prior to ordering materials to ensure BABA compliance.

Definitions

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports; harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

- “Construction materials” includes an article, material, or supply that is or consists primarily of: non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Construction Materials” does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States

Build America, Buy America Waiver Requests:

Where applicable, Recipients may apply for, and the Department of Energy (DOE) may grant a waiver from these requirements. Waivers are granted solely at the discretion of DOE following review (<https://www.energy.gov/management/doe-buy-america-requirement-waiver-requests>). As of 6/25/2024, the only waiver opportunity available is a Nonavailability waiver.

Recipients must notify SECO of their interest in submitting a waiver prior to project commencement. Waiver requests may take up to 90 days to process.

The undersigned Proposer hereby certifies on behalf of itself and all contractors (at all tiers) that it will meet Build America, Buy America requirements in Section 70914 of the Bipartisan Infrastructure Law

P.L. 117-58, using one of the following provisions (*Proposer must select the applicable provision*):

_____The infrastructure project/product contains no steel or iron products, manufactured products or construction materials manufactured outside the United States per Section 70914 of the Bipartisan Infrastructure Law, P.L. 117-58. If there is ANY foreign steel or iron, manufactured products or construction materials in your infrastructure project/product you may not check this box.

_____The project/product has foreign steel or iron, manufactured products, or construction materials; a Build America, Buy America waiver is required. The Contracting Entity may, but is not obligated to, seek a waiver of Build America, Buy America requirements if grounds for the waiver exist. However, Proposer certifies that it will comply with the applicable Build America, Buy America requirements if a waiver of those requirements is not available or not pursued by the Contracting Entity. The waiver process can take time and the project may not move forward until a waiver is completed.

A false certification is a criminal act in violation of 18 USC 1001. Should this Agreement be investigated, Proposer has the burden of proof to establish that it is in compliance.

Proposer: _____

Signature of Authorized Official: _____

Name of Authorized Official: Joseph R. Pace

Title: City Manager

Date: _____

ATTACHMENT O CERTIFICATION REGARDING DAVIS-BACON ACT

As the duly authorized representative of the Contractor, I certify that the Contractor will comply with the applicable requirements of the Davis-Bacon Act (41 U.S.C. 3141 et seq.), including but not limited to:

- Obtain wage determination (“WD”) and monitor it through contract award.
- Ensure all bid, contract, and subcontract documents and sole source contracts contain the WD and Davis-Bacon labor standards clauses (prime contractor and sub-contractors).
- For prime contracts over \$100,000, comply with Contract Work Hours and Safety Standards Act (CWHSSA).
- Ensure no contracts are awarded to ineligible contractors.
- Ensure the Davis-Bacon poster and wage determination are posted at work site.
- Collect and submit certified payroll reports and statements of Davis-Bacon compliance for the contractor personnel and for all sub-contractors weekly.
- Designate personnel to submit certified contractor and sub-contractor payrolls via LCPTracker hosted by the United States Department of Energy (<https://prod-cdn.lcptracker.net/login/login>)
- Spot-check payroll reports/related records and update payrolls in the event that they are rejected in LCPTracker.
- Conduct and save confidential, onsite interviews using Standard Form 1445, Labor Standards Interview.
- Periodically review use of apprentices and trainees.
- Report all alleged Davis-Bacon violations within a week of the violation.
- Maintain full documentation of payrolls, certifications, interview forms, etc., for 3 years after project completion in the event the Office of Inspector General examines the project.

Wage Determination (WD)

Prior to issuing a request for bids or proposals, the Contractor must obtain the WD for the project area by accessing Wage Determinations at [SAM.gov/content/wage-determinations](https://sam.gov/content/wage-determinations), then Public Building or Works or Service Contracts option, the state and county where the work will be performed, and the DBA construction type. Make sure the checked Status box is active. The Contractor must include the generated WD document in all bid specifications and resulting contracts. If you are unsure about the funding source, a project can be bid with alternates—one including federal wage rates and one without. (Note: SAM.gov replaced WDOL.gov)

DBA construction types

The construction types are building, residential, highway, and heavy. The “building” type is for sheltered enclosures, especially with windows, doors, and roofs, that will be occupied at times. Municipalities, county governments, public higher education institutions, and school districts should ask their consulting engineer what type to use if they are unsure. A contract can contain more than one construction type. If over 80% of the project cost falls into one construction type, the municipalities, county governments, public higher education institutions, and school districts can use that type for the WD; this may be a benefit or a detriment depending on the project. Contact your Construction Management Team (CMT) with questions.

Monitor the WD

Once the bids have been opened, the wage determination is valid for 90 days. During the bid advertisement period, municipalities, county governments, public higher education institutions, and school districts or their consulting engineers must monitor SAM.gov to ensure DOL has not changed the WD. If the WD changes more than 10 days before bid opening, the bid specifications must be amended with the new WD. If contract award is more than 90 days after bid opening, the WD must be updated. The Davis-Bacon wage

determination included in the contract at the time of contract award stays in effect for the duration of the project.

Request additional classifications

If the WD is missing a wage rate needed for a specific work/job classification, construction type, and/or project location, contact your CMT for guidance on requesting a conformance using the Request for Authorization of Additional Classification and Rate Standard Form 1444. The municipalities, county governments, public higher education institutions, and school districts should incorporate the final conformance rate into the bid specifications and construction contracts, and copies of the conformance letter should be kept on file.

Ineligible Contractors

Municipalities, county governments, public higher education institutions, and school districts cannot knowingly award a construction project to a contractor who has been debarred or suspended by the Federal government. During the bid evaluation period, municipalities, county governments, public higher education institutions, and school districts must look up all bidders at SAM.gov/content/exclusions to determine if they are ineligible contractors. Municipalities should make a note of verification in the contract file. Contractors are responsible for verifying the eligibility of sub-contractors. (Note: SAM.gov replaced Excluded Parties List System (EPLS))

Payroll Reports

Municipalities, county governments, public higher education institutions, and school districts must collect certified payroll reports and compliance statements from the prime contractor and sub-contractors weekly, in a timely manner, for every week of contract work and keep them on file for at least three years after project completion. Contractors are responsible for setting up accounts for sub-contractors in LCPTracker and for preparing and submitting payroll reports for its own employees and all sub-contractor employees in LCPTracker. Contractors must attend virtual LCPTracker training sessions offered by DOE set forth in Attachment R. Per 29 CFR 5.5(a)(3)(ii), payroll reports do **not** include full social security numbers and home addresses. A weekly payroll statement must provide the following information:

- Name of contractor or sub-contractor (indicate which)
- Project and location
- Project or contract number
- Name of employee
- Employee identification number (e.g., last four digits of social security number – Do not use full SSN)
- Work/Job classification
- Hourly rate of pay (straight and overtime)
- Daily and weekly number of hours worked
- Deductions made
- Actual wages paid

Along with each payroll report, the contractor (or payment supervisor) must submit to the Contractor a signed statement of Davis-Bacon compliance, such as the one on the back of Payroll Form WH-347.

Review Payroll Reports

To verify that contractors and sub-contractors are paying appropriate wage rates and fringe benefits, municipalities, county governments, public higher education, and school districts must spot-check a representative sample of weekly payroll reports for accuracy at least twice for each contractor and sub-

contractor during the project—a minimum of once within 2 weeks of initial payroll and once within 2 weeks of final payroll.

Note: The check boxes on page 1 of the Request for Disbursement Form 8700-215 replaced the DBRA Payroll Certification page. The check boxes serve the purpose of assurance from the Contractor to CMT certifying that Davis-Bacon has been satisfied for each week employees are paid.

Interview Employees

Municipalities, county governments, public higher education, and school districts should periodically conduct and retain confidential, onsite interviews with a sampling of the contractor and sub-contractors' employees to determine whether laborers, mechanics, apprentices, and trainees are being paid in accordance with Davis-Bacon requirements—a minimum of once within 2 weeks of initial payroll and once within 2 weeks of final payroll is suggested. The Labor Standards Interview Standard Form 1445 must be completed with every interview and kept on file for at least three years after project completion.

Verify Apprentice and Trainee Registrations

While municipalities, county governments, public higher education institutions, and school districts (or their designated representatives) are onsite conducting Davis-Bacon interviews, they should take the opportunity to review the apprentice and trainee registrations and certifications that the contractor should be able to easily provide upon request. Municipalities, county governments, public higher education institutions, and school districts can use the relevant documents to confirm that the number of apprentices does not exceed the ratio to journeymen allowed by the apprenticeship program plan.

Report Violations

Additional interviews may be completed at the Municipalities, county governments, public higher education institutions, and school districts discretion and are required in the case of questionable payroll reports or employee complaints. Report alleged violations to the EPA Davis-Bacon Coordinator listed in the assistance agreement and to the DOL WHD District Office.

Violations include:

- Misclassification of laborers and mechanics.
- Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours).
- Inadequate recordkeeping, such as not counting all hours worked by an individual in two or more classifications during a day.
- Failure to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices.
- Failure to submit certified weekly payrolls.
- Failure to post the Davis-Bacon poster and applicable wage determination.

Final Closeout

When the construction activities have reached 95% disbursement of the project amount, CMT will send a final closeout letter to the municipality, county governments, public higher education, or school district, including a Wage Rate Compliance Certification. The municipality, county governments, public higher education, or school district must prepare the certification on letterhead and submit it to SECO prior to receiving the final fund disbursement.

APPLICABILITY OF DAVIS BACON

Site of work

Davis-Bacon applies only to laborers and mechanics employed “directly upon the site of the work.” The site of work is the physical place or places where the construction is called for in the contract or will remain after work has been completed, and any other site where a significant portion of the building or work is construction, provided that such site is established specifically for the contract. It may also include job headquarters, tool yards, batch plants, borrow pits, etc., provided the properties are located adjacent or virtually adjacent to the “site of work” and dedicated exclusively or nearly so to the performance of the contract or project.

Laborers and mechanics

Laborers and mechanics are employees who work with their hands, have manual or physical duties, or are in specific trades. They include carpenters, plumbers, sheet metal workers, etc., including apprentices and trainees. **The DOL focuses on the actual work being performed by the person, not necessarily the title.** As a general rule, an employee who spends the majority of time in a supervisory position onsite and who spends less than 20% of the work week engaged in skilled labor, is exempt from Davis-Bacon requirements for the percentage of time spent in that skilled time. Clerical staff (timekeepers), professionals (architects, engineers, inspectors), and certain utility installers are also exempt.

Force account employees

Davis-Bacon does not apply to “force account” work in which the Contractor performs the construction in-house with its own “force account” employees rather than contracting out the construction work. Furthermore, the DOL does not consider a state or local government to be a contractor, even if it enters into a contract to perform construction work (see 29 CFR 5.2(h)).

Business owners

Davis-Bacon requirements do **not** apply to the owner of a construction company. However, to be exempt, the owner must be a “business owner” as defined under 29 CFR § 541.101 and be actively engaged in the management of their business. Davis-Bacon would **apply** if the owner were not engaged in management but predominantly performs manual or physical duties of construction work.

Truck drivers Davis-Bacon does **not** apply to truck drivers employed by the contractor who come on the job site to deliver construction materials because they are not employed “directly upon the site of the work.” Davis-Bacon **does** apply to truck drivers employed by the contractor to move materials on the site of work or from a property located adjacent or virtually adjacent to it. Davis-Bacon does **not** apply to truck drivers employed by the contractor to move materials at any location that existed prior to bid opening (e.g., contractor’s headquarters).

City of Wharton

Contractor Name

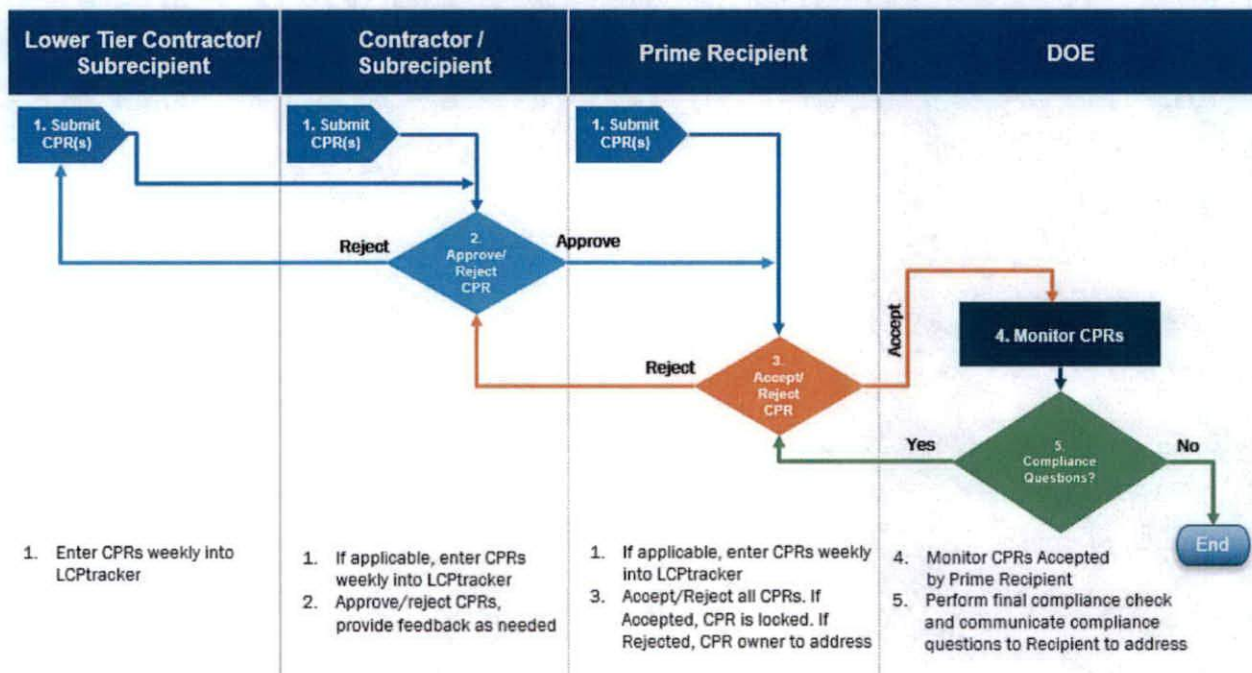
Joseph R. Pace, City Manager

Name and Title of Authorized Representative

Signature

Date

ATTACHMENT P LCPTRACKER FLOW CHART



ATTACHMENT Q LCPTRACKER TRAINING SCHEDULE

	Administrator (1 hour each)	Prime Approver (Prime Contractor) (1.5 hours)	Contractor (Prime & Lower Tier) (1 hour each)
LCPtracker Pro Live <ul style="list-style-type: none"> Payroll Entry 1st & 3rd Wed of the month at 1 pm ET 		X	X
LCPtracker Pro Live <ul style="list-style-type: none"> Overview 1st & 3rd Tue of the month at 1 pm ET 	X		
LCPtracker Pro Live <ul style="list-style-type: none"> Settings Thur after 1st & 3rd Tue at 1 pm ET 	X		
LCPtracker Pro Live <ul style="list-style-type: none"> Setup, eDocs, Reports 2nd & 4th Tue of the month at 1 pm ET 	X		
LCPtracker Pro Live <ul style="list-style-type: none"> Hands-On User Setup Thur after 2nd & 4th Tue at 1 pm ET 	X		
Daily Reporter <ul style="list-style-type: none"> Daily Logs 2nd & 4th Wed of the month 	X		X
As-Needed LCPtracker Pro Live Training Sessions			X

PART V APPLICATION

EECBG Municipally Owned Building Energy Efficiency Retrofits Application RFA No. EECBG-IIJA1-2024

SECTION 1: GENERAL INFORMATION

1.A APPLICANT'S INFORMATION

- Name of Applicant: City of Wharton
- Mailing Address: 120 E Caney
- City / State / Zip Code: Wharton, TX 77488
- Federal Employer Identification Number ("FEIN" or "EIN"): 74-6002557
- Texas Tax Identification/Registration Number, if any: 1-746002557-4
- DUNS Number: 070137716
- Proposer Date: 07/25/2024
- Total Amount Requested: \$ 250,000

1.B SIGNING AUTHORITY

- Name: Joseph R. Pace
- Title: City Manager
- Telephone: 979-532-2491
- Email Address: jpace@cityofwharton.com

1.C PRIMARY CONTACT

- Name: Joseph R. Pace
- Title: City Manager
- Telephone: 979-532-2491
- Email Address: jpace@cityofwharton.com

1.D SECONDARY CONTACT

- Name: Joan Andel
- Title: Finance Director
- Telephone: 979-532-2491
- Email Address: jandel@cityofwharton.com

1.E ADMINISTRATIVE CONTACT FOR ACCOUNTING

- Name: Joan Andel
- Title: Finance Director
- Telephone: 979-532-2491
- Email Address: jandel@cityofwharton.com

1.F SIGNATURE AUTHORITY**Signature and Certification by Authorized Signatory of Applicant**

By signature hereon, Applicant represents and warrants that:

- (1) The undersigned signatory has full authority to submit this application and to enter into any contract resulting from this RFA on behalf of Applicant;
- (2) Applicant has reviewed the RFA and the Sample Contract Agreement and will comply with all the terms and conditions set forth in the RFA and the Sample Contract Agreement if awarded a contract under this RFA; and
- (3) The contents of this Application are true and correct to the best of Applicant's knowledge.

Signature	Title
	City Manager
Printed Name	Date
Joseph Pace	7/25/24

SECTION 2: PROJECT DESCRIPTION
2.A DESCRIPTION OF EXISTING ENERGY EFFICIENCY RETROFITS TO BE REPLACE WITH NEW ENERGY EFFICIENCY RETROFITS EQUIPMENT.

In this section, provide a detailed narrative description of the existing energy efficiency retrofits to be replaced with new energy efficiency retrofits, the functional area(s) (i.e. parking lot, waiting room, hallways, etc.) where the retrofits will be replaced, and include how the existing retrofits are controlled/turned on and off (ex: on/off wall switch, mechanical/electronic timeclock or controlled through the building energy management system). The narrative should also describe the quantity of retrofits in each functional area where retrofits will be replaced. (Attach additional sheet, if necessary).

The Wharton Civic Center is an approximately 80,000-square-foot building that serves multiple community resources and programs. Such programs include but are not limited to in times of a disaster participating as a Disaster Recovery Center through FEMA to assist citizens with applications for assistance as well as assistance with the appeal process, housing of National Guard and any other federal agency that needs places to stay during an event, functions as a distribution center for food and supplies to the general public provided by volunteer agencies (i.e. Salvation Army or American Red Cross).

The building also houses the City's Emergency Medical Services Department which provides service to the east side of Wharton County. The facility is a training center for the Emergency Management Office, Emergency Medical Services Department, and Police Department for programs available to the general public.

Public meetings are held in the facility for informational purposes regarding City/Countywide projects (i.e. United States Army Corps of Engineers Levee project and City Comprehensive Plan) to obtain public involvement.

This building is also a Wharton County Jury Selection site for cases involving many potential jurors since it is the only building large enough in the city.

There are twelve (12) DX rooftop and split system AC units that serve the space. RTUs (4) are gas heat and split systems (8) are resistive electric heat. Replacement of the six (6) units (5 splits + 1 RTU) over 10 years old are part of this application.

All HVAC units are currently controlled with non-programmable thermostats. All 12 thermostats would be replaced with a networked smart thermostat to allow better control of schedules and setpoints throughout.

The building does not have extensive glazing, but there are 14 windows that are all single pane aluminum frame. These are in poor condition and have condensation issues. In addition, weatherstripping of the doors to reduce infiltration will also be completed.

The site was converted to LED lighting in 2016 and lighting is not part of this application.

2.B TABLE OF EXISTING ENERGY EFFICIENCY RETROFITS AND PROPOSED RETROFIT PLAN

Complete the table below for the retrofits to be replaced by providing the building name & function type, existing retrofit type, proposed energy efficiency retrofit fixture, and new measures.

A.	B.	C.	D.	E.	F.
Line Item	Building Name (ex: [Successful Applicant] Community Center)	Function Area(s) (ex: Bleachers, Field Parking lot)	Existing Measures	Proposed Retrofits	New Measures (Existing areas with new retrofits)
1	Civic Center	All	Non-Programmable Thermostats	Web based Smart Thermostats (EcoBEE or similar)	
2	Civic Center	Kitchen	5-Ton DX Split w/ Electric Heat (1990's)	5-Ton Heat Pump w/ new AHU	
3	Civic Center	Foyer	5-Ton DX Split w/ Electric Heat (2008)	5-Ton Heat Pump w/ new AHU	
4	Civic Center	O'Quinn Room	5-Ton DX Split w/ Electric Heat (1991)	5-Ton Heat Pump w/ new AHU	
5	Civic Center	Emergency Management	10-ton RTU w/ Gas (2011)	10-ton High Efficiency RTU	
6	Civic Center	Admin Office	7.5-Ton DX Split w/ Electric Heat (2005)	7.5-Ton Heat Pump w/ new AHU	
7	Civic Center	Conference Room	3.5-Ton DX Split w/ Electric Heat (2012 Condenser/2003 AHU)	3.5-Ton Heat Pump w/ new AHU	
8	Windows	All	14 single pane, aluminum windows	14 Double pane, thermally broken windows	
9	Weatherstripping	All	Approximately 6 doors	Weatherstrip existing doors	

2.C PROPOSED ENERGY EFFICIENCY RETROFITS PLAN AND PROPOSED RETROFITS EQUIPMENT

In this section, provide a description of the energy efficiency retrofits plan to convert existing measures areas with new retrofits. Include building area description, existing retrofits and proposed controls type equipment, describe coordination with building staff and/or contractor assigned, permits and inspection process for energy efficiency retrofits installations, Complete Table 2B. Attach additional sheets, if necessary.

Building Area Description/Existing Retrofits/Proposed Control System -- Civic Center

The Wharton Civic Center was built in 1976 and is located at 1924 N Fulton St, Wharton, TX. This 80,000 Square Feet facility was originally built as a hospital and later converted to a municipal facility for community use.

The facility serves as an emergency operations center for disasters, housing FEMA and other agencies as needed. Such programs include but are not limited to in times of a disaster participating as a Disaster Recovery Center through FEMA to assist citizens with applications for assistance as well as assistance with the appeal process, housing of National Guard and any other federal agency that needs places to stay during an event, functions as a distribution center for food and supplies to the general public provided by volunteer agencies (i.e. Salvation Army or American Red Cross).

The facility was originally served by a central utility plant, but was converted to DX cooling in the early-90's. There are a total of 12 units, 6 of which are over 10 years old and in need of replacement. The inventory of units requiring replacements is below:

HVAC	Area Served	Size (tons)	Refrigerant	Heat Source	Type	Year Installed
Unit 1	Kitchen	5	R22	Electric	Split	1990's
Unit 2	Foyer	5	R22	Electric	Split	2008
Unit 3	O'Quinn Room	5	R22	Electric	Split	1991
Unit 4	Emergency Management	10	410A	Gas	Rooftop	2011
Unit 5	Admin Office	7.5	R22	Electric	Split	2005
Unit 6	Conference Room	3.5	410A	Electric	Split	2012

The building does not have extensive windows, but those that exist appear to be original to the building. These single pane aluminum windows are in poor condition and many are showing signs of condensation and moisture damage. The 14 windows to be replace are shown below:

Windows	Width (in)	Height (in)	Quantity
Set 1	82	58	5
Set 2	48	32	2
Set 3	69	33	3
Set 4	72	60	2
Set 5	48	27	2

Contracting Process & Coordination With Staff

In July 2024, the City Staff toured the Civic Center with Holistic Utility Solutions, an Energy Services Company based in Dallas-Ft Worth.

The City intends to contract with Holistic Utility Solutions as the prime contractor. Holistic will contract with the City's local mechanical subcontractor, Roberson Air Conditioning (TACLA44413C), to complete installation. Roberson will pull Mechanical Permits through the City and be paid prevailing wage rates per Davis-Bacon. Holistic staff and subcontractors will oversee the commissioning of the system as well.

2.D DESCRIBE THE EXISTING PROCESS FOR IMPLEMENTING THE PROPOSED RETROFITS

City of Wharton has implemented several energy retrofits throughout other areas of the City since 2016. These included VFDs at the wastewater plant and LED lighting throughout facilities. HVAC, controls, and windows/weatherization was not a focus of prior initiatives and is the primary opportunity for this RFA. HVAC replacements have taken place on an as-needed basis, leading to several units of 20+ years old remaining in service with R22 refrigerant.

With assistance from Holistic Utility Solutions, the City of Wharton identified and evaluated the Civic Center as the primary opportunity for reduced energy spend through replacement of aging HVAC units, programmable thermostats throughout, and replacement of single pane aluminum windows.

If this grant is approved, the City of Wharton intends to implement through Holistic Utility Solutions as a turnkey contract with local licensed firms providing installation services.

2.E WHAT BENEFITS WILL THESE RETROFITS PROVIDE TO THE MUNICIPALLY OWNED BUILDING? (ATTACH ADDITIONAL SHEET, IF NECESSARY.)

Lower energy costs

- Replacement of the 6 aging HVAC units and programmable thermostats on of all units is expected to reduce energy costs 5-10% at the Civic Center. This will result in ongoing operational savings that will be repurposed to serving our community.

Lower maintenance costs

- Through reduced runtime, mechanical equipment is expected to last longer and require replacement less often. This will further increase savings in the Budget.
- New windows will mitigate issues with moisture damage from condensation.

Improved Comfort

- The ability to better manage temperatures and schedules through a centralized smart thermostat system will improve comfort for building occupants.

Increased sustainability

- City of Wharton has undertaken several programs to reduce greenhouse gas emissions and improve sustainability within their facilities. Example of this include LED lighting and VFDs at the Wastewater Treatment Plant. Investment into the Civic Center is part of a long-term goal to improve the sustainability throughout the facility portfolio and general operations.

2.F IS THIS YOUR ORGANIZATION'S FIRST TIME RESPONDING TO AN RFA ISSUED BY SECO?

X No

Project Experience

Is this the first time you are considering the energy efficiency retrofits for your facilities?

X No

SECTION 3: EVALUATION FORM AND SCORING SHEET

	Total Possible Points	Score Assigned by Applicant
3.3 Is your Municipally Owned Building located in or share a boundary with an area designated as a "Disadvantaged Community" (DAC) in accordance with the Climate and Economic Justice Screening Tool of the Department of Energy (CEJST Map). Attach screenshot to application. ➤ Yes, located in DAC- score 50 points ➤ Share a boundary with a DAC- score 25 points ➤ Not located in or does not share a border with a DAC- score 10 points	50	50
3.4 How old is your activity center, recreational facility, pavilion, park, library or facility serving as an emergency shelter during disasters? ➤ Older than 20 years, score 25 points ➤ 10 – 20 years, score 15 points ➤ Less than 10 years, score 5 points Insert the age of the building here: 1976	25	25
3.5 What is the total population by place of the municipality where the building is located? ➤ Fewer than 10,000 residents, score 25 points ➤ 10,000 – 50,000 residents, score 20 points ➤ More than 50,000 residents, score 10 points Population Estimates by Texas State Demographer – use 2022 "Total Population By Place" reference website: https://demographics.texas.gov/Estimates/2022/ . Insert the population number here: 8,803	25	25
Maximum Base Score	100	
Total Score Assigned By Applicant	100	100

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT FOR THE MUNICIPALLY OWNED BUILDING ENERGY EFFICIENCY RETROFITS PROGRAM WITH THE STATE ENERGY CONSERVATION OFFICE (SECO) AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, On August 28, 2024, the City of Wharton received notification that the application for new energy efficiency retrofit equipment at the Wharton Civic Center from the State Energy Conservation Office had been selected to receive funding in the amount of \$250,000; and,

WHEREAS, The Wharton City Council wishes to accept the Interlocal Agreement in the amount of \$250,000.

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 approves the Interlocal Agreement for the Municipally Owned Building Energy Efficiency Retrofit Program with the State Energy Conservation Office and authorizes the City Manager of the City of Wharton to execute on behalf of the City of Wharton, all documents related to said agreement.

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

Passed, Approved, and Adopted this 14th day of October 2024.

CITY OF WHARTON, TEXAS

By: _____


TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Designating a representative to the Houston-Galveston Area Council Advisory (H-GAC) Committee-Regional Flood Management Council.
<p>Attached is a letter from the Houston-Galveston Area Council regarding the re-nomination of a primary representative and alternate representative to the H-GAC Regional Flood Management Council. The purpose of the Council is to assist and advise elected officials in the decision-making responsibilities regarding to flood management issues. The current City representatives on the committee are Director of Planning & Development Gwyn Teves and Building Official Claudia Velasquez.</p>			
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			



ADVISORY COMMITTEE NOMINATION FORM

Please return to Houston-Galveston Area Council by **May 31**. Mail, Fax or email, attention William Matthews, 3555 Timmons Ln, Ste 120, Houston, TX 77027 ■ 713-499-6668 ■ Fax 713-993-2414
 ■ William.Matthews@h-gac.com ■ To obtain more information about advisory committees, please visit <https://www.h-gac.com/board-of-directors/advisory-committees>

Committee Name: Regional Flood Management Committee

Brief Description of Committee:

The Committee addresses flood and floodplain management issues for the thirteen-county region. These issues include, but are not limited to, flood hazard mapping studies and funding; multi-jurisdictional flood management districts; and authorities for counties, drainage districts and cities, where needed, to effectively manage the floodplain and provide coordination to address entire watersheds.

Would you like to re-nominate the current representative(s) listed below for the **May 2024-2026 term**?

Current Representative(s)	Representing	Nominated by	Re-nominate
Gwyneth Teves (Primary)	At-Large, City of Wharton	RFMC	<input type="checkbox"/> Yes <input type="checkbox"/> No
Claudia Velasquez (Alternate)	At-Large, City of Wharton	RFMC	<input type="checkbox"/> Yes <input type="checkbox"/> No

If you selected **no**, please list the new nominee(s) in the space provided:

Primary

Name		Organization	
Address		Title	
City		Phone	
State		Zip	
Representing		Email	

Alternate

Name		Organization	
Address		Title	
City		Phone	
State		Zip	
Representing		Email	


Nominator's Signature

Date

Please Print Nominator Name

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council designating a City of Wharton Representative and Alternate to the Houston-Galveston Area Council 2025 General Assembly.
<p>Attached is a copy of the letter dated September 19, 2024, to Mayor Tim Barker from Mr. Chuck Wemple of the Houston-Galveston Area Council (H-GAC) requesting the City of Wharton to designate a City of Wharton representative and alternate representative to the H-GAC 2025 General Assembly.</p> <p>A draft resolution is attached, which will be completed once the City Council appoints the City of Wharton representative(s) for the H-GAC 2025 General Assembly.</p>			
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			

**HOUSTON-GALVESTON AREA COUNCIL**

OFFICE OF THE EXECUTIVE DIRECTOR

To: Mayors – Home Rule Cities
Subject: 2025 General Assembly Designations
From: Chuck Wemple
Date: September 19, 2024

The Houston-Galveston Area Council has had an exciting and eventful 2024. We remain dedicated to better serving our member governments. We are working to do this by continuing to bring the conversation to your communities to listen to your needs and determining how we can help improve quality of life across the region. Thus far we have visited all of our regions' counties, and have started the second round of visits.


As we look forward to 2025, we ask that you appoint elected leaders from your governing body to represent your community and be a part of our decision-making progress. H-GAC bylaws allow each member of Home Rule cities to designate an elected official to represent you on the General Assembly and at the Home Rule cities caucus meeting. At the caucus meeting, Home Rule cities from across the region will elect two members to represent all Home Rule cities on the H-GAC Board of Directors, and two members to serve as alternates.

I have attached the nomination form on which you can designate your representatives. Please email the completed form to Vanessa.McKeehan@h-gac.com. If more information concerning General Assembly and Board of Directors membership would be useful, please contact me at 713-993-4514 or Rick Guerrero at 713-993-4598.

A dinner meeting of Home Rule city representatives is scheduled for Thursday, November 7, 2024 starting at 6:00 p.m. It will be at the The Royal Sonesta, 2222 W Loop S, Houston, TX 77027. Your city's designees are highly encouraged to attend and help elect the 2025 Home Rule Cities' representatives to the H-GAC Board of Directors.

Thank you for your continuing participation and support for the Houston-Galveston Area Council. We look forward to working with you in the coming year.

Sincerely,


Charles Wemple (Oct 1, 2024 05:35 CDT)

Chuck Wemple

**DESIGNATION OF REPRESENTATIVE AND ALTERNATE
HOUSTON-GALVESTON AREA COUNCIL
2025 GENERAL ASSEMBLY**

BE IT RESOLVED, by the Mayor and City Council of _____, Texas that
_____ be, and is hereby designated as its Representative to the
GENERAL ASSEMBLY of the Houston-Galveston Area Council for the year 2025.

FURTHER, that the Official Alternate authorized to serve as the voting representative should the
hereinabove named representative become ineligible, or should he/she resign, is
_____.

THAT the Executive Director of the Houston-Galveston Area Council be notified of the
designation of the hereinabove named representative and alternate.

PASSED AND ADOPTED, this ____ day of _____, 2024.

APPROVED:

Mayor

ATTEST:

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION DESIGNATING A CITY OF WHARTON REPRESENTATIVE AND ALTERNATE TO THE HOUSTON-GALVESTON AREA COUNCIL 2025 GENERAL ASSEMBLY.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that Councilmember _____, be, and is hereby designated as its Representative to the General Assembly of the Houston-Galveston Area Council for the year 2025.

FURTHER, that the Official Alternate authorized to serve as the voting representative should the hereinabove named representative become ineligible, or should he/she resign, is Councilmember _____.

THAT, the Executive Director of the Houston-Galveston Area Council be notified of the designation of the hereinabove named representative and alternate.

Passed, Approved, and Adopted this 14th day of October 2024.

CITY OF WHARTON, TEXAS

By: _____


TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Resolution: A resolution of the Wharton City Council approving a Professional Engineering Services Agreement with Quiddity Engineering, LLC, to develop and maintain the City of Wharton GIS Field Verification and Utility Migration Network and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
<p>The City Staff has been working to upgrade the current streamlined data available within the City departments using new software and GIS programs. As the programs are being implemented, it is imperative that accurate field verification and data be obtained for the City’s infrastructure. Quiddity Engineering has provided the attached proposal to perform these services, as the equipment, training, and manpower to complete this is out of the current staff’s capabilities.</p> <p>This proposal was discussed and approved in the 2024/2025 budget utilizing Option 3 of the 60-month payout for a total agreement of \$116,924.78 total cost.</p> <p>Director of Planning & Development Gwyn Teves will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: October 9, 2024

FROM: Gwyneth Teves, Director of Planning & Development

TO: Honorable Mayor and City Council

SUBJECT: Recommendation for agreement with Quiddity Engineering, LLC for the development and maintenance of the City of Wharton GIS Field Verification and Utility Network Migration System

The City staff has been working to upgrade the current streamlined data available within the City departments using new software and GIS programs. As the programs are being implemented, it is now imperative that accurate field verification and data be obtained for the City's infrastructure. Quiddity Engineering has provided the attached proposal to perform these services, as the equipment, training and manpower to complete this is out of the current staffs capabilities.

This proposal was discussed and approved in the 2024/2025 budget utilizing Option 3 of the 60 month payout for a total agreement of \$116,924.78 total cost. It is my recommendation that council approve the agreement.

If you should have any questions, please contact me at 979-532-2491 ext. 238. Thank You.



Field Verification and Utility Network Migration



June 7, 2024

Joseph R. Pace, MPA, ICMA-CM, CPM, PCED
City Manager
The City of Wharton
120 E. Caney Street, Wharton, TX 77488

Re: Field Verification and Utility Network Migration

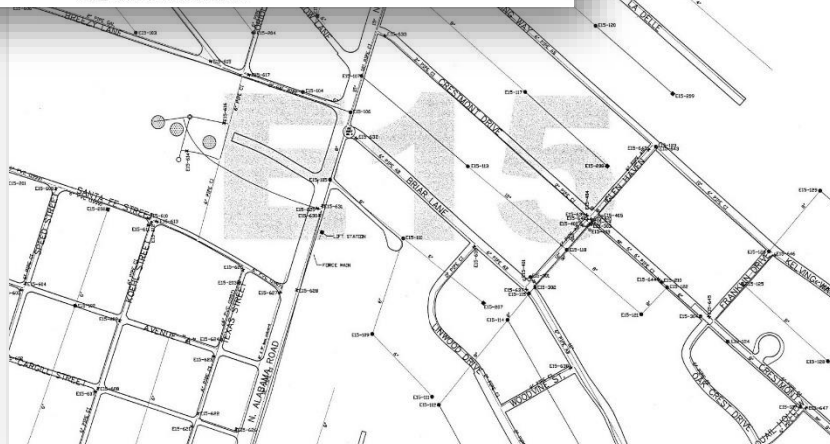
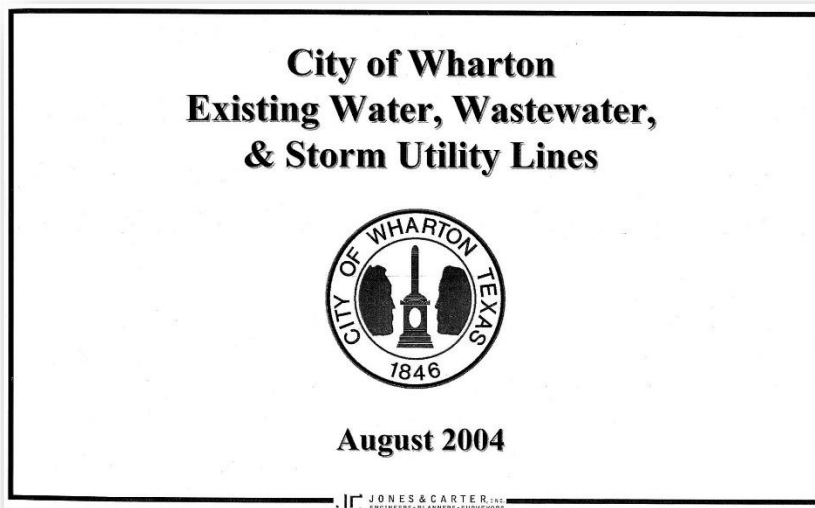
Dear Mr. Pace,

Quiddity Engineering, LLC ("Quiddity") appreciates the opportunity to present this proposal to the City of Wharton ("the City").

HISTORY

Before defining the scope of this proposal, it is important to understand the history of the digital data.

- **Prior to 2004** - A master AutoCAD file existed containing linework representing the drainage, sanitary sewer, and waterline networks.
- **2004** - Using the master AutoCAD file, 11" x 17" map books were created.



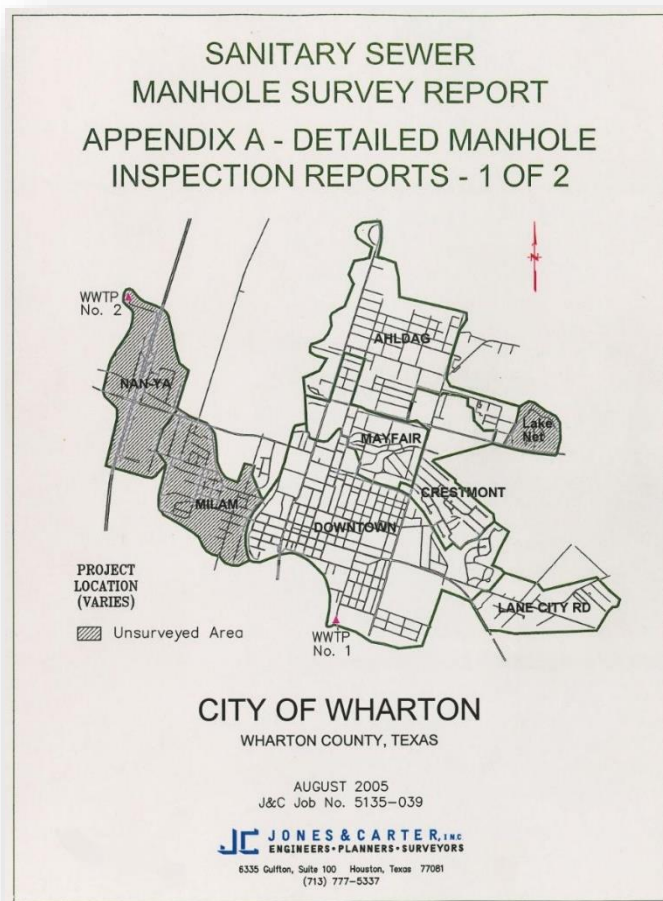


The City of Wharton - Field Verification and Utility Network Migration

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- **2004** - Quiddity met with the City's field personnel and examined the AutoCAD data with the aid of large printouts of the drainage, sanitary sewer, and waterline networks. The purpose of this examination was to catalog institutional knowledge possessed by field personnel. This examination addressed the presence of utilities and their size but not location accuracy.
- **2005** - A sanitary sewer manhole condition assessment was performed. Manhole depths and flowline elevations were also taken; however, location accuracy was still not addressed.



- **2013** - The data contained in the master AutoCAD file was converted to GIS data. However, this GIS data was only used internally at Quiddity.
- **2019** - The City approved the creation of a new dedicated web-based GIS application that is now used by City staff and Quiddity.

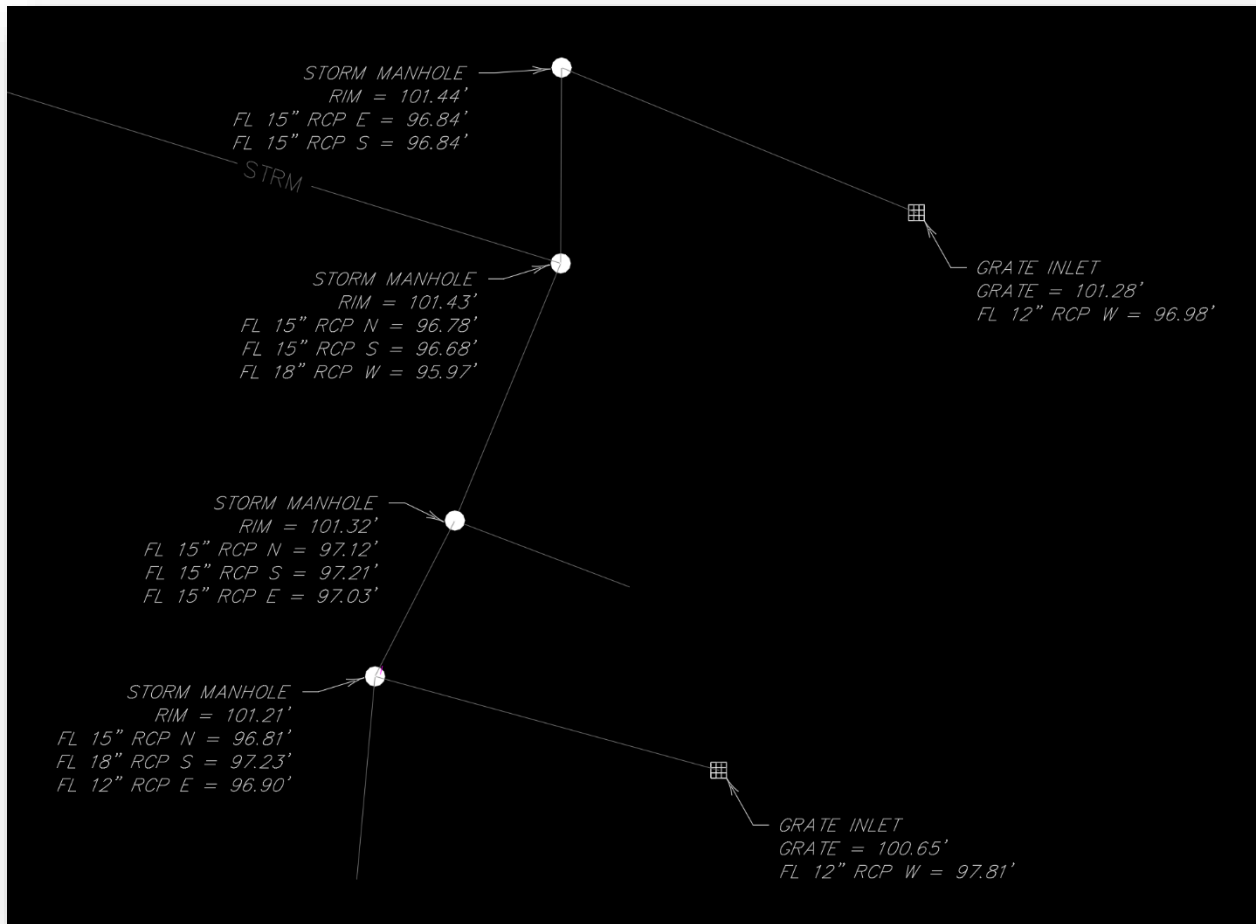


The City of Wharton - Field Verification and Utility Network Migration

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- 2022 to 2024** – As part of the citywide hydrologic and hydraulic study, most of the City's drainage system was surveyed. This survey captured the locations of manholes and inlets at survey-grade accuracy. Valuable attribute data was also captured such as pipe size, rim, and flowline elevations.



VISION

This proposal is in response to the City's request to capture GPS coordinates on all infrastructure assets. This request aligns with Quiddity's vision to improve the accuracy and functionality of the City's GIS, making it a trusted system-of-record. This vision includes extending the reach of GIS by creating new web maps and mobile applications, accessible to field personnel, Public Works, Engineering, and back-office staff, thus creating a citywide GIS-centric environment. This GIS becomes an invaluable resource for operations and planning across the enterprise.



The City of Wharton - Field Verification and Utility Network Migration

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SCOPE OF PROPOSED SERVICES

With the vision in mind, Quiddity is proposing the following approach.

Data Gathering and PDF Document Preparation

Quiddity will:

- Collect from the City all available engineering plans.
- Arrange for them to be scanned and named.
- Coordinate with the City's Public Works department to obtain any recent valve or hydrant survey data.
- Extract individual PDFs for each manhole from the 2005 Sanitary Sewer Manhole Survey.
- Prepare marked-up plans to assist with the fieldwork.
- Obtain the latest connection list from the City's water billing department.

Fieldwork

Quiddity will:

- Collect survey-grade locations on all drainage, sanitary sewer, and waterline assets.
- When locating the system valves, take reference photographs.
- Compile a list of all infrastructure assets that cannot be found and coordinate with the City's Public Works department to locate these features. These are known as could-not-locate features (CNL).

GIS Database Edits and Map Delivery

Quiddity will:

- Edit the sanitary sewer and waterline networks based on the newly collected field data.
- Edit the drainage network based on the locations captured in the 2022 to 2024 drainage survey.
- Link PDFs of all available engineering plans to their respective features in the GIS.
- Link the individual PDFs extracted from the 2005 Sanitary Sewer Manhole Survey to their respective manholes.
- Populate the drainage system with elevation data obtained in the 2022 to 2024 drainage survey.
- Retain all relevant attributes from the existing GIS data, such as asset ID's.
- Create all service connections based on the connection list obtained from the City.
- Incorporate any relevant attribute data from recent valve or hydrant surveys.
- Migrate the existing data to Esri's ArcGIS Utility Network.
- Create a new web map to display the edited utility data (See Figure 2).
- Configure a mobile application accessible in ArcGIS Field Maps (See Figure 3).
- Train City staff in the use of the new web map and mobile application.
- Perform extensive quality control checks of the GIS data.



The City of Wharton - Field Verification and Utility Network Migration

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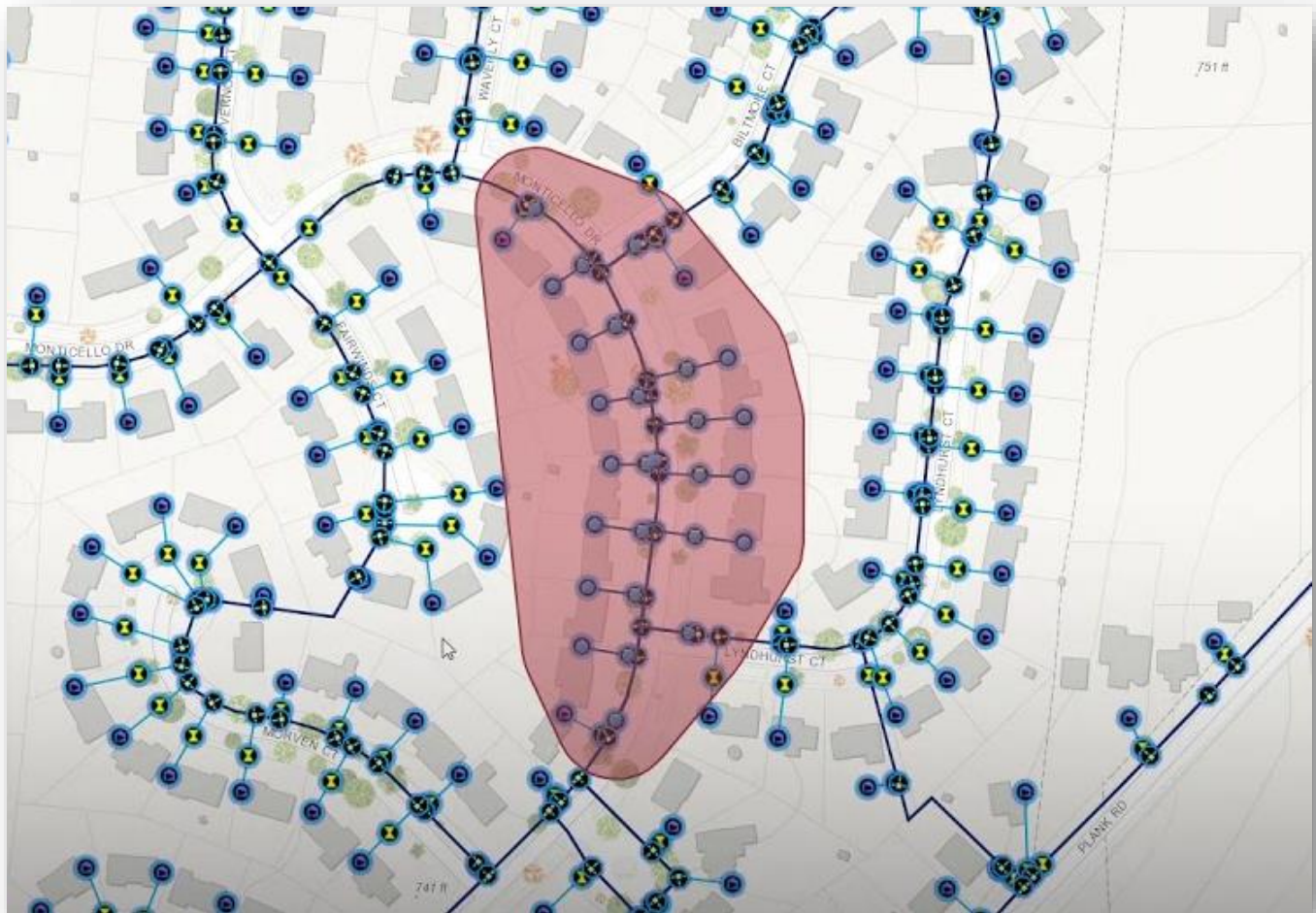
June 7, 2024

The ArcGIS Utility Network

The [ArcGIS Utility Network](#) is a data model that provides a comprehensive framework of functionality for the modeling of utility systems. It is designed to model all components that make up the utility system and allows for the modeling of real-world behavior into the network features. [City of Hastings, NE - Case Study](#).

As an example, in the event of a mainline water break, a network isolation trace can be performed to identify the closest mainline valves that need to be closed to isolate the main break. A list of effected customers will be generated for ease of notifications by field personnel. Having this, and other functionality available where it is needed the most, in the field, will significantly impact the efficiency of field operations and improve customer service (See Figure 1).

Figure 1 – Isolation Tracing (Example)





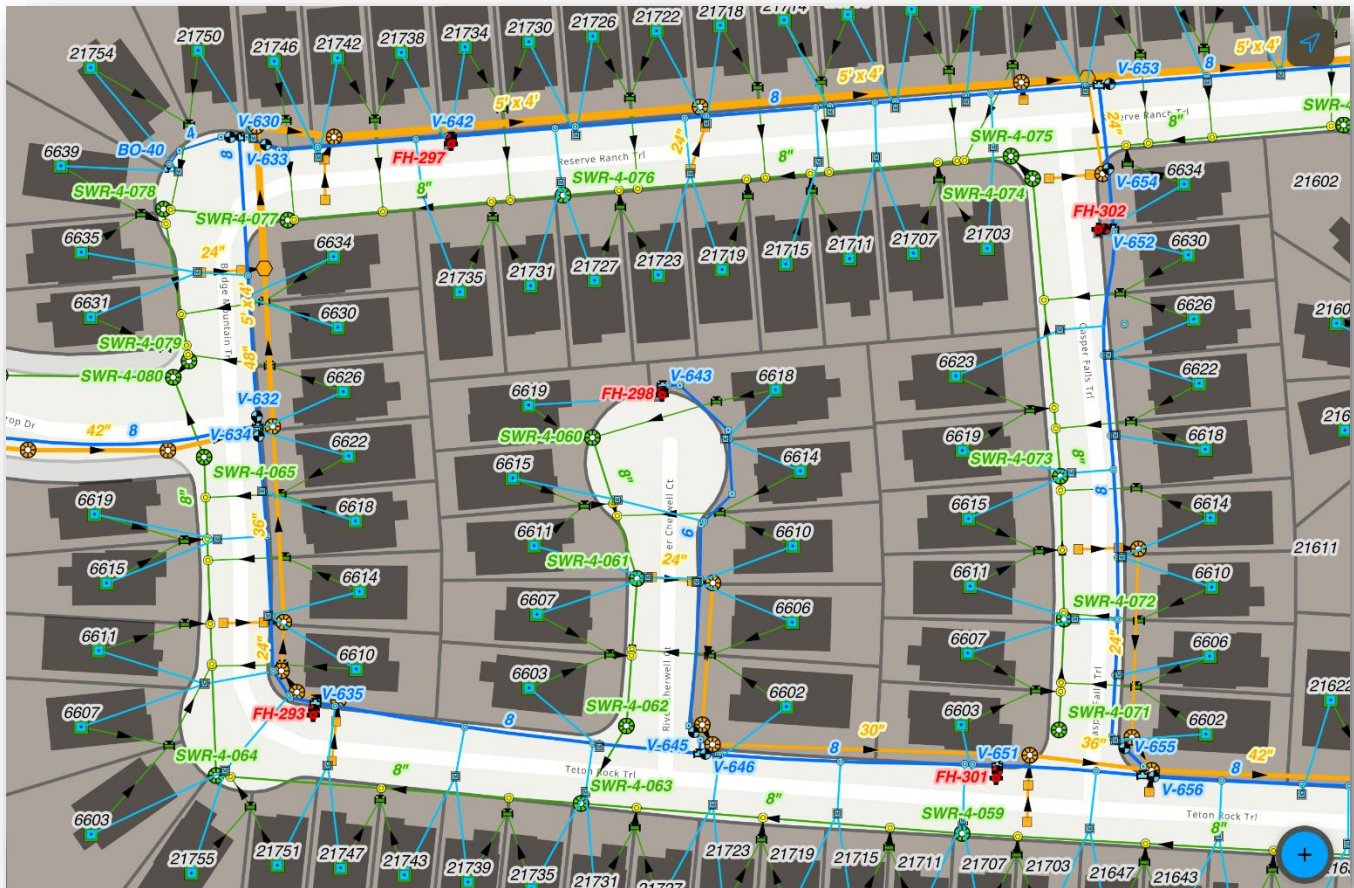
The City of Wharton - Field Verification and Utility Network Migration

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Figure 2 – New Web Map (Example)



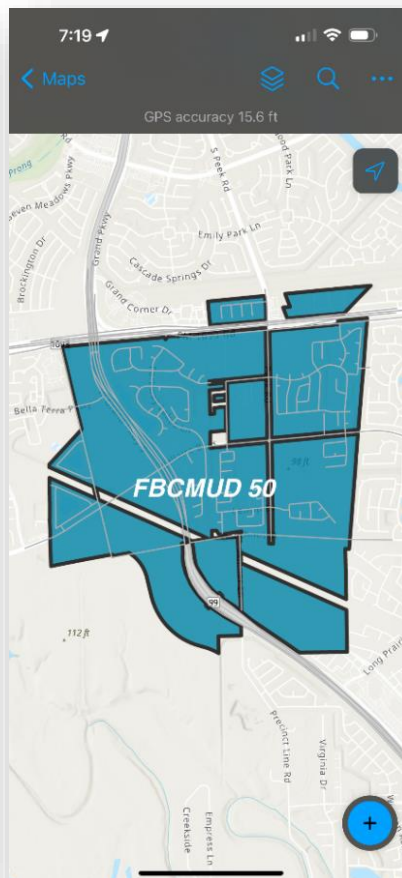


The City of Wharton - Field Verification and Utility Network Migration

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Figure 3 – ArcGIS Field Maps Mobile Application (Example)





QUIDDITY



The City of Wharton - Field Verification and Utility Network Migration

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ADDITIONAL SERVICES

Services requested by the City that are not included in the scope described above will be considered additional services.

FEES

<u>Description</u>	<u>Fee</u>
Data gathering and PDF document preparation ⁽¹⁾	\$17,000
Waterline network fieldwork ⁽¹⁾	\$18,500
Sanitary sewer network fieldwork ⁽¹⁾	\$9,000
Drainage system fieldwork ⁽¹⁾	\$2,500
GIS database edits and map delivery ⁽¹⁾	\$53,800
TOTAL	\$100,800

Tasks associated with CNL features	At hourly rates
Monthly Hosting Fee ⁽²⁾	\$500
Minor Updates ⁽³⁾	At hourly rates
Major Updates ⁽⁴⁾	By separate work authorization
Training ⁽³⁾	At hourly rates
Additional Services ⁽³⁾	At hourly rates

Quiddity is now offering the option to pay for these services over either a 3- or 5-year period.

Option 1

**One time payment of
\$100,800.00**

Option 2 ⁽⁵⁾

**36 months
@ \$3,066.53 per month
\$110,395.13 total cost**

Option 3 ⁽⁵⁾

**60 months
@ \$1,948.75 per month
\$116,924.78 total cost**

- (1) To be invoiced on a percent complete basis
- (2) This cost reflects a reduction in the hosting fee due to a standardization across all Quiddity clients
- (3) Minor updates requested by the City will be invoiced at hourly rates
- (4) Costs associated with major updates will be approved by separate work authorization
- (5) Monthly payments will commence following the approval of the proposal



The City of Wharton - Field Verification and Utility Network Migration

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June 7, 2024

MEET THE TEAM



Duncan Flintoff, GISP - GIS Manager

With 40 years of experience, 15 of those in GIS, Duncan provides oversight and direction to the GIS team with the goal of helping team members reach their ultimate potential as they provide quality GIS products to our clients. Duncan is responsible for business development and coordination with potential clients to create GIS products tailored to their specific needs.

BTEC National Certificate in Civil Engineering, College of North West London, London, England



Sanjeev Rai, GISP – Lead GIS Developer

Sanjeev brings over 20 years of experience in GIS analysis for asset management, flood, stormwater, wastewater, and water resource management. He is responsible for the management of Quiddity's enterprise geodatabases and the design, development, and customization of various web-based, mobile, and dashboard applications. He specializes in HTML and JavaScript programming in support of Quiddity's GIS solutions.

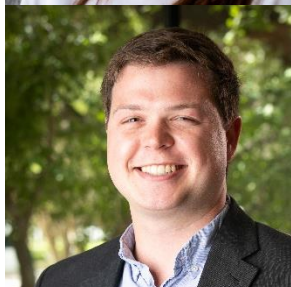
MS Geography, South Dakota State University, Brookings, SD
MS Geography and Resource Management, Nagaland University, India



Ashley Hinkle - GIS Coordinator

Ashley, the newest member of the team, brings 7 years of GIS experience. She specializes in the deployment of Esri's GIS solutions, such as for lead service line inventory. She is taking the lead on the deployment of Esri's new Utility Network, is responsible for administering access to Quiddity's enterprise GIS portal, and coordinates the work of the GIS group.

BS Business Administration (Magna Cum Laude), DeVry University



Andrew Ausec - GIS Analyst

Andrew has been with Quiddity for 3 ½ years and is responsible for maintaining the GIS data for the 40-plus GIS systems that Quiddity hosts. He also provides an invaluable service in support of Quiddity's Water Practice, preparing GIS exhibits for their 130 Municipal Utility District clients.

BS Geographic Information Science and Technology, Texas A&M University, College Station, TX



Luis Alejandro - GIS Analyst

Luis has been with Quiddity for 18 months and provides a similar role to Andrew in support of Quiddity's existing GIS and Municipal Utility District clients.

BS Geographic Information Science and Technology, Texas A&M University, College Station, TX



The City of Wharton - Field Verification and Utility Network Migration

Page 10

June 7, 2024

AUTHORIZATION

Quiddity thanks you for the opportunity to submit this proposal and looks forward to providing quality GIS services to The City of Wharton. This proposal shall be valid for six months from the date of this proposal. An executed copy of this proposal will serve as our notice to proceed. Please return one copy to our office. Should you have any questions, please call.

Sincerely,

Duncan Flintoff, GISP
GIS Manager



esri

Partner Network
Silver

DF

V:\Practice Workspace\GIS\City of Wharton\Proposal\City of Wharton GIS.docx

Enclosures:

General Conditions of Agreement

Hourly Rates

Reimbursable Expenses

APPROVED BY:

Signature

Name and Title (Printed)

Date

Payment Option

GENERAL CONDITIONS OF AGREEMENT

QUIDDITY ENGINEERING, LLC

PROCEEDING WITH SERVICES

These General Conditions of Agreement are a part of the Agreement for Professional Services (Agreement) between CLIENT and Quiddity Engineering, LLC (ENGINEER). CLIENT agrees that these General Conditions of Agreement shall be binding upon CLIENT when CLIENT requests that ENGINEER proceed with ENGINEER's services described in the proposed Agreement that they accompany. Signing of the Agreement or requesting that ENGINEER proceed with services shall be CLIENT's authorization for ENGINEER to proceed unless stated otherwise in the Agreement.

STANDARD OF CARE

ENGINEER's services performed under this Agreement shall be performed in a manner consistent with that level of care and skill ordinarily exercised by members of the engineering profession currently practicing in the same discipline, locality, conditions and circumstances as ENGINEER. ENGINEER makes no representations or warranties, express or implied, with respect to this Agreement, its performance or in any report, opinion or Document, as defined below, prepared by ENGINEER.

PAYMENT

The CLIENT, recognizing that timely payment is a material part of the consideration of this Agreement, shall pay ENGINEER for services performed and reimbursable expenses incurred in accordance with ENGINEER's then-current rate schedule and direct expense reimbursement policy. Invoices shall be submitted by ENGINEER on a monthly basis, and the full amount shall be due and payable to ENGINEER upon receipt. If the CLIENT disputes any portion of an invoice, the CLIENT shall notify ENGINEER in writing within seven (7) calendar days of the invoice date and pay that portion of the invoice not in dispute. The CLIENT shall pay any excise, VAT, gross receipts, or sales tax imposed upon ENGINEER's services.

The CLIENT shall pay ENGINEER the lesser of the highest non-usurious interest rate or 0.75% per month on the due but unpaid balance owed ENGINEER beginning thirty (30) days from receipt of the respective invoices. Payment thereafter shall be first applied to accrued interest and then to principal.

CLIENT INFORMATION

ENGINEER shall be entitled to rely upon the completeness and accuracy of information supplied by or through CLIENT.

OWNERSHIP OF DOCUMENTS

A complete electronic copy of all signed, sealed or otherwise designated as final, documents, including drawings, opinions of probable construction cost, specifications, field notes, reports and data prepared by ENGINEER under this Agreement or for the specific project to which they relate (Documents) shall become the property of CLIENT upon CLIENT's full payment to ENGINEER for all sums owed. For so long as CLIENT has not materially breached this Agreement, ENGINEER grants to CLIENT a non-exclusive, limited license to use the Documents for the permitting, construction, maintenance, replacement and use of such project but for no other purpose. Any other use of the Documents is prohibited. CLIENT shall indemnify, hold harmless and defend, and

waives all claims against, ENGINEER from all Loss, as defined below, arising from any unauthorized use of the Documents in which CLIENT engages or permits.

COST ESTIMATES

Cost estimates prepared by ENGINEER represent its judgment as a design professional familiar with the construction industry. The CLIENT recognizes, however, that ENGINEER has no control over the cost of labor, materials, or equipment; over the contractor's methods of determining prices; or over competitive bidding or market conditions. Accordingly, ENGINEER cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget or any cost estimates prepared by ENGINEER.

CONSTRUCTION PHASE SERVICES

When providing any services during the construction phase, ENGINEER shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Contractor's Work, nor shall it be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Documents.

INSURANCE

ENGINEER agrees to maintain: Workers' Compensation Insurance to cover all of its personnel engaged in performing services for the CLIENT under this Agreement; Commercial General Liability and Automobile insurance; and Professional Liability Insurance. Certificates of insurance are available upon request.

CONSEQUENTIAL DAMAGES

TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES WAIVE ALL CLAIMS AGAINST EACH OTHER FOR ANY CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF USE OF THE PROJECT AND LOSS OF PROFIT, INCURRED BY EITHER PARTY ALLEGEDLY DUE TO THE FAULT OF THE OTHER REGARDLESS OF THE NATURE OF THE FAULT.

LIMITATION OF LIABILITY

The CLIENT and ENGINEER, having balanced their respective risks and rewards to be realized under this Agreement, agree that the total liability of ENGINEER to CLIENT for any Loss, as defined below, whether arising under this Agreement, any services provided or the project shall not exceed in the aggregate the total professional fee paid to ENGINEER. The CLIENT waives any and all Loss and claims for Loss against ENGINEER in excess of such limitation. CLIENT further waives all claims for Loss against the individual owners, shareholders, or employees of ENGINEER and shall look solely to ENGINEER for satisfaction of any such claims of Loss.

THE TERM "LOSS" MEANS ANY AND ALL ACTUAL AND ALLEGED LOSS, COSTS AND DAMAGES OF ANY NATURE (INCLUDING WITHOUT LIMITATION, ACTUAL, SPECIAL AND CONSEQUENTIAL DAMAGES, VICARIOUS LIABILITY, PERSONAL INJURY, DEATH, PROPERTY DAMAGE

GENERAL CONDITIONS OF AGREEMENT

QUIDDITY ENGINEERING, LLC

INCLUDING LOSS OF USE THEREOF, AND ECONOMIC LOSS); AND ANY EXPENSE (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY'S AND EXPERTS' FEES AND COSTS OF LITIGATION AND DEFENSE) CLAIMED THROUGH ANY DIRECT CLAIMS, CROSS-CLAIMS, COUNTERCLAIMS OR CLAIMS FOR SUBROGATION, CONTRIBUTION OR INDEMNITY THAT ARISE, IN WHOLE OR IN PART, IN CONNECTION WITH THIS AGREEMENT, ITS PERFORMANCE OR INTERPRETATION OR WITH RESPECT TO THE PROJECT OR SERVICES THE AGREEMENT DESCRIBES.

INDEMNIFICATION

THE CLIENT AND ENGINEER INTEND THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL OF THE TERMS OF THIS AGREEMENT AND ANY OF ITS CONSTITUENT PARTS THAT REQUIRE CLIENT TO INDEMNIFY, DEFEND, HOLD HARMLESS OR RELEASE ENGINEER OR THAT WAIVE ANY CLAIMS OR DAMAGES AGAINST ANY ANOTHER PARTY SHALL BE ENFORCED REGARDLESS OF WHETHER ANY SUCH CLAIMS, CAUSES OF ACTION, LOSS OR DAMAGES ARE CAUSED, OR ARE ALLEGED TO BE CAUSED, BY ANY NEGLIGENCE, NEGLIGENT MISREPRESENTATION, BREACH OF CONTRACT OR BREACH OF ANY OTHER DUTY OR OBLIGATION OF THE PARTY INDEMNIFIED, DEFENDED, HELD HARMLESS OR RELEASED OR OF ANY PARTY AGAINST WHOM SUCH CLAIMS, CAUSES OF ACTION, LOSS OR DAMAGES ARE WAIVED. ANY SUCH INDEMNITY, DEFENSE, HOLD HARMLESS, RELEASE OBLIGATIONS OR WAIVER PROVISION SHALL SURVIVE TERMINATION OR EXPIRATION OF THE AGREEMENT.

TERMINATION

Either party may terminate this AGREEMENT with or without cause at any time prior to completion of ENGINEER's services upon seven (7) days' written notice to the other party at the addresses of record. The CLIENT shall pay ENGINEER for all serves performed and reimbursable expenses incurred through the date of termination.

ADDITIONAL TERMS

Neither party may assign, sublet, or transfer this Agreement or their interest in this Agreement without the prior written consent of the other party. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of any third party against either the CLIENT or ENGINEER.

In the event any one or more provisions of this Agreement, or the application thereof to any person or circumstance, shall for any reason be held invalid, illegal or unenforceable in any respect, any such invalidity, illegality or unenforceability shall be deemed stricken and shall not affect any other provision of this Agreement or the application of such provisions to other persons or circumstances, and the balance of this Agreement shall be enforced to the greatest extent permitted by law.

This Agreement shall be governed by the laws of the State of Texas. Exclusive venue for any dispute between the parties concerning the Agreement, its interpretation or performance, or the project shall be in a district court in Harris County, Texas.

SCHEDULE OF HOURLY RATES
Effective August 1, 2022

ENGINEERING PERSONNEL

Design Engineer I	\$125
Design Engineer II	\$145
Professional Engineer I	\$170
Professional Engineer II	\$195
Professional Engineer III	\$225
Professional Engineer IV	\$255
Professional Engineer V	\$275
Practice Leader	\$295

ELECTRICAL ENGINEERING PERSONNEL

Electrical Design Engineer I	\$135
Electrical Design Engineer II	\$155
Electrical Professional Engineer I	\$185
Electrical Professional Engineer II	\$210
Electrical Professional Engineer III	\$240
Electrical Professional Engineer IV	\$270
Electrical Professional Engineer V	\$295

CONSTRUCTION PERSONNEL (Includes Mileage)

Construction Manager I	\$125
Construction Manager II	\$145
Construction Manager III	\$170
Construction Manager IV	\$190
Construction Manager V	\$230
Field Project Representative I	\$ 80
Field Project Representative II	\$100
Field Project Representative III	\$120
Specialist Field Project Representative I	\$135
Specialist Field Project Representative II	\$145
Senior Specialist Field Project Representative	\$160

SPECIALIST

Specialist I	\$115
Specialist II	\$145
Specialist III	\$215
Specialist IV	\$250

PLANNING PERSONNEL

Planner I	\$105
Planner II	\$145
Planner III	\$175
Planner Manager	\$250

DESIGNERS/DRAFTING PERSONNEL

CAD I	\$ 80
CAD II	\$100
CAD III	\$120
Designer I	\$130
Designer II	\$150
Designer III	\$170
GIS I	\$ 95
GIS II	\$130
GIS III	\$160
GIS IV	\$220

SURVEYING PERSONNEL

1-Person Field Crew	\$145
2-Person Field Crew	\$195
3-Person Field Crew	\$240
4-Person Field Crew	\$270
Survey Technician I	\$100
Survey Technician II	\$110
Project Surveyor I	\$105
Project Surveyor II	\$125
Project Surveyor III	\$145
Project Surveyor IV	\$175
Chief of Survey Crews	\$150
Certified Photogrammetrist	\$175
Remote Pilot I	\$ 95
Remote Pilot II	\$130
Remote Pilot III	\$170
Visual Observer	\$ 95
LiDAR Tech	\$105
Aerial Tech	\$ 90
Registered Professional Land Surveyor	\$195
Survey Manager	\$225

OFFICE PERSONNEL

Engineer's Assistant I	\$ 75
Engineer's Assistant II	\$ 85
Engineer's Assistant III	\$ 95
Admin I	\$ 75
Admin II	\$ 95
Admin III	\$125
Accounting Manager	\$130
Corporate/Project Accountant	\$110

SCHEDULE OF REIMBURSABLE EXPENSES

Effective January 2019

Subject to Annual Revision

1. Reproduction performed in office

<u>Size</u>	<u>Black & White</u>	<u>Color</u>
8½ x 11 (single-sided)	\$0.05/page	\$.50/page
8½ x 11 (double-sided)	\$0.15/page	\$ 1.00/page
8½ x 14	\$0.15/page	\$.75/page
11 x 17	\$0.20/page	\$ 1.00/page
<u>Large Document Prints/Plots</u>	<u>Black & White</u>	<u>Color</u>
Bond	\$0.20/sq ft	\$ 1.00/sq ft
Photographic Bond	\$4.00/sq ft	\$ 5.00/sq ft
Mylar (4 mil)	\$2.00/sq ft	N/A

Aerial Backgrounds

All sizes \$5.00/sheet (plus above sq. ft. cost)

2. Transportation (mileage): Standard IRS mileage rate in effect
3. Subcontracts and all other outside expenses and fees: Cost, plus 10% service charge
4. Surveying Expenses
 - a. Crew Rates: Includes time charged portal to portal and the first 120 miles of transportation and standard survey equipment
 - b. Special Rental Equipment: Cost, plus 10%
 - c. Stakes: Cost, plus 10% service charge when an excessive number of wooden stakes or any special stakes are required
 - d. Iron Rods and Pipes: Cost, plus 10%
 - e. All-Terrain Vehicle (ATV): \$150/day
 - f. Overnight Stays: \$190/night
 - g. Overtime Rates: Jobs requiring work on weekends or holidays billed at 1.5 times the standard rate
 - h. Sales Tax: To be paid on boundary-related services.
 - i. Deliveries, abstracting services, outside reproduction costs, and other reimbursable expenses charged at cost, plus 10%

Final 2022
Standard

**CITY OF WHARTON
RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH QUIDDITY ENGINEERING, LLC, TO DEVELOP AND MAINTAIN THE CITY OF WHARTON GIS FIELD VERIFICATION AND UTILITY MIGRATION NETWORK AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The Wharton City Council wishes to engage the services of Quiddity Engineering, LLC, to provide professional engineering services for the development and maintenance of the City of Wharton GIS Field Verification and Utility Network Migration System; and,

WHEREAS, Quiddity Engineering, LLC, wishes to provide said services for the development and maintenance of the City of Wharton GIS Field Verification and Utility Network Migration System; and,

WHEREAS, The City of Wharton and Quiddity Engineering, LLC, wishes to be bound by the conditions of said Professional Engineering Services 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. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a Professional Engineering Services Agreement with Quiddity Engineering, LLC, for the development and maintenance of the City of Wharton GIS Field Verification and Utility Network Migration System.

Section II. The City of Wharton and Quiddity Engineering, LLC, 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 2024.

CITY OF WHARTON, TEXAS


By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Pay Request No. 3 and Final from Capital Underground Utilities for the Titus Express Carwash Waterline Extension.
<p>Attached is Pay Request No. 3 and Final from Capital Underground Utilities for the Titus Express Carwash Waterline Extension in the amount of \$17,606.60.</p> <p>Director of Planning & Development Gwyn Teves will be present to answer any questions.</p>			
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: October 9, 2024

FROM: Gwyneth Teves, Director of Planning & Development

TO: Honorable Mayor and City Council

SUBJECT: Recommendation for payment to Capital Underground Utilities for Pay Estimate No. 3 & Final for the Titus Express Carwash Waterline Extension

The City Council awarded a contract for the construction of Capital Underground Utilities for the Titus Express Carwash Waterline Extension.

Pay Estimate No. 3 & Final has been sent, and a recommendation for payment by the engineer is attached.

It is my recommendation that the City Council approve Pay Estimate 3 for \$17,606.60 and issue payment.

If you should have any questions, please contact me at 979-532-2491 ext. 238. Thank You.



October 1, 2024

Ms. Gwyneth Teves
Director of Planning & Development
City of Wharton
120 E. Caney Street
Wharton, Texas 77488

Re: Construction of Titus Express Car Wash Waterline Extension
City of Wharton

Dear Ms. Teves:

Enclosed is Application and Certificate for Payment No. 3 & FINAL from Capital Underground Utilities, LLC for the referenced project. This application covers construction activities for the referenced project during the period from August 16, 2024 to August 21, 2024. During this period, the Contractor paid the outstanding staking invoice. An inspection was held on August 21, 2024 and the Contractor has addressed all punch lift items. The Project is complete. The estimate is in order and we recommend payment in the amount of \$17,606.60 to Capital Underground Utilities, LLC.

The Contractor has not submitted a request for any impact days for the current payment period. We did not note any impact days for the current payment period.

The project is now 100 % complete by total contract value and 177% complete by total contract time. The project was deemed to be substantially complete on August 21, 2024.

You will also find your copies of the Surety's Consent of Surety to Final Payment and the Contractor's Affidavit of Bills Paid and Affidavit of Guarantee. Copies of the Certificates of Substantial Completion and Acceptance are included for your approval and execution.

Sincerely,

A handwritten signature in blue ink that reads "Brian T. Geier".

Brian T. Geier, PE

BTG:dbf

K:\05135\05135-0257-01 Titus Car Wash Waterline Extension\3 Construction Phase\Pay Estimates\Pay Estimate 3

Enclosure

cc: Mr. Joseph Pace – City of Wharton
Mr. Rodrick Semien – City of Wharton
Mr. Horacio Luna – Capital Underground Utilities, LLC
Mr. Hugo Salazar – Capital Underground Utilities, LLC

APPLICATION AND CERTIFICATE FOR PAYMENT

TO OWNER/CLIENT:

City of Wharton
120 E Caney Street,
Wharton, Texas 77488 United States

PROJECT:

Titus Express Car Wash Waterline
Extension
1601 N Richmond Road
Wharton, Texas 77488

APPLICATION NO: 03

INVOICE NO: 03

DISTRIBUTION TO:

PERIOD: 8/16/2024 – 8/21/2024

PROJECT NOS: 05135-0257-01

FROM CONTRACTOR:

Capital Underground Utilities, LLC
918 Tassell St,
Houston, Texas 77076 United States

VIA ENGINEER

Brian Geier - Quiddity Engineering, LLC
6330 W Loop South
Suite 150
Bellaire, Texas 77401

CONTRACT DATE:

4/30/2024

CONTRACT FOR: Construction of Titus Express Car Wash Waterline Extension

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract, Continuation sheet is attached.

1.	Original Contract Sum	\$145,000.00
2.	Net change by change orders	\$11,625.99
3.	Contract sum to date (line 1 ± 2)	\$156,625.99
4.	Total completed and stored to date (Column G on detail sheet)	\$156,625.99
5.	Retainage	
	a. 0.00% of completed work	\$0.00
	b. 0.00% of stored material	\$0.00
6.	Total earned less retainage (Line 4 less Line 5 Total)	\$156,625.99
7.	Less previous certificates for payment (Line 6 from prior certificate)	\$139,019.39
8.	Current payment due	\$17,606.60
9.	Balance to finish, including retainage (Line 3 less Line 6)	\$0.00

The undersigned certifies that to the best of the Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract documents, that all amounts have been paid by the Contractor for Work which previous Certificates for payment were issued and payments received from the Owner/Client, and that current payments shown herein is now due.

CONTRACTOR: Capital Underground Utilities, LLC

By: 

Date:

10/01/24

ENGINEER'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on the on-site observations and the data comprising this application, the Architect/Engineer certifies to the Owner/Client that to the best of the Engineer's knowledge, information and belief that Work is in accordance with the Contract documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED:

\$17,606.60

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner/Client:	\$11,625.99	\$0.00
Total approved this Month:	\$0.00	\$0.00
Totals:	\$11,625.99	\$0.00
Net changes by change order:	\$11,625.99	

ENGINEER:

By: 

Date:

10/1/2024

This certificate is not negotiable. The amount certified is payable only to the contract named herein. Issuance, payment, and acceptance of payment are without prejudice to the rights of the Owner/Client or Contractor under this Contract.

AFFIDAVIT
OF
BILLS PAID

STATE OF TEXAS §

COUNTY OF WHARTON §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared Horacio Luna of **CAPITAL UNDERGROUND UTILITIES, LLC** well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am President of **CAPITAL UNDERGROUND UTILITIES, LLC** and have personal knowledge of the matter stated in this affidavit. **CAPITAL UNDERGROUND UTILITIES, LLC** has paid all of the labor and material costs in connection with construction for **CITY OF WHARTON** known as Quiddity Job No. 05135-0247-01 Construction of Titus Express Car Wash Waterline Extension and as of this date, there are no unpaid bills for labor performed upon, or materials or supplies delivered to or used in connection with such job.

This affidavit is made in connection with the final payment under the contract between **CITY OF WHARTON** and **CAPITAL UNDERGROUND UTILITIES, LLC** with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

DATE: 10-01-2024

By: _____

STATE OF TEXAS §

COUNTY OF Harris §

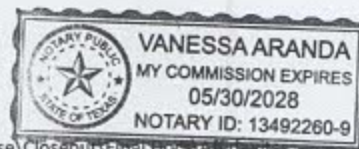
BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared Vanessa Aranda, known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 01 day of Oct, 2024.

Vanessa Aranda

Notary Public Signature

(Notary Seal)



K:\05135\05135-0257-01 Titus Car Wash Waterline Extension\3 Construction Phase\Closedout\Final Docs\Affidavits

AFFIDAVIT
OF
GUARANTEE

STATE OF TEXAS §

COUNTY OF WHARTON §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared Heracio Luna of **CAPITAL UNDERGROUND UTILITIES, LLC**, well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am President of **CAPITAL UNDERGROUND UTILITIES, LLC** and have personal knowledge of the matter stated in this affidavit. **CAPITAL UNDERGROUND UTILITIES, LLC** does hereby give notice to the Owner, **CITY OF WHARTON** that work for the Owner, known as Quiddity Job No. 05135-0247-01 Construction of Titus Express Car Wash Waterline Extension has been substantially completed. In accordance with the provisions of paragraph 5.07 Guarantee, of the General Conditions of Agreements, **CAPITAL UNDERGROUND UTILITIES, LLC** does hereby guarantee all of the work under the contract to be free from faulty materials and improper workmanship in every particular, and against injury from proper and usual wear; and agrees to replace or re-execute without cost to the Owner such work as may be found to be improper or imperfect, and to make good all damage caused to other work or materials due to such required replacement or recompletion of all work under this contract, as evidenced by the Engineer's Certificate of Substantial Completion.

This affidavit is made in connection with the final payment under the contract between **CITY OF WHARTON** and **CAPITAL UNDERGROUND UTILITIES, LLC** with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

DATE: 10-01-2024By: 

STATE OF TEXAS §

COUNTY OF Harris §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared Vanessa Aranda, known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 01 day of Oct, 2024.

(Notary Seal)



Vanessa Aranda
Notary Public Signature

K:\05135\05135-0257-01 Titus Car Wash Waterline Extension\3 Construction Phase\Closeout\Final Docs\Affidavits

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: City of Wharton

Contractor: Capital Underground Utilities, LLC

Engineer: Quiddity Engineering, LLC

Project: Construction of Titus Express Car Wash Waterline Extension

Owner's Contract No.: N/A

Contractor's Project No.: N/A

Engineer's Project No.: 05135-0257-01

Date: August 21, 2024

This Certificate of Substantial Completion applies to:☒ All Work☐ The following specified portions of the Work:

The Work to which this Certificate applies has been reviewed by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion.

The date of Substantial Completion in this Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract for the portions of the work noted above.

Quiddity Engineering, LLC provided periodic field project representation and our Certification is based on that in addition to any work that was visible at the time of the inspection.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows:

Amendments to Owner's

responsibilities: ☒ None☐ As follows

Amendments to

Contractor's responsibilities: ☒ None☐ As follows:

The following documents are attached to and made a part of this Certificate:

Punch List Items For: Titus Express Car Wash Waterline Extension – 05135-0257-01 – Wharton, Texas

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, is not a release of the Contractor's obligation to complete the Work in accordance with the Contract and does not warrant or imply a warranty of the Contractor's materials or workmanship.

EXECUTED BY ENGINEER:

By:



(Authorized Signature)

Quiddity Engineering, LLC

Date: 10/1/2024

**ACKNOWLEDGED:**

By:

(Authorized Signature)

City of Wharton

Date:

ACKNOWLEDGED:

By:

(Authorized Signature)

Capital Underground Utilities,
LLC

Date: 10/1/2024

K:\05135\05135-0257-01 Titus Car Wash Waterline Extension\3 Construction Phase\Closeout\Final Docs\CoSC

CERTIFICATE OF ACCEPTANCE

Mr. Horacio Luna
Capital Underground Utilities, LLC
918 Tassell Street
Houston, Texas 77076

Re: Construction of Titus Express Car Wash Waterline Extension
City of Wharton

Dear Mr. Luna

This is to certify that **CITY OF WHARTON** accepts the subject project on the basis of the Certificate of Substantial Completion issued by our engineers, Quiddity Engineering, LLC, and understands that a guarantee shall cover a period of one (1) year beginning **AUGUST 21, 2024**.

CITY OF WHARTON


By: _____

K:\05135\05135-0257-01 Titus Car Wash Waterline Extension\3 Construction Phase\Closeout\Final Docs\COA

cc: Mr. Joseph Pace – City of Wharton
Mr. Rodrick Semien – City of Wharton
Mr. Hugo Salazar – Capital Underground Utilities, LLC

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Pay Request No. 4 from Reddico Construction Company for the U.S. 59 Water & Wastewater Utility Relocations and reduction of retainage to 5%.
<p>Attached is Pay Request No. 4 from Reddico Construction Company for the U.S. 59 Water & Wastewater Utility Relocations and reduction of retainage to 5%. Pay Estimate No. 4 has been sent, and a recommendation for payment by the engineer is attached. The contractor has also requested that the retainage be reduced to 5% and payment of half of the current retainage be made.</p> <p>Attached is the Texas Government Code showing that on a project of this size and cost, the retainage should only have been set at 5%. The City Staff has addressed this with the City Attorney and has received the agreement that reducing the retainage is in line with the current code.</p> <p>It is the Staff's recommendation that the City Council approve Pay Estimate 4 for \$602,384.35, approve reducing the contract retainage to 5%, and pay half of the current retainage in the amount of \$280,428.00.</p> <p>Director of Planning & Development Gwyn Teves will be present to answer any questions.</p>			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: October 9, 2024

FROM: Gwyneth Teves, Director of Planning & Development

TO: Honorable Mayor and City Council

SUBJECT: Recommendation for payment to Reddico Construction Company for Pay Estimate No. 4 for the US 59 Water & Wastewater Utility Relocations and reduction of retainage to 5%

The City Council awarded a contract for construction to Reddico Construction Company for the US 59 Water & Wastewater Utility Relocations.

Pay Estimate No. 4 has been sent and a recommendation for payment by the engineer is attached. The contractor has also requested that the retainage be reduced to 5% and payment of half of the current retainage be made.

Attached is the Texas Government Code showing that on a project of this size and cost, the retainage should only have been set at 5%. I have addressed this with the City Attorney and have received the agreement that reducing the retainage is in line with the current code.

It is my recommendation that the City Council approve Pay Estimate 4 for \$602,384.35, approve reducing the contract retainage to 5% and pay half of the current retainage in the amount of \$280,428.00.

If you should have any questions, please contact me at 979-532-2491 ext. 238. Thank You.



September 27, 2024

Ms. Gwyneth Teves
Director of Planning & Development
City of Wharton
120 E. Caney Street
Wharton, Texas 77488

Re: US 59 Water and Wastewater Utility Relocations
City of Wharton
State Infrastructure Bank (SIB) Loan and TxDOT Relocation Reimbursement
TIN: 74-6002557

Dear Ms. Teves:

Enclosed is Application and Certificate for Payment No. 4 from Reddico Construction Company, Inc. for the referenced project. This application covers construction activities for the referenced project during the period from August 1, 2024, to August 31, 2024. During this period, the Contractor installed 24-inch effluent line and 14-inch force main by open cut construction, installed 21-inch influent by trenchless construction, began constructing the outfall structure, installed the junction boxes for the triple run of RCPs, installed manholes, and removed existing 24-inch sanitary lines. The estimate is in order, and we recommend payment in the amount of \$602,384.35 to Reddico Construction Company, Inc.

The Contractor did not request impact days for the current payment period. However, we did note two (2) impact days for the current payment period.

The project is now 83% complete by total contract value and 96% complete by total contract time. The current contractual Substantial Completion date is September 9, 2024.

Sincerely,

A handwritten signature in blue ink that reads 'Matthew W. Matula'.

Matthew W. Matula, PE, ENV SP

MWM:dbm

K:\05135\05135-0239-00 US 59 Public Utility Relocations\3 Construction Phase\Pay Estimates\04

Enclosure

cc: Mr. Steve Redd – Reddico Construction Company, Inc.
Mr. Ryan Redd – Reddico Construction Company, Inc.
Mr. Joseph Pace – City of Wharton
Mr. Rodrick Semien – City of Wharton

APPLICATION AND CERTIFICATE FOR PAYMENT

Item-17.

TO OWNER/CLIENT:

City of Wharton
120 E Caney Street,
Wharton, Texas 77488 United States

PROJECT:

City of Wharton US 59 Water &
Wastewater Utility Relocations
U.S. 59
Wharton, Texas 77488

APPLICATION NO: 04

INVOICE NO: 04

DISTRIBUTION TO:

PERIOD: 8/1/2024 – 8/31/2024

PROJECT NOs: 05135-0239-00

FROM CONTRACTOR:

Reddico Construction Company, Inc.
10083 Airport Rd,
Conroe, Texas 77303 United States

VIA ENGINEER

Matthew Matula - Quiddity Engineering,
LLC
1575 Sawdust Road
Suite 400
The Woodlands, Texas 77380-4241

CONTRACT DATE:

2/2/2024

CONTRACT FOR: Construction of US 59 Water and Wastewater Utility Relocates

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract, Continuation sheet is attached.

1.	Original Contract Sum	\$6,783,569.00
2.	Net change by change orders	\$0.00
3.	Contract sum to date (line 1 ± 2)	\$6,783,569.00
4.	Total completed and stored to date (Column G on detail sheet)	\$5,608,570.25
5.	Retainage	
	a. 10.00% of completed work	\$560,857.03
	b. 10.00% of stored material	\$0.00
6.	Total earned less retainage (Line 4 less Line 5 Total)	\$5,047,713.22
7.	Less previous certificates for payment (Line 6 from prior certificate)	\$4,445,328.87
8.	Current payment due	\$602,384.35
9.	Balance to finish, including retainage (Line 3 less Line 6)	\$1,735,855.78

The undersigned certifies that to the best of the Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract documents, that all amounts have been paid by the Contractor for Work which previous Certificates for payment were issued and payments received from the Owner/Client, and that current payments shown herein is now due.

CONTRACTOR: Reddico Construction Company, Inc.

By:

Date:



9-30-2024

ENGINEER'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on the on-site observations and the data comprising this application, the Architect/Engineer certifies to the Owner/Client that to the best of the Engineer's knowledge, information and belief that Work is in accordance with the Contract documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED:

\$602,384.35

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner/Client:	\$0.00	\$0.00
Total approved this Month:	\$0.00	\$0.00
Totals:	\$0.00	\$0.00
Net changes by change order:	\$0.00	

ENGINEER:




By:

Date: 09/28/2024

This certificate is not negotiable. The amount certified is payable only to the contract named herein. Issuance, payment, and acceptance of payment are without prejudice to the rights of the Owner/Client or Contractor under this Contract.


City of Wharton
 120 E. Caney Street
 Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Reschedule the November 11, 2024, Regular City Council Meeting.
<p>Due to the Regular City Council Meeting falling on Veterans Day, the City Staff is requesting the Mayor and City Council consider moving the November 11, 2024, Regular City Council Meeting to Tuesday, November 12, 2024.</p>			
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			

City of Wharton
120 E. Caney Street
Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	Appointments, Resignations, and Vacancies to the City of Wharton Boards, Commissions, and Committees: A. Resignations. B. Appointments. C. Vacancies.
<p>Attached is the list of people serving on the various City Boards, Commissions, and Committees. There are still vacancies that also need to be filled.</p> <p><u>Resignations:</u> None.</p> <p><u>Appointments:</u> Mr. Johnnie Gonzales to the Beautification Commission.</p> <p><u>Vacancies:</u></p> <ul style="list-style-type: none">A. Beautification Commission.B. Building Standards Commission.C. Mayor’s Committee on People with Disabilities.D. Planning Commission.E. Plumbing and Mechanical Board.			
City Manager: Joseph R. Pace			Date: Thursday, October 10, 2024
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: October 9, 2024

FROM: Nathan Vogt, Code Enforcement Officer

TO: Joseph R. Pace, City Manager
City of Wharton Council Members

SUBJECT: Recommendation of appointment to the Beautification Commission

I hereby recommend Johnnie Gonzales to be approved as Position 2 Commissioner of the Beautification Commission, whose term will expire on June 30, 2026. Mr. Gonzales already serves as a member of the Mayor's Committee on People with Disabilities

If you should have any questions, please contact me at (979) 532-4811 ext. 235. Thank You.

**CITY OF WHARTON
BOARDS, COMMISSIONS, AND COMMITTEES**

WHARTON REGIONAL AIRPORT BOARD	TWO YEAR TERM	Reappointment
Eric Nelson	June 30, 2025	
Randy Rodriguez	June 30, 2025	
Bill Kingrey	June 30, 2025	
Larry David	June 30, 2026	
Jimmy Zissa	June 30, 2026	
Glenn Erdelt	June 30, 2026	
BEAUTIFICATION COMMISSION	TWO YEAR TERM	Reappointment
Vacant	June 30, 2026	
Vacant	June 30, 2026	
Vacant	June 30, 2026	
Amanda Gonzales	June 30, 2025	
Adraylle Watson	June 30, 2025	
Vacant	June 30, 2025	
Sheryl Joost	June 30, 2025	
BUILDING STANDARDS COMMISSION	TWO YEAR TERM	Reappointment
Leonard Morales	June 30, 2025	
Vacant	June 30, 2025	
Vacant	June 30, 2025	
Paul Shannon	June 30, 2025	
Vacant	June 30, 2026	
Howard Singleton	June 30, 2026	
Shaun Stockwell	June 30, 2024	
Claudia Velasquez, Building Official - ExOfficio		
Jeff Gubbels - Health Officer-ExOfficio		
Hector Hernandez-Fire Marshall-ExOfficio		
ELECTRICAL BOARD	TWO YEAR TERM	Reappointment
Councilmember Burnell Neal	June 30, 2025	
Oscar Uribe	June 30, 2025	
Philip Hamlin	June 30, 2026	
Milton Barbee	June 30, 2026	
Hector Hernandez- Fire Marshal		
HOLIDAY LIGHT DECORATING CHAIRMAN	TWO YEAR TERM	Reappointment
Tim Barker	June 30, 2026	
MAYOR'S COMMITTEE ON PEOPLE WITH DISABILITIES	TWO YEAR TERM	Reappointment
Johnnie Gonzales	June 30, 2026	

Vacant	June 30, 2026	
Vacant	June 30, 2026	
Kaitlyn Humberson	June 30, 2025	
Delia Gonzales	June 30, 2025	
Sheena Barbee	June 30, 2025	
Cheryl Lavergne	June 30, 2025	
Mayor Tim Barker- Ex Officio		
HEALTH OFFICER	TWO YEAR TERM	Reappointment
Dr. Jeff Gubbels, MD	June 30, 2026	
VETERINARIAN	TWO YEAR TERM	Reappointment
Dr. Cody Pohler, DVM	June 30, 2026	
MUNICIPAL COURT JUDGE	TWO YEAR TERM	Reappointment
Jared Cullar	June 30, 2025	
PLANNING COMMISSION	TWO YEAR TERM	Reappointment
Johnnie Gonzales	June 30, 2025	
Rob Kolacny	June 30, 2025	
Michael Quinn	June 30, 2025	
Gary Nunez	June 30, 2026	
Adraylle Watson	June 30, 2026	
Michael Wootton	June 30, 2026	
Vacant	June 30, 2026	
PLUMBING AND MECHANICAL BOARD	TWO YEAR TERM	Reappointment
Vacant	June 30, 2026	
Vacant	June 30, 2025	
Vacant	June 30, 2026	
Robert Sanchez	June 30, 2025	
Vacant	June 30, 2026	
Claudia Velasquez, Building Official - ExOfficio		
Public Works Director Roderick Semien- Ex Officio		
Mayor Tim Barker - Ex Officio		
WHARTON ECONOMIC DEVELOPMENT CORPORATION	TWO YEAR TERM	Reappointment
Michael Wootton	September 30, 2026	
David Joost	September 30, 2026	
Freddie Pekar	September 30, 2026	
Larry Pittman (Councilmember)	September 30, 2026	
Russell Machann- (Councilmember)	September 30, 2025	
Andrew Armour	September 30, 2025	
Michael Roberson	September 30, 2025	

CITY COUNCIL COMMITTEES - Renew June 30th of Each Year

ANNEXATION COMMITTEE

Tim Barker
Russell Machann
David Voulgaris

FINANCE COMMITTEE

Russell Machann
Larry Pittman
Tim Barker

HOUSING COMMITTEE

Terry Freese
Russell Machann
Burnell Neal

INTERGOVERNMENTAL RELATIONS COMMITTEE

Terry Freese
Tim Barker
Larry Pittman

LEGISLATIVE COMMITTEE

Tim Barker
Larry Pittman
Steven Schneider

PUBLIC HEALTH COMMITTEE

Terry Freese
Larry Pittman
Russell Machann

PUBLIC SAFETY COMMITTEE

Larry Pittman
Terry Freese
David Voulgaris

PUBLIC WORKS COMMITTEE

Terry Freese
David Voulgaris
Burnell Neal

TELECOMMUNICATIONS COMMITTEE

Burnell Neal
Terry Freese
David Voulgaris

WHARTON ECONOMIC DEVELOPMENT CORP BOARD OF DIRECTORS SELECTION COMMITTEE

Tim Barker
Steven Schneider
Larry Pittman

ECONOMIC DEVELOPMENT COMMITTEE


Tim Barker
Burnell Neal
Russell Machann

PARKS AND RECREATION COMMITTEE

Steven Schneider
Russell Machann
Terry Freese

City of Wharton
 120 E. Caney Street
 Wharton, TX 77488

CITY COUNCIL COMMUNICATION

Meeting Date:	10/14/2024	Agenda Item:	City Council Boards, Commissions, and Committee Reports: A. Finance Committee Meeting held September 23, 2024.
Attached you will find the reports from the above-mentioned Committees.			
City Manager: Joseph R. Pace		Date: Thursday, October 10, 2024	
Approval: 			
Mayor: Tim Barker			



City of Wharton

120 E. Caney Street ° Wharton, TX
77488

Phone (979) 532-2491° Fax (979) 532-
0181

MEMORANDUM

Date: September 24, 2024

From: City Council Finance Committee

To: Mayor & City Council

Subject: Report/Recommendations from the meeting held September 23, 2024

At the September 23, 2024, City Council Finance Committee Meeting, the Committee met and discussed the following items:

1. Review & Consider: Minutes from the meeting held August 26, 2024.
2. Review & Consider: Ordinance: An ordinance levying a tax rate for the City of Wharton, Texas, for the Tax Year 2024; directing the Tax Assessor-Collector to assess, account for, and distribute the taxes as herein levied; and providing repealing and severability clauses. The Committee voted to recommend this item to the City Council for consideration.
3. Review & Consider: Resolution: A resolution of the Wharton City Council rescinding the City of Wharton Resolution No. 2024-85 and approving the purchase of a vehicle from Wharton County. The Committee voted to recommend this item to the City Council for consideration.
4. Review & Consider: Resolution: A resolution of the Wharton City Council authorizing the purchase of equipment for the Public Works Department from Mustang CAT through the Sourcewell Cooperative Program and authorizing the City Manager to execute all documents related to said purchase. The Committee voted to recommend this item to the City Council for consideration.
5. Review & Consider: Resolution: A resolution of the Wharton City Council authorizing the City Manager to purchase two (2) vehicles for the City of Wharton Code Enforcement Department from Caldwell Country Chevrolet through the Buyboard Co-operative and authorizing the City Manager to execute all documents related to said purchase. The Committee voted to recommend this item to the City Council for consideration.

Adjournment.